



THE REPUBLIC OF UGANDA

**PROCEEDINGS**  
**OF**  
**THE CONSTITUENT ASSEMBLY**

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**OFFICIAL REPORT**

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MONDAY, 26TH SEPTEMBER 1994

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**Monday 26th September, 1994.**

*(The Assembly met at 8.30 a.m. in the International Conference Centre, Kampala)*

**P R A Y E R S**

*(The Chairman, Mr. James Wapakhabulo, in the Chair)*

*The Assembly was called to order*

**COMMUNICATION FROM THE CHAIR**

**THE CHAIRMAN:** Hon. delegates, I had indicated on Friday when we adjourned that the Business Committee would meet and indeed it did meet on Friday and among the matters we had thought we would have finalised by then, would be rationalisation of Membership of the five Select Committees. When the Business Committee met, it looked at the various choices made by Members. As you know, two committees were over subscribed. One was 96 Members, then we tried 60, and the other one was I think about 92. So, what we agreed was, because of the need to rationalise as well, district representation on various committees. It was not easy to be done in a meeting of that nature, we agreed that the sub committee of the business committee under the Chairmanship of Hon. Kavuma, they would work together with the Members of the Business Committee from each district who will have consulted or who will consult today their various delegations. You see how they rationalise their representation on the various committees, so that you do not find a district with a least members on one committee, and they do not have any representation on some other committee, as they are becoming apparent

So, this will be done today and hopefully, a report will come back and the Chair will call on the Business Committee, possibly Wednesday, you fill the report, so that the names can come out during the week and also during the week, the Secretariat will arrange for secretarial services of the various select committees, and also allocate them sitting spaces. I think we shall be using the three committee rooms upstairs. So that may be, we shall have three committees running concurrently. And that will help to get our work started in committees. The target is to start on Monday next week. Then we shall have done both the allocation on membership and also the provision of services - acceptable services, and supporting services, so that the committee can move in peace. So, I thought I could give you this verbal

report arising from the meeting of the Business Committee on Friday. Other matters discussed in that committee will be voted in due course, and that this one was urgent and should be brought to your attention right away. That is all I have to say in respect of this. Thank you.

**CONSIDERATION STAGE OF THE DRAFT CONSTITUTION OF THE REPUBLIC OF UGANDA.**

**THE CHAIRMAN:** Hon. delegates, when we adjourned on Friday, we had, if I recollect properly, we had referred new article 11 to old 12(3), to the Legal and Drafting Committee to redraft it because we have found difficulty in accepting the language. And I think there was an attempt to amend and rewrite the text by Hon. Ssebaana Kizito and others. But again, the House felt that, that too was unsatisfactory, and had to refer the matter to the Legal and Drafting Committee. That being the case, what we have now, for those of you who have got the circulated amendment proposals, you will see that we are now at 20, on Page 4. And there is a new article 12 which was former Article 17. There is a Motion by Hon. Leander Komakec and Hon. Ssebaana Kizito - proposing deletion.

**MR. KOMAKEC (Aruu County):** Mr. Chairman, the new Article 12 seeks to provide for welfare and maintenance of the agent while originally we thought of deleting it. With my co-sponsor, we have amended this, actually we meant this to be transferred to the section dealing with the protection and information of the human rights. We feel that, looking at the agent is an important responsibility and I think it was overlooked. We are now, proposing that we should not delete but it should be transferred to a most appropriate place. Because it is so important, because it will be a new Article under the protection and promotion of fundamental human rights. Because we believe that - *-(Interruption)-*

**THE CHAIRMAN:** No, you are now making a speech. Are you moving a Motion or you are just -

**MR. KOMAKEC:** Yes, I am moving a Motion which was seconded by -

**THE CHAIRMAN:** It has not been seconded. He is also a consequencer. I think we should proceed this way. The legal and Drafting Committee recommended that this former article should now be

number 12. Is it not? - Former 17 - and you are suggesting that we should transfer - we should retain it, and just transfer it from one part of the book to the other. Now, Hon. Chairman of the Legal and Drafting Committee can, may be assist us here. Should we go through this whole process or - Because Hon. Komakec now, does not seek to delete. It is number 20. The motion should be under number 20.

**PROF. KANYEIHAMBA:** Thank you, Mr. Chairman. Our recommendation - one has got this as a human right, and therefore, it should go into Chapter Five. This was our suggestion.

**THE CHAIRMAN:** You look at page 9 of your Appendix 11, there are protection of the ...

**PROF. KANYEIHAMBA:** Mr. Chairman, now I understand. Our view was that, this should stay in the Principles and Objectives because we thought that, it should be an ideal position to aim at, but at the moment, the way things are, that it may not be accused, immediately. So, it would be better that we put it in guidelines to guide the State, as to what should happen.

There were a number of other issues for example, Mr. Chairman, the question of the age, at what age do we determine the age and so forth. Because of all those complications, we thought that it was better to be a guideline.

**THE CHAIRMAN:** Does the committee not get guided by the life expectancy in Uganda? If you take that, many of the Members here are living on borrowed time and therefore it can be described as age.

**PROF. KANYEIHAMBA:** Mr. Chairman, when our economic situation improves, that age will move, and this constitution is intended to govern us for a long time. So, maybe in ten year's time, in twenty year's time, that will shift from 49 to something like 53. And so and so forth. So, it is an endless kind of principle, Mr. Chairman.

**THE CHAIRMAN:** So, Hon. Leander Komakec, the Chairman of the Legal and Drafting Committee. I think we have heard what he says that the considerations which are uncertain and particularly the lack of capacity at this juncture to carry out this programme, it is better as an objective to be achieved other than a mandatory intervention on the State.

**MR. KOMAKEC:** Thank you, Mr. Chairman. The reason why we were suggesting that, it should be transferred to an impossible section, is that it is a sufficiently important provision. We did not want to specify the case or the age but it is possible that, as time goes on, the question of looking after our senior citizens will probably lie more of the State. Because in the olden times, Mr. Chairman, these old people were looked after by establishing our societies. But as we move to an industrialised area and people are moving away, the chances are that more and more of our senior citizens will find it very difficult to fend for themselves. So, rather than leave it under destruction, we felt that it should go exactly as a right that the aged should be looked after just like children - supposed to be protected by the parents, we feel that, they should also be looked after *-(interruption)*

**THE CHAIRMAN:** So, you are saying, you would prefer to continue by moving your motion?

**MR. KOMAKEC:** Yes, Mr. Chairman.

**THE CHAIRMAN:** I think that is better. You better move it so that, they are seconded of course.

**MR. KOMAKEC:** It proposes that Article 12 should be transferred to a new article under the protection and promotion of fundamental human rights and freedoms. I beg to move.

**THE CHAIRMAN:** Are you seconded by Tiberio Okeny? - Okay, present your -

**MR. KOMAKEC:** Okay, Mr. Chairman, I have really *-(Interruption)*

**THE CHAIRMAN:** Okay, you have made your presentation.

**MR. KOMAKEC:** It is important in that, unless the State takes this responsibility, our senior citizens may find it difficult to fend for themselves.

**THE CHAIRMAN:** Okay. The motion is that, Article 12 be deleted from the present Chapter and be transferred to the Chapter on Human Rights. It has been seconded.

**MR. AMAMA MBABAZI (Kinkizi West):** Mr. Chairman, mine was a procedural point. I thought the Assembly had pronounced itself on Chapter 5, the Chapter concerning Human Rights. Would these amendments proposed by Hon. Komakec

therefore be - would it not, may be, come in at the consideration stage? Of course, I think it was in the agenda, because we had proposed to delete all the articles, not to transfer it to Chapter 5.

**THE CHAIRMAN:** Yes, the Hon. member has raised an important point. We have already finalised our discussions on Chapter 5, have we not? - On Human Rights - which means that we did not have another chance except that at the reconsideration stage to reopen Chapter 5. In which case it is better the Member proceeds by way of bringing the matter under reconsideration stage. Do you want to clarify something? But I have not finished on this one. So, Hon. Kabugo seems to have information.

**MR. KABUGO(Nakaseke):** Thank you very much, Mr. Chairman. Mr. Chairman, I think we will be just unfair if we abandon this clause until consideration stage. We senior citizens of this country are really becoming a burden to various families, and if we do not take action at this very moment to accommodate them into a specific clause where they fit, it will be very difficult at the consideration stage when things will be moving at a very high speed. In this case, I suggest that we better deliberate on it, decide on which Chapter to fit it, so that the senior citizens of this country can have a space whereby the State can take care of them. Because of conditions, the very conditions now and those which are expected in two year's time to come, it will be very difficult for these people really to have support because families are now starting to leave in isolation. And once one gets old, he finds it very difficult to sustain himself. Thank you very much.

**MR. CHEBET MAIKUT(Kween County):** Thank you very much, Mr. Chairman. Mr. Chairman, last time when the Chairman of the Legal and Drafting Committee presented on this whole Chapter 3, he did not say, if I remember correctly, that some aspects, some positions of Chapter 3, will be transferred to certain relevant articles or Chapters. So in that light, I think he is right that we can debate the Provision which can be transferred to the Chapter on Human Rights which is right. Thank you very much.

**PROF. NABUDERE(Budadiri West):** I am not in favour of the Motion which is being proposed, but I would like to draw your attention that we have not finished Chapter 5 because there was an article or rather a new article on information - the right to

information, which was referred to the Legal and Drafting Committee to come back with some recommendation and it is still pending. But that is no argument for saying that Hon. Komakec's Motion should be moved there. I think they are extending this Chapter too much.

**THE CHAIRMAN:** I think what we do is, let us say, discuss this same Motion and finalise with it instead of going around in circles.

**DR. BYARUHANGA:** I am opposed to Hon. Komakec's amendment, for the following reasons. One, when we look at the state of our economy today, I do not think that we have the capacity of taking on this role of looking after the senior citizens. For the time being, we should request the old system of where the young family, the young members of the family look after the old. By putting it where it is now, we would be indicating that, when the State is able, it can get on that road, but when we move it to Chapter 5, we shall be implying that, we want the State to take over the job immediately. Secondly, Mr. Chairman, if our life expectancy improves, the number of the aged in our community will also increase and this tremendous number of the aged definitely, as long as our economy lives and develops, will be too much for any government to care for. Therefore, Mr. Chairman, since I am not opposed to the spirit, I accept that this clause should remain where it is but should not be moved to Chapter 5. Thank you very much, Mr. Chairman.

**MR. WANJUZI(Bubulo County West):** Thank you, Mr. Chairman. I think the constitution we are making is not for today but for many years to come. We should put some basic things in place to see that they cater for the future. So, I would suggest that this article, as it is, remains to cater for the aged, and maybe the aged will feel comforted and the age expectancy would even increase from the present 45 to about maybe 55, which is the official age limit, maybe, for somebody to retire from the Civil Service. So, I urge Members to keep this article the way it is so that we *(interruption)*

**THE CHAIRMAN:** But, Hon. Wanjuzi, we are debating whether we should leave it there or we should move it.

**MR. WANJUZI:** We should move it to Chapter 5 so that the Government can be responsible for the age. Thank you, Mr. Chairman.

**AN HON. DELEGATE:** Thank you, Mr. Chairman. Mr. Chairman, the idea of providing for the welfare of the aged or widows and these others, really is a good one. And it is important, really, that we include it in the objectives of the constitution. But now, considering that our economy is really very bad, we cannot afford it. Putting it in the section which is compulsory by law, would mean that the budget must be drawn up, it means paying more taxes which we cannot afford to do at this moment. Therefore, I oppose the idea that this article should be transferred in Chapter 5 where it will be impossible in January next year. We cannot afford to do it. We should leave it in the objectives so that at least, when our economy comes out, when it improves, we shall be keeping it in mind that, when the situation improves, we shall be able to provide for that. Thank you, Mr. Chairman.

**MR. KIWAGAMA:** Thank you, very much. Mr. Chairman, I am opposed to transferring this clause to Chapter 5. The obligation to look after the aged is a heavy one to make it mandatory. What are we thinking of? I think we are thinking of feeding these people, housing them, clothing them, medical care, and perhaps pocket money and the rest. Now, to make this mandatory, for the state to undertake looking after the aged is a very, very heavy responsibility. I think, I would rather leave it where it is. Let it remain the objective of the State and intention. And later, when the State is in a position, I think then, we can undertake on that responsibility. Otherwise, it is too heavy to make it mandatory.

**THE CHAIRMAN:** I think let us vote on this. Hon. Members, I think let us really go on. Hon. Atwoma, I know it must be very close to your heart, but surely

**MR. ATWOMA:** Yes, and allow me to speak.

**THE CHAIRMAN:** Hon. Atwoma, okay.

**MR. ATWOMA:** Mr. Chairman, I am very much obliged, for your allowing me to say a word on this Motion. Mr. Chairman, this is one of the responsibilities that this House is faced with, and as I have heard some Members now talking about this Motion, it means they are running away from their responsibilities. Mr. Chairman, all along we have been talking of the importance of the human rights, we provided for the children, for the disabled, and even for the women, the healthy ones, and the young ones. And here, Mr. Chairman, the aged people who

might have probably contributed a lot to the growth of this country and of those children now around here

**THE CHAIRMAN:** Hon. Atwoma, I would rather, you had some exceptions, I do not know whether Hon. Adimola takes that.

**MR ADIMOLA:** Well, Mr. Chairman, I feel much sorry to see this very August House not looking at this with seriousness, with sympathy for the aged who, at this time, are alive after working for this country. And, Mr. Chairman, if for the economic purposes, at least we provide for it to be mandatory for the State to provide for this. There are certain elderly people who even have got no homestead properly looking after them. These are perhaps the selected ones, to be taken care of - Than to leave them, that we do not care about them, they have done a lot for this country, and now we cannot help them. Mr. Chairman, I think this is immoral for this House to reject this Motion. Thank you, Mr. Chairman.

**MR. AGGREY AWORI (Samia Bugwe North):** Thank you, Mr. Chairman. Mine is more of information. Mr. Chairman, during the last candidates meetings before we came to this House, the biggest cry from the aged was the problem of taxation. Mr. Chairman, one way the State can help the aged is to exempt them from most of the taxation that has been put on them in their retirement. Mr. Chairman, another way of the State helping out the aged is also to exempt them from certain payments such as medical services, where there is cost sharing. That should be quite clear in the beginning, Mr. Chairman where an aged person shows up for medical services or whatever service, he should not be subjected to any form of payment

Mr. Chairman, I also want to add, that this responsibility will not be left entirely to the State. We can incorporate the system, whereby the parties are involved and contribute. In some of the countries overseas, they have what they call individual retirement system. Mr. Chairman, just to reiterate the three main points which the aged are really asking for, one is exemption from taxation in all forms except income tax. Number two, Mr. Chairman, all to present the idea of being reassessed on tax, when they have been required they are called back today, as it happened in my district last year. Mr. Chairman, they did not like to be brought back into the taxation system.

Mr. Chairman, again in terms of helping them out, I would like to reiterate and re-emphasize the problem of exemption, particularly on medical services where -*(Interruption)* - Mr. Chairman, as I said, the most important aspect again is cost sharing. Some of us, Mr. Chairman, are grand fathers now, and given the recent scourge of meningitis and Aids, we have been left with the responsibility of looking after our grand children. There must be a way of assisting these grandfathers to meet this problem of taking on these responsibilities. Mr. Chairman, we are here to debate the guidelines and with that, I beg to move.

**THE CHAIRMAN:** Thank you. Hon. Byarugaba, you seem to have a very important information.

**MR. BYARUGABA (Isingiro South):** Thank you, Mr. Chairman. Mr. Chairman, I would like first and fore most to correct one impression created by Hon. Awori that there are no tax exemptions. Indeed, in districts, we do hold tax exemption exercises every year, especially regarding the aged and we do it every year. That is one. Two, graduated tax is not assessed according to one's size, one's age, height, but on one's property. You might be very old, but with a lot of property, like my Colleague Hon. Byakika, he is very old, but he has a lot of property. Why should he not be taxed? *(Laughter)*

**THE CHAIRMAN:** Hon. Byakika, you seem to protest.

**MR. BYAKIKA (Bunyole):** Point of order! Is the Hon. Member on the Floor in order to assert that Hon. Byakika is well off in his own capacity as Byakika, when in fact he does not know where I come from? *-(laughter)* He does not know my home, how did he get this idea that, I could support myself?

**THE CHAIRMAN:** When he takes up that invitation, he will find out.

**MR. BYARUGABA:** Mr. Chairman, thank you very much for that wise ruling because I chanced to study with the sons and daughters of Hon. Byakika. I know his family, he is also one of the biggest directors of these biggest hotels around town. So, I imagine he is rich, he is okay.

**THE CHAIRMAN:** Hon. Byarugaba could you - No. I think let us go on.

**MR. BYARUGABA:** Yes, Mr. Chairman, thank you, very much.

**THE CHAIRMAN:** Would you conclude your remarks please.

**MR. BYARUGABA:** So, on this issue, Mr. Chairman, I would like to support the mover of this motion, but with a simple amendment -

**THE CHAIRMAN:** No, I am not going to recognise it. Hon. Byarugaba, could you finalise your comment? have you finished?

**MR. BYARUGABA:** *"The State shall make reasonable provision for the welfare and maintenance of the helpless aged"* - the *"Bakateyamba"* type of people, like the Cardinal used to have. Those ones can be easily identified and they can be assisted by government. We should not just throw them off. I think it is very important that we make that simple amendment, if the original movers could allow me to include it. That we say, *"the maintenance of the helpless aged"*. That one, we can push to any Chapter so that they are looked after, Mr. Chairman. I beg to move an amendment within amendment.

**THE CHAIRMAN:** It is not seconded, is it?

**MR. BYARUGABA:** It is seconded, Mr. Chairman.

**THE CHAIRMAN:** Is it seconded by Grace Akello? Hon. Adyebo, are you a seconder?

**MR. ADYEBO:** Point of clarification. Mr. Chairman, from what I hear, the proposed amendment is asking whether the proposers are agreeable or not. There is no need for that, maybe I have something to say.

**THE CHAIRMAN:** Okay, let us first of all frame what we are doing. You have a Motion on the Floor suggesting that article 12, should be transferred from where it is, as it is, to another part. That is the Motion we are debating. This other Motion, is trying to go to the substance of the matter, which is a different matter. That one can only come after we have decided where it is going to be. If it is going to be in another Chapter, then we shall wait until we debate it there. Because now, we are looking at whether it should be a mere statement or principle, or it should be transferred to a mandatory provision of the

constitution. The amendment is seeking to transform the nature of the statement as it is, so that you say, only the helpless aged. Now, although the Motion has been seconded, it is actually an amendment of a non existing motion. Because the Motion is not that we should approve this as it is, but that, we should transfer it to some other place to be mandatory or to be a mere statement or principle. So now, do you not think we have discussed this long enough? Hon. grace Akello, that should be the last speaker then we go on.

**MISS. AKELLO:** I just want to assure the Hon. Mzee who spoke at the back -

**THE CHAIRMAN:** Hon. Tiberio Atwoma, yes.

**MISS. AKELLO (Presidential Nominee):** I wanted to assure Hon. Atwoma who spoke at the back, and he was worried that we might not recognise the contribution that the aged had made to this country. That indeed we do, and putting this in the national objectives makes it very much recognised that they have made a contribution to Uganda. But the problem is one of fund priority. If we go on to make a welfare state, we have so many other conflicting demands on the small resources that we have in the country. No, with due respect Sir, we have so many conflicting demands that it is better to keep this as a National Objectives, and work towards it, than at this stage to say, whatever resources we get in the country, we should divert - I do not know, a quarter, one tenth of it for looking after the aged. After all, I am sure, the Hon. Mzee will realise that our budget each year is actually contributed to by foreign Donors, and we ourselves have problems, finding enough money to fund our own development or reconstruction priorities. So, I also want yet to add that, really, we are caught between the devil and the deep sea, if I could use that expression. On the one hand, somebody suggested that, looking after the old should be given as a responsibility to the young, but the young now have also very many demands and at the same time, we cannot afford to put up a welfare state. So, I think if we keep it as a National Objective, we will work towards it. Thank you.

**THE CHAIRMAN:** Now, let us resolve ourselves on this one. The Motion is simply this that, if we agree with the Motion as it is, it means we shall transfer article 12 to be appropriately placed somewhere in Chapter 5, which relates to human rights, and they become mandatory and justiciable. If we

choose to leave it as it is, then it remains as a national goal which will be achieved as we go along. So, now, let me put the question.

*(Question put and negatived)*

**THE CHAIRMAN:** Now, we have to pronounce ourselves on Article 12 as it is. I would like to put the question that Article 12 do stand part of the Draft Constitution.

*(Question put and agreed to)*

**THE CHAIRMAN:** I do not see any amendment proposed on Article 13. Let me put the question on 13. That article 13 do stand part of the Draft Constitution.

*(Question put and agreed to)*

**THE CHAIRMAN:** Article 14. Hon. Leander Komakec has an amendment there.

**MR. KOMAKEC (Aruu County):** Thank you Mr. Chairman. The amendment I am seeking to propose is not as worded here. It is that, the proposed article 14 - it is former article 19 - should be transferred to the section on the leadership Code of Conduct.

**THE CHAIRMAN:** In other words, your amendment is the same as that, of Hon. Maliro. So, you forego yours, and I ask Hon. Maliro to Move. Okay, fine. Now, we are on item 23. As Members do recall, we did dispose of 22 earlier on. So, we are on item 23 on page 5 - there is a Motion there, by Hon. Maliro.

**MR. MALIRO (Mwenge County, North):** Thank you, Mr. Chairman. Mr. Chairman, I wish to move that Clause 3 or article 19 be transferred to Chapter 16, the Leadership Code of Conduct. Mr. Chairman, there is a clause which reads as follows: *"All measures shall be taken to expose, combat and eradicate corruption, abuse and misuse of power by those holding political and other public offices, and to punish them, or any such act"*.

Mr. Chairman, I would like it to be transferred from that Chapter 3 which deals with non justiciable National Objectives to Chapter 16 - the leadership Code of Conduct, where its effect can be utilised to minimize corruption and abuse of power. Mr. Chair-

man, the wording of the clause is relevant and effective if it supplements the provision of Chapter 16. I beg to move, Mr. Chairman.

**THE CHAIRMAN:** You are seconded by Hon. Komakec. But have you looked at Chapter 16? Chapter 16 does not seem to only set up this Parliament power to prescribe the offices of which the leadership Code of Conduct is, and prohibit conduct. But this one was a general statement on principle.

**MR. KOMAKEC:** Yes, Mr. Chairman., I think I am in agreement with even the Legal and Drafting Committee. Because it is already transferred, Clause (1) and Clause (2) of the same article to form a new Article on this Chapter. But me, I am feeling that, this Clause, Clause (3) is more justiciable, has more meaning than even Clause (1) and Clause (2), which to me appear to be just objectives. According to the Legal and Drafting Committee, it is supposed to be Clause 270, a new clause 270. Comprising clauses (1) and (2).

**THE CHAIRMAN:** Could I here from a Member of the committee.

**MR. OWOR:** Mr. Chairman, the view of the committee, was that, this clause be retained where it is, and especially, the committee felt that it should also be re-drafted by the Technical Committee so that it would include the punishment of culprits of corruption. And the Committee strongly felt that this should remain as a guiding principle. It should not therefore be moved after this place.

**THE CHAIRMAN:** So, you prefer to transfer those which we think should be transferred. That is (1) and (2)?

**MR. OWOR:** One and two were supposed to be transferred to the Leadership Code. But clause (3) was to be retained.

**THE CHAIRMAN:** Hon. Maliro, what have you to say? Because if you transfer clause 3 in the form in which it is, it becomes very difficult to enforce it.

