



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

MONDAY, 27TH MARCH 1995

MOTION:-

Communication from the Chair

[Pg 3585]

Consideration of the Draft Constitution of the Republic of Uganda

[Pg 3585]

Monday, 27th March, 1995.

(The Assembly met at 9.30 a.m. in the International Conference Centre, Kampala.)

NATIONAL ANTHEM

P R A Y E R S

(The Deputy Chairman, Prof. Victoria Mwaka, in the Chair)

(The Assembly was called to Order)

COMMUNICATION FROM THE CHAIR

THE DEPUTY CHAIRMAN: Hon. Delegates, the Communication is to let you know that tomorrow at 9.00, we are starting on Chapter 13 which was distributed long ago. So, I beg all Members to come with your papers tomorrow and also should we finish early today, because we seem to have a relatively short agenda - we may not come back in the afternoon to give Members time to take up the Major issues on the Chapter on Local Government and we come tomorrow to start on it full blast.

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

CHAPTER 8: - THE LEGISLATURE

ARTICLE 147 - RULES OF PROCEDURE OF
PARLIAMENT

THE DEPUTY CHAIRMAN: Hon. Delegates, on Friday we could not touch this issue because of some problems you all know and we have a Minority Report. Hon. Mulenga had finished introducing his report but then we have a Minority Report. Could we have the Movers move their Minority Report. I had ruled that if there is nobody moving this minority report, that assumes that there is nobody who is still interested in it - that it has been abandoned. If that seems the case, then I would want us to go on the report by the Chairman. Hon. Mulenga.

MR. MULENGA: Thank you, Madame Chairman. The Committee recommends that Clause (2) should read: *"Parliament may act notwithstanding a vacancy in its membership"* I beg to move.

THE DEPUTY CHAIRMAN: So, you are moving the Minority Report?

MR. MULENGA: No. The Committee Report.

THE DEPUTY CHAIRMAN: So, the Minority is proposing deletion?

MR. MULENGA: Yes.

THE DEPUTY CHAIRMAN: Okay, any contrary view on 147 (2)?

(Question put and agreed to)

MR. MULENGA: Madame Chairman, the Committee recommends that Clause (3) should read as follows: *"The presence or participation of a person not entitled to be present or to participate in the proceedings of Parliament shall not by itself invalidate those proceedings"*

(Question put and agreed to)

MR. MULENGA: Madame Chairman, the Committee recommends that Clause (4) should read: *"The rules of procedure of Parliament shall include the following provisions; a) The Speaker shall determine the order of priority in the enactment of laws by Parliament."*

THE DEPUTY CHAIRMAN: Hon. Katenta Apuuli.

MR. KATENTA APUULI: I thank you Madame Chairperson. I am uncomfortable with this particular paragraph. I would have preferred that we stick to the original provision in the Constitution Draft which says *"the Executive"* because I think that the right to originate legislation and also the order of business should originate from the Executive rather than the Speaker. If you look at a situation like we have in Burundi today where the Speaker belongs to some organization and the Prime Minister belongs to another organization, the President belongs to another organization, you can have difficulties of a Speaker who does not agree entirely with the Executive to frustrate the business of the Executive. I would really have preferred that we stick to the formulation that is in the Draft Constitution. Therefore, I beg to move.

THE DEPUTY CHAIRMAN: Is that seconded? Seconded by Hon. Wanendeya. Can you speak over the issue?

MR. KATENTA APUULI: Madame Chairperson, we have already provided or we are about to provide that private members can move bills. There is no dispute about that. We also have provided that government has the right also to move bills. Now, it is the order of the bills that really matters here. The whole principle is based on in which order should those bills flow? It is my contention that that order should be determined by the Executive and not by the Speaker of the House simply because of the reason I have already articulated that if the Speaker and the Executive do not see eye to eye, government could be frustrated by the Speaker having a separate order which is not acceptable to the government and therefore, delaying very important Parliamentary Legislation and that way, using that loophole to frustrate the Executive. I would like to appeal to Hon. Members to support this principle.

In most governments, in most known democracies, it is the Executive that determines the order of business. It is not the Speaker, it is not necessary for the Speaker to have to determine that order of business. I would like to appeal to you to support this measure. I thank you.

