



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

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FRIDAY, 26TH AUGUST 1994

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Friday 26th August, 1994

The Constituent Assembly met at 8.30 a.m. in the International Conference Centre, Kampala.

P R A Y E R S

(The Chairman Hon. James Wapakhabulo in the Chair)

The Assembly was called to order

COMMUNICATION FROM THE CHAIR

THE CHAIRMAN: Hon. Delegates. I am glad that you have started the more technical aspects of our work and I can see already we have got one article of the Constitution in place and I hope that in that spirit, we shall continue and put together a Constitution for our people. It is suggested that the three institutions: that of the Clerk; the Technical Committee; and the Legal and Drafting Committee should work together to look at some of the amendments that are coming to see whether some can be merged, others withdrawn in view of the earlier amendments which may be similar so that we do not have a list of amendments which are in one way or the other more or less the same and reduce the amendments that may be moved in respect of various articles so that we progress faster. So, the clerk will be getting in touch with - of course I mean seeking audience with the chairman of the Legal and Drafting Committee and his committee together with the technical committee so that this sort of thing can be sorted out and we proceed faster by eliminating matters which can be handled administratively altogether. That is the only communication I have from the Chair. Thank you, Delegates. You will recall that the Hon. Delegate for Kwanja did make a statement of personal explanation here and that statement did touch on the submission to this House by the Member. That Member approached the Chair that he would like to clarify some of the matters that in his view had been misrepresented and the Chair found it fit to give him a chance given the gravity of the issues that are involved and I would like to ask the House to give Hon. Pulkol a chance to make a statement of self-explanation. Thank you.

STATEMENTS AND PERSONAL
EXPLANATION

MR. DAVID PULKOL (Matheniko County):
Thank you, Mr. Chairman. Mr. Chairman, Hon.

Delegates, I wish to make a statement of personal explanation regarding the wrong impression that has been created in this august House and the subsequent Press reports arising from the reaction to my contribution of 3rd August, 1994 during the general debate on the principles of the Constitution. This, in particular, refers to the newspaper misreporting my contribution which appeared in *the Daily Topic* of 4th August, 1994 titled, *Sack Adyebo - Pulkol* from which the Hon. Delegate from Kwanja county George Cosmas Adyebo made a statement of personal explanation in this House, which was widely reported in various newspapers as constituting a warning by the Rt. Hon. Prime Minister to me as a Deputy Minister for Education and Sports. Subsequent newspaper rejoinders have continued to misrepresent issues around my said contribution such as appeared again in *the Daily Topic* of 18th August 1994 titled, *'Adyebo is not my boss' Pulkol* - which I cannot help dismissing as the art of political opportunists trying to make capital out of the imaginary personal grudge purported to exist between me and the Hon. Delegate for Kwanja county. It is for this reason, Mr. Chairman and Hon. Delegates, that I would like to make clarifications in accordance with Rule 12, clause 1, 2 and in conformity with clause 3 of the CA Rules of Procedure. I will start by outlining the issues.

Mr. Chairman, Hon. Delegates, as already alluded to above, among the wrong impressions that have so far been created in this House and elsewhere in the public include:

- 1) That a personal grudge exists between me and Hon. George Cosmas Adyebo, CA Delegate for Kwanja.
- 2) That I would like to draw the Hon. Delegate for Kwanja county to a political quarrel.
- 3) That my contribution to CA general debate was malicious and designed to tarnish the name, spoil the reputation and demean the office of the said Hon. Delegate as Prime Minister of the Republic of Uganda.
- 4) That in so doing, I am vying for his job as Prime Minister and should therefore stand warned to wait for 1995 elections.
- 5) That I am denying the Hon. Adyebo as being my boss even outside this House.
- 6) That my supporters in Matheniko county have disassociated themselves from the CA contribution of 3rd August, 1994.

7) That while in this Houses I am Hon. Adyebo's Deputy Minister.

Mr. Chairman and Hon. Delegates, this and any other insinuations of improper motives attributed to my contribution deserve appropriate response which I would like to proceed as follows:

1) The issue of personal grudge, political quarrel and malicious CA contribution: I would like to categorically state that I have no personal grudge whatsoever against the Hon. Delegate for Kwania county, neither arising from our limited experience in this House nor elsewhere. To the best of my knowledge and conscience, I do not see any reason for such a personal grudge at all. The plea of the people of Matheniko county like any other people of Uganda who have in one way or another ever suffered due to lack of timely appropriate government action resulting from the hoarding of information by government departments or bureaucrats on issues of public importance such as earthquakes, droughts, famine, industrial pollution, etc. was and still remains my main submission to be discussed and incorporated in the new constitution as a fundamental human right. The citizens of Uganda should as a matter of right have access to information in the custody of Government, unless that information is classified and does jeopardize the security of our country. Even then, such classified information should have a specified time limit in the constitution within which it should be declassified. The officers and institutions of government, be they Prime Ministers, Ministers, Commissioners or any other category including Parliament found to be hoarding vital information from the public must be made accountable to the people of Uganda as a matter of principle. In addition, the findings of Commissions of Inquiry must always be made public otherwise what will be the purpose of such Commissions?

When in my submission I used a phrase, *'such Prime Ministers should be retrenched'* without naming anybody, I was simply using the recent sluggish handling of the famine situation arising from the initial insensitivity and hoarding of vital reports on famine, to explain and justify why such officers of government should be made publicly accountable in the new Uganda. I was, therefore, being futuristic in my submissions. The phrase *'such Prime Ministers should be retrenched'* did not in essence refer to Hon. Adyebo as a person but referred to the office of Government in general and symbolised any gov-

ernment bureaucrats who would be found to be hoarding information and misleading the public or depriving the citizens of their fundamental rights of access to information. The right to know, built in the constitution, will assist citizens bring pressure to their government bureaucrats, thereby causing them to take appropriate action. For instance, if the leadership from Karamoja in their submission to the Select Committee of Parliament or President's Office, did not counter the wrong impressions given to the public by some Ministers, that the people of North-Eastern Uganda were dying of AIDS instead of famine and the initial denial by some government departments of the existence of a serious famine and famine related deaths, Parliament would not have directed government to release about two billion shillings for relief supplies in the 16 famine stricken districts. This prime debate was widely reported in the Mass Media and helped the public to demand appropriate action from government. As a consequence, relief food is now being transported to the affected districts although belatedly after a number of deaths had occurred during the period of government inaction. From this main submission of the Matheniko people, proposing a constitutional safeguard to make it difficult for government officers to hoard information, I am therefore surprised as to why the whole issue has been misconstrued to purport a personal grudge between me and the CA Delegate for Kwania county. If anything, I was not crying over spilt milk but drawing lessons from the recent ugly experience in order to shape a better future for Uganda. Political opportunists are now taking my reference to the Prime Minister's Office out of context and using it to tarnish my name, misrepresenting my personality and creating a wrong impression of a personal grudge between me and the Hon. Delegate for Kwania county in their quest to make political capital out of my well intentioned submissions to this House. I regard this as a total diversion from the real issue to non-existent issue of personal grudge. There is neither any political quarrel nor any reason for drawing the Hon. Delegate for Kwania county to such a misunderstanding.

If there is to be any quarrel at all on the issue of preventing government departments or bureaucrats from hoarding information and being sluggish in responding to the plight of Ugandans, then that quarrel should involve all of us as CA Delegates charged with the responsibility of promulgating a new constitution of Uganda. Such a discussion should not be personalised.

On the issue of vying for the job of Prime Minister. Mr. Chairman and hon. Delegates. On the issue of my CA presentation being misunderstood to imply my desire for the job of Prime Minister, which the Hon. CA Delegate for Kwanja county holds outside this House. I wish to clearly state that I have neither any intention nor aspiration whatsoever for the position of Prime Minister. It is definitely not one of my long held aspirations. Besides, the position of Prime Minister is not an elected position within government. There is an elaborate procedure for appointment of Prime Ministers, Ministers etc. It is neither my concern nor the responsibility of this honourable House to determine specifically who the next Prime Minister of Uganda would be and when that Prime Minister will be appointed. Therefore, the advice for me to wait for 1995 elections is misplaced as it has no basis in this House. I regard it as part of air supply. Even if one goes through the 1995 elections, there is no guarantee that one will automatically be appointed Prime Minister. That remains the prerogative of the President and the machinery that will hopefully be instituted by this House. If anything, some of us in this House are now seriously contemplating the logic of appointing Prime Ministers, Ministers from Parliament. Perhaps this case now goes to illustrate the problems which usually arise from lack of clear separation of powers between the executive and the legislature.

My position as Deputy Minister in this House. Regarding my position as Deputy Minister in this House and denying the CA Delegate for Kwanja county authority as Prime Minister and therefore being my boss which was hinted in this House and later quoted out of context by the Press during my two-day consultative meeting with people of Matheniko and Moroto Municipality in Karamoja. I would like to assert the fundamental truth which this House holds. Hon. Delegates will recall that we did debate and reach a consensus on what title we should be referred to while transacting business in this House. From that day on, we continued to relate and be referred to as Hon. Delegates. We only elected to the high offices, the Chairman and his Deputy. The rest of us, regardless of our other capacities outside this House remained but only honourable Delegates. This includes me as a Delegate for Matheniko county and CA Delegate for Kwanja county. Therefore, inside this House, the Hon. CA Delegate for Kwanja county is not in any way my boss and I am not his Deputy Minister inside this House. I, therefore, would like to thank the Hon.

Members of this august House for their foresight in including privilege within our Rules of Procedure so that all of us as Delegates presenting views of our various constituencies should do so without intimidation, without fear, without favour which would have otherwise been hindered by interference of our other capacities outside this House. I am sure honourable Delegates will agree that if some of us cannot be allowed to freely express the views and sentiments of our constituencies on a simple reason that we are Ministers or Prime Ministers, it would be tantamount to shutting up our whole constituencies and denying them their right to be effectively represented in this House. It is against this background that my contribution of 3rd August 1994 and the consultative meeting in Moroto on 12th, 13th August, 1994 should be understood. It is also a statement of fact that the Rt. Hon. Prime Minister remains my boss outside the CA, just like my other bosses such as Ministers of State, Ministers, Vice-President and His Excellency, the President. It should however, be recalled that it is lack of tolerance for objective criticisms and intimidation of subordinates by those in leadership which has been responsible for lack of genuine democracy and cause of instability in Uganda. Objective criticisms should neither be confused with subversion nor insubordination. Therefore, sufficient constitutional safeguards should be made to cause the leadership in the new Uganda to encourage and tolerate objective criticisms while at the same time, enabling the population to hold their leaders publicly accountable.

The position of my constituency vis-a-viz my CA contribution. Mr. Chairman and Hon. Delegates, I dismiss as baseless, the report that appeared in *The Daily Topic* of Thursday, 18th 1994, that the elders and RCs of Matheniko county and Moroto Municipality have disassociated themselves from my contribution to the CA general debate of 3rd August, 1994. I have already alluded to this as a mere fabrication of political opportunists who would like to misrepresent issues and make political capital out of the imaginary conflict between me and the Rt. Hon. Prime Minister. It seems, it is also aimed at misrepresenting my personality and undermining my political base in the constituency. The allegation that I won the CA elections solely with the votes of NRA soldiers in Moroto Barracks was false since I still beat my opponents by far, even after deducting the votes of NRA and Katikekile sub-county. Even the names of elders mentioned in the said Press report were inaccurate as one of them was sick and never

attended the two-day seminar and the rest played a pivotal role in organising and successfully conducting the affairs of the consultative seminar. None of them in their submissions during the consultative seminar disassociated himself from the submission I made to the CA. If anything, the participants applauded and affirmed their support for the presentations that I had made and the Hon. CA Delegate for Moroto Municipality Hon. Sammy Ogwel Lote who was among those who facilitated the said consultative seminar. I therefore would like to challenge any such reporter to release any tape or authenticated recording of the said seminar in order to validate their Press report of Moroto Prison Hall meeting. My lawyers are already handling the matter concerning *The Daily Topic* misreporting of our Moroto consultative seminar.

In conclusion, Mr. Chairman, hon. Delegates, my presentation of 3rd August, 1994 which was dismissed by Hon. Delegate for Kwanja county as being malicious, fashioned to tarnish his name and demean his office as Prime Minister of Uganda is now available and will be part of the *CA Hansard* as reference for the public and generations to come. In the speech, it is clear that I did not refer to Agyebo as a person but to Prime Minister's Office as an institution of government which should play a pivotal role in fighting government department insensitivities and promoting public accountability by guaranteeing the citizens' fundamental right to know. I hope the Press will assist in making the public know the truth regarding my CA contribution which has in recent weeks generated controversy. With due respect therefore, I beg the CA Delegate for Kwanja county to take my submission as having been done in good faith for the good of all Ugandans. I stress once again that it is the institution rather than the incumbent that I was addressing. Now, as champions of public accountability and channels of public information, the Press should not blur the main submissions of Matheniko people who are currently recommending this august House, to make a provision in the new constitution for the citizens' right of access to information in the custody of government. It is against this background therefore that the goose which lays the golden egg should be preserved, it should not be destroyed.

Mr. Chairman, I now thank you for giving me an opportunity to make clarification on this issue which I hope will now put it to rest. In the same regard, I thank the Hon. Delegates for listening to me and I wish you all the best deliberations in our consideration phase. For God and my country. Isha-Allah!

THE CHAIRMAN: The statement was made under rule 12 as a statement of personal explanation. It was lengthy but the matter it was addressing was equally important. Under rule 12(1), no debate arises from matters of self explanation by a Member and so no debate will be allowed on that statement. We proceed to the next item on the Agenda.