**MR. MALIRO:** Mr. Chairman, when I looked at clause (1) of article 19, it reads, all public offices shall be held in trust for the people. To me, that is more of an objective, than something you can really enforce. When you read clause 2, 'all persons placed in positions of leadership, and responsibility shall be

answerable to the people in their people, and shall at all times, place their interest and welfare of the people above their rule. The welfare of somebody above the other ones. It is just enforceable, than when you talk of taking measures to eradicate expose and combat corruption, and abuse and misuse of power. So, I think, we are trying to avoid something which is more enforceable. I would prefer that, clauses (1) and (2) remain behind as an objective and then we take this one which is more enforceable, which gives power to some people to really enforce, to really take action. If somebody has been corrupt, if somebody has misused an office.

**THE CHAIRMAN:** But how do you enforce that?

**MR. MALIRO:** I have the explanation, Mr. Chairman, if you give me the chance.

**THE CHAIRMAN:** Hon. Owor, what do you say to that? Because he is suggesting that in fact, you transferred principles and retained the justiciable part.

**MR. OWOR:** Now, Mr. Chairman, I would say the idea of transferring clauses (1) and (2) is that, they seem to be in line with the Chapter on the Leadership Code, and that is why we decided that it should go there. But as for clause (3), we felt that the whole idea of exposing combating and eradicating are things which should be more of a policy nature. We could argue that well, punishment of people who are engaged in corruption, can be enforceable, but it is not only talking about punishment. It is talking about exposing, it is talking about combating, it is talking about eradication of corruption. These are more issues which you can not very easily take government to task about. But there are more things which you can just judge from the general policy of government. So, I still would say, it should remain here.

**THE CHAIRMAN:** Hon. Maliro, you still want to continue with presenting your Motion?

**MR. MALIRO:** Yes, Mr. Chairman.

**THE CHAIRMAN:** Okay, you present your Motion then others can comment.

**MR. MALIRO:** Thank you, Mr. Chairman. Mr. Chairman, I think you will agree with me, even with other Hon. Delegates that the greatest enemy of Uganda's economic development and even social

enhancement, has been corruption and misuse of office. Now, Mr. Chairman, I think in line with this, if we remember well, there has been an attempt to divest the public enterprises. This is also in line with trying to combat or trying to fight against corruption. Because it was difficult to get managers who were really trustworthy to run these factories. That is why some of them are being divested.

Mr. Chairman, if you look at this clause, it talks of everybody, almost everybody or perhaps the State, it seeks to commit persons in responsible positions and citizens indirectly, who endeavor to eradicate corruption and abuse of office. On the other hand, Mr. Chairman, it also seeks to protect and guarantee people like Cheeye, the right to expose corrupt officers, or corrupt individuals. For example, if one is guaranteed that, it is the responsibility of, maybe the State or every citizen to expose, to try to eradicate. Therefore, if he does expose, then you cannot go against him and start saying, look here, this man is interfering with my personal liberty or something. If we take the example of the frequent reports in various papers, Mr. Chairman, they talk about embezzlement of funds and then these reports end up there. In this case, Mr. Chairman, any person in government, who is in charge of an officer who is found or who is accused of embezzling funds, and who does not take steps to punish this person, would himself or herself, be held responsible under this clause.

Mr. Chairman, the clause imposes a duty, apparently, on the state and presumably upon all citizens. But for the avoidance of doubt, it could be modified to make it more communal, that is perhaps we could add in the word, State or something like that. That one could be done later when we meet it in Chapter 16. Mr. Chairman, without clause (3), Chapter 16 is almost incomplete. The clause seeks to control offenses, before it categorically commits any person to those offenses. Mr. Chairman, we will recall that, Ugandans really are tired. Ugandans are tired of seeing a few people progressing on the expense of the majority of the tax payers. And it is this clause, Mr. Chairman, which empowers not only the state, but also the citizens to be on the alert. To be on the alert to combat - let me see, the citizens could expose, then perhaps, the State would be expected to combat this corruption. I think, I should implore Hon. Delegates to give me hands to fight this corruption, Mr. Chairman.

**MR. KIWANUKA (Bukomasimbi):** Thank you, Mr. Chairman. I beg to oppose the Motion, Mr. Chairman. When I was giving my submission, I was against the Inspectorate of Government and I had my reason. But anyway, I have not come to that Chapter. But I would beg the Mover, to look at Article 259 and Article 264 and see whether it does not take care of his fears. Those two articles, Article 259 and article 264.

**THE CHAIRMAN:** Hon. Maliro, what can you say in view of that?

**MR. MALIRO:** I can see some relationship with Article 259, but I wonder whether 259 does also, commit or empower any person, apart from the Inspector of Government. We also expose corruption.

**AN HON. DELEGATE:** Mr. Chairman, Article 260, maybe you can read it also.

**THE CHAIRMAN:** But I think what he is saying is that this one is broader than the one we are referring to because those are talking about the powers and functions of the Inspector General of Government. While the other provision will be wider, it is saying, anybody has a right to fight corruption.

**AN HON. DELEGATE:** Yes, Mr. Chairman, but to have authority - anybody to go and -

**THE CHAIRMAN:** You should be able to - you see in this case, even the employing body of government can dismiss people on grounds of corruption and other things without having to go through the process of the Inspector General. I think some of these things make it wider. But anyway, let us hear others. Hon. Lubega Wagwa. No, let him make his contribution.

**MR. LUBEGA WAGWA (Butambala, Mpigi):** Thank you, Mr. Chairman. I rise to oppose the transfer of this clause simply because, in setting out goals for this nation, we should make sure that we mention corruption and then it can be amplified in chapter 14. It is important that we look at corruption as something which has really affected this country. Any government in power should make sure that when it is formulating its manifesto, they have to consider or take this chapter as an important one and they should include or say something about corruption. When you look at the governments in the past

and present, people are accusing each other of corruption. So it is better we make a mention of this in the National Objectives so that people in government must realise that we are serious on fighting corruption in this country. Thank you very much.

**MR. WANENDEYA (Budadiri East):** Thank you Mr. Chairman. Mr. Chairman, our country has got to progress economically and if it is to progress, then we must have this objective in the constitution. Mr. Chairman, people do not have to steal but we in Uganda have cultivated the culture of stealing and corruption is rampant and nobody seems to be taking any action to eradicate that problem. It would, therefore, be appropriate to leave it in the Objectives as well as putting it under Inspectorate of Government.

Mr. Chairman, perhaps the wording could be changed to say, all measures shall be taken to expose misuse of power by persons holding public offices and everything must be done to punish and eradicate corruption. Mr. Chairman, this is a very big anathema in our country and until we can eradicate it so that if people buy or construct houses in Tank Hill and wherever it is in Kampala and in the country, it must be put in our constitution. Without corruption Mr. Chairman, we shall be a better country than we are at present. I thank you Mr. Chairman.

**MR. DAVID PULKOL (Matheniko county):** Thank you Mr. Chairman. I would like to support the view of the Legal and Drafting Committee in strong terms in upholding clause number three as a matter of principle and policy, policy being a set of guidelines governing action towards solving problems, being a set of principles. In this case, I find Clause 3 as saying all measures shall be taken to expose, combat, eradicate corruption or abuse and improving it further to bring the element of punishment. And this puts the burden on the State and this is the way the citizens will judge any government in power whether it has taken all measures or not. And it is on the basis of this that citizens of this country will keep the State on its toes. I like keeping the government on its toes, otherwise government goes to sleep anywhere in the world where there is no pressure. But once we know that we have put it upon the State to take all measures necessary and where the government falls short of our expectation in fulfilling these policy objectives, then that is where really, we can either not vote that government into power or do anything possible because it has failed to do its duty.

Whereas articles which were related like 264, like 259, create mechanisms within the State in order to expose, if a citizen is aggrieved, then those mechanisms like the office of the Inspector General are then mechanism for seeking redress and then that is where the details will be worked out. So our participation as citizens, the mechanism for that participation are being provided for in 259, 264, that kind of thing. I would like to support the view of the Legal and Drafting Committee that this remains as a policy principle to govern action of government to eradicate this menace in our country. Thank you.

**MR. DEO RWABIITA:** Point of clarification. Mr. Chairman, I beg clarification from the Legal and Drafting Committee. I have no quarrel with the first part of Article 14. But when you put the words to punish them, does that not indicate that it will be mandatory? That when somebody is found corrupt or misusing his powers, then a case will be put in court and he is seen to be punished? What happens if government does not punish him and let him go? Then the government will lose face because they have failed to punish this man who has been found corrupt. Therefore, leaving it as just an objective, me I have found that this punishment might not work. So I would propose that they should look for a place in the constitution where it can be legally put in action and somebody is punished. Otherwise, it remains a statement as this one.

**MR. CHARLES OWOR:** Mr. Chairman, I see no contradiction in pleading punishment as part of this provision. The fact that something is of a policy nature does not mean it should not deal with a situation squarely and adequately and comprehensively. We are only saying that instead of just exposing corruption and leaving it just exposed and doing nothing, we should go ahead and do something that puts some kind of penalty on a person who has been involved in this corruption. It could be in the nature of grabbing back a house that somebody has built out of money gained from corruption. There could be various ways that government can handle such corruption. I do not see any contradiction in including the punishment or penalty bit on this particular provision.

**MR. ELYAU (Kalaki, Soroti):** Thank you, Mr. Chairman. Mr. Chairman, if number one and number two were transferred, I do not see the reason why this number should not be transferred so that the action disclosing this corruption business becomes

really mandated. Why have we failed to fight corruption in this country? No people in this country know how such information was discovered and what had happened and what shall happen. So, this remains hanging and we are looking for means where we can fight corruption if we really need to fight corruption. Why do we fear exposing it to be mandatory? I think we should give a chance to people because it is a matter of accountability. How shall people know that government is accountable for their rights? So we should allow this number three to be transferred so that it becomes mandatory. It is then after that that government will make sure that it does something to fight corruption otherwise we shall malingering with corruption for years. Thank you Mr. Chairman.

**MR. NGOBI:** Thank you, Mr. Chairman. I beg to support the motion. We have, in this country, a problem of corruption and it is because that action to be taken against corruption has become difficult. If we just leave this matter to expression of the objectives without empowering the citizens of Uganda to fight against corruption, this will not enable us to deal with this matter. At present, the only thing that perhaps prevents or minimises a bit of corruption maybe is the Press. Somebody may fear to be exposed in the Press. By transferring this article to a place where it can be enforced, you are enabling citizens to assist the government to fight corruption. Because in addition to the powers and functions of the Inspector of Government, you are now empowering a private citizen who has got the evidence that an official, no matter who he or she is, can be taken to court. That private citizen can go to court and save the country from corruption. We have seen in other cases, some other countries, where you even have private investigation organisations in addition to the government investigations. These investigations in those countries do unearth evidence which does help the country to avoid that particular disorder. I think it is proper for us to add something additional to what government could do in order to fight corruption because to leave it to government, to say well, we ask government to take action, if the weaknesses in government itself are there, then we will not be able to get the objective we want. While I do not disagree with the idea that every government, the objective should be to expose and eradicate or fight corruption, I think it should be in a part of the constitution where this action is enforceable, giving power to the citizens of Uganda who have proper evidence to take the matter to court if they so desire instead of remaining

to complain that government has failed to do this. Thank you very much.

**MR. SSEKWEYAMA WAGABA:** Thank you very much, Mr. Chairman. Mr. Chairman, personally, I oppose the transfer of this article to any other part of the constitution. First of all, I would like to be clarified by the mover because he did not indicate where, under the Leadership Code, he would like to fit this provision. To me, I do not see where it can fit appropriately and secondly, Mr. Chairman, most speakers have confined themselves to corruption. But the provision also adds abuse and misuse of power and I think that so far, in the draft constitution, we have provided for various mechanisms to enforce any elements of corruption or abuse of power. For example, if it was in the office of the President or concerned the person of the President himself, I think this constitution has provided for impeachment proceedings and I think also the Inspector General of Government, there are enough mechanisms set out to deal with corruption as well as misuse of power. So the issue is not corruption per se but it goes on to include the abuse of power which is very difficult to define and lay hands on easily so that if you confined it to the Leadership Code of Conduct, maybe you will be excluding other mechanisms to deal with the case appropriately.

Mr. Chairman, I think the ultimate objective would be to punish. There is an Hon. Gentleman who wanted to exclude that but I think we would leave this provision hanging if the ultimate goal, whether under Inspector of Government or under the leadership code or under any other provisions, for example, the impeachment, it will not end up at punishing the culprit. So, Mr. Chairman, I would propose than we leave Article 14 where it is. It is merely a standard measure. We are setting standards and we are saying every person in public office should not engage himself in corruption, he should not engage himself in abuse of power and once the public realises, the Press, the ordinary people realise that actually somebody is encroaching upon this provision, then they can resort to other measures already inscribed in the constitution to bring him to book. So, I beg to propose that this article stays where it is. Thank you.

**MISS. NABAFU (Women, Mbale):** Thank you, Mr. Chairman. I will support the deletion of this article and to be put among the enforceable ones.

**THE CHAIRMAN:** Could you speak loudly please.

**MISS NABAFU:** You will excuse my voice. I have a cough. (*Interjections*). It is not a virus, something else. Mr. Chairman, I would like to support Hon. Maliro's proposal that we are meant in a way of putting this article in the enforceable one Mr. Chairman because, the people of this country and particularly Africa, have lagged behind in development as a general aspect simply because some people have taken their offices and used them as investments. Mr. Chairman, we have just been upcountry during the time of campaign, some people were taken by surprise when they came to face the real circumstances and atmosphere that our people, the majority of them, are living in. Despite the riches, so called by the leaders of this nation, people are getting poorer and poorer and the people could not believe when they heard the fact that each Ugandan today is being required to pay 380 dollars because somebody borrowed this money on their behalf and then misused it.

Mr. Chairman, we had better know and understand that corruption is what has led Africa to be where it is and particularly Uganda and if we do not make it enforceable, Mr. Chairman, we shall continue having people comfortably taking money on behalf of the local *Wanainchi* and then not give them a say to combat it. If we can allow every Ugandan to be responsible, I think we had better go and follow this trend if we are serious about developing the whole of Uganda - like you go to some homes, you find somebody has everything that he needs on earth and he lives in Uganda and you cannot believe it. Mr. Chairman, you find a country whereby the President of that country is richer than the country itself. If he is requested to pay the debt of that nation, he says, how do I know if this country will ever pay me? And yet you know very well when he became President, he was so poor. Mr. Chairman, we had better put this in the enforceable articles. Thank you very much.

**MR. OKALEBO (Bukedea, Kumi):** Thank you, Mr. Chairman. First of all Mr. Chairman, and with respect to fellow Delegates who have contributed, I wish to submit as follows: One, corruption is already an existing illness amongst us. What would be covered in the objective chapter would be what is anticipatory. But corruption and abuses of offices and the rest of this, is that anticipatory? This is what needs treatment now among the population. And you can also recall, Mr. Chairman, or agree with me if I may say this. Mr. Cheeye has been taken to court on a number of times for what he reports and this may

be because there is lack of constitutional protection in the exposure of what he puts in papers. So, I would agree with the proposed transfer of this article to the Leadership Code because Article 264 and Article 269 give general jurisdiction of the IGG. That is general jurisdiction as such but transferring this article, even with the recommendation of the legal and drafting committee, gives a wider protection to the public who come up to give information on the abuses and corruption without fear of being taken to court themselves. So, with this Mr. Chairman, I see nothing wrong in transferring the whole of Article 19 with all its sub-articles 1, 2, 3 to the Leadership Code as this is in line with Article 268 of that code and the addition of the word "*punish*" is also a necessary component of that transfer suggested. Thank you Mr. Chairman.

**MR. KASAJJA BYAKIKA (Bunyole County):** Mr. Chairman, I support the transfer of this article to the leadership code. Mr. Chairman, when we were in our candidates meetings before the elections, one of the favourite questions was, if you are elected, what are you going to do about this rampant corruption in Uganda? These people were asking this question because papers had exposed so many of these corrupt people in government and other circles and they were not seeing any answer. There was no action being taken. These people were looking for accountability of someone who will take charge of those people who are corrupt because even when Cheeye was exposing some of these officials having diverted funds which were intended for one purpose and was being used for some other purpose, all the evidence was there but government kept quiet. They never even comforted the public by saying we are investigating. They just kept quiet up to date. So the public was wondering. Is the constitution going to enforce this measure so that government can take action against those people who are obviously corrupt? This is why I am saying, Mr. Chairman, that the public is now listening to us even as we are here. They are listening, how we are going to deal with this matter and the only way we can tell the public that we are doing something about this is to put it in a position where people who are corrupt can be dealt with in the enforceable chapter. So, I support the transfer of this article to a place where accountability will be taken by government, where if government fails to comment on an obvious matter, the public should be able, through some other body, to ask government "why have you kept quiet about this matter?" So I support the transferring of that article.

**MR. KASAJJA GEORGE:** Thank you very much Mr. Chairman. Mr. Chairman, in my view, we are looking at this motion as if Uganda is going to be the first country to eliminate corruption. And when we way the State, we are trying to look at the State as if it is an animal which is separate from us because when a State exists, it has to have people to assist it. In fact corruption can only be dealt with as an objective because I have done research and I have asked even some people responsible in other developed countries. Like recently, we had this gentleman called Siemens. Siemens has been here and been responsible for privatisation of over 13,000 enterprises in West Germany. But when asked about eradicating corruption, he said this is something which is a farce because it has never happened even in West Germany, even in Europe. Corruption is there but it is the people themselves who come up and -*(Interjection)* - yes, it is a sin because a sin is difficult to eliminate. We can only put it in an objective so that we make the nation responsible, so that we make the nation really be on its feet like Hon. Pulkol has said. It can only be an objective but when we come here and we say the State, the State, how are we going to eradicate this corruption? Mr. Chairman, I would like to tell the Members that it is difficult actually to eradicate anything. In fact maybe this thing should have been stated as "*all measures shall be taken to expose, combat and minimise corruption*". But eradication, I bet and I am telling Hon. Members that we have to be careful, we cannot pass a law which is enforceable, which deals with eradication. Therefore, with that, I would not like to support the idea of transferring this section to an implementing section because it is going to be difficult Mr. Chairman. So, Mr. Chairman, with that, I would like to say that we should leave it as an objective.

**THE CHAIRMAN:** Hon. Delegates, we have debated this now sufficiently. I think let us vote on it and go to the next. The question which I am going to put is that Article 14 on page 10, which reads, "*all measures shall be taken to expose, combat and eradicate corruption and abuse and misuse of power by those holding political and other public offices and to punish them for any such act*" - the motion is that this be transferred from the statement on principles and be included in Chapter 16 which talks about the Leadership Code of Conduct. Now I will put the question.

*(Question put and agreed to)*

**MISS WINNIE BYANYIMA (Mbarara Municipality):** Thank you Mr. Chairman. Mr. Chairman, I personally did not mind whether it stayed here or was transferred but I wanted to talk about the text itself.

**THE CHAIRMAN:** Why? But we have already finished. Then you will talk about it when we come to Chapter 16. We have not finalised with it. We have only said it should not be in this Chapter but when we come to Chapter 16, it will be one of the clauses we shall take, whether it stands part of Chapter 16 or not and at that point, Members who will want to express their views on the merits, can do so at that stage. Now the Technical Committee will try to find a home for it within Chapter 16 and then we can discuss it at that stage when we come to that Chapter. In fact it will go to the committee concerned and then come back from there.

**LT. MAYOMBO:** Thank you very much, Mr. Chairman. Sir, I really humbly request you to guide the Assembly as we discuss this chapter because I notice a tendency, Mr. Chairman, for Hon. Members to use the yard stick of justiciable and non-justiciable as they discuss this chapter. Sir, I request that the purpose and spirit of Chapter Three is to enable Parliament to make laws which is not necessarily in this constitution. You do not only need this constitution to enforce rights or to make government implement policy. Very many laws are going to be made on the basis of Chapter Three which will mean that these rights will be justiciable on the basis of other laws. So, Mr. Chairman, Hon. Members saying that since something is not justiciable in Chapter three and it is important, therefore it should shift to the main body of the constitution. I feel that the whole spirit of Chapter Three will be undermined. I thank you Mr. Chairman.

**MR. JACK SABIITI (Rukiga County, Kabale):** Thank you, Mr. Chairman. I concur with Hon. Mayombo's statement. I think some of us are getting concerned because when you look at Chapter Three, this is really a declaration of stated objectives. The enforcement of these objectives can be found in other Chapters. If you look at Article 259, 264 and then if you look at the chapter on the code of conduct, really, transferring this one to that chapter, I find just a duplication. So really, we need your guidance on this to just again go back to it when we reach that chapter, and it will just be wasting our time. So I would really suggest that although this has been

passed and already shifted, that the mover reconsiders because it is catered for in Article 267 and 268 because when you look at the explanation given in that chapter, it is fully catered for.

**THE CHAIRMAN:** When we come to that, we can discuss them at that point in terms of merit but as far as discussion is concerned, we are proceeding on the basis of appendix two and you know very, very, well that when you are discussing a chapter, the particular articles, the house in its wisdom can shift them around, throw them out, amend and confirm them. Now, it may be unwise but we may look at it at the reconsideration stage. But at this time, now to reopen debate on a matter we have known, is not wise. Let us now proceed to the next. The next item is Article 15 and Hon. Leander Komakec would like to delete it.

**MR. CHANGO MACHYO:** Mr. Chairman, I had submitted extra clauses to what is now proposed to be Article 15 but which was Article 20. But I do not appear on the list of those who are supposed to and it is because when the Legal and Drafting Committee sat, I was away overseas. So I do not know what I could do now.

**THE CHAIRMAN:** What I see here from you is on article 20.

**MR. CHANGO MACHYO:** Yes, but I wanted to propose extra clauses under article 20. I handed it in before I went away.

**THE CHAIRMAN:** Anyway we cannot add any clauses because the first motion is that they should be deleted. If it is deleted, there is nothing you can add to. So what we do is we first take Hon. Leander Komakec's motion. If it does not carry, then you can move yours. Otherwise if he carries, there is nothing for you to amend.

**MR. LEANDER KOMAKEC:** Mr. Chairman, I was just looking through the papers and I do not seem to find it. I am in fact adding, I said that the clause should read as follows, that in order to facilitate the rapid and equitable development, the State encourage private intervention, self-reliance and make or take appropriate State intervention. In other words, Mr. Chairman, the motion of deletion, I think, must have been a mistake. I do not have it.

**THE CHAIRMAN:** If you look on page five of the distributed amendments under 24, you are down as

moving deletion.

**MR. LEANDER KOMAKEC:** Mr. Chairman, I think that probably is a mistake because I am only adding that the State should encourage rapid and equitable development by encouraging private initiative and where for equitable, it should be State intervention. So the one I sent is to make appropriate State intervention at the end.

**THE CHAIRMAN:** You mean by deleting the word self-reliance?

**MR. KOMAKEC:** No, just leaving everything as it is. After "*self-reliance*", he says "*an appropriate State intervention*".

**THE CHAIRMAN:** No, let us get the text clear first. You want to say that it reads, "*in order to facilitate rapid and equitable development, the State shall encourage private initiative, self-reliance and appropriate state intervention*"?