PROF. KABWEGYERE (Igara West): I support the idea of going back to the Draft Proposal. Madame Chairperson, the order of business is very closely related to the policies of government. The government sets out its tasks and some of the tasks require legislation and therefore, Parliament helps the executive to put its policies into a legislation form. Now, if the Speaker as an individual were to be the one to determine the priority, it is very easy to anticipate a conflict between the Executive and not even with Parliament but with the Speaker. Even in normal procedures, the consultation will take place after all the Speaker is not meant to organise against the Executive nor is the Executive intending to organise against the Legislature. The proposal as given in the Draft, I think presents a more workable situation than the one, the committee is trying to persuade us to adopt. I therefore believe that we are trying to produce something that works and I therefore, want to avoid in-built conflicts in case of the personality of a Speaker where he wants to attack a constitutional provision and he

ends up or she ends up in confrontation with the executive which would be contrary to the harmony of the state. I therefore support Hon. Katenta Apuuli.

THE DEPUTY CHAIRMAN: Let us hear from the chairman. Let him explain why they made that amendment because he did not do so.

MR. MULENGA: Thank you, Madame Chairman. I do hope that everyone has read the note explaining why Committee Two decided to change from "Executive" to "Speaker". First of all, it is not correct that the initiative of government, is in this way diluted or frustrated. The initiative to initiate laws remains the same. What is in issue is - who should decide in case the private Members' Bill we have talked about is competing with a government Bill? Should it be the government to say no, ours must take priority or should we have an umpire; someone who is impartial? We assume that a Speaker will be elected as an impartial person and that he would be able to see the urgency of a government Bill and say it takes priority but where a Private Member's Bill also has got some urgency in it, it should not be sat on because government does not want it to be discussed. There have been examples of Private Members' Bills being sat on or ignored because government is not interested in them. So really, what is being proposed here is that - this Speaker should be an impartial person who is capable of appreciating - I do not know whether it would be right for us to base our provision on fear or suspicion that there will be a Speaker who is against government policy. I think the Burundi example that has been given is an extreme one. Whatever provision you put will not cater for the Burundi situation.

Madame Chairman, the second point is that actually, the Speaker is the head of the Legislature and therefore, we should give him that respect and responsibility for determining. Madame Chairman, I would ask the movers to really reconsider.

THE DEPUTY CHAIRMAN: Clarification from Hon. Kavuma.

MR. KAVUMA: Thank you very much Madame Chairperson. I am seeking clarification from the Hon. Chairman of the committee because as I was listening, he was emphasizing the right of a Private Member's Bill and the fear that it could be sat on but

when I read the Clause, it is providing for more than merely a Private Member's Bill. Can I be clarified, is this the blanket cover for all sorts of legislation or is it intended to cover the Private Member's Bill and if it is intended to cover the Private Member's Bill, why is it not being specifically mentioned so that we know we are providing for a situation where there is a likelihood of a Private Member's Bill being frustrated? Otherwise, it would appear to me without clarification as if this is talking about the entire legislative business of the legislature.

THE DEPUTY CHAIRMAN: Hon. Ringwegi.

MR. RINGWEGI (Padyere County): Thank you, Madame Chairman. I would like to invite the honourable House to one point. It looks as if while we are sitting here trying to make this Constitution, somewhere in our hearts, we seem to be depicting the picture of setting up organs of state which are completely at loggerheads with each other. Some Hon. Delegates here are so suspicious about the kind of organs of state that we are creating. When we say that we shall have a Legislature which should be independent from the Executive, we are not in any way intending to create two organs which are always going to be fighting each other. Both are organs of state which must work for the harmony and prosperity of this nation. So, the suspicion that exists - *(Interruption)*-

THE DEPUTY CHAIRMAN: Hon. Ringwegi, Hon. Katenta Apuuli has a problem.

MR. KATENTA APUULI: I thank you, Madame Chairperson for allowing me and the Hon. Member for giving way but I do not think that this is really in the context of Uganda. If you look at other constitutions, this is the manner things are done except that here we are trying to be innovative and trying to change the order of things from what other countries do. Therefore, his argument to say that we are being suspicious is not correct. I do not think that we should let that go down unchallenged.