MOTION

CONSIDERATION OF THE DRAFT CONSTITUTION OF THE REPUBLIC OF UGANDA

AN HON. DELEGATE: Thank you very much indeed for your generosity, Mr. Chairman. I want to point out on a point of procedure, a trend which is growing in this House, of Members of the Assembly bringing under their personal explanations matters which have not arisen out of statements made in this House, matters which appear in the Press and taking a long time of this House when we do not have time. I think, Mr. Chairman, although you are very generous, I would like to say that, that is wasting our time when someone engages the attention of this House for such a long time referring to the Press. We do not debate our matters through the Press; we debate matters of this Assembly on the Floor of this House. So, in future, Mr. Chairman, I want to say that although you are generous you should rule as out of order, any statements which do not arise on the Floor of this House. Thank you Mr. Chairman.

THE CHAIRMAN: I appreciate your concern. I would like to say that quite a number of statements had been rejected by the Chair. The only problem I had with this one was that it was rather lengthy and the time was short to reduce it. Otherwise it arose out of a number of factors as you know. There was a report which alleged in the Press that one Member had made a statement that was not complimentary to another Member notwithstanding that we do not have bosses here. The Member for Kwanja took advantage of the Chairman's permission and replied to that statement and part of it, I think, was also reported in the Press. Subsequent to that, there was a continuation of that dialogue at which another statement was made relating to the question of the boss. The Chairman's inclination was not to allow reference to that but the Member said he was saying the Prime Minister is not his boss in the Chamber but otherwise his boss outside and it was important that, that be clarified. So, the Chairman seeing that it may help the proceedings of this House when the pressure is running normal has allowed this sort of statement.

And we hope that with these statements, the two Members, one for Matheniko and the other for Kwania will now represent the two peoples together with the rest in a friendly and harmonious atmosphere.

Hon. Delegates, I am advised by the Deputy Chairman that the Assembly successfully considered Article 1 of the Draft Constitution and approved it with amendment and now article two has been called. I think you settled the question of procedure yesterday. But my understanding, if I may recapitulate, of the situation is that our rules required us to call the article; we are going article by article. The rules require that if there is an amendment to be made, unless specifically accepted by the Chairman in special circumstances, notice must be given of any proposed amendment to the articles and that the question having been proposed will be put by the Chair if no amendment is raised and that, debate will not be allowed on an article unless an amendment has been moved. In other words we took time to debate the general principles of the various articles during the general debate and now we are in the detailed stage and unless there is an amendment proposed, we will not be concerning ourselves with discussion of those articles. The Chairman will propose the question and proceed to put it and decide on the basis of the consensus whether it has been negatived or it has been upheld or it is a matter on which we should proceed by division and if we do, then the procedures that are in the Statute will apply namely, that if we go to division and the matter does not receive more than 50 per cent of the Members present and voting not membership of the entire House, it is not an absolute majority. It is more than 50 per cent of the Members present and voting. If it does not attain that, then the matter is lost, whatever proposition it is - either to delete the article or to add to the article or to remove a word or to add another word or any other mode of modification. If you get more than 51 per cent but do not get 75 per cent then the matter is contentious and then procedures will follow namely, we give it a break, we come back and vote on it again and decide whether we have found the answer. If we get over 15 per cent, the proposition is passed. If we again fail to get 75 per cent but get over 51 per cent, then the matter is contentious and depending on whether it is of national importance, then we go to a referendum. If it is not, then other procedures follow. I think that in summary is required of us. Any matter which goes beyond 75 per cent is carried.

MR. DICK NYAI: Point of clarification. Mr. Chairman, you have made a very able analysis of procedure particularly with respect to percentages. The article we adopted and passed to stand as part of the constitution was by acclamation of the Ayes and Nays. Now Mr. Chairman, I do not know whether therefore legally we need the requirements of the 51 percent or 66 per cent or 75 per cent.

THE CHAIRMAN: Yes, you did meet the requirements because the first stage is that you try to obtain a consensus and the Chairman will put the question and then the Ayes and the Nays, depending on his/her hearing capability, he will determine whether the Ayes or the Nays have it. If you want to disagree with the Chairman, there is a procedure there. You can say, let us count let us stand and be counted. That is when those percentages come in. But if there is no such thing and the matter is agreed on consensus, it is carried. It is only when you choose to count yourselves that you go into those percentages.

AN HON. DELEGATE: Point of clarification. Thank you Mr. Chairman. Mine is also a clarification on the article we passed yesterday. Mr. Chairman, I had circulated an amendment yesterday in writing to the clerk and I had requested to be allowed to make an amendment without motion and my amendment had been seconded by my neighbour here, Hon. Rwabiita. But the procedures yesterday were that only amendments which came from the Floor were considered and this amendment was never considered and I did mention to the Assembly that I had not withdrawn my amendment. Now the clarification I seek, Mr. Chairman, is how to handle that. I also notice that this morning, still my amendment has not been circulated to the Assembly. But I had intimated to Delegates about the nature of the amendment I had wanted to move. How does one handle this. Mr. Chairman?

THE CHAIRMAN: It is a pity but it is too late. The matter was resolved by vote in the House. The only thing is, you wait for reconsideration stage. If you can, then you can have the matter reintroduced.

PROF. KANYEIHAMBA: I thank you, Mr. Chairman. My names are George Kanyeihamba Rubanda East and Chairman of the Legal and Drafting Committee. Sir, I want some clarification. The Legal and Drafting Committee have found difficulty in synchronizing and suggesting amalgamation of these amendments because we do not have notice of them

until we come here and we are suggesting that some time should be given to us. For example, we are meeting this afternoon so that we can synchronize these amendments. I think the original rule that one should give three days' notice was intended to give opportunity to the committees to look at these amendments and try and marry them where necessary. But if we only accept amendments which are just given here orally or which are submitted on the same day, we are going to be in trouble. So, I wanted to have some clarification as to give the Legal and Drafting Committee time to examine and assess all these amendments obviously with the assistance of the Technical Committee so that we do not make mistakes. I had noted for example, a number of amendments which I found on my table just now. Some of them conflict; others are on the same subject and they would need someone to look at them so that we can proceed more quickly. I thank you.

THE CHAIRMAN: I agree. I think to make that possible, we shall adopt the following procedures: Original amendments to articles should be by notice - three days as required by the rules. But amendments on the Floor during the discussion cannot require Members to dash out and give notice of them. In other words, if there has been an amendment which has been given notice of and we are discussing it here, and in the process of discussion, one Member feels that there is a need to amend that amendment, then he can propose that amendment on the Floor but also put it in writing. The original amendment should have been given notice of so that those which come from the various Members on the same article can be looked at, and the Legal and Drafting Committee together with the technical Committee should interact with Members who are originating the motion so that they agree amicably on how to synchronize those motions so that we do not waste time on conflicting or the same motions coming from different Members.

MR. BEN WACHA: Mr. Chairman, Sir, my understanding of Hon. Ruzindana's proposed amendment is that he seeks to introduce some additional matters which could probably be a new article between one and two. I am wondering, and that is why I want clarification - whether this matter too can be considered or it is too late.

THE CHAIRMAN: Is it a new article?

MR. BEN WACHA: The way he suggested it yesterday, he was trying to withdraw certain articles

from Chapter three and introduce it under the concept of the constitution.

THE CHAIRMAN: Unless he has given us a chance to look at it, my Deputy's attention was not drawn to the existence of that motion yesterday. But if it was introducing a new article without amending the one we have already settled, then that is a different matter. But if it was to introduce an amendment to an article or any matter which would be conflicting or affecting the reading of Article 1, then it would be difficult for us to adopt it or to give him a chance.

MR. RUZINDANA: Mr. Chairman, what I had wanted to propose would not have changed the article which was approved. It would have added to it what is now article 8(1), 8(2) and 8(3). They are also about the sovereignty of the people and they do fit just next to the article which we approved. Well, possibly there would be an amendment to it in the sense that it would be one, possibly.

THE CHAIRMAN: I think that is where it files into the reconsideration stage because you may come to article three and some people think that sovereignty of the people should be there and wish to lift the other one from where it is in the reconsideration stage. So, let us wait until we reach there and see.

MR. RUZINDANA: However, Mr. Chairman, I notice some other Hon. Delegate has given notice of a similar amendment making it 2(1) with difference that he adds 8(4) to 2(1) which he proposes although I had not myself included that 8(4). So, it is sort of catered for in that proposed amendment.

THE CHAIRMAN: So, can we reach there and we see how it covers your situation.

MR. ELLY KARUHANGA: Mr. Chairman, following the example we have had from Hon. Ruzindana's case, there will be this type of situation coming up from time to time. I was proposing that when we get these amendments, the Legal Committee should, together with the Technical Committee, find out if some of these amendments proposed which might be marrying the two or more articles which are spread or duplicated in the draft, could be married by the Legal Committee and a proper sequence made out.

Secondly, the numbering of the draft as proposed in the draft, may also have to change. For example, yesterday, Hon. Malinga wanted to change number-

ing. This also could be addressed to the Legal Committee and something be sorted out. Then we have also seen that the Business Committee has come up with a proposal which has been approved, that chapters will be as follows: for example chapter one and chapter five. That we may find that, in fact, to be able to proceed through chapter one, there are matters which are duplicated in Chapter three but chapter three will not be discussed now because it is supposed to be a controversial chapter. So, the Legal Committee could probably also ask and assist in bringing some of the articles in those chapters which may be relevant in the other articles that are being considered. So, it looks to me that the people in the Legal Committee are in trouble with this type of work. How are we going to proceed and what type of facilities are going to be available to this? It seems to be a mammoth task.

THE CHAIRMAN: No, the powers and functions of the Legal and Drafting Committee is that they not only get work referred to them but I think they can assist on all matters that are of a legal nature here. And I think the House can direct the Legal and Drafting Committee to carry out an exercise ahead of our coming to chapters - so that you can indicate to us, for instance, it would have been helpful if while discussing article one, we had also looked at the question of chapter three, the question relating to the sovereignty of the people. But those are matters which I think can be liaised between your committee and the Business Committee so that we agree on the procedure. I think we are going to spend a lot of time on procedure now.

MR. MALIRO GASTON: I proposed a motion to introduce a new article. That article does not affect article one which we passed yesterday because it is inserted as Article 2 between Article 1 and the present Article 2. So it is only the numbering of Article 2 which will have to change and it seeks to introduce what Hon. Ruzindana is referring to.

THE CHAIRMAN: Well, there is no problem. You are on the list. So when we come to that stage, we shall take into account that.

MR. BABU: Mr. Chairman, all submissions now are pointing to one area only that the business committee should sit and go back to review the working committees. I would like to request that because of what has happened in the last two days, when the business committee sits, they could review

the part where we can set up select committees on particular areas of this draft constitution so that most of us can go there and even get involved when they are discussing some of these amendments. I think it would help us quite a bit and it would help all of us to contribute if possible because if they throw my amendment out, I might not understand. Now if we have select committees that are working on particular areas of this constitution, all of us can go there and participate. I would like therefore to propose Sir, that when the Business Committee sits, it might review the select working committees. Thank you very much.

THE CHAIRMAN: Well, the idea of subject committees were found not to be acceptable when we made our rules here. We said the plenary is the better choice and then we said that in the event of areas of difficulty, we go to select committees. Had we adopted the previous choice even chapter one would not be with us today. It would be in a subject matter committee. But we rejected subject matter committees. Now we have to go by the procedure we gave ourselves; namely that until we are deadlocked, we continue by way of plenary and we only try to ease the situation by getting the business committee to categorize areas which are potentially not contentious - it would appear there is nothing like that. So now, either we revisit the rules and I think that is not accepted - let us proceed as we are this way. We are now clarifying the question of procedures. We shall go to the articles, maybe we shall move fast and then other areas which we find difficult, we shall make reference to select committees and appoint them in accordance with the rules.

MR. DAMIANO LUBEGA: Thank you very much, Mr. Chairman. I refer to your preliminary remarks about the way this Assembly takes decisions on motions. You stated, if I heard you properly, that in order for a motion to carry, it must obtain the support of 75 per cent. I would like, if I heard you properly, to correct the records. I think what you meant was two thirds as provided for under Rule 27 2(d) which provides that the motion shall be carried if it obtains the support of not less than two thirds of the Delegates' voting. That does not amount to 75 per cent. So for purposes of correcting the records, Mr. Chairman, I propose.

THE CHAIRMAN: Can you draw my attention to the rule?

MR. LUBEGA: Rule 27 (2)(d).

THE CHAIRMAN: Yes, two thirds, you are right.

MR. LUBEGA: That should be about 67 per cent.

THE CHAIRMAN: Yes, that is right. Of the Members voting, not the whole House.

MR. BIDANDI SSALI: Mr. Chairman, although you have sort of reminded us of the rules we ourselves passed, I would like to observe pursuing contribution by Hon. Babu that at the time we passed some of these rules, there was a lot of suspicion amongst some of us and there was a feeling in the majority that if something was discussed in one's absence, then he was likely that something unpalatable would go through. That is why we talked of discussing chapter by chapter in the plenary. But the world over in conferences like this one, and even smaller ones, in order to make progress, really subject committees or technical working committees are normally set up just like we did when we were working on the draft rules. So, Mr. Chairman, although in this particular respect we had agreed that this is how to handle it, experience so far has shown one that, there is no need for suspicion amongst us in many areas and two, that judging by what has gone on, it would be very difficult for us to finish this constitution within the period that we are supposed to do. So I would personally feel, Mr. Chairman, that it is not a matter of going back to the rules but it is just reviewing this particular aspect so that we help ourselves and the nation to devise the best way of completing the exercise we are charged with in the shortest possible time. So, I wonder whether I could be persuasive enough to my Colleagues, the Hon. Members.