**MR. KOMAKEC:** Yes.

**THE CHAIRMAN:** But do you not think that is a contradiction in terms because if you are going to encourage private initiative, then appropriate State intervention -

**MR. LEANDER KOMAKEC:** Mr. Chairman, it is not a contradiction. What this one means, the statement as it stands is giving all the responsibility for rapid and equitable development only to private initiative and self-reliance. I am saying that in a country like Uganda where we have had unequal development in different parts, it would be incumbent on the government where necessary - because what I am saying here is that the private initiative may not bring about this equitable development that you are seeking. So, all I am saying is that I want State intervention besides private initiative. Mr. Chairman, it is mixed economy that you will be talking about rather than a capitalist set up.

**MR. ERESU ELYANU:** Mr. Chairman, I find this amendment very contradictory. One, it talks about private initiative and then it talks of appropriate State intervention also. Unless the mover qualifies the extent and the degree of State intervention and also private initiative, we may find ourselves discussing something which is totally contradictory and we shall be confusing the interpreters of this constitution. Thank you Mr. Chairman.

**MR. KARUHANGA:** Mr. Chairman, I also wanted to inform the mover of the motion that his fears or his interest of getting the State to be involved in the affairs of development are very well taken care of in 20 (1) in the existing Draft Constitution. *"The State shall take all necessary measures to provide an atmosphere that is conducive to the development of the people of Uganda"*. If he is not satisfied with that wording, he can at least be satisfied with the wording of what is appearing in six of 20. *"The State shall endeavour to protect the health, safety and welfare of all persons in employment"*. If he is not satisfied with that, he can be satisfied with seven. *"The State shall promote the attainment of decent standards of living for all citizens who shall include adequate food, clothing, shelter and medical care"*. If he is not satisfied with that, 21(1): *"The State shall take all necessary steps to involve all the people in the formulation and implementation of development policies and programmes which affect them"*. What actually 24 wants to achieve is to encourage people to be self-reliant and to have private initiative and I think it is to stand alone without involving the State. Thank you.

**THE CHAIRMAN:** Hon. Leander Komakec, you were trying to append some phrase to this particular one in order to involve the State. But given the statements that appears elsewhere in this Constitution, do you think it is really necessary for us to proceed on those lines?

**MR. KOMAKEC:** Mr. Chairman, I have looked at all the various clauses that have been suggested on the Floor and what I am reading here is that people accept the idea that the State must be involved somehow. But what I am saying is this, in article 21 where the State is providing conducive atmosphere, it does not address the question of equitable distribution of development. None of the clauses that have been read out actually addresses this cardinal point. Whereas you can have private initiative which I approve, I am saying that it should be incumbent on the government or the State to, in fact, participate in redressing.

**THE CHAIRMAN:** Hon. Leander Komakec, it is a question of summarising what you want to say. You are saying you want to go ahead with your motion?

**MR. LEANDER KOMAKEC:** Well, if somebody would support it, yes.

**THE CHAIRMAN:** Okay, let us first of all have the motion on the Floor because I was trying to get the Member to see that it is really not necessary to proceed with this. But he is insisting. So, you move your motion, I think it has got a seconder, then we shall proceed from there.

**MR. LEANDER KOMAKEC:** I move that article 15 be amended to read as follows: *"In order to facilitate rapid and equitable development, the State shall encourage private initiative, self-reliance and make appropriate State intervention"*.

**MR. KABUGO:** Point of clarification. Mr. chairman, I am seeking clarification from the mover but not supporting him. I am not seconding and neither supporting the motion.

**THE CHAIRMAN:** What do you want to be clarified?

**MR. KABUGO:** I wanted to get clarification from the speaker. Now, the current trend is to privatise every business, why is it that the State is trying to work against or to intervene into the private investors?

**THE CHAIRMAN:** Well, he had already explained that the government should intervene redressing various situations.

**DR. OKULLO-EPAK:** Thank you Mr. Chairman. Mr. Chairman, I seem to understand the concern of Hon. Leander Komakec. But I do find his formulation a bit clumsy. I was seeking his clarification Mr. Chairman, whether he would not mind the formulation which I have. I think it could make his effort worthy. I am suggesting for his confirmation Mr. Chairman, that we substitute the word "support" for "encourage" and then add the word "efforts" at the end of self-reliance. I think if the sentence reads like this - *"In order to facilitate the rapid and equitable development, the State shall support private initiative and self-reliance efforts"* - I think this would almost come around to address his concern. I do not know, I am seeking his clarification.

**THE CHAIRMAN:** No, but I think he stated very clearly that his concern is that he would like to leave the State still having a role to play as a means of redressing imbalances in some regions of the country. And so, merely encouraging support or support-

ing private initiative and self-reliance does not support him. He would like to have some way of the State being involved.

**DR. OKULLO-EPAK:** Mr. Chairman, if he does not accept, then I would probably be tempted to move a motion of this amendment myself. May I therefore -

**THE CHAIRMAN:** No, no, just a moment. We have someone already on the Floor. I will come back to you because we have asked Hon. Leander Komakec to react.

**REV.FR.BATANYENDE GAITANO:** Thank you Mr. Chairman. Well, reading the clause as it is, I am persuaded to believe that there is already an amount of development that is taking place. Because if you read, in order to facilitate rapid and equitable development, for me, this means there is already some development but it is not rapid and it is not equitable. Therefore, in order to make this development rapid and equitable, this clause is stating that the state shall encourage private initiative and self-reliance to add to the already existing development that is not rapid and equitable. So, personally I feel that the State is already involved in this clause. So, I do not see why he is bringing in this clause or that statement again.

**MR. KOMAKEC:** It is actually very simple the way I say that, maybe it is just English. We are saying that the question of private initiative and self-reliance alone will not bring about equitable development. It will not be equitable. You know what private intervention and self-reliance may necessarily mean. Capitalists do not want to share their profits. So they want to amass profits and where there is imbalance, you are in fact going to have a country where you may have, like in Latin America, you have extremely very rich people who are working very hard but still, the great majority of people can be very poor. Unless there is government intervention in some way to redress - because private initiative alone will not bring about what you want here. It will not bring about rapid development. In fact you are going to have -

**THE CHAIRMAN:** No, but you see, we are now going into long arguments. Anyway, let us look at it this way. You have a motion on the Floor. Although I think we should have earlier on drawn your attention to 17(1), because if we had drawn your attention to 17(1), I think one would more or less say what you

are looking at. Can you look at 17(1) on page 10?

**MR. LEANDER KOMAKEC:** Okay, thank you, Mr. Chairman. I think I now see what I want. It is in 17(1). It is okay, I can withdraw this now.

**THE CHAIRMAN:** Thank you. And that has been withdrawn.

**DR. OKULLO-EPAK:** Mr. Chairman, I think my amendment really is an improvement in formulation and it is not a matter of debate.

**THE CHAIRMAN:** No I think if you say supporting private enterprise, it is different from encouraging private enterprise and I think the language there is more appropriate than what you are suggesting. Do you not think so?

**DR. OKULLO-EPAK:** Well, but self-reliance needs support and I am not saying that they should be supported financially. They can be supported by institutional arrangements.

**MR. SAM KUTESA:** Thank you very much Mr. Chairman. I realise that we have moved on to article 24 clause 4 but I am not quite satisfied with the reasons. I do not know if they have been given but if they have not, I am not aware of them myself. But I am not sure why the Legal and Drafting Committee recommended the deletion 20(1), the old 20(1) in the Draft. I have it but there are no reasons. I see no reasons why.

**THE CHAIRMAN:** Hon. Chairman of Legal and Drafting Committee. Hon. Sam Kutesa is wondering why you found it necessary to recommend the deletion of the old 20(1)!

**LT. COL. SSERWANGA-LWANGA:** Thank you, Mr. Chairman. Mr. Chairman, if you look at 20(1) in the original draft and you look on page 9(5) which is now proposed to be 9(5), I think it is properly catered for.

**THE CHAIRMAN:** On 9(5) where?

**LT. COL. SSERWANGA-LWANGA:** 9(5) on page nine of the Legal and Drafting report, Appendix two. That 20(1) is properly catered for.

**THE CHAIRMAN:** Hon. Kutesa, have you seen that? I think if we say the other one, we shall be more or less repeating really.

**DR. KINYATA:** Mr. Chairman, it is on page 16 of the Drafting and Legal Committee's report number 16 and it is fully covered there.

**THE CHAIRMAN:** But the other one also does cover what there is in 20(1). So if you take the two, there is no need really to repeat it. I can see that. So now the motions on 15 were withdrawn except that Hon. Chango Machyo had some ideas about amending that to add two articles. In other words, they are not going to be appearing as 8 and 9 but they are going appear as 2 and 3 clauses. So Hon. Chango Machyo wants to propose an amendment to add two other clauses to the present 15. We are at Appendix two. So I give you the Floor.

**MR. CHANGO MACHYO:** Mr. Chairman, I wanted to propose to amend the present or proposed clause 15 or the former clause 20 by adding two extra articles after article seven.

**THE CHAIRMAN:** We have number 15 which has only one article now.

**MR. CHANGO MACHYO:** Okay, now it means it has to be article one and two.

**THE CHAIRMAN:** No, now you are adding two and three.

**MR. CHANGO MACHYO:** Okay, two and three. Now article two, I wanted to add that the State shall, on behalf of the people own and control strategic economic enterprises.

**THE CHAIRMAN:** Okay, let us first of all discuss that. You cannot move both yet. Order! order! let us give Hon. Chango Machyo the chance to justify his motion.

**MR. CHANGO MACHYO:** Mr. Chairman, it is alright to laugh but we should think very seriously of the future. We are enacting a constitution which is not only to care for our immediate needs for tomorrow or the other day but we should also keep in mind the interests of the future generations. Now those who laugh are not remembering that our economic history so far, we know, has been faced by ups and downs. In the 30s, there was a very serious depression in the whole of the capitalist world. That is why Keynesian economics came into being and it is Keynesian economics which actually built up the powerful Germany which led to the second world

war. So the law of the State cannot be ignored if an economy is to grow steadily and independently.

Mr. Chairman, the fact is, the controlling of the commanding heights of the economy are essential to political sovereignty. You cannot talk of being politically independent when you are economically dependent. You cannot talk of leaving a home where you do not even own a granary Mr. Chairman, they say that the economy is the best and politics is a concentrated expression of the economy. It means, if the economy is not controlled by the citizens through their State, then obviously their politics will not be politics but just imitation of other peoples. Now we have also to face the fact. I have been to UMA - that our private sector is not strong enough to challenge and even to lead proper development of this country. So far, the little achievement which we have has been achieved because of the colonial government setting up a strong public sector. The question of saying the public sector is inefficient, me, I do not agree with it. It is not the public sector which is inefficient. It is those who are appointed through some dubious means for political patrons who spoil and ruin the public sector. Not the public sector as an enterprise. It is not a question of ownership. It is a question of management. Those who are appointed are the ones who ruin because they go there in terms of for God and my stomach.

Another question Mr. Chairman, the fact is that all countries which have developed including those Western countries like Britain and America, the State played a key role in the early development. The so called new industrialised countries in Asia, the State has played a key role and we cannot pretend that we can be the exception to the rule. Mr. Chairman, after the second world war, all over Western Europe, the State took big shares in the management and control of the economy. This is how they were able to recover. If I had time, I could give you figures but I do not have. Another point Mr. Chairman -

**MR. KABUGO:** Point of order! Is it in order Mr. Chairman, for the mover to carry on to debate on a motion which has not been formally seconded, tabled and sanctioned?

**THE CHAIRMAN:** The motion was seconded by Hon. Chebet Maikut who is sitting very, very close to the mover and I can see Hon. Ondoga there who has also seconded it.

**MR. CHANGO MACHYO:** Mr. Chairman, that shows how confused some of us are.

**THE CHAIRMAN:** NO, no, Mr. Chango Machyo, you should not say that Members are confused merely because they did not hear the name of the seconder.

**MR. CHANGO MACHYO:** Okay, Mr. Chairman, I obey your ruling.

**BRIG. MOSES ALI:** Mr. Chairman, can we allow the Hon. mover to continue having referred to some Members as confused?

**THE CHAIRMAN:** He withdrew as soon as I mentioned it.

**MR. CHANGO MACHYO:** Mr. Chairman, I am forcefully asserting that in poor countries like ours, it is only through collective efforts that we can really manage, not only to develop but to control our own economy. To think that individuals will take Uganda out of poverty is a day dream. It should only be through our collective efforts and collective contributions. Mr. Chairman, me, I fear there is a danger of the economy being controlled by whether we like it or not, it is now the World Bank and the IMF who are dictating the policies and this is why some policies go wrong because they are imposed by those who give money.

**THE CHAIRMAN:** Hon. Member, could you wind up your -

**MR. CHANGO MACHYO:** I am winding up. So, Mr. Chairman, I want to stress that our future lies in our collective effort throughout the State to own and control the commanding heights of the economy. I beg to move.

**THE CHAIRMAN:** The Motion reads: "*The state shall, on behalf of the people, own and control strategic economic enterprises*" - to be Article NO 2 of 15 Hon. Kajuka.

**MR. KAIJUKA RICHARD (Sheema County North):** Mr. Chairman, with the greatest respect to Hon. Chango Machyo, I listened very attentively and certainly he has very strong conviction about the role the state could play in enhancing the welfare of our people and it is true that Uganda is isolated on this globe. Fortunately, we have history before us and we

could make meaningful comments, as a matter, of course to really convince the distinguished delegates, that certainly, there is no merit in the proposals submitted by Hon. Chango Machyo. I am saying so, fundamentally, because of two reasons and I am really surprised because Hon. Chango is at the Secretariat of this Movement, because one of the strongest reasons why you see the Movement unleashing the forces of the private sector is precisely to let every individual unleash his energies and other energies to the maximum. We have examples in Ethiopia, we have examples in other countries where these experiments of the state not only owning, but controlling what you call strategic enterprises to have where we have ended up with absolute disaster and why? It is not because the State is blind to the welfare of its people, but that you have a so-called State machinery, which is not capable of satisfying each individual wishes and wants of an individual and that is why you go ahead to put in place an atmosphere where each individual works everyday and night. You end up having the selfish motive, where an individual makes sure that his work or hers will be rewarded with the sweat. If you are idle, you will be rewarded because of your laziness, but if you are hardworking, you emerge from nothingness to greatness, and that must be the spirit of this Movement and this country, if we are to move.

The second reason, Mr. Chairman, is that Hon. Chango Machyo says, we have a weak private sector and he noted that when he visited Uganda Manufacturers Association. I am very surprised that this is a statement from Hon. Chango. Why? Because, if you are going to - *(Interruption)*.

**MR. CHANGO MACHYO:** Point of order! Mr. Chairman, with all due respect, to the Hon. Member, Sir Richard Kajuka, I am not honourable.

**MR. KAIJUKA:** Mr. Chairman, that is the deviation I thought this House passed and I am only religious and complying to the decisions made by this House. If you wish, I will call him Mr. Chango for your sake and as you know, I am disciplined in that regard. So, Mr. Chairman, I am saying, for you to say that we have a weak private sector is correct, but to say that it is small is not correct. You go up country from all over the country, go up to the peasants that toil everyday, with small pieces of land and the growing of small banana plantations, maize, cassava and so on, all these are private sector initiatives.

I was saying, Mr. Chairman, that if we are all familiar with our set-up in the rural countryside, where our small peasants are busy tilling the land for their genuine livelihood and I can assure you, this country has one of the biggest private sectors in terms of numbers. Now, that is where Clause 15 becomes very relative. It says, In order to facilitate rapid and economic development, in order to unleash forces of these peasants, the State shall deliberately encourage private initiative and self-reliance. The question you should ask, Mr. Chairman, is how and this can be done in a number of ways. You could deliberately take physical measures, to support peasants - whoever allocates his industry in those rural areas and so on. You could put up institutional frame-work that could unleash all these forces. In other words, this statement says, for goodness sake, for us to move - or you could even set up information machinery which will inform our peasants on what type of crops to grow and when to grow them and so on, I can go on and on.

In other words, Mr. Chairman, I want to convince Mr. Chango Machyo, and the rest of the distinguished delegates here, that thirdly, this fear that the multi-nationals are going to control this country's resources, is not entirely correct. Why? Because there is globalisation of flow of capital. Today, if you were talking about money and capital markets all over the world, it is difficult to trace down ownership precisely because shares and stocks and debentures, floating debentures and so on, are being purchased and sold at least by those who are involved in the monetary flow of this world economy and also to the extent that we have unexploited resources if we want to enhance our capacity as a country, there is no harm in a multi-national exploiting that resource and you are able to market it for the benefit of your people, instead of sitting here in abject poverty and ending up glorifying poverty as if it is a matter of course. We can transform this economy by just getting private sector initiative going. So, Mr. Chairman, let us not waste time, we should all oppose this Motion and get on moving. Thank you.

**MR. CHEBET MAIKUT (Kween (County):** Mr. Chairman, first of all, I would like to correct an impression that has been put forward by Hon. Sir Richard Kaijuka, that we are removing Article 15 entirely. It is not, we are simply adding an additional provision which will make it possible to limit the extent of liberalisation in our economy.

Mr. Chairman, I wish to say that even in the Developed economies, the State still maintains a certain extent of controlling certain economic resources. You are aware, Mr. Chairman, that now imperialism has gone, but we are having new imperialism - neocolonialism coming in our different forces. I want to give very few examples. Let us talk about the rivers for example. These are economic enterprises, the Lakes, L. Kyoga, for example. Supposing tomorrow we have a mad man in the names of X, he comes to purchase L. Kyoga, in the name of liberalisation of our economy, what do you think will be his extent in terms of services to the communities? So, what we are saying in this Article is that, let the State maintain a certain control in some of our economic enterprises for example the Mountains - strategic enterprises. Some of our mountains are extremely valuable, some areas, for example in Moroto, have the minerals. So, what do we do? Do we allow each and every multi-national organisation to come and take over that area? So, to us, we submit that liberalisation, or privatisation as such, should have an extent, should have a limit because if we allow this wholesale, Mr. Chairman, then the citizens of this country are going to be engulfed, we are going to be enslaved totally if we allow liberalisation in all our sectors of our economy. It is in light of this spirit, Mr. Chairman, that if we give another example of postal services, I am aware, recently, the President was saying Uganda Posts and Telecommunications is one of those enterprises that Government wishes to divest - to sell it off. But now, let us imagine, what - (*Interruption*)

**MR. RUZINDANA (Ruhama County):** Point of information! I would like to thank the speaker on the Floor for giving way to my information and my information is as follows, Mr. Chairman. I wanted to inform both Movers that in many other countries, rather than insist on share-holding by the State, they insist on a certain percentage of share-holding to be owned by nationals, and perhaps if that Motion is brought with the view of having certain strategic industries owned by nationals, it might be a little more palatable to many Members within the House and I would like to suggest to them to consider perhaps amending their Motion and getting rid of the State and including nationals or a percentage of ownership or the share-holding to be owned by nationals. This is normal, you will find in the United States there are certain industries where nationals - where foreigners will not own beyond a certain percentage and I will give an example. For example,

the Media tycoon from Australia - I have forgotten the name, Members can help me - had to become an American National in order to own beyond a certain percentage of the Media within the United States and it is also normal in Europe. Perhaps, the Movers of the Motion may wish to consider this information. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Hon. Chebet Maikut, what do you say to that, as you wind up your remarks?

**MR. CHEBET MAIKUT:** Mr. Chairman, I have consulted with the Mover of this Motion and he is not in favour of making an Amendment to that effect as moved by Hon. Ruzindana. So, Mr. Chairman, I think the whole essence of the Motion, if we were not mistaken, is, by implication, that when we talk of the State, naturally it implies the citizens of our country. So, I think it is already implied and his fears, I think can be allayed. So, Mr. Chairman, as I was saying, I was giving the example of Uganda Posts and Telecommunications, that now there is that proposition to sell off to private Posts, now, what happens if somebody comes and takes over that enterprise and he knows he is driven by the profit margin, is he likely to extend services to certain remote areas like Kotido, Kapchorwa or Kitagwenda or any other place where these profits are not all that huge?

So, this is what we are trying to talk about - let us not rush into this question of liberalisation wholesale. For us, we are saying, let us accept it but to a certain extent and limit it to certain kind of economic activity. In that way, Mr. Chairman, we will be saving our country from future slavery if we are to be serious. Thank you very much.

**LT. COL. GUMA FRANK (Bukanga County):** Thanks very much, Mr. Chairman. I am sympathetic to the sentiments of Hon. Chango Machyo. Unfortunately, what he is trying to protect is no longer there. We know very well that we already controlled and we are trying to make the best out of what we have. I would not like the State to own or to control major or strategic industries. I would like the people of Uganda to own and to control the major means of production and their wealth. As Hon. Kajjuka has correctly pointed out, in Uganda, almost everybody is in private industry. I am very sympathetic to the peasantry. I would not like what they have to be controlled by a few individuals calling themselves the State. Who is the State, when you ask yourself? It is a few individuals and in situations in

Africa, where the so-called people who constitute the State have mismanaged our economy, have mismanaged the education, have mismanaged the health, I really get surprised when Chango Machyo says that we should let them continue mismanagement of our resources. At the same time, I am of the view also that, what he is talking about can easily be achieved. We can still control our economy, our industries.

The policy makers today, whom I know to be the State, are the ones who are making wrong decisions. We can contribute money, we can buy Post Office, what is the biggest deal? The policy makers whom you want us to entrust our economy to are the ones now making wrong decisions. If they told us that Post Office is worth so much, we can contribute money and buy it, we Ugandans, but because we are not given Commission, Ugandans are delegated to a second position. I think Mr. Chango Machyo should talk of taxation, if Sure House is using our land, we should levy tax that will not strangle him, but will help us to give services to our people. We should tax Mukwano, but we should not say, we should go to take over Mukwano because you know, all these industries have been here, they have been controlled by what you call the State. I am strongly of the view that all Members must oppose this Motion, at the same time, strive to control whatever decision-making that is still in the hands of the so-called State to divert them to the private people of this nation. Thank you very much, Mr. Chairman.

**MR. SSEMAALA KIRUNDU KIWANUKA (Kyamuswa County):** Thank you very much, Mr. Chairman. I support Chango Machyo and his Amendment simply because I believe there are certain institutions that the State should have a hold of. For instance, even in Developed countries, in the United States, the US controls the Post Office, and that is the pinnacle of capitalism. Now, when we look here, now, supposing another country controls the U.E.B. and you are in conflict with another country, they can easily cut off electricity to Uganda and say, we have a problem in our equipment. Now, there are a lot of people who advocate for privatisation and I sympathise and agree with the privatisation, but only to an extent.

There are certain things that we should - or rather the people of the country should continue to control. When United States was in conflict with Panama, because Panama uses US Dollars, USA declared a ban the flow of US Dollars into Panama. Now, this,

by what Mr. Chango Machyo is saying, let us have control of the few things that we think are strategic. He is not saying, let us not privatise. Let us privatise, but leave a few things in our hands for our own decisions to make, not to put in the hands of other people who can easily undermine our development. although like Mr. Guma said, we are not independent, but let us at least pretend to be.

**MR. ABALIWANO BREWER (Bugabula South):** Mr. Chairman, I stand to oppose the Motion because when Mr. Chango Machyo talks about strategic enterprises, he has not convinced us as to which are these strategic enterprises. He knows very well that some of these enterprises so-called "strategic enterprises" are simply saddled with a lot of debt. Government has borrowed a lot of money to put in the Post Office, in the U.E.B., in Water, everywhere. Still the prices of these items have failed to come down, instead they are being increased everyday. If we were to allow private initiative, probably there would be some competition somewhere, probably we would be able to get costs done, because maybe these organisations are simply over-employing people.