THE CHAIRMAN: Before I even put the question, I can see a consensus has emerged.

MISS ZZIWA: Thank you very much, Mr. Chairman. In fact I want to support Hon. Bidandi Ssali - Mr. Chairman, I beg to be protected.

THE CHAIRMAN: Order, order.

MISS ZZIWA: Mr. Chairman, with due respect, you realise yesterday we spent a lot of time and I want also to add that these motions which have really been put before us, most of them have similarities here and there and it has proved very time consuming to go all

over them again. Mr. Chairman, with your indulgence, if we could borrow or use rule 43 for this particular respect which says that subject to the Statute, any of the rules may be suspended and we suspend this particular rule under which the provision of working in the plenary and we categorize ourselves or those people who have particular amendments to make on particular chapters or articles; and they sit together and syncline along with the legal and drafting committee so that we can make a move Mr. Chairman. I am begging the Members to look at this situation objectively. Thank you, Mr. Chairman.

THE CHAIRMAN: Now, we have received two views suggesting that we revisit our position as regards subject matter committees and I want to hear from those who say no.

BRIG. MUHWEZI: Point of order. Mr. Chairman, before you put the question, I suggest that you allow Members to discuss a little further on this point.

THE CHAIRMAN: I thought you were to raise a point of order. Now you are suggesting to the Chairman -

BRIG. MUHWEZI: Mr. Chairman, I think it will be premature because we have very strong views. If the nays will have it, I do not think it will be in the interest of this House.

THE CHAIRMAN: No, you should not worry because I have not even proposed the question. So, I cannot put it. I want to hear from those who are against the proposition.

MR. ATAMVAKU ZUBAIRI: Mr. Chairman, we might have stumbled yesterday. I do not think that a day's error alone is enough to disqualify the existing rules. I believe that yesterday was not enough to test the efficacy of these rules. That was just the beginning. So, I only propose that the rules should stand as they are and as we go along - after all, there is a set valve - we can always set some committee to consider a particular issue which we think is bogging us down. If we are going to take one single day as a test for these rules, I think we are only prejudging ourselves. Thank you

MAJ. GEN. TINYEFUZA: Thank you, Mr. Chairman. Mr. Chairman, I would like to disagree with the suggestion of Hon. Bidandi Ssali and

seconded by Hon. Zziwa from Kampala that we suspend the rule which we set. Mr. Chairman, the background which made us commit ourselves to discuss these matters in the plenary is that this document is very important. Every person here represents interests of his specific people in his own constituency. (Applause) And it would be very dangerous at the end of the day to justify in your constituency whether a certain group did not actually, hijack and write the constitution by joining up even chapters which we would have refused here. (Applause) Therefore Mr. Chairman, if you look at rule 37 and I think it is very clear if we are all well-intentioned, I think really the problem of yesterday was a problem like we first faced of setting up a procedure, of how to proceed in consideration stage and I think that was justifiable. This was a difficult situation because we did not know exactly what procedure to follow. But having set up a procedure, I do not think that any Member is justified to say that the delay has been caused by considering any particular article. I think that is premature to say but, Mr. Chairman, rule 37, says, *'the Assembly may appoint select committees as and when the Assembly considers it necessary'*. The way is open. Should Members think that we have been bogged down, they are free to come up and say, 'Mr. Chair, Sir, we propose that we now appoint a select committee to assist'. But Mr. Chairman, let us not go back to undermine the people's confidence of handling things themselves. Thank you, Mr. Chairman.

MR. KAVUMA: Mr. Chairman, I would like to allay fears of Hon. Delegates that this rule precludes the appointment of the subject matter committee. If you read rule 30 properly, 30, sub-rule 1, it says, *'the Assembly may establish standing committees... which we have. We have three at the moment: Business Committee; Legal and Drafting Committee; and the Rules and Orders Committee. And then we can also establish select committees and any other committees on any subject it considers appropriate for the carrying out of its functions. Mr. Chairman, these and any other committee were intended to take into consideration and to cover situations which may arise. You remember the subject working committee was rejected and I think if we are to go back to re-establishing that committee, I would like Members to know that the procedure would be very long. First of all, we have to pass a resolution here. The Minister for Constitutional Affairs may have to come in for debate and then he will have to publish it by Statutory Instrument. This*

is if you look at page 1 of the blue book you have. The Minister has got to take all these procedures to have the thing properly amended, gazetted and so on. So, my view, Mr. Chairman, is that rule 30 sub-rule 1 is broad enough to cover all these select committees, subject matter committees if you want to appoint them and Standing Committees and therefore, there is really no need and we should continue in the plenary. Where Members at any stage would like to appoint a Select Committee or Subject Committee, we shall appoint it as far as Rule 30, sub-Rule (1) is concerned. Thank you, Mr. Chairman.

THE CHAIRMAN: I think with that clarification, let us proceed to the substance that has brought us here. Let us go to Article (2) of Chapter 1. I now propose the question, the question is that Article 2 do stand part of the Draft Constitution.

AN HON. DELEGATE: Mr. Chairman, I am wondering whether you are meaning Article 2, which I proposed to be introduced or Article 2 which is present, Mr. Chairman.

THE CHAIRMAN: I think we have to bend our Rules a bit. Because the Clerk has called Article 2 and as per Rules of procedure as they stand, I have to follow up on what the Clerk has called and on calling Article 2, I propose a question and if there is any Member who wishes to amend as I can see there is, then that Member moves an Amendment and then, we leave the other question. We discuss the Amendment by proposing the question, after the Mover has spoken, the debate arises, we resolve that one, then we come back. But now, his is that he would like to insert an Article between Article 1 and Article 2. So, we give him the Floor.

MR. MALIRO GASTON (Mwenge County, North): I thank you, Mr. Chairman. Mr. Chairman, I beg to move a Motion to introduce a new Article between Article 1 and the present Article 2. This Article should read thus:

2 (i), *'All authority, in the State emanates from the people of Uganda and the people shall be governed only through their will and consent'*.

2 (ii) *'All power and authority of the Government and its organs, derive from this Constitution which in turn derives its authority from the people who consent to be governed under terms agreed in this Constitution'*.

2 (iii) *'The people reserve to themselves all power and authority which they will not delegate to the State and its organs'*.

2 (iv), *The security organs shall at all times remain subordinate to the supreme, political authority*. Mr. Chairman, this Motion, seeks to transfer Article 8 from Chapter III and transform it to Article 2 of Chapter 1 and I have reasons. I have critically examined and scrutinised Article 1, Chapter 1 and Article 8, Chapter III; I am convinced beyond reasonable doubt that the two Articles are inter-related and qualify each other. I therefore beg the indulgence of this august House to bear with me that the provisions of Article 8, are so important and should not be missed in our Constitution and yet, this article was misplaced and would only cause redundancy to appear in two unrelated Chapters under the same heading, reading - Sovereignty of the people. Mr. Chairman, the Article quite clearly and adequately seeks to describe the origin and exercise of all the authority in the relationship between the people and the State in regard to the peoples' sovereignty. The Article categorically emphasises the supremacy of the people over the Constitution and the Government and its organs. This clarity of this Article serves as an assurance to the people, while safe guarding or while sounding as if it is warning to Government operatives.

THE CHAIRMAN: I think it is not really fair that we should raise points of Order when a Member is moving an Amendment. It would delay our work, but anyway, since it has been said, -

MR. KAGIMU KIWANUKA: Point of order. According to the Rules of Procedure, is the Hon. Member in order to give reasons before the motion is seconded?

THE CHAIRMAN: The Motion was seconded here on paper as far as the text I have got here. In fact, he has gone to call on the seconder to -

MR. MALIRO: Thank you, Mr. Chairman. It is for this matter that I am requesting Hon. delegates to bear with me that the people of Uganda have suffered a lot under their own hired servants and I see that these two Articles, that is Article 1 and the proposed Article 2, if they are followed, will provide for redress. I felt that we should not wait until we start discussing Chapter 3 in order to introduce this Article because this would require resisting at the re-consideration stage and at this stage it is unnecessarily tedious and time consuming to re-write the whole Chapter which will have been passed. That is why

I decided to bring it in at this material time, Mr. Chairman.

Finally, since these two Articles can be best read and interpreted in relation to each other, I beg to move that Article 8, transformed to Article 2 be immediately placed after Article 1, to become Article 2. I thank you, Mr. Chairman.

THE CHAIRMAN: The Motion has been seconded by Hon. Masalu Musene. I now propose that the question in terms of the Motion - I do not have to read it through, you have the text. And I now call upon the seconder and then the debate arises.

MR. MASALU MUSENE: Thank you, Mr. Chairman. In seconding this Motion, my reasons are as follows:

i) There is need to make a concise and straight forward Constitution. During our deliberations, we all agreed that the Constitution we are going to make, should be understood to all Ugandans or by all Ugandans. We even said, that the Constitution to be made will be taught in schools, Primary Schools, Secondary schools and so forth. Therefore, it is important Mr. Chairman, that these provisions are transferred to the Article dealing with sovereignty, so that for purposes of cohesion and for purposes of simplicity, especially when it comes to a Constitution being understood by lay people other than lawyers, it is easier for someone to understand similar Articles which are together, other than to find one Article here, another one under a separate Chapter. So, it becomes difficult to be understood.

ii) To avoid duplication, Mr. Chairman, there is need to transfer those provisions to Chapter 1, so that we do not have the same provisions being repeated here and there because all it points out to, is to come up with a clear, precise, straight forward and easily understandable Constitution by all the people of Uganda. So, Mr. Chairman, I beg to second the Motion to transfer those provisions as moved. Thank you, Mr. Chairman.

THE CHAIRMAN: Now, to get more disciplined discussion of the matter, I would rather we divide ourselves such that, I shall take four - two against and just I come to that - *(Interruption)*

MR. KARUHANGA: Mr. Chairman, this is the situation which I had raised during the procedural question. Did we not say that it might be a good idea for the Legal Committee to see which Chapters are

going to be moved from where to where, to renumber and to do this? Because if we keep on doing this type of thing, renumbering - this is really what Hon. Gaston has done, he has picked all the wording in Article 8 of Chapter 3, (i), (ii), (iii), (iv), there is absolutely no Amendment in his proposal. He is only transplanting Article 8 of chapter 3 to Article 1. Now, can we say that there is substantive Amendment? So, what I am asking is your guidance, Mr. Chairman, before the pros and cons. Are we discussing transfers of Articles, or are we discussing the issue?

THE CHAIRMAN: Well, what is an Amendment? Amendment means omission, insertion, modification, addition, transfer, whatever. (*Applause*) But for purposes of clean working, I do agree with Hon. Karuhanga that shifting pieces of the Draft Constitution from one part to the other may cause a lot of confusion. What we could agree as a principle, without prejudicing the Member's Motion is that where a proposition is made to lift without modification, portions of the Draft Constitution to another area, we could use the Instrument of the Legal and Drafting Committee by referring that matter by Motion - by resolution here that, that Motion be referred to the Legal and Drafting Committee for advice. Then they go and look at it and come back and decide whether that is the correct home for it or it could be the other one. Then, on the basis of that, we can go back to the Member and finalise his Motion or we tell him to wait until we come to the other point. How do you see that?

MR. MULENGA JOSEPH (DEMOCRATIC PARTY): Mr. Chairman, thank you. If we accept that arrangement as you have just put it, I see some difficulty in the sense that once we refer an amendment to the committee - take for example the proposed Amendment on the Floor - if we refer it to the Committee and we are proceeding with the rest, we may find that the report comes after we have closed consideration of that Article or Chapter and then we may be told to wait for re-consideration stage. That is what I see as possibly coming out. If we stick to the Rules and these Amendments are circulated in time, we should require - and this is what the Legal and Drafting Committee has been requested - we should require the Legal Drafting Committee to look at those Amendments ahead of the day when they are debated. That way, it will reach that stage of our work. I can see the Legal Committee being very useful and active throughout the proceedings. So

that by the time a proposed Amendment comes, they have already expressed an opinion or advice. But if a Motion or an Amendment is tabled like this one, to put it off and we consider the next one, it will have lost the point that Hon. Maliro was making. I want to propose that before we consider the next one, this is made No.2, Mr. Chairman

THE CHAIRMAN: It really does not harm because if we make a matter to stand referred to the Committee, we also reserve the right to revisit that particular provision when that matter comes back by way of report. If we adopt the methodology suggested by Hon. Mulenga - of course this should not arise, because we shall have the report of the Legal and Drafting Committee in advance to Amendments of this nature. But if we are having a situation such as this one, I think let us hear from the Chairman.

PROF. KANYEIHAMBA: I Thank you Mr. Chairman and I appreciate all the views that have been expressed on the matter including the latest by Hon. Mulenga. I think that we had or we have difficulty with Chapter 3 and by the way, I support the Amendment which has been proposed. But I did on request of a number of delegates write a Brief on the difficulty of Chapter 3 and in the last part of that Brief, I recommended that the Legal and Drafting Committee assisted by the Technical Committee dismantle this Chapter and transfer some of its principles in relevant parts of the Constitution and what this Amendment is doing, is precisely that. Had we been given this job, that is precisely what we would have done and I believe that Clause 8 of Chapter 3, is appropriately mentioned to fit here. However, there are others, Mr. Chairman, which may be part of this surgery as I call it and so I was requesting that with the permission of Hon. Members, they should allow the Legal Committee to look at this Chapter as a specific mission and then make recommendations at appropriate time. I think the problem we have is only this Chapter, others will come as Amendments, we will not have problems, but this is detailed and long and duplicates everywhere that it needs to be specially looked at. So, I would request that with the permission of Hon. Members, the Legal Committee be specifically asked to look at this Chapter and see what appropriately goes in the parts of the Constitution. I support this Amendment, Mr. Chairman.

THE CHAIRMAN: Before I comment on that, let me hear from the Hon. Member here and then ...

MR. KINTU MUSOKE (KALUNGU EAST): While I really agree with the proposed Amendment, I see in it two aspects.

THE CHAIRMAN: No, we are now discussing the Procedure really.

MR. KINTU MUSOKE: Yes, that is what I am going to say, but I wanted clarification as to whether when we transfer it, it does not mean that we agree on its substance, because it is as if the Amendment is to transfer it and having transferred it, then we agree to what it says.

THE CHAIRMAN: No, we are not transferring the numbers, but the substance. It is transferring the substance and that is what the Motion is all about.

MR. KUTESA SAM (MAWOGOLA COUNTY): Thank you, Mr. Chairman. Mr. Chairman, I would suggest that we employ the three methods that have been suggested. In the circumstances of this current Motion which is already on the Floor, prior to the proposed surgery by the Drafting Committee, or even in the absence of a long-term notice, that was suggested by Hon. Mulenga, we should adopt the Procedure you proposed, that by resolution of this Assembly, we refer that to the Drafting Committee. In the circumstances, which we have not yet reached about this, particularly Chapter 3, the Drafting Committee should start on its work and then report to us or send us a circular which may stop further Amendments that are not synchronized. Now, with regard to Motions, it seems that people think that you must put it in three days before. Actually, the latest you should do it, is three days before, If they come in long before, not necessarily on the next Article or necessarily on the next Chapter, but what we intend to propose as Amendments throughout the whole Constitution. Then the Drafting Committee will have more opportunity to look at these proposed Amendments and also the different Movers of Motions of Amendment will have longer time and greater opportunity to be able to synchronize their proposed Amendments. Thank you.

MR. MBABAZI (KINKIZI COUNTY, WEST): I just wanted to suggest that we do not attempt in the plenary Session to do drafting and synchronization as well because these are details that do not necessarily affect the substance of the contents of the Articles. So, what we could do, is discuss the substance, agree in Plenary Session that yes, we would like this to be

in our Constitution. Then we will leave it to the Committee of the experts to synchronize. For instance, if we are to adopt this Amendment as Article 2, under what marginal title would you have it? would you also call it as Article 1 is called, sovereignty of the people? Because this could be inconsistent with the practice that goes on in drawing - but this is any way a detail that we need not consider. So, I wanted to suggest that we look at the substance in the Articles, we agree in the Plenary Session, that yes, we would like to have this in the Constitution and then we refer it to the Draft committee to present it for finalisation or formalisation at a later stage.

MR. OKWAKOL NATHAN (PALLISA COUNTY): Mr. Chairman, I am running in some difficulty and I am seeking your guidance and clarification. In the general debate, I gained the impression that the National Objectives and Directives Principles of State Policy may not form part of the Constitution. In fact, there was a thinking that these general principles, since they may not be enforceable, may form a Preamble or a Schedule. Now, there is an attempt to kind of smuggle some of these provisions into the main body - *(Interruption)*

THE CHAIRMAN: I think the word 'smuggle' is not correct because I do not think that it is at night that we are doing this.

MR. OKWAKOL: I withdraw that word 'smuggle'. But the case I am putting forward is, that if we may put these principles into a preamble or a Schedule, would it still be proper to handle this procedure the way you have suggested, namely by rearranging the paragraphs so as to form part and parcel of the main body. I seek your guidance, Mr. Chairman.

THE CHAIRMAN: Well, you see those were views expressed in the general debate. Now, we are in details. Nothing precludes a Member coming up with a proposition such as this one which has been proposed. But I can see us going on and on. I will have just two last Speakers and then we close the subject.

BRIG. MUHWEZI JIMMY KATUGUGU (NRA DELEGATE): I wanted to suggest that we should deal with some of the issues of a general nature and put them aside and one of them is the idea of National Objectives and Principles of State Policy. Because that it is a very controversial issue and if we

do not deal with it first - we are definitely going to have suggestions of Amendments like Hon. Maliro has already done. These principles talk about the entire Constitution. So, I wanted to suggest that we should deal with this matter and if we agree that the objectives and directives principles of State policy should remain, then, we leave them intact. Because I think this Chapter is intended for a different matter. In my opinion, it was put there to give some kind directive intentions: so that in future, should any matter be controversial and goes to Court of Law, and the Courts want to check the intentions of the people who made the Constitutions, they would look at the objectives and the principles. So, I do support the idea that we should first agree whether this Chapter should remain and if it should not remain and if it should not remain, then, I agree that the Legal Committee should advise where to put the rest of the contents of this Chapter elsewhere in the Constitution.

THE CHAIRMAN: I think it was decided, yesterday, that this Chapter should be placed elsewhere. So, what you are suggesting is just reversing yesterday's decision. Let us hear from a lady here.

MRS. EGUNYU FIONA (WOMEN - KUMI): Mr. Chairman, I do not see any harm in shifting the provisions which are contained in the National objectives and principles of State to any other Chapter, because such provisions have already been handled in other Chapters. For example, Chapter 5, contains some provisions which are listed as national objectives and principles of State and if we find that they are relevant, like in this case, to the sovereignty of the people and if we place them in that Chapter they are legally binding, then I think it will be preferable to have them in the Chapter where they are legally binding than where they are just regarded as mere policies and directive principles. I think the two can co-exist. Thank you, Mr. Chairman.

THE CHAIRMAN: I think Hon. delegates we have had an adequate exchange of views on this matter. I would take the position suggested by Hon. Sam Kutesa, that we refer the Motion on the Floor now to the Legal and Drafting Committee for advice as to where it should be located, where they are suggesting, or should remain where it is.

Meanwhile we mandate the Legal and Drafting Committee to come back with advice on the position

of Chapter 3. - (*Interruption*)- Just a moment, let me finish. The Rules are very clear that when the Chairman is talking it, he seems to be well protected - But for other Motions, which will come in, these Motions should be brought in well in advance and I think the Clerk will issue a reminder to Members so that the Legal and Drafting Committee and other bodies concerned, like the Technical Committee can synchronize this Motion so that by the time they come here, we know the location or the suggested location as well as the synchronization and the wording. Now, the Chair cannot move that Motion; the Chairman was only making a proposal to the House.

MAJ. GEN. TINYEFUZA: Point of clarification. Thank you, Mr. Chairman. I want some clarification from you, Mr. Chairman, I think what concerns the people of Uganda is not so much the arrangement ultimately of these Chapters. I think it is the substance contained in this document. Therefore, the primary objective, Mr. Chairman, would be to agree on substantive provisions in the Draft Constitution and once we say yes, Chapter 2 stands, then that is when the Drafting Committee has a job, but not before. Because I find it a bit intriguing to say that we re-arrange something which we have not discussed. We have not discussed Chapter 3 here, now the Drafting Committee, we have said should be synchronizing it. How can they do that? So, I think it is not proper, Mr. Chairman, to discuss Chapter by Chapter and follow our Rules. Once we come to Chapter 3 which is controversial, and we say, by the way it is a good one, then, we can pass and say let the Drafting Committee re-arrange and fit it wherever instead of preempting and giving the Drafting Committee - putting the cart before the horse.

Then my last point, Mr. Chairman, is I also think that - I do not know whether it is being merely academic, because I think we also are capable of seeing what is really on a paper presented to be voted on and thrown out or upheld. If you look at this Motion, Mr. Chairman, which has generated all this heat, it is talking about nothing totally, except sovereignty of the people - sovereignty of the people is only being expounded - giving details of sovereignty. If you talk about sovereignty of the people, then you say authority emanates from the people, then what is the sovereignty of the people? Then when you come Mr. Chairman, for instance, No.4, it is exactly what is in 7 (iv), Chapter 7 (iv) says, the Security organ shall at all times remain subordinate and answerable

to the supreme political authority. This is exactly what the Hon. Delegate is saying here. The Security organs shall always remain subordinate to the supreme political authority, exactly that. Why should we waste our time? We just look at what the gentleman is suggesting and we say yes, we are coming to Chapter 3. So, who seconds it? We throw it out, and we wait for it to come and once we agree in substance that this Chapter is good, then that is when the Legal Committee should come in, but not before. I therefore, beg that we adopt that Procedure. Thank you, Mr. Chairman.

THE CHAIRMAN: Yes, but I do not think I would agree with your last aspect regarding how we should treat a Member's Motion that let him move it so that we reject it. I think we should give a Member a chance to have his Motion moved and we discuss it in good faith. Rule 35 which provides for the Legal and Drafting Committee, does provide for this Constituent Assembly to be assisted on legal issues by that Committee in paragraph (b); 'To consider such Amendments to Articles of the Draft Constitution proposed during consideration stage and reconsideration stage as are referred to it by this Assembly' (c) 'To co-ordinate the work of the Assembly and the Technical Committee...' and finally, (d) 'To carry out such other functions as are conferred on by these Rules or as the Assembly may assign to it'. So, we are not out of the Rules if we refer matters to this Committee; either for advice from a legal point of view or from the Drafting point of view or from the point of view or facilitation. In this case, really what we are looking for is facilitation. There is a proliferation of Amendments to various Articles. How are we going to handle them? Some of them are similar; others are not similar, others are contradictory, others may be moved as Amendments to other substantive ones - so that we know which one we should handle first. We cannot do that in the Plenary Session. That is why it is suggested that, that Motion should be synchronized by the Legal and Draft Committee not ignoring the Movers, but as a technical arm of the Constituent Assembly assisting to make the work easier. Then when Amendments come here, we move faster.

Secondly, the question of referring Chapter 3, to them is because of the very reasons you gave that some of the material you can see are already in Chapter 3, others in another section. So why should we be bothered? Why can we not reject them well even before we start. But I think to give a Member

a chance to be heard is to give the matter to the Committee where they can go and discuss, then come back to us. So, I see really no problem there.

MR. KUTESA SAM (MAWOGOLA COUNTY): Thank you, Mr. Chairman. Mr. Chairman, I wish to move that in terms of Rules 35 (2) (b), of the Rules of this House, this House by resolution refers the Motion moved by Hon. Maliro Gaston John R. and seconded by Hon. Masalu Musene Wilson to the Legal and Drafting Committee. I beg to move, Mr. Chairman.

THE CHAIRMAN: That is seconded, but it is only part of the whole thing because it was moved - *(Interruption)*

AN HON. DELEGATE: Do you move for study, synchronization and reporting?

THE CHAIRMAN: No, we have got the question of the Motion by Hon. Maliro, we have the question of Chapter 3, then we have the question of subsequent Amendments which are coming in already and others which are coming up, so that all these matters be referred to the Legal and Drafting Committee to take appropriate action in respect of each and report back to us as soon as possible.

MR. KUTESA SAM: And the reason I had moved it that way, was because the question that was on the Floor related to this Motion, but if you want - *(Interruption)*-

THE CHAIRMAN: No, no, that is correct. Let us resolve this one first.

MR. KUTESA SAM: Yes, that was what was on the Floor.

THE CHAIRMAN: The Motion is that, the Motion by Hon. Gaston Maliro be referred to the Legal and Drafting Committee for consideration and advice.

MR. ISANGA MUSUMBA (BUZAAYA COUNTY): I wish to make an Amendment to the Motion proposed by Hon. Sam Kutesa to read as follows:

- i) That the Motion as moved by Hon. Maliro be referred to the Legal and Drafting Committee,
- ii) That the Legal and Drafting Committee examines the provisions of Chapter 3, *(Interruption)*

THE CHAIRMAN: No. I had ruled that the Member had quite rightly pointed out that we were discussing Hon. Maliro's Motion. It had been proposed, seconded, and debate was arising, but the question of how to proceed came up. The Member is moving that it be referred to the Legal and Drafting Committee in accordance with Rule 35 of the Rules and then, we will come to the other legs of the what you have in mind. We still need another Amendment? Yes, let us hear that.

MR. KOMAKEC LEADER (ARUU COUNTY): I wanted to move an Amendment to the Motion as moved by Hon. Maliro to clarify one particular aspect before this thing has been refereed - whatever is done to it.

THE CHAIRMAN: No. No, we cannot. Because that will be opening discussion on the substance of the Motion which is being referred. So, we cannot. We can only discuss that when we have received the Report from the Legal and Drafting Committee.

MR. MALINGA (USUK COUNTY): I oppose the Motion, but I just want to say one thing. Before we propose a question, we should give a time limit as to when the Technical Committee will report back to us. Otherwise, we will be proceeding in an organised manner.

For example we should have this Report latest by Monday. I think we should put a time-frame when we are referring to Committees; otherwise, the Committee may bog us down. It may not report back until December.

THE CHAIRMAN: Seeing that today is Friday, I think Tuesday will be a better alternative. Would you like to accept that as a modification, so that we do not go through an amending Procedure? Okay, he agrees for Tuesday.

MR. MWONDHA PATRICK (BUKOOLI COUNTY NORTH): I wish to move a small Amendment. I think the Motion, Mr. Chairman, should remain the property of the plenary Session. What we should refer to the Legal and Drafting Committee should be the terms for further surgery. I think if the Motion remains a property of this plenary Session, then it will ease our procedure when the Legal and Drafting Committee reports back, then, we go back to the Motion as originally moved.