Two, the State has the right to acquire property and use any other method in order to put public interest into consideration. If we have this power or the right to acquire, why is it that we are worried that when private initiative gets far enough we are not happy? We can always get the State to intervene here by creating a situation where somebody put it, we need to get some people to say, nationals should own so many shares in that particular company.

Three, we as a Government must try and separate some sectors and encourage to make them grow within an economy where private initiative cannot take place, but we should endeavour, after a time, to give these sectors and leave them to private initiatives so that private people can own these means of production. I think it is important that in certain instances, Government has got to promote certain sectors and indeed, in our own effort under the Uganda Investment Authority, we are trying to work out certain sectors which we know private initiative in this country cannot undertake to get Government to promote. But after promotion, then these sectors must be sold to the public and this is the only way in which we will be in a position to own our own means of production. This word, ownership, to own something when you are poor, is just as useless as

anything because when you say own, you own, you own, and when somebody comes here and says, we can employ 10,000 Ugandans and give them jobs and will build them up, why do you have to worry because somebody is providing 10,000 jobs to your people? Because you want to own the 10,000 people, because you want to encourage giving jobs to your relatives, leave those jobs, rather than let the private people do it. I think to me, while I appreciate his sentiments, but I think those days of socialism are gone. We need to use liberalisation methods to get our people to own our means of production. Thank you, Mr. Chairman.

**MR. SENTEZA KAJUBI (Kyadondo North):** Thank you Mr. Chairman. Mr. Chairman, I rise to oppose the Amendment on the Floor by Hon. Chango Machyo. Mr. Chairman, I speak from bitter experience. During the 1960s, the thinking was that Government would promote certain strategic industries, UDC was started, and some Ugandans were encouraged to buy small shares in conjunction with Government and I was one of the early people to invest in certain industries in which Government had a share. We invested in Nytil, we invested in Cement industries, in Grain milling, which is the only one which is still going, but all others have gone and even then, we invested in Lake Victoria Bottling Company, in Pepsi Cola. During the Amin days, Amin thought that making of Pepsi Cola was a strategic industry. So, he took it over and a thousand Ugandan private share holders were disowned by Government at that time. Then one hoped that when the Amin's days were over, Government would return this Company to its original owners, but even today, Government has sold this company to another group of private people and kept the money itself - we have not been compensated, it is quite correct. So, Mr. Chairman - *(Interruption)*

**THE CHAIRMAN:** I think Hon. Kajjuka should give the Hon. Senteza Kajubi a chance to complete his contribution.

**MR. SENTEZA KAJUBI:** Thank you very much, for your protection, Mr. Chairman. I should also say that during the 60s, Uganda was a surplus producer of sugar. We were producing sugar and selling sugar to Kenya. The Government at the time thought that sugar was such a strategic industry and it must not be left in the hands of the private individuals - Madhivanis, the sugar plantations were nationalised and what happened? What was sugarcane became

bush until recently when this sugar plantation has been rehabilitated and Tea plantations which were also taken over went to bush! So, Mr. Chairman, with those examples, with the bitter experience which I have personally gone through, I vehemently oppose this Motion and I would like to warn my Friend Hon. Chango Machyo that the trend - I do know whether somebody - because in this House, we said that every Member must be honourable. If one chooses to be dishonorable, I think it is not my fault, this was according to our Rules, every Member of this House must be honourable, but - (*Interruption*)

**MAJ. ONDOGA AMAZA (NRA DELEGATE):** Point of information. I would like to give information to the Hon. Speaker on the Floor with regard to the nationalisation which took place in this country during the '60s by quoting an excerpt from Prof. Mamdani, when he says: "*In practice, nationalisation is not necessarily antithetical to the interests of capital*". In fact, some months before they were decreed in Uganda, the State was approached by the old company with proposals for participation in equity to the extent of 50 per cent by Government. A year earlier, the most important Indian industrial capitalist, Madhivani had offered the Government 50 per cent participation in all these holdings. Therefore, it was not true to say that it was the Government, but it was the Madhivani who invited the Government to take over a 50 per cent share of their industries.

**MR. SENTEZA KAJUBI:** Mr. Chairman, I am grateful for that misinformation, because we all remember the Nakivubo pronouncements and indeed, the move to the left. All this was not, I think, Madhivani's creation. We remember the move to the left, the Nakivubo Pronouncements, the Common Man's Charter and the nationalisation of certain industries was not limited to sugar plantations only, even Banks. 51 per cent was taken over by the Government. So, Mr. Chairman, with this experience, I would like to vehemently oppose this Motion and call upon Members to oppose it. Thank you.

**MR. AMAMA MBABAZI (Kinkizi County West):** Thank you, Mr. Chairman. Mr. Chairman, I would like to oppose this Motion. I am waiting for that point to be absorbed. Mr. Chairman, I am opposing it on one ground that the formulation of Article 15 as it is now, does not exclude the possibility of the State intervening in the economy. Mr. Chairman, because first of all, I must state very

clearly that I support the policy of privatisation and economic liberalisation that is going on now. However, as I have said in many fora before, there is clearly a case for State intervention on the national economy. Mr. Chairman, some people are looking at this from an ideological stand point. I hear Members talking about socialism, but I think this misses the point. Even under capitalism, in order to encourage private initiative, you recognise that business is not philanthropic.

Mr. Chairman, businessmen go in search of profits not, for instance, in search of developments of certain communities. Therefore, the State can intervene in order to attract private business people to an area in order to encourage development of that area. Mr. Chairman, when the UDC was started here in Uganda, it was by Governor Cohen, this was during colonial days and the colonial authority here was obviously not socialist. But the idea was that, in order to encourage tourism industry in Uganda, you had to open up Uganda. So, UDC was mainly set up to establish hotels to provide the necessary infrastructure for the private sector to be attracted to invest in this sector. So, there is obviously a very, very, strong case for the State intervening in the national economy and there are many other reasons, of course I do not want to bore this House by going through the list, the list is endless.

The other reason that I have been giving as Members may know is that, there are in defence, strategic considerations. The state must, especially States like ours, like Uganda here, must intervene in the interests of defence, strategic interest considerations. We cannot expect those, for instance, that have money at the moment, to invest in our economy, to come in order to invest in an area that strengthens our defence capabilities. They will not - certainly, they will not.

Therefore, the State, in the interests of our community, has to intervene and invest in that area itself. So, Mr. Chairman, I oppose the Motion, on the ground that what I have just said, putting a case for State intervention in the economy is not excluded by the provisions of Article 15 as it stands. Thank you.

**THE CHAIRMAN:** I think we have reached a stage where we can decide on this one. Otherwise, if we go on - I can see many hands - it will be endless. Hon. Delegates, the Motion is by Mr. Chango Machyo that we insert a Clause to provide for intervention by the State in what he refers to as

strategic enterprises. The State shall, on behalf of the people own and control strategic economic enterprises. Let me put the question.

*(Question put and negatived)*

**MR. CHANGO MACHYO:** Mr. Chairman, I have been impressed by some Speakers and I am not discouraged. I am still fighting on and this is now to add Clause 2 which should read: *"In order to guarantee balanced development and equitable distribution of the national resources, the State shall adopt a coordinated planned and balanced system of national development"*. I beg to move.

**THE CHAIRMAN:** I see on paper here that he is seconded by Hon. Chebet Maikut. Mr. Chango Machyo, could you present your Motion please, and fairly briefly?

**MR. CHANGO MACHYO:** It reads: *"In order to guarantee balanced development and equitable distribution of the national resources, the State shall adopt a coordinated, planned and balanced system of national development"*. I have said, in order to guarantee balanced development. I see what you mean here - so I delete the other one. So, it reads: *"In order to guarantee balanced development and equitable distribution of the national resources, the State shall adopt a coordinated, planned system of national development"*.

**THE CHAIRMAN:** What words have you cut out?

**MR. CHANGO MACHYO:** The last *"balanced system"*, because it repeats the other one, *"balanced development"*.

**THE CHAIRMAN:** So, it will be *"adopt a coordinated and planned"*. Could you make brief remarks. Hon. Delegates, let the Member justify his Motion.

**MR. CHANGO MACHYO:** Why I am moving this addition to Clause 15 is that the way things are in Uganda today - I said in terms of development, it is just total confusion. We do not know where we are going and we have no objective - the objective is stated, but we do not know how to attain it. If you look for example at our towns, they are in total confusion because there is no more planning per se. Planning, Mr. Chairman, is human. No human

being can just start doing something without having thought of it and decided on how to implement it. Unplanning is only in the animal world because animals are directed by instinct. Human beings are directed by rational thought. If you want to eliminate the imbalances in the development of Uganda created by the colonial system, then, you cannot avoid using resources in a balanced way and allocating them accordingly. Planning ensures that, if you say you are going to produce 10 doctors, you have got facilities to employ them; if you are going to produce 100 teachers, you have got facilities to employ them and so forth. Planning means that those who have will also help those who have not so that we attain what we call balanced national development.

Mr. Chairman, without planning, we are just being like a blind person who does not know where he is going and just groping in the dark. Thank you, Mr. Chairman.

**MR. NDEGE JOHN (Luuka County):** I am sure that Hon. Chango Machyo and John Ndege want to live in an Utopian kind of State. While everything is right, and all of us are equal, everybody enjoys, whether he works or he does not work. So, this is the ideal State of a communist kind of situation where the State will plan how many doctors they need, how many - like rats or ants being controlled by the Queen Bee and the State is not like that.

The human being is created like an individual, even your child, if you give him a spoon or a cup and you tamper with it, that child is going to fight. We have already taken measures under Chapter 20, that the State shall do everything possible to have a good economy. Now, we are saying, we leave all that, we leave out the people, then State starts planning for everybody; what you will eat tomorrow, what you will plant on your garden. This kind of situation, if we are not careful, we shall misdirect the Constitution.

I think in this Constitution, we should not go back to situations which have already failed - communism has failed, planned economies have failed. Things change every moment, the world is not static. The world is so mobile and the State is the slowest. The slowest organ to adopt to any new situation. So, I am appealing to Mr. Chango Machyo that as much as I love to live in this situation where we all dream, to be equal in every aspect, even God never made that equality. He made us different, he planned us differ-

ent. May be what we can give is equal opportunity but we can never be equal. Equal opportunity yes, forcing equality of all us, I think we should reject. This is why I am rejecting your submission. Thank you, Mr. Chairman.

**DR. KINYATTA (Kinkizi County East):** I stand to oppose the Motion on the following grounds. One, natural resources do not appear congregated in one place and there are a lot of disparities in natural resources allocation. Therefore, where they appear to be, and if they are tapped there, there, development takes place first before it can go anywhere. You cannot therefore, bring a policy where you have to remove raw materials, heavy as they may be, that they go and first develop or evenly develop a certain area which does not possess them.

Two, I want to inform the Hon. Mover of the Motion that when we are in private sector development, as we have just passed, you will not move a doctor to go and work where he does not want to go. We are saying that, people on their own initiative should create jobs for others. Therefore, a doctor for example, when he leaves the University, he wants to set a business, he can put up his own clinic and employ people. So, if you say go and work in Kabale, in Karamoja, he will refuse you, he will set up his own business. So, when you are talking of equal - balanced development, you should be careful unless you are just saying, let the Government give equal opportunities to every area of Uganda in development terms, but a county or a region which has got more natural resources, will naturally develop faster than another one. Thank you very much, Mr. Chairman.

**MR. KWERONDA RUHEMBA (Kajara County):** Thank you very much, Mr. Chairman. While I agree with Mr. Chango Machyo that there should be planning, I do not agree with the idea he is trying to bring in that there should be balanced system of national development. The decentralisation system we are trying to advocate in one of the Chapters in this Constitution has identified problems of national development. This country has not been making plans for development, but it has never been planned by objectives. In other words, the plans hitherto we have been trying to achieve - we have been sitting in Ministry of Finance or Planning and assuming to know it all and trying to bring everything into balance. But we are trying now to say that, if we decentralise, people will identify their own problems

in their own localities, they will come up with their own plans for water, plans for health, plans for road infrastructure and these plans will feature at the Gombolola level and they will feature at the district level. Even resources locally obtainable to put in these plans will be identified and whatever they cannot accumulate at that local level, they will forward to the national Government to feature in the national plan such that the Central Government can now borrow either from abroad or tax the people to effect these plans of the people.

In other words, what we are saying is that each district, each Gombolola, each county will come up with a plan and some areas will grow faster than others. If they have got conducive atmosphere, resources, good climate, good soils, such areas certainly will develop much faster than others. But if the State tries to intervene and brings these into harmony and maybe under balanced development, that means they will be stopping some from advancing fast while they are waiting for others to catch up. Such plans are manifested in some communist states, they are rigid and history has approved that such plans cannot work. Therefore, I wish to suggest to Mr. Chango Machyo that the system he is trying to advocate cannot work and therefore, he should take heed and maybe withdraw his Motion and if not, I appeal to everybody to defeat that Motion. Therefore, I oppose the Motion.

**OKULLO-EPAK (Oyam County South):** Mr. Chairman, I intervene to support Hon. Chango Machyo's motion. Mr. Chairman, the statement of this Motion is not new, it is not peculiar, it has been uttered and argued in all international fora concerned with development, including the development Decade Declarations. Mr. Chairman, the statement of this policy is not departing or instituting any thing that we have not been doing and will continue to be doing in this country. We have been planning and we shall continue to plan and that is why simply, Chango Machyo is stating the obvious, but some problems have been with our planning and these have mainly been coordination.

We are all planners in our various ways, Local Governments plan in their different ways, institutions plan in their different ways and if it becomes necessary for them to seek support and share of national resources and I must emphasise - Chango said, national not natural. I thought Hon. Dr. Kinyata was talking about natural resources - I think

if they have to seek support in the share of national resources towards their planned needs and effort, obviously, there must be a yard stick for the Government to allocate such resources and they cannot be allocated properly except through planned arrangement and mechanisms.

Mr. Chairman, balanced development is a goal which any Government which wants to show that it is doing something for the entire country would very willingly and satisfactorily adopt as a very good social and economic goal and we already have in this country projects and programmes, such as the Northern Uganda Rehabilitation Programme, the Karamoja Development Programme and others in the South Western region. And we have the Luwero situation and so on and so forth and we shall continue Mr. Chairman, to have areas of this country which will remain behind other areas and we will continue to be in need of support for their development.

So, the question of ensuring and promoting and providing a mechanism for balanced development - I do not want to really emphasise equitable because I find it a rather difficult term, but balancing of development is an objective which every country, whether America or for that matter Italy, which has a problem of development between its Southern and Northern Region, seeks to do. The essence of this statement, Mr. Chairman, to me, is really urging the Government in the long-run to adopt a Regional Development strategy. That is all that it is trying to do there in balancing. The other thing that it is trying to do, is trying to say that the Government should stop allocating resources on an ad hoc basis. It should have properly planned indicators for allocating resources and promoting development in the country.

Mr. Chairman, Hon. Kweronda almost was supporting this policy and I just got surprised whether it is because of Chango Machyo's revered support for socialism that he really turned and made a very sharp bend. The fact is, Mr. Chairman, as we decentralise, it will become increasingly necessary to coordinate local plans at various levels. As he said, it will be necessary to coordinate urban and sub-county plans at district level. Then from there, it will be necessary to coordinate district plans at national level and I think this is all that Chango Machyo is stating in this policy. It will equally be necessary and important to coordinate horizontally all sectoral development plans so that in the long-run, we have a plan which

incorporates both the structural and sectoral dimensions of national development. I support this Motion and I think it is stating the obvious and it is simply a matter of encouraging Government to continue what it is already doing. Let us not read so much of socialism or communism in the policy, Mr. Chairman. I thank you very much and urge all delegates to support the Motion.

**MR. ATWOKI AMBROSE (Youth - Northern Region):** I am rising in support of this Motion on the basis of three reasons. First of all, basing on our historical perspective, we are aware that there is need for the State to guarantee balanced development. One fact which is clear is that, there is no way the private sector can guarantee balanced development in this country. I do not need to point recent examples where private investments are attracted to areas where they are already established infrastructures like in Jinja, Kampala and Mpigi, and that explains the basis of Government policy to give some kind of tax holidays to investors, who are ready to invest in areas where there is less incentive for investment.

Secondly, imbalanced development in our country is a creation of colonial history. When the Europeans came here, they were attracted to construct railway lines and other infrastructures to areas where they would reap economic benefits. So, you understand that there is need for balanced development by Government, there is need for Government to ensure balanced development in the country so as to redress our historical and colonial mismanagement and finally, Mr. Chairman, it is also important that, we plan development, there must be a deliberate programme to address the imbalance and this deliberate programme must be planned. Thank you very much, Mr. Chairman.

**THE CHAIRMAN:** I think we can vote on this one now.

**AN HON. DELEGATE:** Thank you, Mr. Chairman, we can look at Article 23, I think Hon. Chango Machyo is catered for or we can look at the report article 18. That is, in the Draft 23 or in the report Article 18 before we could waste time.

**THE CHAIRMAN:** Are you saying that 18 covers it all? 18 (1) and (2) is talking about balanced and equitable development. Hon. Chango Machyo's amendment is saying that we should have planning

as part of our ways of doing things, not necessarily in favour of each region, but to make sure that when there is a plan for development. Hon. Chango Machyo, are you satisfied that NO. 18 does? But you see, when you look at it - "*In order to guarantee balanced development and equitable distribution of the national resources, the State shall adopt a coordinated and planned system of national development*". I had originally thought you are looking at planning as a behaviour, but when you look at 18 (1). "*The State shall take necessary measures to bring about balanced development of the different areas of Uganda and between the rural and the urban areas and the State shall take special measures in favour of the development of the least developed areas.*"

**MR. CHANGO MACHYO:** Mr. Chairman, if it is passed, I have no to objection to putting it at (3) under 18.

**THE CHAIRMAN:** But if it goes there as Clause 3 under 18, what new addition will it be making?

**MR. CHANGO MACHYO:** Coordinated plan system of national development.

**MR. ABALIWANO BREWER (Bugabula South):** Mr. Chairman, I was only proposing to Mr. Chango Machyo the fact that perhaps he could modify this and we take this into consideration. "*The State shall take necessary measures to bring about plans, balanced and coordinated development of the different areas of Uganda and between the rural and urban areas*", then we can bring about the word "*planning*" and we can also offer him the coordination which he wants. I beg to move, Mr. Chairman.

**THE CHAIRMAN:** But you see, we cannot do that. What I was trying to get Mr. Chango Machyo to do is to take note of No. 18, withdraw his present Motion, then when we come to 18, we can see how we re-word it to take him into account. Yes, Hon. Okullo-Epak, you have a different view?

**MR. OKULLO-EPAK (Oyam county South):** I am sorry Mr. Chairman, to intervene. I actually appeal to Mr. Chango Machyo to - I wanted to find out because the statement definitely of policy under Article 18, Clauses (1) and (2) are very good and very specific. On the other hand, they miss out the essential element of planning and coordination be-

cause these are the problems - in fact, all it is saying there is that, the State shall take measures. So, what Chango Machyo's Motion provides are the measures which are supposed to be taken. In fact, if it was not for anything, maybe it could even substitute Chango Machyo's Motion to cover all the provisions in Article 18, because it is a better goal and policy statement.

**THE CHAIRMAN:** Okay, I think what is happening is this. The general view is that unless Mr. Chango Machyo - it is going to be very expensive having to transcribe apologies these several times we come to *Ndugu* Chango Machyo, but I think if comrade Chango Machyo can withdraw the Motion as it is now and then when we come to 18, you can then - meanwhile you coordinate with Dr. Okullo-Epak and also with Mr. Abaliwano - you come out with a text which can suitably be placed in 18 or replace 18, then we shall do so at that stage but at the moment, we shall be duplicating. Hon. delegates, I am giving the Floor to Hon. Chango Machyo.

**MR. CHANGO MACHYO:** Mr. Chairman, I have no objection to that, I withdraw the Motion as advised and I will bring it under Article 18.

**THE CHAIRMAN:** But you agree that you interact with Hon. Okullo-Epak and -

**BRIG. MOSES ALI:** This is related to *Ndugu* Chango Machyo, but it is not directly connected with that Motion. I think the Hon. Members are finding it difficult in addressing the Hon. Member. I think he should accept to be addressed as honourable because this is what we had already accepted so that we do not go forward and so on. After all, he is not going to fall sick if he is addressed as Hon. what. So, I think for the sake of his address, let him accept only to addressed Hon. but then when he goes home, he can call himself whatever he wants.

**MR. CHANGO MACHYO:** Mr. Chairman, if Hon. Moses Ali would also agree to become a protestant, then I can also agree to become honourable. *(Laughter)*

**THE CHAIRMAN:** I think the Hon. Members can negotiate these two positions outside here. Hon. delegates, I think it is about time we adjourned for lunch and we resume at 3.00 O'Clock. So we stand adjourned until 3.00 O'clock. Thank you very much.

*(The Assembly adjourned for lunch and resumed at 3 00 p m)*

**THE CHAIRMAN:** Hon. delegates, I call the meeting to order, let us start. When we adjourned for lunch, *Ndugu* Chango Machyo had just withdrawn his Motion so that it may be re-drafted in time for proposed Article 18 and the Motion by Hon. Leander Komakec to amend 15 had been negatived and as was the case with the proposition by Mr. Chango Machyo to insert another provision and so, now, we pronounce ourselves on No. 15, that is if we have the quorum to vote. You see, under the present arrangement, if it was a general debate, we could go on without the Chairman noticing, but if we have to decide on the future of Clauses and Articles, we must be 142 at least. The Clerk will report to the Chairman. We are not yet in quorum, we need another 22 members before we can start. Can we continue please, now we have a quorum. We were to take a decision on Article 15. As I said, Mr. Chango Machyo had withdrawn his proposed Amendment and he was to work together with Hon. Okullo-Epak and Hon. Abaliwano to evolve some write-up to be introduced at the point of considering Article 18. So, now, I will put the question on Article 15. That Article 15 do stand part of the Draft Constitution.

*(Question put and agreed to)*

**THE CHAIRMAN:** Order! Order! I see no proposed Amendment to Article 16, so I will put the question on Article 16, that Article 16 do stand part of the Draft Constitution.

*(Question put and agreed to)*

**THE CHAIRMAN:** There are a number of Amendments, there is a proposed Amendment on Article 17 (1) by Hon. Serwanga Lwanga and others. There is also another. You see, Hon. Sserwanga Lwanga's amendment is to delete Clause (1) and also there is a proposed motion to delete the same Clause and insert another by Hon. Sebaana Kizito. Now, I do not see how we can proceed with these ones unless they have been put together. There is no point taking Hon. Sserwanga Lwanga's amendment if it is carried then, again we revisit the same Clause by Hon. Ssebaana Kizito:

**MISS WINNIE BYANYIMA (Mbarara Municipality):** Thank you Mr. Chairman. Mr. Chairman, I would like to bring your attention to yet another Amendment to Article 17, Clause (1). The mover is Hon. Etuku Onyok David and several others in addition to the ones you have read. It is

circulated and it has no number. It is on a page of its own and it is stamped Office of the Clerk, I suppose, 26th September 1994. It was circulated today. Thank you Chairman.

**THE CHAIRMAN:** Anyway, all these are just in one direction, we will not handle this Clause. We shall refer all these amendments on this Clause to the Legal and Drafting Committee because we cannot have on the same Clause, the three Amendments, all of them seeking to delete it and replace it.