THE CHAIRMAN: But there is no contradiction in the sub-committee of the House. What we are doing is seeking technical assistance. It remains our Motion. We are saying, take it away and look at it for us and bring it back on Tuesday; then we proceed from there. There is no problem there. I think that is the last one.

MR. KIZITO SSEBAANA (MAKINDYE DIVISION EAST): Thank you, Mr. Chairman. I want to oppose this Motion. I want to agree with Hon. Tinyefunza. You see, we are discussing this Draft Constitution and this Motion, although you ruled that it is an Amendment, it is not an Amendment in the sense of the word - because it is just a transfer of some items from one area to the other. And if we go on doing that, my suggestion is that we should discuss things where they are and we agreed to them and later on, when have agreed or amended the substance of the content of the Draft Constitution then, it will be re-arranged by the Technical Committee. But if we go on transferring sections from one area to another we are not going to end, without discussing the content because we even find that when the Legal and Drafting Committee has considered this issue, they will bring it back to us and then we discuss it and then we send it back to them and so on and so forth. This will be time wasting and I do not think I would like to support that, Mr. Chairman.

THE CHAIRMAN: I think you should not mislead the House. I do not want to take part in debate, but the word Amendment, if you were to know it right as a Draftsman, how would you introduce his ideas? The opening words would be Chapter 1 of the Draft Constitution is amended by inserting immediately after Article 1, the following new Article.

MR. KIZITO SSEBAANA: No, I would not, Mr. Chairman. I would not permit to move the Article from one area to another, I would rather support discussing the Article where it is, when we reach it.

THE CHAIRMAN: Okay, so, now that is correcting your language because you are going to mislead the House, but that does not amount to Amendment. I think what we do now is vote on the matter.

(Question put and agreed to).

THE CHAIRMAN: So, the matter has been referred.

MR. ZZIWA GEORGE (KAWEMPE DIVISION NORTH): I have all along been putting up my hand to have something to say, but unfortunately your eye has not been able to get me. At last, you have got it. Mr. Chairman, this question of re-arranging or you might call it Amendment, is a specific one and as such, it is not going to stop this particular Chapter 3. That being the case, Mr. Chairman, I feel the whole issue should be tackled in totality; rather than get it in piece meal. We are going to get so many of these arrangements, Mr. Chairman and as a result, we shall be going to the Legal Committee in piece meal. I would, therefore, propose Mr. Chairman that we have all Amendments that are of that nature, be referred to a particular Committee; whether it is a Legal and Drafting Committee or whether it is a Select Committee. So that we do not move up and down all the time. Thank you very much, Mr. Chairman.

THE CHAIRMAN: I agree with you. In fact, now we were coming to the second leg of what you are proposing, although you are making it narrower. You are only trying to refer to matters relating to transfer, but I was going to call upon the Mover of the previous Motion who had suggested the other ideas to move the Second and the Third together. One relating to Chapter 3 and the other one relating to Amendment that they be referred to a Legal and Drafting Committee in relation to Chapter 3. So that they look at it and come back and advise us to the suitability of retaining it as one or its being dismantled and spread around or its being relegated to a Schedule or a Preamble. Then, on the question of other Amendments that they stand referred to the Legal and Drafting Committee to synchronize before we handle them on the Floor. If he could move those, then we proceed.

MR. KUTESA SAM (MAWOGOLA COUNTY): Mr. Chairman, I wish to move that: i) Chapter 3 of the Draft Constitution, relating to National Objectives and Directives Principles of State Policy be referred to the Legal and Drafting Committee for the purpose of examining and streamlining its provisions vis-a-viz the other Chapter of this Draft constitution and report to this House within a week's time.

ii) In light of the several Amendments that Members may wish to propose on all provisions of this Draft Constitution, those Amendments be submitted in good time to the Clerk to enable the same to be referred either to the Drafting Committee or the

Movers to be able to synchronize their Amendments in light of Rule 48 (12) before the same are re submitted to this Assembly.

THE CHAIRMAN: Do you not think that it would be better if they are referred to one House first so that the Movers are also synchronized. And they should be referred to the Legal and Drafting Committee which should act together with the Movers.

MR. KUTESA SAM: Yes, I accept your guidance but I do not know where you want to place it.

THE CHAIRMAN: Because you were saying that the Clerk then refers them to the Committee or to the Movers, but I was suggesting that it would be better if they went to the Legal and Drafting Committee, which would then coordinate not only the movers but also the Technical Committee so that they come out with one position.

MR. KUTESA SAM: In that case, Mr. Chairman, I shall amend No. (iii) of my Motion. That is that, *(Interruption)* -

THE CHAIRMAN: You are just modifying it.

MR. KUTESA SAM: I am modifying it that, all Motions relating to Amendments of the various Articles of the Draft Constitution be submitted in good to time the Clerk who should submit them to the Legal and Drafting Committee and the Movers be called upon by the Legal and Drafting Committee to synchronize the various proposed Amendments. I beg to move, Mr. Chairman.

THE CHAIRMAN: Is that seconded? The question in terms of the Motion as moved by Hon. Kutesa.

MR. WANENDEYA: (BUDADIRI EAST): Thank you very much, Mr. Chairman. I fully second Hon. Sam Kutesa's Motion. At first, I was of the view that we should have taken out Article 8 and placed it as part of Chapter 1, because in the first Article which we approved yesterday, we were talking of the sovereignty of the people. Mr. Chairman, I was going to argue in that connection. But in order to put matters in their right perspective, it is better to look at the whole Draft Constitution and any Amendments that will be submitted, should be submitted to the legal and Drafting and Technical Committees so that they can synchronize all the Amendments together with their proposers. I thank you, Mr. Chairman.

THE CHAIRMAN: Thank you. Let me put the question.

(Question put and agreed to).

THE CHAIRMAN: So, having very fruitfully resolved these issues of facilitation, we will continue - *(Interruption)*

AN HON. DELEGATE: Point of clarification. Mr. Chairman, I am seeking clarification as to whether the Motion that has just been passed negates the provisions of Rule 15, which says that, *An Amendment to an Article may with the leave of the Chairman be proposed without notice...* Does this mean that all Amendments that are to be proposed, will be proposed in accordance with resolution, Mr. Chairman?

THE CHAIRMAN: I think just before you came in, we had taken position that original Amendments to Articles should be in writing and submitted in good time for the Legal and Drafting Committee to pronounce themselves, to assist us through a synchronized approach. But the Chairman may allow a Motion without notice when the Motion is already on the Floor, in other words, Motions amending proposed Amendment. Those can be allowed without notice, but in order to be proper, our original Motions should come in first in writing, then we use the one which may subsequently come on the Floor as we discuss the proposed Amendments.

PROF. NABUDERE (BUDADIRI WEST): Mr. Chairman, I wonder what the consequences of the Motion by Hon. Kutesa could have on the recommendation of the Business Committee which put before us a procedure of approach to the various sections of the Draft Constitution. This Chapter 3 was placed under likely contentious matters which would have been covered much later. Now, I am wondering what the consequences of that are, in terms of sending this to the Legal and Drafting Committee before it is actually brought here for talking - because there were some Members during the general debate who suggested that this thing be deleted entirely.

THE CHAIRMAN: Yes, that matter was raised by Hon. Okwakol. The point is that, even before we can reach it, it was already being eaten away. The Motion we have just referred was going to take away substantial portion of it - so that we do not approach

it this way, we may find that at the end of it we have nothing left to discuss. So, let us be advised whether we delay it, or we allow Members to eat away parts of it and, if they do, where they should take it.

MRS. FAITH MWONDHA (WOMEN - JINJA): Thank you very much, Mr. Chairman. Mr. Chairman, Hon. Nabudere has expressed concern that this Article was placed as a likely contentious subject which is likely to cause a lot of controversy here, but the Business committee when it placed it there, it was envisaging that it may not be even necessary to debate it as a chapter. You may find some useful provisions which can be put in other Chapters and then others be put in the Preamble and then the others may be put in the Schedule - that is the more reason why the Legal and Drafting Committee should really take on and find the necessary provision and shift them as may be required. Thank you.

THE CHAIRMAN: Fine. Now, I think let us proceed with the work as we had started. Sometimes it is better to spend a bit of time determining how you are going to work. Subsequently, you spend less time. Now, can the Clerk call out Article 2 again.

ARTICLE 2

THE CHAIRMAN: There is the first proposed Amendment by Hon. Kasajja Byakika.

MR. KASAJJA BYAKIKA (BUNYOLE COUNTY): Mr. Chairman, first of all I would like to amend the Notice I circulated on this Motion. I hope Delegates have got it at their table. Those who have not got it, I beg your indulgence but those who have got it, let us amend this Notice. It says Chapter one, Article 2 (1) and (2) - sub-articles (1) and (2) - *Supremacy of the Constitution*. In the first line, I ask Delegates to delete the word *propose* after 'I' and insert the word *move*. In the fourth (4th) line, the word 'Sentence' has been misspelt. I am asking Delegates to add an 'N' between 'E' and 'T' in that word. In the penultimate line, the word 'on' after *Law* should be *or*. Mr. Chairman, I move that sub articles (1) and (2) of Article (2) of Chapter One be merged under supremacy of the Constitution by inserting a comma after the word *and* in the first line of Article (2), sub Article (1) and delete the rest of the sentence thereafter and the figure '2' and its brackets appearing at the beginning of sub Article and adding the Clause *If any other law or any custom is inconsis-*

ent with any provisions of the Constitution, the Constitution shall prevail and that other law or custom shall, to the extent of the inconsistency be void. Mr. Chairman, *(Interruption)*

THE CHAIRMAN: Could we get your Amendment clearer.

MR. KASAJJA BYAKIKA: If I could put it the way I want it to read finally, it will read like this: *'The Constitution (Interruption)*

THE CHAIRMAN: You should have proposed by deleting Articles (1) and (2) and substituting, therefore, the following. Then you read it as it is.

MR. KASAJJA BYAKIKA: Yes we can put it like that. Mr. Chairman, that could be a better way of doing it. We delete sub Articles (1) and (2) and replace them with the following: Article (2) *'This Constitution is the Supreme Law of Uganda and if any other Law or any custom is inconsistent with any provision of this Constitution, the Constitution shall prevail and that other Law or custom shall, to the extent of the inconsistency, be void.'*

THE CHAIRMAN: Have we got any Seconder? *(Interjection)* Okay, seconded by Hon. Byanyima. Is that by undue influence or by democratic choice? *(laughter)*

MR. KASAJJA BYAKIKA: Mr. Chairman, Amendment to Article (2), sub Article (1) and (2) has been moved for the following reasons. These two paragraphs are both describing the Supremacy of the Constitution. In fact, all that sub Article 2 is portraying is the obvious fact that the Constitution because of its supremacy, takes precedence over any other Law or custom. Then, the Constitution has binding force. Not only on all authorities and persons throughout Uganda but it is the custodian of all things, living or non living in Uganda. Since, the supremacy has to be extended to all creation in the state, there is no need, therefore, to specify binding forces on only all authorities and persons throughout Uganda. It has been ably emphasised by Hon. Professor Kanyeihamba and other contributors that a Constitution must, of necessity, be as short and as simple as possible and yet precise. I, therefore, propose that the above Amendment be made. I beg to move.

THE CHAIRMAN: The Question is that Sub Articles (1) and (2) of Article (2) be deleted and substituted, therefore, with the wording as stated by the Mover. I do not have it here in writing. Could the Seconder please - unless she does not wish to second by speaking.

LT.COL. KIIZA BESIGYE (NRA Delegate): I am rather getting concerned about ourselves - the laymen getting involved in Draftsmanship. I doubt whether most of us have the competency to know the legal implications of certain ways of drafting certain things. But we have political input. We can know that it is politically convenient to take certain decisions. I think, once we go into how the things are ultimately arranged we shall be bogged down; as somebody else said, can we not agree on the content, only and if there is no substantive difference between what you are proposing and what the Draft is proposing. Then we leave fine tuning to the Drafting Committee to go and say, this is Chapter (1), whatever Clause, Article, Sub Clause. This is, I think going to bog us down if we are going into it ourselves.

THE CHAIRMAN: I will hear from a known Lawyer.

MR. ABALIWANO (Bugabula South): As far as I can look at this Amendment, it has no substance. The substance is the same as it is written in the current document. As far as I am concerned, as the previous Speaker has said, it is just a matter of saying - comma here, change that word there but the substance is the same. I propose that this is a Drafting matter and I think we should leave it for the Drafters rather than consider it as an Amendment. Thank you.

THE CHAIRMAN: Yes, let me hear Hon. Mulenga.

MR. MULENGA (Democratic Party Delegate): Thank you, Mr. Chairman. I am also getting concerned about Delegates who are expressing fear on tackling the text of the Draft. Mr. Chairman, let me say this - according to the rules, once we pass an Article, when you have proposed the question, you put the question and we pass it, the Draftsman has no more authority to touch the text. So, let us get that clear, that the Draftsman or Legal Expert can only intervene, if we refer the text to him. So, let us not get the idea that we can pass something and then the

Experts or Legal Draftsman can refine it later. No. That is one. Secondly, I think it is correct that we are here basically on political authority; but we are also entrusted with the duty to finally pass this document in the form it shall be. If we choose to use simple language (as cry is nationally - everybody wants that we pass a Law which is simple, which to the extent possible can be understood by everybody, not only by lawyers) then, it is us to do it. Yes we can ask the Draftsmen to assist but it is finally us with the responsibility to approve the text.