**MR. SSEBAANA KIZITO (Makindye East):** I am also of the same opinion that we cannot have the three Amendments in the same direction. As a result of that, and in preference of the latest, I want to withdraw mine so that we can debate that which has been moved by Hon. David Onyok-Etuku. Thank you.

**THE CHAIRMAN:** But that does not help us because there is that of Hon Sserwanga.

**LT. COL. SSERWANGA LWANGA (NRA Delegate):** Thank you, Mr. Chairman. Mr. Chairman, in the same spirit as you will see, I am the last man on the page of the amendment moved by Hon. Etuku-Onyok David. So, in the same spirit, I withdraw my amendment and I support that one moved by Hon. Etuku-Onyok David.

**MR. WASSWALULE (Rubaga Division North):** Thank you Mr. Chairman. Likewise, the Amendment which I was proposing to move, the amendment of Mr. Onyok takes into account whatever I wanted to amend. So, we withdraw the Amendment in favour of Mr. Onyok.

**THE CHAIRMAN:** Hon. Delegates, the way we are handling this particular Chapter after we came from the Legal and Drafting Committee, although we thought that there would be fewer amendments because the Committee had handled most of the work, it would appear that Members want to move Amendments even up to the last minute just as we are about to consider some of the clauses. That being so, we may not be able to be logical. That is how you find you have 3, 4 Amendments on one Clause. Yes, Hon. Serwanga!

**LT. COL. SERWANGA:** Mr. Chairman, I wanted to give this Information to you and to the House that the Legal and Drafting Committee has never sat to

consider the amendments after producing their report and that is why Mr. Chairman, you can see all these Amendments. We have been accommodating them as we move on the Floor. I would propose maybe, Mr. Chairman, that the Chairman of the Legal and Drafting Committee calls us and we move our amendments, we who have got them in their Committee and maybe we could sit some other time.

**THE CHAIRMAN:** You see, when we decided to proceed, we thought we would move fast because this has gone through the mill and so the Chair sort of said, maybe we are going to have an amendment here and there but now, they are all coming out in plenty and we shall end up with so many amendments, some of which could have been dropped had we gone through the Committee. Hon. Leander Komakec, you wanted to say something.

**MR. KOMAKEC L. (Aruu County):** Well, to reinforce the point that was made by Hon. Serwanga Lwanga that some of these were circulated before but they were held back because they said let them first finish the work, the committee should finish the work. This will come later. But as we were debating, people are getting new ideas and it is coming. So, I think we should either ask the Committee to look at all of them that are there now, or we just go completely because I think it is about to be completed.

**THE CHAIRMAN:** As we stand now, I am sure many of you have got write ups. We have now come to something like 70 Amendments. Although of course, we have processed some - I mean we have done 25 but we have another 50 or so.

**MR. KASAJJA (Bulamogi County):** I would like to get a Clarification from you - from the Chair. We already have a Legal and Drafting Committee and we are now getting so many of these amendments which are coming in from the individuals. Would it not be better for the Drafting Committee to go back and rationalise all these Amendments so that we can come up with those which we can reasonably handle? Because now they are becoming so many such that we may not be able to proceed properly. So, can I now get a Clarification as to why they are not sitting?

**THE CHAIRMAN:** As I did indicate, we had resisted going back to the Committee because they had done a good job on this Chapter. We agreed to

proceed on Appendix II in such a way that we would move faster but now, I am tending to agree that we may have to invoke our machinery so that some of these are rationalised and some of them maybe may fall by the wayside. Can I hear from the Deputy Chairman of the Legal and Drafting Committee. Hon. Ben Wacha.

**MR. WACHA:** Thank you, Mr. Chairman. Mr. Chairman, if you recollect, the decision to have amendments coming from the Floor was a decision of this House. The Legal and Drafting Committee after going through Chapter Three felt that the proposed amendments as indicated in our report would be looked at and we assumed that they would all be accepted but there are Members, who in their right, thought they should amend what we had proposed to amend. If you recollect Sir, the Chair then decided that those people who had Amendments could come with them from the Floor. My only problem, Sir, is that most of these amendments do not depart fundamentally in principle from what we have already proposed. Most of them are just formulation of words and like the other one which brought us problems, even transference from one sector to another one which should not logically come to this House, but the House may reconsider that the matter should be readdressed by the Legal and Drafting Committee. But I must state this that we looked at this Chapter in detail and over a very long period of time. It could help if Members reconsidered their amendments on the basis of principle and not on the basis of - (*Applause*) - wording. Thank you.

**THE CHAIRMAN:** Thank you. Hon. Kezimbira.

**DR. MIYINGO-Kezimbira (Bukoto Mid-west):** Mr. Chairman, thank you very much. There is also another problem I think that is causing people to raise so many amendments. Because normally, when one wants to make an amendment, he may have to look around for somebody to second him and maybe supporters too by lobbying around. But now there is a practice which has evolved that somebody just takes maybe our register and just heaps up all our names under one amendment and then he thinks he has support and he moves so many amendments. There are areas where we see our names down and we have not at all contributed to the Motions.

**THE CHAIRMAN:** Then you should object.

**DR. MIYINGO-KEZIMBIRA:** That is why I am objecting right now, Mr. Chairman!

**THE CHAIRMAN:** Which one are you on?

**DR. MIYINGO-KEZIMBIRA:** I am on about two of them. One is Hon. Awori is moving an amendment and I am number 10 on it and I am not aware of this priority on health. There was another one - I think I was on (2) and Dr. Mugenyi is not here, he is on another two of them and he was complaining as well.

**MRS. MATEMBE (Women Delegate - Mbarara):** Thank you Mr. Chairman. As a member of the Legal and Drafting Committee, I am very much concerned, together with my Colleagues. When we were given this assignment, we really went into depth and did research with assistance of the Research Committee and we were sitting here - in the evenings, in the night and in our wisdom, we saw things that we could cancel, we saw what we could retain, we saw what we could transfer and we gave a comprehensive report and we had thought that the Members who gave us this authority would really take us serious. Now, when the report came here, people want to delete, people want to transfer and you find that in terms of principle, it is just changing words here and there.

Now, my concern is this, now that we are even moving into the Select Committee, with this kind of manner of conducting business, can we say that the Select Committee would even save time and we do justice to this work and for some of us who are on that Committee to really work up to midnight and then when we bring this thoroughly, well researched work, then - because it is the accepted procedure that people came here to discuss, then a Member moves something, then maybe with due respect, maybe some Hon. Members have not even done research at least to prove beyond our own research, then we just discuss the whole day. Now, we feel, we in the Legal and drafting Committee, that maybe we just leave the thing and we join you and we do not sleep in the night trying to do some-work which once is brought here, does not - So, with these few words, I would like to know what is the status of the work of the Legal and Drafting Committee so that we do not spend our energy and all our efforts to do the work? I thank you.

**THE CHAIRMAN:** Hon. Matembe that is good but if you look at the amendments, some of your

Members are even themselves coming with amendments to the work done by the Committee! (*Applause*) Members have submitted amendments to the work you have done.

**LT. MAYOMBO (NRA Delegate):** Thank you very much Mr. Chairman. Let me make one observation, then I will make a proposal. I observed, Mr. Chairman, that when this document was adopted by this Assembly, it ceased to be property of the Legal and Drafting Committee and it became part of the Draft Constitution. So, even Members of the Legal and Drafting Committee could go ahead and amend because they are representatives of their individual constituents over and above the membership of the Legal and Drafting Committee. That is one observation. Observation number two, Mr. Chairman, with your permission, I would propose that in future, when we have a chapter like this one assigned to a Committee, then the Committee, Mr. Chairman, is brought to explain each and every Article, the reasons for transferring, reasons for retention and the House discusses the way we discussed our rules. Because the Technical Committee which discussed our rules was put to task to move with us from Rule 1 to the last and they explained and we adopted them. I think if we had followed that method, it would have been very easy to adopt and finalise this Chapter, Mr. Chairman. So, I propose Sir, that in future, if we assign such a task to a Committee, then the Committee can give reasons why it shifted from one, it took a decision. Either delete, transfer or retain an Article of the Draft Constitution. Thank you Mr. Chairman.

**MR. SEBAANA KIZITO (Makindye Division East):** Thank you very much Mr. Chairman. While I want to appreciate the work of the Legal and Drafting Committee on what they have done about this Chapter, I cannot say that I have dropped my right to look at it more objectively because although they did recommend the deletion and retention of some Clauses therein, but within those which they have left, I have a right and I think every delegate here has a right to comment on what a Member of the Committee has done as long as the Committee report is brought to this House. Otherwise, we are going to tell the Committee that you go and make a report on our behalf and approve of it but I do not think that, we, by mere fact that we are appointing a Committee or a Select Committee, we are now going to abandon our right to discuss an issue which we think the people whom we represent sent us here for. Therefore, I do appreciate the fact that the Legal and

Drafting Committee had done a good job but despite that, I think we can still improve on the job they have done by suggesting improvement by way of amendments here and there. Thank you Mr. Chairman. *(Applause)*

**MR. NASASIRA (Kazo County):** Thank you Mr. Chairman. Mr. Chairman, right at the beginning of this Assembly, I was among those who opposed the setting up of subject matter committees. Recently, I was among those who supported Select Committees. But seeing how we are treating Chapter Three, whether when we go to these Select Committees and they report back to the Plenary, we are not going to find ourselves in the same dragging situation. With that background, Mr. Chairman, I think one of the biggest problems we have from our observation is bringing in amendments at the last minute. If we go to committees, those who want to have amendments, I would like to propose that they should send them in time, discuss them with the Committee and if they do not agree, then when the Committee is reporting back, the section where the amendments have been agreed and there is section where the Committee is reporting that these ones, the movers were not agreeing with us and we are bringing them to the plenary to deal with them. But let us finish 99.9 per cent of the Amendments at Committee stage so that when we come here, we do not have unnecessarily too many Amendments. Some Amendments do come quickly, we have not even researched even to discuss them and sometimes that is what causes people debating and debating and sometimes over debating on them and we waste more of our time. Mr. Chairman, I want to beg to move with that comment.

**MR. ONEGIOBEL (Jonam County):** Mr. Chairman, I want to appreciate the frustration expressed by the Legal and Drafting Committee in seeing that whatever they have done through very hard sitting is brought here and is subjected to scrutiny - very seriously. Mr. Chairman, that is how it should be, in my opinion because, okay we are now having Select Committees, five of them. It would be wrong for anybody to think that because an issue has been discussed by a Committee, therefore, it is final. Even if we forget about the substance, we would still find ourselves disagreeing on English - simple English, not Legal English. So, Mr. Chairman, I think our problem is really the question of time. We are being pressured by the idea of a deadline. That is really what the whole thing boils down to and I have always

expressed my mind, Mr. Chairman, that this time-pressure or the pressure by time is going to be an undoing of what we do. I said it the other time, you cut me short because you did not want me to say it. *(Interjections)*

Mr. Chairman, there is no way we are going to write a Constitution without agreeing here and getting us satisfied, each one of us that the words or rather the substance reflect what our people want. So, either we proceed in a manner that will guarantee good work or we simply listen to the authorities. "*The Drafters Company*", as somebody is calling it here and we accept but when we accept something that is not satisfactory, Mr. Chairman, we are going to get out and begin to blame ourselves the very week this document becomes law in this country.

Mr. Chairman, I do not want to say really what I want to say but *(Interjections)* - Mr. Chairman, we have got to be serious about one thing, let us agree to do the work in the best manner we can design and then wait and see whether we finish that job by the deadline or we do not. If we do not, then we can be kicked out. The other day Hon. Adoko Nekyon said that he did not want to see a day past beyond the deadline and I wondered what was going to happen. Is he going to walk out if by date we have not finished? I would wait to see that, Mr. Chairman. I think a job has got to be done. Thank you Mr. Chairman.

**MR. KAVUMA (Kyadondo South):** I thank you very much Mr. Chairman. I think I join those who appreciate the work the Legal and Drafting Committee did. It was a very commendable job but I think our own instructions also created a problem to the Committee. We did not ask the Committee to invite amendments from Hon. Delegates. So, the Committee considered on their own what they thought was the best. We never had an opportunity to have an input as delegates. Mr. Chairman, therefore, when the report came, it is only reasonable that if one has a difference from what is being recommended in the report, one as a delegate is accorded the opportunity to present the amendments. This is why they are causing us a problem now. Mr. Chairman, I do not want this experience, the unfortunate experience to be the ground for casting doubt about whether even the decision we took to go into Select Committees was a good one because under those committees, everybody is going to submit Amendments so that by the time a report comes here, all their Amendments

have already been considered by the Committee. So, this is not really on all fours with what is being proposed under the other committees. Mr. Chairman, now that we are there, what do we do? I think, it is only prudent that we allow the Legal and Drafting Committee, in spite of the good report they produced, to look at all these many Amendments which are coming, take the same approach as they have been taking in the past, then they come out with those they think deserve the treatment of disciplinary. We look at them, then we complete the Chapter. We shall have reconciled the views that are appearing to give us a problem. I thank you Mr. Chairman. *(Applause)*

**THE CHAIRMAN:** Now, let us proceed as follows: we confine the Amendments on Articles - if there are any - on Articles 18 onwards so that we deal with 17 in Plenary today. All the Amendments so far which go up to Number 69 or 70, I will refer to the Legal and Drafting Committee and then they will come back to us but we do 17 now. That means that the Legal and Drafting Committee would meet tomorrow morning so that they go through the Drafts and prepare a report tomorrow afternoon, which would then come before us on Wednesday. *(Interjections)* Okay, let us do as much of 17 and then just before we adjourn, we can finish early and they do their business tonight that is if we finish 17 early.

**MR. NDEGE (Luuka County):** Thank you Mr. Chairman. I am sorry what I am going to suggest might be just slightly different from what you are saying. I was going to suggest that we use the whole of this afternoon to liaise with the Legal Committee from 17 until we finish everything so that tomorrow morning we get the report and I think by that time we would have saved a lot of time if we do everything this afternoon, Mr. Chairman. *(Interjections)*

**THE CHAIRMAN:** No, there is a problem there because the presumption is that tomorrow morning, by the time we start, the report would be ready. Anyway, let us start on 17 first. There is an Amendment by hon. Etuku Onyok David together with many others on Article 17, Clause (1). Hon. Etuku Onyok, you have the Floor.

**MR. ETUKU ONYOK (Moroto County):** I beg to move, Mr. Chairman, that Article 17, Clause (1), former Article 22, we delete the phrase beginning from "*Economic opportunities*" and to remove "*Social and Cultural Inequalities by equitably*

*distributing wealth*" and replace the phrase to read: "*The state shall give the highest priority to the enactment of legislation establishing measures that protect and enhance the right of the people to equal opportunities in development*". I beg to move.

**THE CHAIRMAN:** Could you justify your Motion please.

**MR. ETUKU ONYOK:** Mr. Chairman, this Article we are referring to is former Article 22. In the appendix of 17 or the Title, it is written "*The Role of the State in Development*" but not "*Social and Economic Objectives*". I have seen, the deleted phrase is, to me, in the wrong place because it is fully covered under Article 20, under the title, "*Social and Economic Objectives*". The Clause was incorporated by the Legal and Drafting Committee from Article 12 (8) and this - if you refer to Schedule 1, Page 4, it was recommended that this Article should be transferred to former Article 26 and the present or current Article 20. So, I felt this is not in the right place. The deletion, Mr. Chairman, of this Clause - for example the phrase "*removal of Social and Cultural inequalities*" is based on uncertainty of the intention behind it. Whether we are removing positive inequality or negative inequality in culture.

I believe Mr. Chairman, culture is not static but grows and it varies from one ethnic group to the other. There may appear to be common elements but will never be equal in totality. If I may cite, Mr. Chairman, even in circumcision practiced in Bugisu and with Sabiny, there could be inequalities but will never be the same. Positive growth of culture should be encouraged and bad ones be discouraged as provided for in Article 61, Clause 4, which we have already passed. Hence, I saw that this one is irrelevant to development.

I have proposed equal opportunity in development here to emphasise the need for balanced development in all areas of the country. These embraces the equal distribution of projects, call them development plans, funding, education and so on. Development cannot succeed without budgetary provisions, as this one normally calls for balanced arrangement on developments. Mr. Chairman, modern welfare - if we look at the last phrase says "*equitably distributing wealth*." The question that has bothered me on development is, what system are we using in equitably distributing the wealth? Is it on individual basis?

District or Regional? Does this include withdrawing wealth from richer areas and distributing to poorer areas? And by what means? This to me, I felt it was establishing duties and obligations that the State may not comply with.

Modern welfare Mr. Chairman, welfare democracy is like those in North America, Western Europe and so on. They try to combine or they balance commitment to individual achievements in all areas including economic competition. With commitment to protective and the most incompetent as well as vulnerable citizens from the institution. The more successful the state is at fostering equality of opportunity in development, the greater the likelihood that differences to income, at least, will be related to differences in disciplined efforts. In other words, I am trying to say this would be to encourage people to work at their own level. I am sure that all Ugandans, like people elsewhere, will applaud constitutional commitments to non discrimination to assist all Ugandans in developing their full potentials and progressive balanced development. Mr. Chairman, I beg to move.

**MR. HASHAKA (Kibale County):** Thank you Mr. Chairman. Before I support or I give my side Mr. Chairman, I would like the Hon. Movers to give some bit of light on the Clarification of what they mean by "State". It has been repeated several times as I had said some time, about 114 times in this text and yet in the Article 286 where there are illustrations and definitions, this word "State" has not been defined and in many other aspects, it is always mistaken to be - one may say government when he is actually meaning state. I understand and I know a State is an amorphous thing, of larger clarification than a government but for clarity really, I would like to be clarified what "The State" really would mean because if you say, State shall do this, what is that animal - the State? Thank you very much Mr. Chairman.

**THE CHAIRMAN:** The Hon. Member I think he is raising a point because I think within the Draft Constitution, the word "State" is not defined. Is it? It is presumed to carry its notorious meaning. But I think what we can do here is to take advantage of our rules which say that we may give some work to the Legal and Drafting Committee to give advice so that we separate the two from what we are discussing and the point you raised. I think that one would suggest that we made a reference to Legal and Drafting

Committee. They can come back and tell us when we say the State shall do this, what do we mean, so that some Members are clarified in their minds. Because in some circumstances, we say - the government, others we say - the state. What do we mean? Is there a difference? - So that Members are clarified. I agree with you. But now we are at this Amendment which was moved by Hon. Etuku Onyok David to the effect that Article 17, Clause (1) be replaced by the following: "The state shall give the highest priority to the enactment of legislation, establishing measures that protect and enhance the right of the people to equal opportunities in development". Hon. Hashaka did not talk directly to the Motion but indicated support. Hon. Wanendeya, you want to comment on this?

**MR. WANENDEYA:** Thank you very much Mr. Chairman. I fully support the Amendment. Mr. Chairman, the reason for supporting it is that after the American war of independence, there was a lot of British assistance which gave birth to American revolution in its industrialization policies. Mr. Chairman, after the second world war, there was what was known as New Deal in the United States to help those less privileged areas to develop economically. Then after the Second World War, America gave assistance to what is now Germany or the Federal Republic of Germany as it was then called. Mr. Chairman, Uganda, if it feels or the state for that matter and by the state here we mean the government of Uganda which is in control of the affairs of our country - it would therefore be prudent also to get people to be given assistance in given areas. I will give examples in our country, Mr. Chairman. You find that lorries with trailers go to Western Uganda to get milk. These are fully refrigerated and yet at the same time, Mr. Chairman, I say this with all the advantage I am given that, you find bicycles going to Luwero and Pick-ups and those people have not been assisted and yet there is milk close here. So, if people in Luwero are also given assistance, there would do quite a bit. Mr. Chairman - (*Interruption*) when it comes to -

**THE CHAIRMAN:** Yes, Hon. Wanendeya, anyway I think you better cut short your comments.

**MR. WANENDEYA:** Mr. Chairman, when I talk like I do because of inequality in our country, some people get jittery about it but you find that the road, as an example, between Soronko and Kapchorwa which brings in a lot of wheat which is sometimes

taken to Kenya and then it is bought by Uganda - then you find quite a number of - *(Interruption)*

**THE CHAIRMAN:** Hon. Wanendeya, you are digressing. We are discussing the concept of - *(Interruption)*

**MR. WANENDEYA:** Mr. Chairman, I am very well aware of the concept and it is the State that we are talking about and also the inclusion of this Amendment in our Constitution, Mr. Chairman. Unless, I am guided otherwise, I have gone straight to debate the matter. Anyway, I thank you for the present until I can be guided by you the Chair.

**THE CHAIRMAN:** Now, do we really have to go into further debate on this one? Let us put the question. The question is that the Amendment moved by Hon. Etuku to replace Clause 7 - is to replace Clause 1 of Article 17. I now put the question.

*(Question put and agreed to)*

**THE CHAIRMAN:** Now, there are other Amendments. I do not see any further Amendments on this one. Hon. Delegates, I was sorting out our next item so that I introduce our Distinguished visitors who have come to join us briefly. The gentlemen you see there are a Delegation from Austria. It is led by a Parliamentarian, Hon. Hans Helmut Mossa. He is a Member of the Federal Parliament of Austria and he is visiting Uganda and I would like the House to appreciate their presence. *(Applause)* You are most welcome but I can see you are going because of a very tight schedule but all the same, it has been a pleasure that you joined us, though briefly this afternoon. Thank you very much. *(Applause)*. Now, there is another Amendment on Article 17, Clause 3 - proposed by Hon. Okullo-Epak and others. Hon. Okullo-Epak.

**DR. OKULLU-EPAK (Oyam County South):** Thank you Mr. Chairman. Mr. Chairman and Hon. Delegates, I beg to move that Clause 3 of Article 17 be deleted. I beg to move.

**THE CHAIRMAN:** Seconded? Okay, you have been seconded.

**DR. OKULLU-EPAK:** Mr. Chairman, in explaining this Motion, I would like to bring forth the following arguments. Mr. Chairman, the provision comes under the principle of the role of the State in

development and I think this is the key point I am concentrating on and trying to evaluate the relevance of this provision with regard to what should be the role of the State in development.

Mr. Chairman and Hon. Delegates, this morning, for fear and reservation and avoidance of trying to over indulge the State on matters of development of the country, this Assembly rejected Mr. Chango Machyo's Motion. It might appear to delegates here that this particular provision is not typically similar or the same as Chango Machyo's Motion but if you look at it carefully, you might find that it will not be very far from it. If you allow such a policy, you are allowing an opportunity for government to interfere in the matters of land which is the means of production and which I think we should all be concerned that such means of production should be owned by the people themselves.

Mr. Chairman, I am also concerned that since in this Chapter we are really establishing policy and objectives and if we establish such a policy and objective at this stage, then we are preempting what should be the consideration and content of our provisions on land and environment under Chapter 17. For this reason, it is my view and concern that this policy consideration being discussed and considered here is premature and will prejudice our position when we come to dealing substantively with matters of land and environment. Further more, Mr. Chairman, the provision reads quite attractive where matters of land generally is concerned and I think my friends for Kibale District would want to buy it straight away but the inclusion of the words other property which makes it particularistic, is definitely to my delegation problematic and we might be endorsing a policy which could, in future, be used to encourage nationalisation and the Okello Alex type of experience.