Now, Mr. Chairman, I want to support the proposed Amendment. I do so, with the last point I made namely, to simplify the reading of Constitution. If two Articles or two Clauses say the same thing, why make them repetitious, unless, it is absolutely necessary. The point being made in Clauses (1) and (2) of Article (2) is the Supremacy of Constitution and the extent to which it affects other Laws. Now, the proposed Amendment merely simplifies by saying, *'This Constitution is a supreme Law of Uganda and if any other Law is inconsistent with it...'* Surely you cannot simplify better. Mr. Chairman, I would implore Delegates not fear to touch the Draft text because they think they are not Legal Experts. If we pass anything that is wrong in Legal Drafting, that is when the Committee of Experts from the Technical Committee through the Legal and Drafting Committee, can advise us, that although you have passed something it ought to be adjusted because it is wrongly drafted. But otherwise, the responsibility is ours and we should not avoid it.

MRS. MATEMBE: (Women Delegate, Mbarara): Thank you, Mr. Chairman. Mr. Chairman, while I support the Amendment, I would like to say - in line with what Hon. Besigye said - that when we sat in the Legal Committee, we addressed ourselves to the issue raised by Hon. Besigye and said that each chapter has got certain basic principles and we said that it would be good for the Legal and Drafting Committee to study each chapter and come out with the principles entailed in that Chapter. As to how they are put into words, we were going along with Hon. Besigye, that it may be so laborious for each of us here to purport to draft a provision when in fact, in the content and principle - it remains the same. So, we did draw out specific principles for each chapter, which we agreed would be tabled to the Members so that when we are passing an Article, what we are concerned with is - what principle do we want? Like in this Chapter

where we are saying *'Sovereignty of the people and the supremacy of the Constitution'*. As to how it is said, we agree that the Legal and Drafting Committee can go and put it in the real Legal language you want and we push it forward to the Technical Committee. Surely, if all of us here are going to turn into Drafts people and draft every Article and change every word - like for instance Mr. Chairman, you are the one who has now assisted the Mover to move it properly - I imagine that is what would go along. So, if this House can agree to what we were suggesting in our Legal and Drafting Committee, it would ease up our business and I do not think any Member should be suspicious of anything because finally, everything will certainly come here for the House's attention. Thank you Mr. Chairman.

THE CHAIRMAN: The gentleman right at the back there.

MR. OWOR: (Aswa County): Mr. Chairman, I would like to oppose the Motion. My reasons are that, there is a particular principle behind putting Article (2) into two sections. The first one deals with the supremacy of the Constitution over administrative authorities. Now, in the field of Administrative Law, there has always been a conflict between Administrative bodies, thinking that they have the final say in matters of state and administration of the country; but this particular Article is saying - no, it is the Constitution which shall be binding over these bodies. And Article (2) is about other Laws. These could be Acts of Parliament. These could be by-Laws. These could be customs of the peoples of Uganda. I think there was a particular reason why they had to break this into two. I do not think marrying it will still sustain these two aspects and I would therefore, propose that the Article remains as it is. *(Applause)*

THE CHAIRMAN: Let me go there.

BRIG. KYALIGONZA (Buhaguzi County): Mr. Chairman, I also stand to oppose the Proposed Amendment on two grounds: We have a document before us, which document is meant to serve the interests and the protection of the people of Uganda. All the people who have delegated us to be here and discuss this document on their behalf, have given us the confidence and they treasure whatever we shall put and approve in this House as the correct word. Mr. Chairman, when we talk of rearranging, deleting, add and so on and so forth, we have got a duty

which we are also trying to usurp in interest of the people of this country.

When you talk of a supreme document - in our ordinary lives, those of us hon. Members who may not be believing in the word God will bear with me that many Ugandans tend to believe in the word of God. Now, when we say that there is a word called Bible and a word called Koran, these documents are treated as supreme and important; so is our Constitution in terms of governance and administration of man. Therefore, if we have a document called Bible with Chapters - Matthew, Mark, Matayo, Luke; all have got the same presentations. When we talk of the birth of Jesus, it has got its own chapter and then that one is completed. When we talk about the resurrection, it has its own chapter. Therefore, here when we are talking about the Constitution, it has got its own purpose and every chapter has got its unique function. Now, Mr. Chairman, we seem to imagine that this document which we are putting before ourselves and which are going to pass, will never be questioned. Somebody will not need to make reference to this document. When you are making reference to this document, you will have a chapter to refer to. Now, when you are talking about say, what is the Constitution of Uganda? This institution must have all the relevant items pertaining to that word Constitution. Now, when we come to talk about the supremacy of the Constitution, we shall also have relevant words to follow. I tend to agree with Hon. David Tinyefunza when he says - The people have asked us to say what this has been put in and either we confirm or improve on it. Now, we are worried about the rearrangement. Surely, if we are sincere to ourselves, we did not know about this rearrangement before we were given this Draft Constitution. Therefore, the Odoki Commission made the arrangement and therefore, we are going by that. But at the same time the Odoki Commission did a commendable job because they arranged. Similarly, I do not see the reason why we should not also give the same confidence to the Drafting Committee after we have passed all these chapters to rearrange them in a manner that is professional in terms of lawyers and so on; who will at one time come up in the Courts of Law, if for instance they are talking about the Constitutional argument. They will be referring to the Chapter, so and say this and that, but if we are going to rearrange, remove this Chapter to the other because they are similar, I do not see how we shall be able to use this book for reference. Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you. I will hear it from there.

MR. OKALEBO (Bukedea County): I am opposing the Proposed Amendment to Article (2) suggested by Hon. Byakika on two grounds. One, the Constitution is regarded as a sacrosanct document with all its supremacy and Article (2), Sub Article (1) is a Legal and Constitutional declaration of that supremacy which should not be accompanied with a second leg which says that *'The effect of that supremacy is that, any other law or custom which is inconsistent with this Constitution, is null and void'*. So, the Article should remain as it is and it is very clear even the way it stands and to me, it requires no Amendment. Thank you. (Applause)

PROF. KABWEGYERE (Igara West): I also oppose the Amendment. First, on a very general principle that, *differentiation is not only a sign but a condition of development*. If you look at the Article, there are two areas clearly defined and really separate areas. One, the Constitution is supreme but it is supreme over all authorities in the first place and all persons throughout Uganda. That is a clear area separate from the second one of custom or other laws. I think that separation enables us to see things more clearly instead of combining them. The second thing is that, as much as possible we should avoid having long clauses which may be very difficult to quote, either in Court or even to sing about as we go along in our daily lives in revising the Constitution. In fact, Mr. Chairman, not only do we dispose of this Amendment, but we can also dispose of the Amendment that has now been circulated by Hon. Dr. Mugenyi of Isingiro North, because he wants to put religious practice under (2) which obviously religious authorities will be covered under (1). He wants now to differentiate custom or practice by including religious. I think the Mover could be persuaded to keep it away. Then, I would also, in the same vein, call upon Hon. Kweronda Ruhemba and Hon. Matayo Kyaligonza not to bother about the word country to represent Uganda in that Article (2). So that really, in the same wind we would lay off some of these rather irrelevant Amendments. I thank you.

THE CHAIRMAN: I do not think they are irrelevant. They are moved in good faith. Now, Hon. Delegates, we have had pros and cons to support and against. Do we really to make (Inter-ruption) Let me hear from the Speaker there, then we shall come around and to -

MR. TIBAMANYA (Kashari County): Mr. Chairman, I oppose the Motion on the following grounds: One, the supremacy of the Constitution or document we are about to draw is too important to mix with another issue. When the Article is combined, one gets the impression that after reading that this is the supreme Law of the Land, then you rush towards getting another component. Whereas, if it remains as it is, you reflect on the supremacy individually and that is very important. In the light of that, I would really beg to move that the Question be put.

THE CHAIRMAN: I can see there are objections. Let just hear from there and then the Chairman -

MR. RINGWEGI (Padyere County): Mr. Chairman, thank you for giving me this opportunity. I would like to support the Proposed Amendment for following reasons. Mr. Chairman, I think we are getting into the temptation of providing details in this document. That is why instead of trying to provide the general framework and leaving room for other institutions that may be created under this Constitution to interpret the Constitution so that it is enriched, we are trying to be very restrictive. That is why I am trying to agree with the Mover of this Amendment that this Article should now read *'This Constitution is the Supreme Law of Uganda.'* Once we talk about supreme Law of Uganda, then we are only talking about Supremacy over authorities, over all persons, and over all things in Uganda. *(Applause)* It cannot be Supreme Law over nothing. It must be over persons and this Law is being made by people for their benefit; for all things in this country. Therefore, there is no need to over emphasise and also to try and define the extent of its operation. When we go further to say *'and shall have binding force on all authorities and persons throughout Uganda'*, we are not actually talking about the supremacy but we are only talking about the extent of its operation. The only emphasis which is given to supremacy is found in sub Clause (2), which says that *'This Supremacy is such that if there are any other Laws to be made, that Law, if it is inconsistent with the Constitution, it will be void to the extent of the inconsistency'*. So, if this Article is talking about supremacy, it can only stand the supremacy test if it is worded in a such a way that we talk about the Supreme Law of Uganda and then the extent of inconsistency with any other Laws to be made by any other institutions to be created by the Constitution. So, I think the Amendment as proposed, is not an idle Amendment, rather it is trying to be very precise and give room for a

general framework and interpretation of the Constitution. But if we leave it the way it is, we are only getting into details and we are becoming very restrictive. Therefore, we run the risk of making a very rigid Constitution. So, I support the Amendment and I beg to move that it be put to Question. Thank you, Mr. Chairman.

THE CHAIRMAN: No, it is not fair for you to finish yours and then you gag the rest. I think I will hear from Hon. Wandera and then Professor Kanyeihamba and then we see how we proceed.

MR. WANDERA (Bukooli South): All along during the general debate, it was said we should have a small Constitution. Something which is not so bulky; which will not cause us problems in the future. This is one of the ways where we are trying to limit the wording. This is one of the grounds upon which I support the Motion. The other ground I support the Motion on, has been said by Hon. Matembe that there are certain guidelines, I think principles which they - in the Committee - decided that these were the ones to guide us. But unfortunately, We do not have these guidelines. If we had these guidelines, possibly, we would get somewhere. But without these guidelines, we are left in space. Thirdly, Mr. Chairman, why I support this Motion is that the idea whether you put it separate or not should not really arise. What arises is the effect when you read it as one Article. Is it different when you read it from two different Articles? I think we should go for the effect, not for how many paragraphs we should have, the number of paragraphs we should have, should go to the Legal and Drafting Committee. I think, with those reasons, Mr. Chairman, I support the Motion.

PROF. KANYEIHAMBA: Thank you, Mr. Chairman. I am glad that I am speaking after the two Distinguished Delegates have spoken because I just want emphasise what they have said. Hon. Members, it is not imperative that we make Amendments on every proposed thing in this Constitution. Many of them are standard Draft which all other Constitutions have. Let me give you an example. Mr. Chairman, if you look at (2) 1, *'This Constitution is the Supreme Law of Uganda and shall have binding force on all authorities and persons throughout Uganda'*. Clause (2) does not add or subtract anything from that. It simply amplifies supremacy. So, even if we left it at that, it would be sufficient. Consequently, even the Amendment which is pro-

posed does not add or subtract from the supremacy of the Constitution.

That is why, Mr. Chairman, I beg that people should look at the Principle they want to establish in their Amendment, then we debate the Principle and when it is passed, we pass it on to the Drafting Committee to put it in Legal Form and bring it back for approval. I would have been happier if we are now discussing an amended part having been considered by the Technical Committee and the Drafting Committee and then people say we disagree with the way they have worded it and so forth. Surely, not every Delegate here can convert themselves into Draftsmen. So, we should avoid that.

Secondly, many have said they accepted my proposal that the Constitution should be simple, should be short as much as possible. So, instead of subtracting from what we already have in this Draft, many Members are beginning to add more and more which is in contradiction in terms of the Principle they accepted. So, Mr. Chairman, I wanted to say that many of these provisions, particularly, those which are not controversial are Standard Drafts and Members should take us to the Legal Committee. If you feel that a Principle is not covered discuss with us, either here or elsewhere and we shall either assure you or say you are right with a point. If we can take that procedure, I think we can move much faster than we are moving. I thank you, Sir.

THE CHAIRMAN: I do not think really we should spend more time on this. Let me put the Question. I remind you that the Question is that, Sub Articles (1) and (2) be deleted and there instead be inserted the word into the effect *'That the Constitution is Supreme Law of Uganda and any other way, any custom which is inconsistent with any provision of this Constitution shall prevail and any other Law or custom, shall to the extent of the inconsistency be void'*. That is the Amendment. It amalgamates the two and omits a few words or some words.

(Question put and negatived)

THE CHAIRMAN: The Amendment by Hon. Byakika is therefore, lost. We are still on the same. There was a second Amendment proposed by Hon. Rwomushana, to Sub Article (1).

MR. RWOMUSHANA (Rujumbura County): I wish to make an Amendment to Article (2). Chapter

I of the Draft Constitution to read as follows: *'The Constitution is Supreme Law of Uganda'*. The Amendment seeks to delete words 'shall have binding force on all authorities and persons throughout Uganda'. Reasons: The Article as worded - I hope I am seconded. The Article as worded is outrageous i.e. the words I proposed to delete add nothing. If the Supreme Law of the Land is supreme it definitely has a binding force over all persons and authorities in Uganda and it should prevail over all the Laws and customs. I also wish to state that in that way, we shall be a step forward in making our Constitution as brief, compact and crystal clear as possible, which is the most pertinent tenet of a good Constitution. Hon. Delegates, let us not have a forest of words with a desert of points. I beg to move.

THE CHAIRMAN: Sorry, the Hon. Member allowed to proceed without seeing a Seconder. Okay, seconded by Hon. Mushemeza.