Mr. Chairman, the role of the State in development today and in most concerns today is that it should be a facilitator. It should not be featuring and indulging itself in matters of development. This Article read and analysed carefully, although it may not specify opportunity for Government to indulge in actual development, but it specifies opportunity to inadvertently or even deliberately interfere with matters of land. The entire provision is basic and progressive and counterproductive to the spirit of promoting development, self reliance and privatisation in particular. It is absolutely misplaced in the context of Uganda where we did not and will most unlikely have

large scale minority white settlers grabbing all the best land in rendering many natives landless. I hope the commissioners did not lift it wholesale from the Kenyan, Zambian, Zimbabwean Constitutions. Nevertheless back home, as I have already said here, the people of Kibale district might be tempted to support it while I am quite sure the Baganda Mailo Land owners and the people of Karamoja would most likely feel very concerned and opposed.

Mr. Chairman, we have already adopted a provision in this Chapter which requires the President to report annually on the progress made in implementing this policies. In this particular case, he would most likely report on how he interfered with the rights of some Ugandans to own properties. It certainly will not be a pleasant progress report. I think the presidency should be protected from having to make such a negative progress report, Mr. Chairman.

Conclusively, Mr. Chairman, this provision is counterproductive, retrogressive, unnecessary, cumbersome and indeed embarrassing to implement in a country like ours. My people directed me to oppose this provision vehemently. I am sure that since all of us Delegates here review our rights, we will support it in rejecting this provision. I thank you Mr. Chairman.

**MR. KUTESA:** Mr. Chairman, I am not given to socialistic tendencies either today or in the past, certainly not the future, and anybody wanting to use languages that would tend to undermine this provision as if it is guaranteeing or reintroducing Government interference as a socialist control, I think is mistaken. Mr. Chairman, in a country such as ours, I believe that the greatest resource we have is land. Its utilisation or its optimal utilisation, has a great bearing on how this country can advance, develop or its development be retarded. It is necessary too, Mr. Chairman, that we adopt certain methods of utilisation of land for a country to develop, particularly if this is the only resource that we have.

There are many types of tenure in which you can hold land. It is imperative that we must choose a model of land holding that will enhance economic development. It seems to me what is intended by Clause (3) is not so much to say you should not have free-hold land or you should not have customary land or you should not have the lease hold land. What we are saying - what this Article is trying to establish is that the ultimate repository or rather directives about the utilisation of land rests with the State.

I want to say the following, Mr. Chairman, I hope that my Hon. Friends will have an opportunity to contribute to this Motion and I shall keep quiet when they are so doing. Mr. Chairman, even if assume a free-hold type of land holding like mailo land, there must be Laws that govern tenants on mailo-land. There must be Laws that protect the right of ownership by the Mailo-owner. What happens to the Kibanja holder, what happens to the mailo-owner? There must be Laws that are made to regulate and to in fact confirm the different types of ownership. Who makes these Laws? I think these Laws must be made by Parliament and they are for the State. If you want to have Mailo-land or if you want to have customary land, I have heard from the opening remarks of the Hon. Members here. Every body is talking about their districts. People from certain parts of Uganda have been saying that they want their land to be governed by their districts. Now, I do not know whether you consider the districts part of the State or not. I think the district is part of the State.

So, I am not quarrelling with you. If you want to have your land held in your own district, let us say Apac District Land Board is the one which is responsible for giving out land and land titles and regulating ownership, solving disputes on land, I do not mind, let it be your district board, but I recognise that that district is part of the State. I think it is very naive to have one major resource only and you think that the State can not have a say or a method of regulating the use of that resource. I am for example, myself for a freehold system of land tenure. I know that other people are for customary land, but I believe that for the security of my tenure, the State must say, they recognise a land tenure system called the free-hold. They must regulate what that means. If that means that for example, I have land in Tank Hill, I think it is decent that the State should one day say, we want some roads, water system, electricity to go through Tank Hill in a planned way. I am talking about regulating the use and ownership of the land. So, there is no way we can get the State completely out of the control of utilisation and regulation of the Land.

Consider the alternative, Mr. Chairman, who, if we remove the State - and I would like this question answered, who regulates the ownership or the acquisition of land? I would like to know from the Hon. Members who seek to remove in this thing, to tell me who they expect to say that Hon. Hashaka has this piece of land, Kutesa has this piece on land and it is accepted. how it is going to be titled. I believe it is

the State that must be doing that role. Mr. Chairman, I beg to oppose this Motion. Thank you.

**MR. LUMALA:** Thank you, Mr. Chairman. I would like to support the Amendment. During the general Debate, Mr. Chairman, many Members expressed the view that the question of land should be left to the Communities which occupy that area. My people support that view. It should be borne in mind that countries which tried this system of acquiring land and working out a system of ownership, just as in Soviet Union and so on, these days are going to America to beg for bread and we do not like to copy a policy which has totally failed. We must also look round and see what happened in Tanzania. There was a Philosophy called "*Ujaama Village*", under that policy, people were directed to move from one area to another. That is what the former Speaker calls utilisation of land. They moved from one area to another and they were forced and in the end, the Tanzanians grew lazy, they ran short of food and I do remember in the community days, there was even a motto of growing food so as not to survive. Now, in view of all this, we feel that the question of land should be left to the people who occupy a particular piece of land. The same goes with properties. There was also a philosophy in Tanzania that of controlling properties and people who had more than one house were forced to sell the other houses and retained only one. What happened was that people stopped building houses and Tanzania found itself in a serious shortage of housing. There are many other sources. When the Government gives up para-statal bodies and privatises railways and the post office, I believe it would be a move in the reverse gear to try to acquire and regulate ownership and usage of property. I support the Amendment

**MR. BAGUMA ISOKE:** Thank you, Mr. Chairman. Mr. Chairman, this Amendment appears very attractive to me with my century old land problem. But on further scrutiny, I find it very difficult to support. Mr. Chairman, I want us to examine the phrasing as it is, that "*in furtherance of social justice, the State may regulate the acquisition, ownership, use and disposition...*" Mr. Chairman, the State has got a very important role in, for example, assisting people in densely populated areas. I have in mind people of South Western Uganda, Mbale, and very recently a case in Kibale of Kabarole where about 70,000 people found themselves landless. Now in such a circumstance, is it Hon. Lumala to acquire land for these people, to assist them in

acquiring property and just as it is? I say no, because already we have, jointly with my Colleague Hon. Sekitoleko, moved an Amendment to a related Article just after this one, appearing as Article 20, in the Legal and Drafting Committee Report, Page 11, where the State shall endeavour to fulfill (a) and (b) to ensure that all Ugandans enjoy rights and opportunities and access to.

We are considering moving an Amendment to put land before education considering people who are landless. But there is no other authority, organisation other than the State, catering for these people who find themselves in a landless situation. It is the duty of the State to do that. And further, Mr. Chairman, the State has an organisational role, a central role to advise on the use of land and make regulations for its use between land suited for grazing, irrigation. On land, we find water bodies, swamps, forests. The State has got a central role in regulating the utilisation of all these resources and even what is underneath the land, for agriculture. How about the hills? The Government has got to come in, the State has got to come in whether at local district level or national level with regulations to cater for the use of land. Therefore, because of those two reasons, I find it very difficult to support my Friend Okullo-Epak and also in view of the Amendment which is coming shortly after this one, I do not give him the support.

**MR. BIKORWENDA IDA RUBALE:** Thank you, Mr. Chairman. With due respect, I wish to thank Hon. Kutesa for his position on this Clause. It is very unfortunate that he cannot persuade me to oppose. This is a very fundamental Clause in this Article. Considering the various cultures that govern land, we shall be going too far if we discussed it and decided on this Clause at this material time. I think, because of its importance, we support the Clause and discuss it independently in Chapter 17 so that it is given its due consideration. Each one gives in his or her own input and we see how we go about this land issue. If we consider it now, it may be misinterpreted by the shots in Government that will be thinking of acquiring big chances of land as it is happening of now in some parts of this country and the pieces of land remain undeveloped. Let us give time to the people of Uganda to decide the system that is going to govern the land of Uganda to its full usage.

Land is the most highly valued asset by all Ugandans. You are seeing how women are fighting to have land as an asset. Now, if say, Government

come then the women get their share of this property. So, please, give us time to reach a consensus and agree all of us, on how the Ugandans wish their land to be utilised. After all, the word property which they mention there, what does it mean? It can mean anything including even a bigger house, someone has built a permanent building, Government will come in snatch it because it is a property, and so many other properties included on that land. So, please let us be considerate and honor our people who sent us here, give it the due respect, discuss it exhaustively and with consensus. Thank you, Mr. Chairman. I support the Amendment.

**MR. KATUMBA:** Thank you, Mr. Chairman. Mr. Chairman, Hon. Bikorwenda made a very wonderful argument but at the end of it arrived at a wrong conclusion. Is she in order to confuse us?

**THE CHAIRMAN:** It is up to her to conclude her remarks the way she wants.

**MR. KATUMBA:** Thank you, Mr. Chairman. I stand to support the Motion moved by Okullo-Epak. Mr. Chairman, almost all the land in Uganda has been acquired by Ugandans through the land tenure system on which I do not need to labour so much. So, there is very little land, if not none, left unoccupied. Mr. Chairman, where is the land which the Government is going to regulate in the way of acquisition to Ugandans so as to further social justice? If we believe in the principles of free economy, then it is up to the market forces to determine the acquisition of land in Uganda. Land should be treated as a commodity whereby the seller looks for the potential serious *(Interruption)*

**THE CHAIRMAN:** Could you please, speak through the microphone.

**MR. KATUMBA:** Mr. Chairman and fellow Delegates, of late, the Government came up with the policy of privatisation of all the para-statal bodies after it had failed to run them. Then how come that the Government wants to involve itself into the land administration?

In my Contribution to the general debate, I did say that the Government should handle land policy delicately such that we do not end up by fragmenting the land which will make it difficult to mechanise agriculture. We should not, Mr. Chairman, suffer naivety by thinking that each and every Ugandan

should be helped to get land. It is indeed high time that Ugandans worked hard to establish other alternatives which would cater for us from the land as the case was in Great Britain during the revolution. As to how the Government may regulate the ownership of land, this defeats my understanding because as for the size of land one wants is dictated by the type of the project one wants to go into. For example, if one wants to produce white sugar, then he will need a large acreage. Conversely, one will need small acreage if he is interested in a project that demands intensive care like diary farming. So, Mr. Chairman, I support the Motion.

**DR. SPECIOZA WANDIRA-KAZIBWE:** Thank you, Mr. Chairman. Mr. Chairman, I wish to start by saying that all of us here came with a mandate from our people and our people told us that Uganda would not be a Uganda without land. But this land was bequeathed to all of us irrespective of status, irrespective of how educated, irrespective of how much money one has. Mr. Chairman, I believe one of the reasons we are writing this constitution is because of the injustice that has been done to our people and these are the majority, the peasantry in the rural areas. On that note, Mr. Chairman, I want to oppose this Motion. Mr. Chairman, I want to read this Clause for emphasis - "*in furtherance of social justice*". This is a directive principle which the *Wanainchi* - the peasants want to give to whoever will be in charge of this country. All the machinery of the State that we must make sure that the peasant is given the opportunity to produce when they know that they have security of the land. Mr. Chairman, what is interesting is that many of us have consultative forums. The peasants never get access to many of you. You sit in Kampala with this big land owners who own big chunks of land and you think that these are the people who actually own the land. If the small man and WOMEN is to be protected to make sure that they own the land, to produce the food - the food we are eating here in this country is not being produced by the progressive farmers. It is by the tiny farmers who are squatters, the tiny farmers who, in Busoga actually have what we call *biroha* on the traditional land marks. These are the people whom we want Government to protect to come up with policies, introduce these policies in Parliament so that Parliament makes Laws to protect them.

Mr. Chairman, the question of ownership cannot hang in the air. Many of the big Land owners in Kibale, all over, have land sitting there. For me, I am

for this small squatters. How do I make sure that they have the land? Secondly, when we come to the way our society is stratified, who owns land? The majority of the people here do not own land. The women are perpetual squatters on their fathers' land and their husbands' land. How do we also protect them? Men, day-in day-out are selling their wives and children on land because they have got another wife somewhere. How do we protect these people? Because they must make sure that they feed these children!

Mr. Chairman, sometimes I sit here and think that we are getting a problem of language. If you look at the schedule of the tribes in this country, we interpret things in different ways because of our cultures and customs. The problem with this Clause is the fact that we have not quite defined the State. The Clause also says, the State may regulate, it is not saying that the State shall regulate. These are two different things. Mr. Chairman, I want to submit to Hon. Colleagues and I say again that the Ugandan peasant must be given the right on the land that they sit on, be it on customary, be it people who are squatters, the Government must come up with the mechanism of making sure that the *Mailo* land owners cannot actually evict them without compensation. So, I would like Mr. Chairman, to make sure that when we talk about this Clause we should agree on whether it should be part of the guiding principles of Government or making sure that the peasants own land. If Government has to decide for the good of the country that the land has to be used, then there must be adequate compensation so that the *Mwanainchi* actually gets somewhere to go. I strongly oppose the Motion. Thank you. Mr. Chairman.

**MR. O'LET:** Mr. Chairman, the question of land seems to have raised a lot of controversy in the House. But when I look at this Chapter or this Article 17, it is talking of inviolate social justice. What is this social justice we are talking about? Could it be public interest? They are saying the State regulates the acquisition and ownership and yet if you look at Article 19, you will find that "*the State shall control important natural resources including land*". This time it is control. Other places are talking of regulate. Go on to Article 271 which is basically for land and they are talking of "*all land in Uganda belongs to the people*". So, who actually owns land? Is it Government or the people? So, if it is the people who are owning land, the question of ownership cannot be regulated by the State. They can only administer the

day to day ownership being transferred from one person to another. So, on the question of land, we should leave ownership to the people and Government should only regulate and if possible not centralise it, take it right back to the district nearer to the people. Thank you very much, Mr. Chairman. I do support the Amendment.

**MR. DAMIANO LUBEGA:** Mr. Chairman and Hon. Delegates, I rise to support strongly the Amendment to the effects that Clause (3) which was former Clause 6 of Article 22 be deleted. In supporting the Amendment, Mr. Chairman, I want in the first place to look at the definition of land. Legally, land means not only what things stand on but everything that is affixed to the land including buildings and so on and so forth. This Clause, as it is set out under the National Objective Clause, is so vague that it can be misinterpreted to give room to the State or Government to interfere in the ownership and use of land by using words like "*in furtherance of social justice*" which social justice is not even defined. We have earlier on agreed that even the word, "State" is not defined. We have referred it to the Legal and Drafting Committee. As the Clause stands now, it is full of ambiguity and if we treat this Clause at this moment, I wish to observe, it is going to be misunderstood.

An Hon. Member did propose that there is a more substantive matter or Chapter 17, in this Draft Constitution. Matters concerning land property should be articulated and we cannot afford to speak in such vague terms as provided for under Clause (3) of the Amendment Article 17. Otherwise, Government is going to interfere in the ownership and even use. We have the whole Chapter 17, why do not we address our attention to that Chapter and give views, some of which we may have to refer to Parliament appropriately so that whatever we legislate here is very articulate.

Mr. Chairman, all of us, I am sure, we are given mandates, among other things, to look at land as one of the most important topics particularly in my Constituency and I was cautioned not simply to leave anything vague in the constitution concerning land. We have agreed that land could be belonging to people. Most of the Debates here concentrated on the fact that free-hold land or mailo-land, I think if I heard properly, most people are for free-hold land. Now if the State is going to be given room within a vague provision like this, I think we shall not have

done justice to our legislative functions as we are exercising them now. I support the deletion of this Article, Mr. Chairman. Thank you.

**MR. LOROT:** Thank you very much, Mr. Chairman. Mr. Chairman, I support the Amendment. Mr. Chairman, today in some parts of this country, people are suffering because the State or Government has done social injustice to these people by misusing the privilege of regulating land. Mr. Chairman, some parts of this country, particularly Karamoja, has suffered food shortage just because the people are not lazy but because these people have been sent to dry barren areas by Government while to the contrary Government has given the best land to the wild animals. If you went to Dodoth County now, all the best land has been reserved as Kidepo National Park leaving the people to the dry West on the Kenya - Uganda boarder. Mr. Chairman, are we doing justice to our people? Mr. Chairman, today in the same part of Uganda, much of the land has been reserved to what they call a Government Prison Farm, again sending people to dry barren areas where they cannot produce food to feed themselves. With this, Mr. Chairman, I support the Amendment.

**MR. OBIGA KANIA MARIO:** Thank you, Mr. Chairman. Mr. Chairman, somebody mentioned about free market determining the ownership of land. I know those peasants probably do not have the market power to compete with the big forces in acquiring land. I know in many parts of this country, many powerful economically rich people have been buying the peasants leaving them without land. It is not Government that has been buying the land but individuals. That is the effect of free market as far as land is concerned. Probably, by the time the CADS leave here, they might be able to buy off some of the peasants. In that respect I must oppose and the only force that I can see *(Applause)* - which can come to the interest of the peasants is the State. Mr. Chairman, in addition, we know of big leases which have been lying idle in this country. In some places, there has been talk of absentee land lords. These are facts but this cannot be said that it is being exercised in the interest of free holding land for individual property. Mr. Chairman, we cannot allow this without Government interference. Because of economic interest, individuals are rushing to undo our swamps, hills, vegetation without State control.

When we talk of state planning for economic purposes, when we talk of roads, where to site schools,

social services, we are talking about the use of land. That is a greater use than the use of the individual. Mr. Chairman, in that respect, how can we therefore, say that the State should not have that power to acquire or even regulate the use of such land? Finally, I want to remind the Delegates that we have - somebody is talking about social justice - but we have already passed a similar provision when we talked about public interest. What was public interest? It definitely, in that, respect referred to the greater interest of the public over the individual interest and in the same respect here, we are talking about a socially greater benefit than the benefit that we accord to an individual and therefore, the only person or the institute that can take care of that social justice is the State. I therefore, beg to oppose this Motion completely and also. Thank you.

**MR. LANGOYA:** Thank you very much Mr. Chairman. Mr. Chairman, the deletion of Clause (3) from the Constitution. Mr. Chairman, when considering the policies for our development, we should look at creating policies that will make the role of the State to be the role of creating and enabling an environment not the role of the State which goes in for grabbing land. So, the State must only concentrate itself in creating a situation or an environment that will encourage development but not to go into acquiring and doing all sorts of other things. The trouble, Mr. Chairman, with this Clause is towards social justice. A bad regime will interpret social justice in a bad way. So, we should be careful with the words we put in. It is said, in the furtherance of social justice, the State will do this. The bad State will use these words to do bad things. For instance, a bad State or regime may use social justice to dish out land from people who have too much of it to those who do not have it at all and then I also want my colleagues to understand what is the justification for social justice. How do you justify action which results into social justice? If we cannot get this, there is no need to put a Clause which will be used in a different way depending on the type of regime we shall be having in the country. Thank you, Mr. Chairman.

**BRIG. KYALIGONZA MATAYO:** I thank you very much, Mr. Chairman. Mr. Chairman, I have listened to all the Speakers and indeed Hon. Okullo-Epak knows very well that he is my comrade in arms. That at certain levels, there is when you can depart in disagreement. So, Mr. Chairman, I am only getting worried to the interpretation of some Hon.

Members in as far as the State, Uganda Land Commission, the Government of Uganda are concerned. It is all being bundled into the leadership of the Central Government. When you talk about the State, who is the State? What is Uganda Land Commission and so on? Now, Mr. Chairman, we are facing a big dilemma in as far as the utilisation of land is concerned and making it very difficult for future Governments even to manage, supervise and regulate - some so called bad Governments as people are recalling. Because, who determines a bad Government? When you are already looking at social justice, once there is justice, and it is for social enjoyment, it is to the advantage of the social being. Then there is that justice which will be looked at positively. As long as it is negative, it is no longer justice, it is injustice.

So, Mr. Chairman, I am only worried on one point of Land that has got no supervision from the State. Bunyoro or Hoima district will pass its own land by-Laws which are good for the Banyoro people and similarly to Buganda, Teso, and so on. Then we shall have different types of land commissions - styles of land commissions. We have a very good living example, Mr. Chairman. We have Tank Hill - It is one of the good living examples where ownership of land is not questioned. Planning is not also expected to take place because there is no interference. City Council cannot come and say we want a road to pass through here. That is why they are calling Muyenga the rich man's slum. So, similarly, if we do not have any central government control and supervision, naturally we are not going to have the good and proper usage of this land. Mr. Chairman, I am vehemently opposing the Amendment. Thank you.

**MR. DICK NYAI:** Mr. Chairman, thank you very much. Mr. Chairman, I wish very, very, strongly to support the Amendment. Mr. Chairman, in Chapter 17 which I am serving notice, I will, at reconsideration stage, move that it be incorporated into our preamble of the Constitution. We are stating all the nice positive things which must be done for the betterment of our people of Uganda. As of now, Mr. Chairman, there is a drive to try to convince other people to live their lands, come and invest in our country and hopefully, make profits. Then here, we put that the state can acquire their ownership of property. Whereas I sympathise with the opinion of Hon. Kazibwe about other people who have no land, and whereas I know that some of us are envious of people who own large tracks of land and want to

reapportion those pieces of land to some peasants, but Mr. Chairman, in the history of the world, land consolidation has always been a specific topic of political argument. I would not want that in our preamble and for this reason, Mr. Chairman, I am suggesting that we support this Amendment and let us deal with the issue of land in the substantive Chapter 17. I beg to support.

**MR. TIBAMANYA:** Thank you, Mr. Chairman. Earlier on, I had wanted to oppose the Amendment because the word, "regulate" was being confused with "control" and Members might look at Article 19, where it states that the State shall control important... including land. Definitely, that I would have opposed but this one is mere regulation, trying to say that if you want to acquire free-hold, then there must be a state organ that can recognise your free-hold. That is all it is saying. If you want to buy property like a house or a car, there should be an organ that can recognise your rights to your acquisition. This is what this word, "regulate" means. But why I am opposing the Motion is, that we are opening our big guns at the wrong time. I think we delete this Article and reserve it for Chapter 17. So, I support the Motion and beg Hon. Members to realise that since we are opening the big guns at the wrong time, we may be wasting time. So, the question should be put and we dispose of it. Thank you, Mr. Chairman.

**THE CHAIRMAN:** The most important aspect of Article 3 is social justice. That is in my view. We are trying to say that should the situation arise where it is necessary for the sake of social justice for the Government to interfere, but not, Government must interfere. That is how I understand it. We have heard a very broad survey, of the subject.

**MISS. BYANYIMA:** Thank you, Mr. Chairman. Mr. Chairman, I consider that what we are trying to do in Chapter 3, is to state national objectives or national principles. When it comes to land, Mr. Chairman, we could articulate and to me the first principle about land, and the first principle that I am very sure the people of Mbarara Municipality share is the principle of the private ownership of land. *(Applause)* Mr. Chairman, this issue is not a class issue like I have heard the case being made on the Floor. The greater and the smaller land owners all agree that their right to own land or property privately, is paramount, is sacred and should be embedded in this Constitution. So, it is the first principle that I would like to see in this Constitution. When I

see that the first principle we are putting down on land is regulation, Mr. Chairman, I think there is something sinister here. Mr. Chairman, I think regulation is secondary. Regulation is number two, the first point is the ownership and the private ownership

Mr. Chairman, I have also heard the case being made here for regulation and I agree with it, regulation is necessary, but I also think regulation should be reduced to the minimum, because what happens when you over engage in regulation? You create a large class of bureaucrats, they serve themselves on the poverty of the people, they become a privileged, lazy, inefficient and parasitic class of people. You end up having a deprived, deflated and disempowered population. Regulation is necessary but it should take a small role. Mr. Chairman, the argument has also been made that women will not be served unless there is regulation. I agree women will not be served unless there is regulation but women are also not served by bureaucracies. In bureaucracies, women are outsiders, marginalised, not favoured by bureaucracies which are powerful men who are in the system. So, Mr. Chairmen, if we want to serve women, we should emphasize the principle of private ownership, give land and property to families and then undermine the culture that disinherits girls and women within families. So, Mr. Chairman, I beg to support this Motion that we delete this provision on regulation unless an amendment can come up that first enshrines the principle of private ownership and then adds regulation. Thank you, Mr. Chairman.