You have heard the reasons why the Hon. Member moved that Sub Article (1) - that the words in Sub Article (1) after the word 'Uganda' be deleted.

MR. KARUHANGA (Nyabushozi): I wish to support the Amendment moved by Hon. Charles Rwomushana, Rujumbura County. I am moved to make this support on the following grounds. One, is that the statement that the Constitution is the Supreme Law of Uganda gives it Legal effect and Supremacy. Nothing else can be more supreme than the Supreme. Everything else be subordinate to it. The rest of the wording that follows after that both in 1 and 2, in a way are just words. In as far as I am concerned, we lose nothing when we add those words nor gain anything. The only thing that we gain is the volume of words. Just to state the word supremacy - the Second part of that has got 54 words. I have counted them. Fifty four words saying what has been already said, that the Constitution of Uganda is the Supreme Law of Uganda. Now, if we want this constitution to be studied by students, to be memorized, to be remembered, to be made easy, and for our ordinary people to learn it, it would be easy for a person to say, Article (2) says, *'Constitution is the Supreme Law of Uganda'*. But then you put in all these words about *'binding force on all authorities...'* These are including urban authorities and highway authority and all sorts of authorities. Mr. Chairman, I support the Amendment.

PROF. SENTEZA KAJUBI (Kyadondo North): Mr. Chairman, like an essay, the Constitution should be as short as possible but certainly long enough to cover the subject. Mr. Chairman, the said Constitution is a Supreme Law of Uganda. That means that the Constitution is above all laws but the words *'and shall have binding force on all authorities and persons throughout Uganda'* emphasise the fact no person, no authority - be it the President, the archbishop or the vice chancellor is above the Law. *(Applause)* So, these words are very important and I think we rejected the earlier Amendment merely because these words were being omitted. This Constitution is going to be taught in Schools, even in Nursery Schools. So, the people who will be learning this Constitution will not be Lawyers, like the Hon. Learned Friends who have been saying that when you say the Constitution is a Supreme Law - people will have to ask what does that mean? And we shall say that it shall have binding force on all authorities including the President, because the impression in the past has been that some people were above the Law. Because of that, I oppose the Amendment. *(Applause)*

MR. ELYAU (Kalaki County): I also rise to oppose the Motion or Amendment in that the people who shall be responsible for the operation of any Constitution we shall pass here, are those in authority. That is why we have been suffering. No ordinary person can overrun the Constitution apart from such authorities. So, I think this Law will be to remind whoever gets elected to run this country's affairs politically or government: should be conscious that it is law which governs every activity and government aspect. So, there is no need to change anything as they are straight forward words. Thank you.

MR. NDEGE (Luuka County): Thank you, Mr. Chairman. I also wish to add myself to those who oppose the Amendment. These last words are emphasising the supremacy of the Constitution and there is no reason why we should take them off. It will leave the Constitution very vague. So, I think, adding them, as he says will not subtract anything but will emphasize what we want to emphasise: that the people of Uganda are tired of not being told what they are. This is the Supreme Law of this country and we are emphasising it. If we wear a skirt without a blouse, you can go but you will not be complete, or we are saying that they are complimentary. One is, skirt, one is a blouse and makes one complete meaning. Thank you very much.

COL. KUTESA P (Kabula County): I support the Amendment by Hon. Rwomushana. For the sake of clarity, we should write what we want to write because I do not see anything this addition can change. I have seen part of the American Constitution, by the time you learn, you have known everything and I do not see why ours should be adding on or be verbose. Everything here is already clear. You cannot be more supreme than supreme as Hon. Karuhanga said. I support what Hon. Rwomushana suggested.

THE CHAIRMAN: Well, this thing is attracting a lot more attention than I thought it would. In view of the previous debate - we had just had a debate on these matters.

MR. ONEGIOBEL (Jonam County): Mr. Chairman, I would like to support the Amendment passed by Hon. Rwomushana for one reason. The major reason is my quarrel with the word *'authorities'*. These authorities, Mr. Chairman, will have been created by laws and these laws are subjected to the Constitution. So, there is no need to tackle with authority, that is under the Constitution through its own Law. I had actually proposed a repetition, just that the Article will read *'...shall have binding force on all other laws, customs and persons in Uganda'* but that is also a bit too wordy. I support the deletion of the words *'all authorities and persons throughout Uganda'* Thank you, Mr. Chairman.

MR. OCHYENGH (Kapelebyong County): Mr. Chairman, I had also moved a similar Motion in regard to that specific Article and it was on similar lines and I would like to support Hon. Rwomushana on that Motion. I am supporting him because in my argument I say that the Constitution should be precise and definite and authoritative. So, saying this Constitution is the Supreme Law of Uganda is a more authoritative than going back to define as to who it should apply. It is all-embracing. It is a defensive weapon. Anybody can say this Law is supreme. So, it is a defensive kind of statement which is all-embracing.

Mr. Chairman, we are also talking of producing copies of Constitutions and having it in schools and giving people copies. We should not put it in too many words which will make us produce a voluminous document which will be difficult for any individual to keep.

THE CHAIRMAN: Now, I take it that you have merged your option with that of the mover.

MR. OCHYENGH: So, I would suggest, Mr. Chairman.

THE CHAIRMAN: Okay, could I also hear from Hon. Kweronda Ruhemba and Hon. Tiberio Okeny so that we know what they propose to move; and see whether those are really separate from what is being moved or can we merge so that we discuss all these and dispose of them together.

MR. KWERONDA (Kajara County): Mr. Chairman, I beg to move that Article (2) 1 (*Interruption*)

THE CHAIRMAN: Is it in the same terms?

MR. KWERONDA: No, I do not agree with Rwomushana because mine proposes that the sentence remains as it is, except that the last word changes.

THE CHAIRMAN: I was anxious. That is why the coordinating arrangement by this Committee is going to help. Like in case of Hon. Ochyengh, he has merged his Motion into that of Hon. Rwomushana and there is a Member who has been putting up his hand for a long time.

AN HON. DELEGATE: Mr. Chairman, I oppose Rwomushana's Amendment. This Constitution we are making is going to be subject to interpretation in Courts of Law and if we are vague - because we want to be brief, I think we will run a danger of leaving the interpretation of these Clauses to the discretion of the judges. So, we should say precisely what we want to say in clear and precise terms. So, Mr. Chairman, there are certain things which we should emphasize because of the history of this country. We need to give teeth to these articles. And this binding force to all the authority, is emphasising the Point that everybody in this Land, be he the President or any other person is subjected to this and therefore, because of clarity we want to emphasise that point in the context of the history of this country. We should include what Mr. Rwomushana wants to delete. I thank you.

MR. KATUREEBE (Bunyaruguru County): From what has been said, there seems to be no dispute at all as to the supremacy of the Constitution. We all seem to agree that the Constitution is the

Supreme Law and may add - please it is not a Supreme Document, it is the Supreme Law and it should, therefore, not be confused with other documents like the Bible and so on, but there is need for consistency. There is need for clarity and lack of duplication. Only a few minutes ago we referred a Clause to the Legal and Drafting Committee to see how they bring it in and one of the provisions of that Clause says - *All power and authority of the government and its organs derive from this Constitution*. Now, you are going to put in the immediately next Article something saying - *This Constitution governs all authorities*. This is duplication, which is totally unnecessary. I think, Mr. Chairman, everybody has expressed themselves on the supremacy of the Constitution and there is no dispute at all. Let the wording go to the Legal and Drafting Committee so that we avoid duplication, we avoid inconsistency and we produce a document that is very clear. (*Applause*)

THE CHAIRMAN: Let me hear from that lady. What do you want to be clarified on?

AN HON. DELEGATE: Mr. Chairman, I am seeking clarification from the Chair. I know that our rules do not provide for what would commonly be the principle of resjudicata - in other words, a matter that has been decided upon coming again before the House. I am seeking Clarification from you, Mr. Chairman, in light of the proposed Amendment by Hon. Rwomushana, being almost word for word, the same as the Motion that this House has just rejected. Is it right that we should consume the time of this Assembly debating a thing that has been word for word rejected some minutes ago? I would like to seek your guidance. I know that the rules do not prescribe it but I am seeking guidance in terms of how we are going to operate because it seems to me that we are being repetitive and we may, in the end, waste the time of this Assembly. Thank you, Mr. Chairman.

THE CHAIRMAN: Well, you have rightly said. The Resjudicata does not run here but the difference was that the previous Motion tended to combine two provisions. This one is limiting itself to one provision in relation to the question of how the wording should be. Should we really make all these Speeches? I think we are now reaching a stage when not very many new ideas are being added to the debate. Hardly any. I will hear one Speaker and then I have to move to put the question. Please go ahead.

MISS. LUBERENGA (Bushenyi District): Thank, you Mr. Chairman. As you have just pointed out, we should not waste more time on this Article but you had given me the Floor before you ruled. All I wanted to say is that I oppose the Motion for the reason that, as much as we need to have a small Constitution, we must make it easy for our people to understand. We should not assume that every Ugandan is a Lawyer. If anything, our literacy rate is so low that we need to make this Document as clear to the ordinary Ugandan as possible. Thank you Mr. Chairman.

THE CHAIRMAN: I think I will put the question now.

(Question put and negatived)

THE CHAIRMAN: The proposed Amendment by Hon. Ochyengh was also taken up by this vote. Now, we have the one by Hon. Kweronda Ruhemba.

MR. KWERONDA RUHEMBA: Thank you very much, Mr. Chairman. Mr. Chairman, mine is a very small matter and I beg to move that Article (2) 1 of Chapter (1) of the Draft Constitution be amended as follows: That we delete the last word called 'Uganda' and substitute it with two new words 'The country'. If this Amendment is accepted *(Interruption)*

THE CHAIRMAN: Do you have a Seconder? No, you have no Seconder. So, I am sorry you cannot proceed. Hon. Tiberio Okeny *(Interjections)*- Even if there is a Seconder he came rather too late.

AN HON. DELEGATE: He is seconded.

THE CHAIRMAN: If there is a Seconder, he came rather too late.

THE CHAIRMAN: Do you have the seconder. I do not see anybody seconding you.

BRIG. MUHWEZIKATUGUGU: Point of Clarification. Thank you, Mr. Chairman, for allowing me speak after a very long time. Mr. Chairman. I wanted to refer to what Hon. Besigye and others have said. I think we should be concerned about how long we are getting on relatively simple matters because I am worried that at this rate we are not going to be able to finish. Mr. Chairman, I would like to appeal to Members to try and make Amendments on substance but not on form because right now no new

idea is being introduced in the Articles we are discussing. People want to add there something or subtract something but leave the idea as it is. I do support those who say that we should leave the Drafting to the Legal and Drafting Committee. We should make amendments - if I may suggest Mr. Chairman, that amendments should intend to introduce a new idea. For example, Mr. Chairman, Article 2 talks about the supremacy.

AN HON. DELEGATE: Mr. Chairman, with due respect to the Chair, you made a ruling that Hon. Kweronda's Amendment was not seconded in time. But, Mr. Chairman, I would like to refer to you the circulated Amendment. It is on record and the seconder is named. I am wondering whether it was in order for your ruling, Mr. Chairman, that this was seconded late.

THE CHAIRMAN: It would appear that your name was added there without you being told because you should have told us when I called.

BRIG. MUHWEZI: To conclude, Mr. Chairman, I think the Chair should guide us whether an Amendment intends to introduce a new idea and if not to reject it so that we move very first. Thank you very much.

THE CHAIRMAN: Thank you. I appreciate your concern. But you see today we are working without the assistance of the Legal and Drafting Committee. But we hope that in subsequent work we shall have got that assistance and we shall move faster.

MR. OKENY TIBERIO: Thank you Mr. Chairman. I can now see that people are all waiting to hear the Amendment I am trying to move. I propose, Mr. Chairman, to move this Amendment to Clause 1 of Article 2 of the Draft Constitution. That name known as 'Uganda', appearing in the first line thereof, did not depict the true image of the country and it is to be replaced by a new name, *The Nile Republic* and the people are to be referred to as *Nilers* and that wherever in this Draft Constitution, the name 'Uganda' appears, it should be amended accordingly.

THE CHAIRMAN: Have you got a seconder?

MR. OKENY TIBERIO: I have been seconded. Thank you, Mr. Chairman. My reasons are very simple and to the point which everybody here will

adhere to. One, this august Assembly is mandated by the entire populace of this country to formulate a new fitting and lasting people's Constitution for the first time in the history of this country. This is a golden chance.

Secondly, the changing of the name of the country is a necessity resulting from our discoveries as follows:

(a) That the name 'Uganda' was given to this country not by the consent of the people then. That was in fact a dictation by the British Colonial Power.

(b) That the proposed new name of the country is most befitting since the famous River Nile has its source in the country and depicting the feature of resourcefulness of the country emanating from this river which induced the late Sir Churchill, when he visited here to admire the beauty of this country by these words, *'The Pearl of Africa'* as he stood side by the side of the falls at Kira.

DR. NYEKO: Thank you, Mr. Chairman. We are discussing, I believe what Hon. Atwoma is suggesting is a change of the name 'Uganda' and I believe what we are discussing under this Chapter I Article 2 is not related to the change of the name of the country. Could you advise - is it in order for Hon. Okeny to move a Motion which is not under discussion.

THE CHAIRMAN: The Hon. Member has competently moved a Motion to Delete the word 'Uganda' and has said in any other part of the Draft Constitution where the word 'Uganda' appears, insert the word, *'Republic of the Nile'* and where word 'Ugandans' appears insert the words 'Nilers'.