**MR. OBUA-OTOA:** Thank you, Mr. Chairman. Mr. Chairman, I support the Motion very, very, strongly indeed because I think the provision of Article 17 Clause (3) is preemptive of a very, very important matter which this Assembly has to consider and that is the question of land. Not just the question of land, the question of ownership which is, I think, very appropriately discussed under Chapter 17 on land, Article 271. The Clause which we seek to delete now has the intention to want to determine who wants land when we have not yet decided on that matter substantively under Article 271. I think I support the Hon. Byanyima and then strongly support every one who has spoken in favour of this Motion and I think we should wait until the question of ownership is settled substantively in the appropriate place before we start saying the State regulates what he does not own. The State should not be allowed to regulate something it does not own and we

are saying very clearly under Article 271 that all land shall belong to the people and now we are saying the State should start regulating what it does not own. We are even talking about whether we shall want to decide whether the Uganda Land Commission as we now know it, should continue to exist and if so, what should be its functions.

There is a growing opinion Mr. Chairman, that the only way to ensure that the people truly own their land is for district Land Boards to decide on Land honestly. But I do not want property debate like this particular Clause attempts to preempt. Sir, I support the Motion very strongly. Thank you.

**MRS. MWESIGYE RUHINDI (Women Delegate - Kabale):** Thank you very much, Mr. Chairman. Mr. Chairman, I would like to oppose the Motion. *(Applause)* Mr. Chairman, Chapter Three is a chapter which is setting down all the state objectives, and all these objectives are expounded upon in the subsequent chapters after three. Hon Mwendha, my neighbour mentioned that we should not speculate about land that land is definite. But surely we have to have a vision on how to put that land to sustainable use for development. *(Applause)* Mr. Chairman, we know very well that land is the most important factor of production in Uganda and we have just passed an Article 17, in substance to the effect that there will be equal opportunities to development. If then, Mr. Chairman, we are not talking about how this land can be used, can lie utilised optimumly, then how can we then talk of equal opportunities to development without addressing the issue of land.

Mr. Chairman, although you have deferred the issue of the definition of the State to the legal and Drafting committee, I only hope that the legal and drafting committee will not come out with a generic definition of the State namely, government. The state is very very broad indeed. It covers government and civil society, civil society covers individuals, organisations, communities, and whatever we have, and obviously, those advocating for customary land systems will agree with me that communities within which they live must always or they have always done or regulated the land.

Mr. Chairman, the import of this article is regulation for social justice and this regulation obviously has in mind, for instance, environmental degradation which is very well articulated in Chapter Seventeen. Mr.

Chairman, we know that in order to have sustainable development, there must be strategic planning and therefore, this land must be regulated by some rules and some laws. We are not talking about the land of the people. Even if it is yours, you have to use it within the terms of sustainable development knowing very well that we cannot add much to what we already have. *(Applause)* Mr. Chairman, at this point when we are talking about privatisation, and attraction of foreign investment, it is my fear that if we do not regulate this land disposition and use, we may end up having all our land in the hands of foreigners simply because they can afford. *(Applause)* So, Mr. Chairman, it is because of those that I beg to oppose this Motion very strongly, and hope the House should oppose it so that our land is used optimally. Thank you.

**MRS. KALEMA RHODA:** Thank you, Mr. Chairman. Mr. Chairman, I oppose the Motion. I should like to cite an instance which refers to Sir Winston Churchill when he was Prime Minister of Britain. There was a debate in the British Parliament to regulate families and it was being debated that parents should not have more than 6 children. And Churchill himself was the 7th child of his family. But because he was the Prime Minister of Britain, he suddenly had to support the regulation although if it had come earlier, he would never have been born.

So, Mr. Chairman, with that preamble, I would like to say that it is very important for us to consider how this Clause is worded. Mr. Chairman, we are debating a constitution that should give benefit to all our people. *(Applause)* and I would like remind here Members who are for the Motion that, this is not a matter of robbing Peter in order to pay Paul. Government is already regulating land and property, government is already controlling - in fact, I would like to see anyone here who has bought land without going through the land office. This objective, Mr. Chairman, is very necessary to stay where it is for the furtherance of social justice, and I would like to add development. The state may regulate the acquisition ownership, use and disposition of land and other property. It is impossible to expect land to change hands without government regulating it. I would like to assure Members who are for the Motion that, it is not giving government sanction to take away your land and give it to me *(Applause)*, it is giving government the opportunity to regulate the land. We have all agreed that land is the most important asset we have here, everywhere but particularly here -

**BEN WACHIA:** Point of information. Mr. Chairman, I want to inform Hon. Kalema that in 1975, in furtherance of social justice, Idi Amin introduced the 1975 Land Decree which nationalized all the land in Uganda.

**MR. SSEKITOLEKO:** Further information. I would like to inform the informer that from 1986 until now, in furtherance of social justice, the NRM government gave back the Asian properties, and they also paid Mr. Okello his 3 Million Dollars.

**MRS. KALEMA RHODA:** The last point on this issue, I would like to remind everyone here that, there is no road that has been made without government taking it. Once the engineering works say this is where the road should go or should pass, this has been done, and people have been paid because government sees that it is for development that is where the road should pass. Already, government has been regulating, why do you get really worked because I think you have forgotten. It is regulating - government has been given opportunity to regulate the disposition, the acquisition and ownership. So, Mr. chairman, I oppose the amendment and I would like this Clause to remain here. *(Applause)*

**MR. MULASSANYI (Rubanda County West):** Thank you, Mr. chairman. I am opposing the Motion. *(Applause)* Mr. Chairman, I want to caution the Members to be careful when discussing this question of land. We have people, especially, the *Bibanja* people in Buganda who are waiting for our decision on this question of land. They are not sure about their position on the land that they squat on. I observe that most of the people talking for the Motion are the land Lords - *(Applause)* - and they must be careful. Because if we decide against the interests of the squatters, the question may explode and they may have to regret it. Ladies and Gentlemen, we need to be careful here.

I come from an area where there is shortage of land, and I know the kind of litigation that is going in courts of law. If it had not been for the intervention of government, people in Kabale would have cut each to pieces. Now, if you want to remove the government from the regulation of the ownership and control of the land, then you are creating anarchy. *(Applause)* You are creating anarchy where people are going to fall on each others necks and finish each other up. So please, Mr. Chairman, I believe that the government must be given its role and its rightful role

to regulate the land to save people from anarchy. Thank you, Mr. Chairman.

**THE CHAIRMAN:** We have done the 6 but I am surprised when I called those against the Motion, I saw the hands of Hon. Mayombo and Hon. Kavuma and yet on this list, they are among the sponsors of the Motion.

**LT. NOBLE MAYOMBO:** Thank you, very much, Mr. Chairman.

**THE CHAIRMAN:** Are you a sponsor, or you are not a sponsor of this Motion?

**LT. NOBLE MAYOMBO:** Give me the Floor and I tell you, Mr. Chairman. I am not a sponsor. Mr. Chairman, protect me against the Delegates of this Assembly. I have a right to demand my position here, Mr. Chairman and clarify things which have misinformation on the Floor. With that in mind, Mr. Chairman, first of all, thank you very much for seeing me, I was beginning to think that being short is also part of the marginalized groups. But now that, Mr. Chairman, you have seen me, I am very happy.

**THE CHAIRMAN:** No, I saw you on a different point but-

**LT. NOBLE MAYOMBO:** I must begin by saying, Sir, that I did not sponsor this Motion and I cannot. *(Applause)* To do that, Mr. Chairman -

**THE CHAIRMAN:** Then how does your name appear here?

**LT. NOBLE MAYOMBO:** This is my question, my hand has been up since we started, trying to clarify this point and see if my name was there, then I would have sold out thousands of peasants who have supported NRA since 1981. *(Applause)* I want to go ahead, Mr. Chairman, if you have allowed me.

**THE CHAIRMAN:** No, you have disclaimed I think that is enough.

**LT. NOBLE MAYOMBO:** No, no, Mr. Chairman, this is - Okay sir.

**THE CHAIRMAN:** Hon. Kavuma, your name is here.

**MR. KAVUMA:** Thank you very much, Mr. Chairman. I have been trying to put up my hand, but I am

glad I have got this very brief opportunity. I must state my position very clearly, and I think there is a dangerous development in this August House where Hon. Members are not even consulted, they do not know about amendments coming on the Floor and their names are included on lists as Movers or co-movers. *(Applause)* That must be condemned in the strongest terms. It is a degree of dishonesty and I think we must not encourage it, Mr. Chairman.

Mr. Chairman, I am very conversant with the situation of land, I know that the majority of our people are suffering a lot of injustice at the hands of few. *(Applause)* How Sir, could I sponsor a Motion of this nature which is intended to betray the population of this country. I disown it. *(Applause)*

**THE CHAIRMAN:** We are at this stage. I only gave these two honorables the Floor because when I was scanning for Members for and against, I saw their hands up against when on the list here, they appear as supporters and sponsors. So, I wanted to be clarified so that we do not have in our records this sort of thing. Now we could go on debating this for ever. We have now reached a point where we can put a question. And may I ask Members that you do not over use your vocal cords, if you want to help the Chair, you do not have to be noisy, you just have to take the normal channel so that the Chairman can tell. But sometimes, there is a tendency to try to rig in small localities. So, I would rather we did not continue to do that. Now the Motion is this, Article 17 be amended by deleting Clause (3), that is the Motion, and it is moved by Hon. Okullo Epak and others. Now I put the question.

*(Question put and consensus not reached)*

**THE CHAIRMAN:** Now, the procedure is this, if 51 of you stand up, as I presume Youth Northern we can count you. So what will happen is this, I want to ascertain first of all how many of you are standing in protest. Before I declare the results, I would like to suggest that in future, should we have division, when Members divide, they should actually take seats in the lobbies that will make it easier for the Clerks to go around, and also it prevents some people suspecting that may be others may have been ticked twice. So that in future people take seats, and when you have sat, then we start from there. But that is for the future if there is one. Otherwise let me articulate on the rules concerning division. When we divide, we are in fact working towards recess if the matter is of substance or even referendum eventually. But

the rules are that, for a matter which has been proposed and I put the question - sorry, for the vote to be carried, it must obtain two thirds of the total or above the Members present and voting. If it obtains less than 51 per cent, then that proposition is lost. But if it gets above 50 per cent but does not reach two thirds, then the matter is contentious. Those are our rules. I thought I should recapitulate.

*(The Assembly went in Division)*

## NAYS

DELEGATE	NAME OF ELECTROL AREA
1. ABALIWANO ALBERT BREWER	BUGABULA SOUTH
2. ADIIMA BETTY	WOMEN - ARUA
3. AKURE H PETER	JIE COUNTY
4. AMANDRUA PAUL	NOTU
5. APUUN LONGOLI PATRICK	IGARA COUNTY EAST
6. BABU EDWARD FRANCIS	KAMPALA CENTRAL
7. BAGARUKAYO MAISOTIGALYA JANET(MRS)	WOMEN - NTUGAMO
8. BAGEINE BAJURA- SHEM	NDORWA COUNTY EAST
9. BAGENA ANTHONY M.S.	BUFUMBIRA COUTY EAST
10. BAGEYA GEORGE PRATRICK	KIGULU COUNTY NORTH
11. BAGUMA-ISOKE MATIA	BUYANJA COUNTY
12. BALYEJUSA VICTORIA SEKITOLEKO	BUTEMBE COUNTY
13. BAMWENDA TOTEREBUKA BONEFACE	BUYAGA COUNTY
14. BANTARIZA FRANCIS	BUHWEJU COUNTY
15. BASALIZA HENRY ARAALI	FORT PORTAL MUNICIPALITY
16. BIDANDI SSALI JABERI	NAKAWA DIVISION
17. BIKORWENDA IDA RUBALE	WOMEN - BUNDIBUYYO
18. BWAMBALE-WALEMBA IVAN	BUKONZO COUNTY EAST
19. BWAMBALE BIIRA LOICE	WOMEN - KASESE
20. BYARUGABA BAKUNDA ALEX	ISINGIRO SOUTH
21. BYARUHANGA M. FABIUS	KITAGWENDA COUNTY
22. BYENKYA BEATRICE (MRS)	WOMEN - HOIMA
23. CHANGO MACHYO	SAMIA BUGWE SOUTH
24. CHEBET MAIKUT	KWEEN COUNTY
25. DHUGIRA ESTHER OPOTI	BUKANGA COUNTY
27. GUMISIRIZA GUMA DAVID (LT)	IBANDA NORTH
28. HASHAKA JACKSON	KIBALE COUTNY
29. JURUA ALEX	VURRA COUNTY
30. KABAYO JOHN PATRICK	KASSANDA SOUTH
31. KABERUKA WILLIAM	NDORWA COUNTY EAST
32. KABIRISA LUBERENGA HOPE	WOMEN - BUSHENYI
33. KABUḠO MESUSERA	NAKASEKE COUNTY
34. KAHEEBWA FOX JOHNSON	BUJENJE COUNTY
35. KAJA JOHN WYCLIFF	KIBANDA COUNTY
36. KAJARA ASTON PETERSON	MWENGE COUNTY SOUTH
37. KAJURA HENRY MUGANWA	BUGAHYA COUNTY
38. KAKUNGULU SHANNON (DR.)	PRESIDENTIAL NOMINEE
39. KALEMA RHODA NSIBIRWA	KIBOGA COUNTY EAST

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|-------------------------------------|-------------------------|
| 40. KALIKWANI IRENE (MISS)          | WOMEN - KAMULI          |
| 41. KAMANDA BATARINGAYA COS (DR.)   | BWAMBA COUNTY           |
| 42. KAMURON PETER                   | KONGASIS COUNTY         |
| 43. KANDOLE CLEMENT                 | KYAKA COUNTY            |
| 44. KANYIKE ANTHONY WILLIAM HENRY   | BUIKWE COUNTY WEST      |
| 45. KARUSOKE CONSTANTINE            | NTOROKO COUNTY          |
| 46. KASAJA GEORGE PATRICK           | BULAMOGI COUNTY         |
| 47. KASANGAKI PANTALEO KAAHWA       | BURULI COUNTY           |
| 48. KASOLE BWERERE LWANGA EDWARD    | BUWEKULA COUNTY         |
| 49. KASUJJA AZIZ                    | PRESIDENTIAL NOMINEE    |
| 50. KATEREGGA LIVINGSTON            | NAKIFUMA COUNTY         |
| 51. KAVUMA STEVEN B.K               | KYADONDO SOUTH          |
| 52. KAYIZZI ASANASIO                | KASSANDA NORTH          |
| 53. KAYONDE ISRAEL                  | GOMBA COUNTY            |
| 54. KAZIBWE SPECIOZA WANDIRA        | KIGULU COUNTY SOUTH     |
| 55. KIZZA - BESIGYE (LT.COL)        | NRA DELEGATE            |
| 56. KINTU MUSOKE                    | KALUNGU EAST            |
| 57. KINYATA GEORGE STANLEY (DR.)    | KINKIZI COUNTY EAST     |
| 58. KIRAAHWA MONICA                 | WOMEN - MASINDI         |
| 59. KIRUNDA - KIVEJINJA ALLY MUWABE | BUGWERI COUNTY          |
| 60. KITARIKO ROBERT                 | DEMOCRATIC PARTY        |
| 61. KIYONGA CHRISPUS WALTER C.B.    | BUKONZO COUNTY EAST     |
| 62. KULANY GERTUDE                  | WOMEN - KAPCHORWA       |
| 63. KULE MURANGA KIGHOMA JOSEPH     | BUSONGORA NORTH         |
| 64. KUTESA SAM. K                   | MAWOGOLA COUNTY         |
| 65. KWERONDA RUHEMBA                | KAJARA COUNTY           |
| 66. KYALIGONZA MATAYO               | BUHAGUZI COUNTY         |
| 67. KYEMBA HENRY KASAJA MAGOMBA     | JINJA MUNICIPALITY WEST |
| 68. LOKERIS SAMSON                  | DODOTH COUNTY           |
| 69. LUKUMU FRED                     | BULIISA COUNTY          |
| 70. MALIRO GASTON JOHN R.           | MWENGE COUNTY NORTH     |
| 71. MASALU MUSENENE WILSON          | MANJIA COUNTY           |
| 72. MATEMBE MIRIA R.K.              | WOMEN - MBARARA         |
| 73. MATOVU BYATIKE DAVID            | ENTEBBE MUNICIPALITY    |
| 74. MAVENJINA AKUMU CATHERINE (MRS) | WOMEN - NEBBI           |
| 75. MAYOMBO NOBLE (LT.)             | NRA DELEGATE            |
| 76. MIYINGO - KEZIMBIRA             | BUKOTO MIDWEST          |
| 77. MUGYENYI POSIANO R. (DR)        | ISINGIRO NORTH          |
| 78. MUKASA MURULI WILSON            | NAKASONGOLA COUNTY      |
| 79. MUKIIBI BENIGNA                 | WOMEN - KABAAL          |
| 80. MUKWAYA ABBEY                   | BUSIRO COUNTY EAST      |
| 81. MUKWAYA BALUNZI JANAT (MRS.)    | MUKONO COUNTY SOUTH     |
| 82. MULASSANYI DAVID JOHN           | RUBANDA COUNTY WEST     |
| 83. MULINDWA BIRIMUMAASO            | BOKOTO WEST             |
| 84. MUSANA SOPHY (DR.)              | BUIKWE COUNTY NORTH     |
| 85. MWESIGWA RUKUTANA MUGISHA       | BUSHENYI COUNTY         |
| 86. MWESIGYE RUHINDI HOPE (MRS)     | WOMEN - KABALE          |
| 87. NABURRI LORIKA WILLIAM          | CWEKWII (KADAM)         |
| 88. NACHA LORIKA ROSE               | WOMEN - MOROTO          |
| 89. NASASIRA JOHN MWOONO            | KAZO COUNTY             |
| 90. NTABAGOBA JENINAH               | WOMEN - KISORO          |
| 91. OBIGA KANIA MARIO               | TEREGO COUNTY           |
| 92. OKORIMOE JANET (MRS)            | WOMEN - KOTIDO          |

93. ONDOGA AMAZA (MAJ)	NRA DELEGATE
94. ONETI-BATIA SAMUEL A.B.	MARACHA COUNTY
95. PINTO MANUEL XAVERJO	KAKUUTO COUNTY
96. RUZINDANA AUGUSTINE	RUHAMA COUNTY
97. RWABIITA DEO K.	BANDA SOUTH
98. RWABYOMERE JOAN	PRESIDENTIAL NOMINEE
99. SABIITI JACK	RUKIGA COUNTY
100. SEBAGEREKA-KAKOKO VICTORIA	WOMEN - MUKONO
101. SEBALU KENNEDY MIKE	YOUTH-CENTRAL REGION
102. SEBI DATA HAROUN	KOBOKO COUNTY
103. SEKITOLEKO SALI SEBASTIANE	BUGANGAIZI COUNTY
104. SEMAJEJE HIGIRO	LWEMIYAGA COUNTY
105. TIGWEZIRE JOHN KASAJA	BUNYANGABU COUNTY
106. TIRUSASIRA KATONGOLE DIFASI	BUGABULA NORTH
107. TUMUKUNDE HENRY	RUBABO COUNTY
108. TUMWINE POLLY KATAHWA	YOUTH-WESTERN REGION
109. TURYAHIKAYO ALICE RWAHWIRE (MRS)	WOMEN - KABAROLE
110. WAMBEDE SETH MASSA	BUNGOKHO NORTH
111. WAMULONGO WAHIBI ALUPAKUSADI	BUNYA EAST
112. WANDERA OGALO DAN	BUKOOLO SOUTH
113. ZZIWA GEORGE WILLIAM	KAWEMPE DIVISION NORTH

## AYES

DELEGATE	NAME OF ELECTRAL AREA
1. ADIMOLA ANDREW BENEDICTO	GULU MUNICIPAL COUNCIL
2. ADIO WINFRED	WOMEN - SOROTI
3. AJIGA ABDUL	OBONGI COUNTY
4. AKECH OKULLU BETTY (MRS)	WOMEN - GULU
5. AKELLO GRACE (MRS)	PRESIDENTIAL NOMINEE
6. ALI MOSES (BRIG.	EAST MOYO
7. ATARE AJAI JAMES	KILAK COUNTY
8. ATIM OGWAL CECILIA (MRS)	LIRA MUNICIPALITY
9. AWORI AGGREY SIRYORI	SAMIA BUGWE NOTH
10. BATEGANYA MUKUVE DICK	BUKOOLO CENTRAL
11. BYAKIKA-KASAJA GERESOM SAMSON	BUNYOLE COUNTY
12. BYANYIMA WINNIE KARAGWA	MBARARA MUNICIPALITY
13. CHEPSIKOR MUHAMMAD	YOUTH-EASTRN REGION
14. DIDI AGARD CYRIL	MOYO WEST COUNTY
15. ELYAU MIKE JUVENTINE	KALAKI COUNTY
16. ERESU ELYANU JOHN	KABERAMAIDO COUNTY
17. ETUKU-ONYOK DAVID	MOROTO COUNTY
18. KAGGWA SSOZI MEDI	KAWEMPE DIVISION SOUTH
19. KAJUBI SENTENZA WILLIAM	KYADONDO NORTH
20. KATUMBA ROBINSON MATHEW	KIBOGA COUNTY WEST
21. KAWERE SEMPA PIUS	MUKONO COUNTY NORTH
22. KIGAYE-BILLYAWO ERIYA PAUL	BUDAKA COUNTY
23. KIMERA VINCENT	BUKOTO SOUTH
24. KIMERA NDIKABONARASHIDA AMAN	BUNYA SOUTH
25. KIWAGAMA WILLIAM WILBERFORCE	BUNYA WEST
26. KIWANUKA SAM	BUSIRO COUNTY NORTH

27. KIWANUKA MUSISI G.	BUIKWE COUTY SOUTH
28. KIZITO JOHN SSEBAANA	MAKINDYE DIVISION WEST
29. KOMAKEC LEANDER	ARUU COUNTY
30. LANGOYA TIMONY	LAMWO COUNTY
31. LIIGA ALOYSIUS C.M.	BUVUMA (ISLAND)
32. LOROT JOHN	PIAN COUNTY
33. LUBEGA DAMIANO	RUBAGA DIVISION SOUTH
34. LUBEGA-WAGWA SWAYIBU	BUTAMBALA COUNTY
35. LUKWAGO GABRIEL	KOOKI COUNTY
36. LULE WASSWA	RUBAGA DIVISION NORTH
37. LUMALA DEOGRATIUS NKALUBO	KALUNGU WEST
38. LUTALO KAMYA JAMIL	NTENJERU NORTH
39. MAGEZI DAUDI SUUBI	JINJA MUNICIPALITYEAST
40. MALINGA OJULLA IGNATIUS	USUK COUNTY
41. MASIKA GEORGE JAFETH	MBALE MUNICIPALITY
42. MUTAGAMBA LUBEGA MARY	WOMEN - RAKAI
43. MUYIISA JOHN CHRIZESTOM	BUJUMBA COUNTY
44. MWAKA DAVID	NWOYA COUNTY
45. MWONDHA PATRICK JOHN	BUKOOI COUNTY NORTH
46. NABUDERE DANI WADADA (PROF)	BUDADIRI WEST
47. NAKYANZI MARIA VERONICA (DR)	NTENJERU SOUTH
48. NANKABIRWA SENTAMU RUTH (MISS)	WOMEN - KIBOGA
49. NDEGE JOHN JOSHUA	LUUKA COUNTY
50. NGOBI MATHIAS	PRESIDENTIAL NOMINEE
51. NSIBAMBI APOLO (PROF)	PRESIDENTIAL NOMINEE
52. NSUBUGA NSAMBU YUSUFU	MAKINDYE DIVISION WEST
53. NYAI DICK	AYIVU COUNTY
54. NYEKO JACK H.P-MOGI (DR)	PRESIDENTIAL NOMINEE
55. OBEL ONEGI	JONAM COUNTY
56. OBUA OTOA JAMES NAGAI	ERUTE COUNTY NORTH
57. ODOY-ASOKA ALFRED	WEST BUDAMA NORTH
58. ODUR DICK	DOKOLO COUNTY
59. OGOLA AKISOFERI MICHEAL	WEST BUDAMA SOUTH
60. OGWEL-LOOTE SAMMY	MOROTO MUNICIPALITY
61. OJOK B'LEO	KIOGA COUNTY
62. OKENY TIBERIO ATWOMA	CHUA COUNTY
63. OKULA O. CHARLES	SOROTI COUNTY
64. OKULLO-EPAK YEFUSA (DR)	OYAM COUNTY SOUTH
65. OKWIR BETTY	WOMEN - LIRA
66. OKWONGA-LATIGO ONESIMO	OMORO COUNTY
67. O'LET CHARLESS CHRISTOPHER	ERUTE COUNTY SOUTH
68. OLWA BEN	KOLE COUNTY
69. OMARA ATUBO DANIEL	OTUKE COUNTY
70. OMOLO PETER	SOROTI
71. OMUTE JULIS	KUMI COUNTY
72. OWOR WILLIAM CHARLES	ASWA COUNTY
73. SSEKANDI EDWARD	BUKOTO CENTRAL
74. SSEKWEYAMA WAGABA ANTHONY	MAWOKOTA SOUTH
75. SSEMAALA KIRUNDU KIWANUKA KIMIZE	KYAMUSWA COUNTY
76. SSEMAKULA NAKABUGO KIGGUNDU HAWA	WOMEN - MUBENDE
77. SENDAULA GERALD	BUKOTO SOUTH
78. SSENGOOBA ANDREW BEN	KYOTERA COUNTY
79. SSENTONGO THOEPISTA	NOTU

80. SSERWANGA LWANGA (LT. COL)  
 81. TIBAMANYA URBAN K  
 82. WACHA BEN  
 83. WAGIRA MOSES P.  
 84. WANJUZI WASIEBA SYLVESTER

NRA DELEGATE  
 KASHARI COUNTY  
 OYAM COUNTY NORTH  
 KIBUKU COUNTY  
 BUBULO COUNTY WEST

ABSENTIONS:

1. KARUHANGA ELLY  
 2. KAWANGA JOHN BAPTIST  
 3.

NYABUSHOZI COUNTY  
 MASAKA MUNICIPALITY

**THE CHAIRMAN:** For today's vote the position is this, there are 200 Members in the Chamber, three abstained and the result was that, the ayes were 84 and noes were 113. *(Applause)* 84 is not 51 per cent of 200, the proposition was defeated. *(Applause)* The position then is this, the effect of this vote is this that Hon. Okullo Epak had move a Motion that Article 17 be amended by deleting Clause (3). That Motion, after a long discussion has been negatived. Now Clause (3) remains in the position in which it was and therefore, in absence of further amendments

**DR. KIZZA BESIGYE (NRA Delegate):** Thank you , Mr. Chairman. Since this matter has been a subject that consumed the whole of this afternoon, I suggest, Mr. Chairman, that we decide on it. If later on it is to be transferred, it goes as a decided matter rather than deferring it for further debate in the subsequent Chapter. So, I propose, Mr. Chairman, that we pronounce ourselves on it to become part of the Draft and its permanent location, as we have already decided on many other things, can be decided later. That is my proposition, Mr. Chairman.

**MR. LUBEGA. DAMIANO (Rubaga Division South):** Thank you very much, Mr. Chairman. Mr Chairman and Hon. delegates, in view of the importance of this Clause and in view of the fact that no decision so far had been taken as far as the removal of it is concerned because it is reinstated by the decision that has been arrived at, I beg to move that this Clause (3) be transferred in substance to the substantive Chapter concerning land. The reasons are, Mr. Chairman, we need to refine particularly when we are regulating for property - land. We need to reline very carefully the wording of every Clause that shall be contained in this constitution. I believe that we shall do better justice *-(Interruption)*

**THE CHAIRMAN:** What I was proposing was this that - okay I take note of that but if we decide on it to be part of the present Chapter whatever we shall call it there, we cannot then say we have decided on it to be part of this Chapter but transferred it to such and such a place. We can only say, we transfer it now. But instead of going through a process of voting, I was saying since we have had matters transferred back wards and forwards through our Legal and Drafting Committee, could this matter be debated in the Legal and Drafting Committee for consideration.

**THE CHAIRMAN:** Well, I think that before you begin making a speech, we have to decide whether there is a Motion on the Floor first. You see, this Motion is different from the matter we just disposed of. It is not saying that the language of Article (3) or that Article (3) be deleted as was the case in the previous Motion. But he is moving that it be transferred to Chapter 17. That it be discussed at the same time as the discussion on the question of land. Now we take the following approaches. We can decide a matter by Motion and debate , or we can decide that the Legal and Drafting Committee go into it and comes back with the report.

**MR. RUZINDANA:** Thank you, Mr. Chairman. A lot of arguments in favour and against this sub-article have already been advanced. There is not much that can be said in the Legal and Drafting Committee that has not already been said. The attempt to transfer it to a latter Chapter is another attempt not to concede to it. *(Applause)* And, Mr. Chairman, I would like to suggest that we dispose of this article today, here and now, because everyone of us is clear as to what this article is about. There is not much that we can debate at a latter period, and in the Chapter they are proposing, there is already a provision for regulation by the Uganda Land Commission. There is no need to re-enforce it with this one. This one is an objective, we are not saying anything more than that. It is an objective and I do not

see why we should not have an objective that government - that the state should have power to say something about land. Thank you, Mr. Chairman.

**MR. WAGIRA(Kibuku County):** I thank you, Mr. Chairman. Mr. Chairman, I personally feel that the sentiments expressed on this particular Clause of Chapter (3) are not unfounded. Personally, I had a fear that what rescue is there if a government come in, and under that Clause seeks to further social justice by making land ownership public land? I therefore, beg to move, Mr. Chairman, if I can get secondment, that we qualify that Clause by saying that, "in accordance with this constitution" such that if the government is to regulate, the ownership, acquisition and disposition of land, it should be in line with what we shall have decided about land in Chapter 17. I think this could be a compromise position to allay the fears of some of us who feel that the government or the State may hide under the cover of this Clause and therefore dispossess people of land, making a sham of what we shall have done here. We have told people, we are giving you land, we are returning the land into the hands of the people and at the same time we pass a Clause to the effect that the state may regulate ownership which also goes to qualify with the land tenure system. I therefore, humbly beg to move, Mr. Chairman, that we add at the end of the Clause the words "In accordance with this constitution". I beg to move, Mr. Chairman.

**THE CHAIRMAN:** Before I get reactions to that, we have two propositions on the Floor. There was a proposition by Hon. Damiano Lubega that we should transfer this article to a subsequent Chapter, that seems to be finding resistance on the Floor, and we do not want to repeat unnecessary votes. So I presume, we go ahead and decide whether this Article should stand part of the Draft Constitution. But now, Hon. Wagira has come up with a proposition that - in fact in effect saying, Clause (3) should be amended by adding at the end thereof the words "In accordance with this constitution"

**MR. KARUHANGA:** Thank you very much, Mr. Chairman. Mr. Chairman, I want to support Hon. Wagira, and I want to say that I abstained in the earlier debate.

**THE CHAIRMAN:** Okay, I have identified you as a seconder now of a Motion on the Floor. Now we go back to Hon. Wagira to give us his reasons if he has anymore. But I think you have given your

reasons already, there were mainly your fears of a bad government. Okay, could you make some comments then we go ahead. The Motion is that Article 3 be amended by inserting the words "In accordance with this constitution."

**MR. WAGIRA:** The simple comment, Mr. Chairman which I wanted to add to the earlier comment I gave is that, we are here as a constitution making body, and land is a very delicate matter. It is a cause of rebellion the world over, it is imperative that this August Body assembled in full convention in the name of the people of Uganda do resolve this land question by putting in place a land tenure system without leaving any loopholes which may be abused by government. If, Mr. Chairman, we just say that the state may regulate our acquisition and ownership of land in this country, in the future, this might be abused to nationalize land. Because the preamble to the 1975 Land Reform Decree did read in the very words that "in furtherance of social justice..." in the event nationalizing land. Mr. Chairman, I beg to move.

**MR. KARUHANGA:** Thank you, Mr. Chairman. Mr. Chairman, I would like to draw to the attention of the Members - Mr. Chairman, in my view we actually were caught out by missing the words "In accordance with the law". What Hon. Okullo Epak had wanted to achieve, he will achieve it very well if he can accept the amendment moved by Hon. Wagira - well it was defeated, but it would achieve the purpose that he had intended to have. Secondly, it would satisfy the people who actually managed to defeat his article. We have already - I want to remind the House, passed, in Article 56 The Fundamental Human Rights a provision saying that property is going to be a fundamental human right - ownership - and we have also said that nobody will tamper with it without compensation. We have known that there is time for us to discuss the actual land law position in Chapter 17. Time will come for us to pass certain laws there which will go this way or that way, we cannot now tell. What we need to do to cover ourselves, is just to add the words and retain the position as it is and add the words that this will be done in accordance with this constitution. Then we have covered ourselves and whatever decisions we come to later, we are in place. And the fears and those who want to come with some amendments about land and regulation and whatever, will be free to do so but now, we pass this Bill legally without any reference and more work to the Legal Committee

which is already too overloaded with work. And if we had taken those amendments, it would have been a compromise position, I am sure we will not even have gone to the division. Thank you.

**DR. ODUR DICK (Dokolo County):** Mr. Chairman, I do not support the amendment. In fact I had a proposal that we should postpone debate on this particular Clause Because land issue is so serious that we cannot hurry to make a decision now when in fact some of us have got other amendments remaining, but we have no time, we need consultations with our Colleagues and come up with a more agreeable amendment tomorrow. This is my stand, I do not support the amendment at all.

**MR. NSAMBU:** Mr. Chairman, the amendment suggested, I do not see any weight it adds in law. On the ground that this constitution is not being implemented piece by piece which we pass here. In any case, it is after it has been properly promulgated that it will start working. So, the protection the Mover is seeking does not mean anything at all. Because there are some articles to be considered in the circumstances. I look at it as a waste of time for the moment.

**PROF. NSIBAMBI:** Thank you, Mr. Chairman. I also feel strongly that we have prematurely fragmented ourselves. That is why I strongly recommend that we should adopt our earlier position namely that, issues which are contentious should not be dealt with so early. Because as it is, you have opened so many fronts at a time when we have been moving well and I would like to appeal to my Colleagues to postpone this matter because it is very fundamental. And we are creating secondary wars at a time when we are moving, and I repeat, you are creating secondary wars unduly. I urge you to postpone, Mr. Chairman, with your appeal that this is a fundamental matter, it is fragmenting and alienating many people from to night, and I am appealing to you to postpone this matter.

**MR. DIDI AGARD:** Thank you Mr. Chairman, for giving me this Floor. First of all, Mr. Chairman, I think we are being too presumptuous. When considering social justice, we begin to talk about regulating land when we have not defined what type of land system you want. I think it would be more consistent with the statement of the national objectives if we say, let the government pursue a free hold system which recognize mile and customary land for example. Because to me, the first thing in the general

principle should be what kind of land system are we talking about. Because when you go to the proposed Article 19, the power for government to control land is already provided, and therefore, since the pieces of land must be specifically addressed, I think it is in order that Members consider pushing this section to Chapter 17 so that we consider it together with other aspects of land. I thank you.

**MR. KAGGWA MED:** Thank you, Mr. Chairman. Mr. Chairman, I note that the Chapter under consideration right now is a mere guide on the national objectives. It is my considered opinion that we have opportunity, when we come to Chapter 17, to undo what we feel has been done here is not fair. I would therefore suggest that we pronounce ourselves on this Clause and we move. I beg to move. *(Applause)*

**MR. WACHA BEN:** Mr. Chairman, I want to urge Members to support this amendment. This amendment Sir, does not hurt any group of people in this House. This amendment helps those who are against deleting the Clause and also helps those who are for deleting the Clause. This amendment Sir, subjects whatever decision we have taken under 17 (3) to whatever further decisions we might take under Article 19 and under Article 271. In other words, whatever other decision this House might take in respect to land will be taken care of in implementation of this constitution. Mr. Chairman, I urge Members, it is not worth transferring anything now. Sir, it is not necessary for us to transfer this matter under 17 (3), to 271 because if we say that whatever decision we take is subject to whatever other decision we will take under 271, it is enough. I urge Members please, let us save time support this amendment it will take care of your interest whatever way you decide under 271. *(Applause)*

**THE CHAIRMAN:** Let us put the question now. The Motion is by Hon. Wagira that Article 17 Clause (3) be amended by adding at the end thereof the words, "In accordance with this constitution". I now put the question.

*(Question put and agreed to)*

**THE CHAIRMAN:** The Clause is thereby amended. We now have Clause (3) amended, we have to pronounce ourselves on Article 17.

**MISS BYANYIMA:** Point of clarification. Mr. Chairman, when you say that the State may regulate acquisition, ownership, use and disposition of land and other property, Mr. Chairman -

**THE CHAIRMAN:** In accordance with this constitution -

**MISS BYANYIMA:** In accordance with this constitution, when we say other property, does that include the chicken, the bed, the chair? I propose, Mr. Chairman, that "and other property" be deleted. Because, Mr. Chairman, the State does not want to regulate my household goods, my bananas and things like that. I think this provision was meant for land not for everything that I may own and have in my house. I move that we delete "and other property", Mr. Chairman. Thank you.

**MR. BIDANDISSALI:** Mr. Chairman, I just want to inform the Hon. Member who has left the Floor to say that, the State, through Parliament can even regulate her chicken or cows. The effect is that they should be kept by her only in this type of manner and not in another type of manner which disturbs her neighbours or if they are already infected, they have a problem, the State can come in to say you have to kill them to protect the interest of your neighbours. That is the type of regulation that can come in for your chicken there. *(Applause)*

**THE CHAIRMAN:** No, Hon. delegates, do we really need to go into this. Because eventually we shall be drafting the constitution here.

**AN HON. DELEGATE:** Point of clarification. Mr. Chairman, I thank you. The clarification I am seeking is against the back ground that we are debating National objectives and Directive Principles of State Policy. My understanding of this from what we were briefed by the Legal and Drafting Committee was that these would be goals, they will not be justiciable, and they would guide all future governments. With that in mind, I do not know whether in those objectives it would be consistent to say that those objectives will stand in accordance with the constitution. I take it that the constitution would even be derived from those objectives. I take it that the objectives are primary and limitless in time. Unless the people who make those objectives amend their objectives. I therefore, do not know whether what we have added is inconsistent with the purposes or intent of this Chapter.

**THE CHAIRMAN:** I think we are consistent, what the amendment does, it says, the government, in interest of social justice interfere or regulate with ownership, use of land and property. But the method of interference, if I may use the broad term, must be in accordance with the constitution. In other words, the provision which says the right to property may not be interfered with except either by payment or prompt, adequate compensation and must be taken in public interest which will be defined in accordance with the decisions we made sometime back so that there is no capricious use of this as a goal and come and report that I am glad to report that during the last year, we were able to acquire so many houses and we do not relate it to the need for justice, and that whatever was done was done in accordance with the subsequent provisions which are in place. And in this case, when we come to Chapter 17, whatever restrictions there may be put there in relation to interference with land by government, those as Hon. Ben Wacha said, would be related to the provision in accordance the constitution and therefore, be narrowed to that. That is how I understand it.

**MR. OGOLA (West Budama County):** May I request your clarification Sir, for my own conscience as well, the capacity to explain the vote we have just conducted to my constituency. Mr. Chairman, land is property just as money is property and if I have used my money to buy land as a saving and another person has preferred to put his money in a fixed deposit account, by this decision, would the government have the right as much to regulate my land as it may have to look into the fixed deposit account of that individual and also regulate its use? That is my own conscience, Sir.

**THE CHAIRMAN:** Actually, may be we could assisted by Lawyers here. Can I benefit from Hon. Owor's interpretation of what we mean by land and other property. How wide is it?

**MR. OWOR:** Mr. Chairman, I would like to ask this Assembly to be guided by the legal interpretation of phrases of this nature. When they talk of something and other, it usually means things which are within the same nature, the Latin word Ejusdem Generis which means that things that fall along the same category. So, when they talk of land and other properties, he is really talking of land and fixed property. Houses and things of that nature. It really would not be talking about movable properties in legal terms, those ones are called chattels. They are goods.

**THE CHAIRMAN:** In other words, Hon. Ogola, unless there is a violent disagreement among the Lawyers. That the Lawyers have a way of interpreting various provisions and where you mention one and then even if you try to open it, the lawyers will say no you intended it to be narrow. So here land and other property would be as Hon. Owor has said they are of the same genus. In other words, if this was to be regulated as one of the properties, they may take the grounds around here plus this building and including the desks and chairs which are in here. They are other property but because they are related to land. But it will not mean that you should go into accounts and also, as it was suggested, chickens and similar items.

**MR. KARUHANGA:** Point of information. Mr. Chairman, I wanted to inform my friend Hon. Ogola that also the law is there in place to go to his fixed account and have a look. If the police suspect that there has been some embezzlement of public funds and they are sitting on his fixed account, what the CID director has to do is go to the DPP seek permission, in writing, to go to visit the bank account and the Bank is duty bound to disclose his fixed account.

**THE CHAIRMAN:** I think we should not discuss - I mean if Hon. Ogola would like to be advised on Banking secrecy, I think you can have - the two can have -

**MR. OGOLA:** Mr. Chairman, that is not my worry, my worry was that to own land is a decision that one makes of what to use with his money. And when he has used his money in order to secure property called land, but another person has not done that, now the person who has not bought land, in this decision we have just made, is far better off than the other one who chose to buy land. And my worry is that we are likely to pass here a constitution which is discriminatory, which is going to seek out those with property and penalize them and that is my fear.

**THE CHAIRMAN:** Hon. Ogola, I think really for me my fear - I mean as I see it here, what we have got is a decision which said the government may regulate land in interest of social justice, and the key word really is "regulate". When you come to the provisions relating to how land may be transacted in Uganda, that is where you may put the restrictions actually. Because this one was just a statement of principle. But the addition does in fact point to the

fact that they are fears that government may have used this but now you say, it must be in accordance with whatever we shall say in those provisions relating to compulsory ownership and use of land. Now regulation does not mean confiscation. In fact where you read down legislation and you find the word regulation, regulation, does not mean confiscation, it does not mean prohibition, it means regulation - to regulate. You can only pass regulations or laws that regulate rather than take away. So that, here this word regulate is quite deliberate actually. But I can understand the fears it relates to land.

**MR. OKULLO EPAK:** Thank you, Mr. Chairman. I just want to make a very brief and precise intervention. Issues were raised from the Floor Mr. Chairman, that some delegates did not understand how their names came to be included with me in the Motion we have just disposed of earlier. I would like to state, Mr. Chairman, categorically that I have nothing to do with those names which I found together with mine. As a matter of fact, this morning, I was joking with the officers and said that at long last I have been recruited into the NRA. So, I have nothing to do with the appearance of those names together with me. So if there was any implication, I have nothing to do with the inclusion of those names I also just found myself with the same team. It might be better for them to inquire from the Technical Committee. I thank you, Mr. Chairman.

**THE CHAIRMAN:** It is possible that some mistakes were made in the Technical Committee and the members of the Technical Committee will take note, and I think they will look at that when they are compiling future amendments. Now, delegates let me put to you the question on Article 17. Now we should vote on 17 really. The question is that Article 17 as amended do stand part of the Draft Constitution.

*(Question put and agreed to)*

**AN HON. DELEGATE:** Mr. Chairman, thank you very much. I just want to make one point that in view of the importance of this article which you have passed, and in view of the fact that we may have confusion especially, being reported Mr. Chairman, I want to call upon your indulgence that you clear and give the press exactly the interpretation which you have just made so that we do not have the public confused.

**THE CHAIRMAN:** Hon. delegates, the Hon. Member has suggested that the press be given a clear position of the matter, I think the press were here let them report and then we shall see. Now the issues that I would like to say before we finalize is that in view of our earlier decision and given the time now, the Legal and Drafting Committee could be unable to meet and I would like to ask the Deputy Chairman to make a comment. But I think they will have to meet tomorrow morning so that they do go through these amendments which are holding us up and see how many we have to process when we come back. I was going to suggest that that being the case we see if we could resume at 11.00 tomorrow. But meanwhile let Hon. Ben Wacha - no, no but he has not indicated to his Members when he would like them that is why I would like to give the Floor to Hon. Ben Wacha.

**MR. WACHA BEN:** Mr. Chairman, we had suggested that the Legal and Drafting Committee meet here at 9.00 tomorrow to consider the amendments and I thought you had suggested, Mr. Chairman, that you will give us the whole of tomorrow. That was my interpretation of your decision this afternoon. So I was suggesting that the Legal and Drafting Committee meets the whole of tomorrow. It gives us time also to compile the necessary amendments which should come before the Floor, and then you will have enough time and enough work to deal with for the whole of the week.

**THE CHAIRMAN:** Hon. delegates, since we spoke, a number of other amendments have come in and I think they have got even more. So, although I had said I was trying with the idea that we resume tomorrow at 11.00, it is also at the same time not good that Members should come here and we tell them the committee is not ready and they sit and wait. I was going to say that the committee meets - probably they will finish by midday or afternoon, they will then have to work with the Technical Committee to frame those which are left after reconciliation and talking to the movers. That being the case, we give them the afternoon to compile their report and then on Wednesday morning, we meet here, they report and we handle whatever will have come from them. That is how I look at it.

**MR. KAVUMA:** In view of that, Mr. Chairman, I want to request Members of the Sub Committee of the Business Committee to meet tomorrow. We shall meet at 9.30 a.m. in the lounge to do some work, to use that time to be able to do some work that we have to do in relation with the work of the Business Committee. Thank you, Sir.

**BRIG. MOSES ALI (Chairman of privileges Committee):** Mr. Chairman, Sir, I would like to announce that tomorrow, Members are free to visit Room 331 from 11.00 a.m. onwards. At your own time, you can visit that Room and whatever you will find there, you will tell me what you have found next time. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Well, Hon. Delegates, with that we have come to the end of today's business and stand adjourned until Wednesday at 8.30 a.m. in the morning. Thank you.

*(The Assembly rose and adjourned until Wednesday 28th September 1994 at 8.30 a.m.)*