MR. OKENY: Thank you, Mr. Chairman. I hope the Hon. Nominee will understand that this word 'Uganda' appears in this Article, and that is why it has got to be removed. So, as Sir Churchill was standing by the side of the falls at Kira where the dam generating power for almost the whole of Eastern Region of Africa is, and when given peace it may even extend to Southern Sudan. Can we in this Assembly, strip the country of its dignity and glory. Let us be then serious.

MR. KIRENGA: Is it in order for the Hon. Member on the Floor to suggest that we change the name 'Uganda' under section 4 of the Constituent Assembly Statute which set us up, authorises and orders us to scrutinize, debate, enact and promulgate a new Constitution of the Republic of Uganda.

THE CHAIRMAN: I do not know whether Hon. Kirenga would agree that when we promulgate this Constitution and provide, we could repeat that Statute by this Constitution. Therefore, the provisions of this Constitution would have superior force even over that Statute.

MR. OKENY: Thirdly, my reasoning is to eradicate unfounded misconception and misunderstanding based on wrong assumptions. As a factor of disunity in this country.

(a) Superiority complex on the part of the Baganda.

MR. KAJUBI: Mr. Chairman, is the Hon. Member in order to impute an improper motive on the part of the Baganda because the country is called 'Uganda', therefore, the Baganda are superior. Is he in order to suggest that?

THE CHAIRMAN: You are again expressing a personal opinion.

MR. OKENY: Thank you, Mr. Chairman. The reason for my saying this is. One - the presumptuous claim of the session in the 1960s. Two - the presumptuous expulsion of the Central Government from Buganda soil in the 1960s which was recently re-echoed before this Assembly by no less a person than the Hon. Delegate Abubaker Mayanja. Three - Mr. Chairman, the futile refusal to sign the Referendum Bill passed by the Parliament on the lost counties of Bunyoro by the late *Kabaka Mutesa* in the 1960s which led to the 1966 crisis. Four - the recent warning in the Press by the 52 Buganda clan heads not only to their CADs but indirectly to the Assembly itself now sitting to formulate a Constitution when they say and I quote, *'Buganda will not be party to the Constitution which rejects their proposed Federal System of Government'* This can be found in *the New Vision* of yesterday August, 25th 1994.

(b) The inferiority complex on the part of the non-Baganda leading to suspicion of whatever ideas coming from Buganda based on the previous conquest of the Banyoro. Two - the reign of Kakungulu in the East. Three - Buganda's influence in the West. Four - the preferential favoritism to Baganda by the British Administration based on the 1900 Agreement which was detrimental to the rest of the country.

Mr. Chairman, this Assembly should not just decide against the changing of the name of the country

merely for the sake of being conservative. Many have done so elsewhere to depict the reality of their countries for example Ceylon now called Sri Lanka; Nyasaland now called Malawi; Tanganyika now called Tanzania; Rhodesia now called Zimbabwe; Congo now called Zaire, just to mention but a few. The name of the country must bear some significant meaning to the people as to foster real unity for purpose of harmony. Mr. Chairman, the River Nile is the mother of this country. We would like to glorify her with this resolution passed by this august Assembly. I beg to move.

THE CHAIRMAN: Now I propose the Motion. The Question is in terms of the Motion and is open for Debate.

MISS. WINNIE BYANYIMA: Thank you, Mr. Chairman. I take the Floor to oppose the Motion. I regret that I have to oppose the Motion from the Hon. Atwoma Okeny. But I have no comment to make about superiority and inferiority complex. People in my Municipality have not felt inferior because of the name 'Uganda'. However, I am only thinking about the ecstatic part of the matter. When I reflect at the name 'Niler' Mr. Chairman, it sounds more like a name of an animal from the river - it does not sound like a name of a distinguished country and Hon. Citizens of this country. Thank you Mr. Chairman.

AN HON. DELEGATE: I second the Motion. You see, if you looked at the history of Uganda as it stands today, you find that the name came was more of a mistake in pronunciation by the Bazungu. As a matter of fact they wanted to say Buganda but because they mispronounced the 'B' and said *Uganda* we got the name 'Uganda'. But the initial interest was not to call the place 'Uganda' but 'Buganda'. Secondly, I would really look at it being very unfair to associate the name of a state to one ethnic group in the country. As Mzee Tiberio said, it causes some bit of superiority complex as some tribe would feel more superior than others in that State. So, the *Ganda* aspect of the name 'Uganda' is a cause of problems as Uganda stands today. Most of you know the history of Uganda.

Secondly, I would support this country being called 'Nile Republic' because of the geographical strategy the Nile has world wide. So, I do not see why we cannot associate ourselves with that geographical strategy we have. That is why I basically support the Motion. Thank you.

MR. MAZIMA ELIPHAZ: Thank you very much, Mr. Chairman. I am opposing the Motion on grounds that the word 'Nile Republic' is not neutral. The Mover is not solving the problem because it can be mistaken to be a short form of Nilotics or Nilo-Hamites. So, on those grounds, Mr. Chairman, I oppose the Motion.

MR. KIRENGA: I am wondering whether it is in order to debate this point now, when there is an Article in Chapter 2 in which the name of Uganda is specially set out. We are regulating it as a kind of side issue.

THE CHAIRMAN: I think we better sort out the matter because even Chapter 2 does not name Uganda. It does not say the Republic shall be called Uganda. It only says, 'Uganda is...'

MR. MULONDO: Thank you very much, Mr. Chairman. Mr. Chairman, I want to start by saying that it is very unfortunate for Hon. Tiberio Okeny to have brought this Motion at this time. I am sure Ugandans have worked together for a very long time under this name without inferiority or superiority complex whatsoever. Names normally come the way they do and we tolerate them. I am sure Hon. Tiberio never participated in his naming and I do not think he wants to get rid of it. I want to say that I cannot be a party to altering the name of Uganda which has been on the map of the world for a very long time and I think every Ugandan should be proud of this name. I want to inform the Honourable House that the Baganda have and will not feel superior to any other tribe because of the name 'Uganda', and the Baganda have worked with all the tribes in Uganda without even realising that because of the name 'Uganda' they are superior. So, I would like to inform Hon. Tiberio who has moved this Motion to stop being scared of the name 'Uganda'. Thank you very much, Mr. Chairman.

MR. RWOMUSHANA: Mr. Chairman, I would like to be clarified on this point that if we now pass this Motion that Uganda be called 'The Nile Republic' and Sudan which benefits from the Nile also passes itself as *Nile Republic*, don't you think that there will be confusion in the world. Let us sort it out now. Thank you.

THE CHAIRMAN: I do not think we have lost - there are many situations where countries have similar names.

MRS. VICTORIA SEMPA: Mr. Chairman, I stand to oppose the Motion on several reasons. First of all, the Members know that the appalling economy which we are facing. If we are to change the name, then this will dearly affect our expenses. Many of the things: materials, maps, books and everything else will have to be reprinted and I do not think this is a matter of great urgency neither of great importance. Secondly, for me as a linguist I think the two names are quite different - Buganda and Uganda. I do not think that the Hon. Mover of the Motion would accept to be called Tiberia instead of Tiberio because the two will be different.

Thirdly, he said that when they were naming this country Uganda, it was not done with our consent. If that is the case, then many other names in this country will have to change because most of them: rivers, forests, swamps and many other things were not named with our consent. So, which means when we change the name, Uganda, we shall have to change everything on the consent of the people of Ugandans or Nilers for that matter.

Also when he says that the people feel inferior or superior for that matter, I think it is incorrect - it is the heart and attitude that matter. Whether the name changes or it does not change, the hearts of the people who feel inferior or superior will not change and also the name *Niler* itself was not a result of consent. So, may be we shall find any other name which we shall have consent on. This is why I stand to oppose the Motion. Thank you.

THE CHAIRMAN: I think we shall have to stop there since we have had enough debate on this. Now I put the Question *-(interruption)*

MR. CHANGO MACHYO: Mr. Chairman, I am not honorable but I wanted first of all to inform Hon. Ssempe that names have changed. Teso was changed to Soroti and Gulu has changed from Acholi. So names can change. We were changing street names precisely because they were colonial names. Now, it is very interesting Mr. Chairman, what I want to point out that the Hon. Member's suggestion is not isolated because recently when I was on consultation at home, the peasant stood up and made exactly the same point as Hon. Okeny has been making. I have been here and I am surprised to see that the reasons that peasants made were exactly what the Hon. Member is giving. So, this is not an isolated thing.

(Question put and negatived)

MR. MALINGA: I move that Article 2 be renumbered as Article 1 and that the existing Article 1 be renumbered as Article 2. We have talked about the supremacy of the Constitution, we should state this as our first and open statement in the Constitution. So, that is the only reason why I am suggesting that we move - I am not changing the substance, I am saying we should open with the supremacy of the Constitution as the first principle of the Constitution.

THE CHAIRMAN: Can I suggest that this is a matter which I do not think the Constituent Assembly should concern itself with but since the substance is not changing, the Delegate and the Drafting Committee can take note of this and then do it in their own way without us having to vote over it. If that is agreed then the Hon. Member can agree that we refer it to the Legal and Drafting Committee to take note.

AN HON. DELEGATE: Agreed.

THE CHAIRMAN: That being so, I have come to the end of the proposed amendments to that Article. I now put the Question on Article 2.

(Question put and agreed to)

MR. SSEKANDI: The Article I want to insert in the Constitution, will be between the present or the existing Article 3 (i) and Article 3 (ii) in the Draft so that the intended Amendments come before Article 3 (ii) of the Draft.

THE CHAIRMAN: That will not be a new Article.

MR. SSEKANDI: Mr. Chairman, it is a sub-article. I have noted that there is a proposal by Hon. Byarugaba Alex Isingiro South, who intends to carry the same proposal and I intend to follow in their intended amendment. However, he says it should be an Amendment on Article 3 (i). Thank you.

MR. KINTU-MUSOKE: Mr. Chairman, I will note a matter of procedure. Hon. Ssekandi wanted to propose a sub-article between 3 (i) and (ii) then we shall have to dispose of 3 (i).

THE CHAIRMAN: No, I was not calling on him to proceed. All that I had wanted was to get my papers right because his statement here only says, he

wanted to insert another sub-article between and he did not say exactly where. That is why I called him to indicate.

MR. CHEBET MAIKUT: Thank you, Mr. Chairman. I have seen through the proposed Amendments on Article 3 and yesterday I had sent in my Amendment to the Clerk to the Assembly and I hope I will not be denied the opportunity when time comes to introduce a new Article. It is not yet circulated and when I asked him some minutes before we adjourned for lunch, I think the Secretariat is still busy sorting and circulating them. So, I wanted to bring to your attention, Mr. Chairman. Thank you.

THE CHAIRMAN: Hon. Delegates I want to raise one question. Apart from the new additions, there are about 20 proposed Amendments. Do you really think that we shall use our time efficiently if we go through trying to make all these Amendments. This is a case where the Legal and Drafting Committee should sit this afternoon and synchronize. Because we stand a chance of taking a lot of time on matters which are inter-related and yet if we had the Committee to go through them, discussing with Movers then they come back and say, Amendment so and so, sub-Article I has been amended so many times; and many others have been amended a number of times.

MR KAYONDE: Mr. Chairman, even if we go to the Committee as we earlier resolved, until the Committee has received people to debate those various Amendments, it is going to be very difficult for the Committee - the Drafting Committee because any amendment has reasons why it has been moved and the Members ought to listen to the reasons behind that Amendment. So, the Drafting Committee sitting alone among the Members of that Committee will not get the grasp of the reasons and the Members will not have the opportunity to raise the points that they would have raised. So, Mr. Chairman, I want, with your indulgence, to request - *(interruption)*

THE CHAIRMAN: I do not think you are with us. The point is this. Here, we have proposed amendments and in this Hall here we have the Members who proposed those Amendments. What I was thinking is that they could sit with the Legal and Drafting Committee and synchronize these 20 or so Amendments. They may be reduced to five. That is what I was suggesting.

MRS. EGUNYU ASEMO: Mr. Chairman, I support the proposals that you put to the Floor or suggest to us, but with a slight Amendment. There are some Amendments which are basically on the same topic and there are others that are very different in the material content like the one moved on language which I think we can debate. Thank you, Mr. Chairman.

MR. MULENGA: Thank you, Mr. Chairman. I wish to agree with the suggestion that this afternoon, the Legal and Drafting Committee sits together with the Movers of these Amendments to see if they can be synchronized. Those which are different will obviously be treated as different. The idea is, for this afternoon we use the time more usefully by sorting this out in the hope that when we resume next time, the Amendments will have been reduced. Not that any will be killed by the Committee but there will be synchronization. I, therefore, so move, Mr. Chairman.

MR. OBUA-OTOA: Thank you Mr. Chairman. I was going to propose the same thing. I second the proposition by Hon. Mulenga.

THE CHAIRMAN: I now put the Question.

(Question put and agreed to)

MR. BEN WACHA: Mr. Chairman, we the Legal and Drafting Committee are grateful about this move. We met this afternoon and saw the pace at which the House was moving and we were going to report to you Sir, that the move you have taken should have been taken earlier on. Therefore, we are ready for any meeting this afternoon. As a matter of fact we were proposing to meet even over the weekend.

THE CHAIRMAN: With that position from the Vice-Chairman of the Legal and Drafting Committee and in view of the resolution just passed, I would like to adjourn to give chance to the Legal and Drafting Committee to meet and synchronize these amendments. So I adjourn the Assembly until Monday, the 29th of August 1994 at 8.30 a.m. Thank you.

(The Assembly rose and adjourned until Monday, the 29th of August 1994 at 8.30 a.m.)