MR. RINGWEGI: I thank you, Madame Chairperson. I am glad the Hon. Delegate used the words that "we are *trying to be innovative*." I think when you are being innovative, it means you are trying to do something which will improve the quality of your life and if we are going to improve the quality of our life by introducing this innovation, I think it is good for our country. I want to continue that there

is this suspicion that we are trying to stifle the Executive, we are not trying to stifle the Executive. The Chairman of the Committee has explained and it is even in our notes that we are trying to find an umpire. This umpire is someone who is going to say, here is government and here is the Private Member's Bill, which one should take priority in the House, which one should be discussed first? We are now looking at the Speaker as a Member of Parliament who is very hostile to the government, therefore, of necessity, he should not be that umpire and we are saying the umpire in this case should be an interested member who is the Executive. Is that not a way of trying to promote dictatorship? Have we not always been arguing that - *(Interruption)*-

THE DEPUTY CHAIRMAN: Hon. Ringwegi, clarification from Hon. Sam Kuteesa.

MR. KUTEESA S. (Mawoogola County): Thank you, Madame Chairperson and I thank the Hon. Member for yielding the Floor. I want to be clarified. When I read this clause and I also read the one that follows it - (d), (d) guarantees the right of a member of Parliament to move a Private Member's Motion. When you examine (a), it is subject to double interpretation. The arguments that have been presented are that it is to be an arbiter between Private Members and the Executive but if you read it again, it could also mean to say that if the government had three pieces of legislation, for example, if they wanted to amend the divorce laws and they wanted to read a budget and they wanted to change the Armed Forces Act, it is the Speaker who will determine the order and priority of how those particular enactments will follow each other. Is that the intention of the Committee and in that case, in what sense will the Speaker be acting as an arbiter? Between who and who? I would like to be clarified, Madame Chairperson.

MR. RINGWEGI: I thank you Madame Chairperson and I thank Hon. Kuteesa for seeking that lucid clarification. In fact, Hon. Kuteesa has helped, I hope, to clear the minds of many. There is that scenario that he has presented of the Speaker acting as an arbiter between a Private Member's Bill and a government Bill. The second scenario is where the Speaker is given the position to determine which one takes precedence - Is it the Armed Forces Act which should be amended or the Divorce Law which should be amended or the Budget? The Speaker who is to be the head of the Legislature

will definitely endow the priority of those Bills as government presents them to the House. You know that the budget must be read in order for the country to proceed; unless you are imagining a speaker who is so dumb, a speaker who does not even know what government priorities are, that is when a situation like the scenario presented by Hon. Kuteesa would create a problem but if you have a Speaker who has been elected by the whole House, he would lead the House to conduct its business, he would know that this is a matter - even government when presenting their Bills would definitely inform the Speaker that we would like this Bill here discussed first. I do not see - you are actually seeing a situation where there is no information flow from the Executive to the Speaker. I do not want to think of that situation. They are not going to act mechanically. There must be that human relationship. These are organs of state and there must be that relationship but if we are going to continue with the suspicion that we are creating organs which must be at each other's neck, then we may not succeed in creating a good constitution. So, I would like to oppose the proposed amendment of trying to bring back the Executive. We would better insist that the Speaker remains, more particularly, in ensuring that government is not dictatorial. I thank you, Madame Chairperson.

MR. AWORI (Samia Bugwe North): Actually I was seeking clarification from the Chairman of the Committee on why they think it is necessary to specify such powers for the speaker. I think it is absolutely unnecessary. It does not improve on our constitution at all. After all, we have already specified previously under the powers of the Executive that the Bill has to be signed - I mean the law has to be signed by the president within a specified time. If that is the case, why are you telling the Speaker again to organise the order of priority? It is not necessary, Madame Chairperson. So, I think we could remain silent on this issue without creating too many centers of power which in the past have created friction and heat for nothing. So, I consider this particular clause superfluous, unnecessary and potentially explosive.

THE DEPUTY CHAIRMAN: So, what is your conclusion?

MR. AWORI: My conclusion is that it is unnecessary, superfluous and potentially explosive.

THE DEPUTY CHAIRMAN: Hon. Atamvaku.

MR. ATAMVAKU (Arua Municipality): Madame Chairperson, I did not intend to speak on this note but it is necessitated in case that I speak from what Hon. Awori has said. If what the Committee provides is superfluous and unnecessary, then I do not know how it is explosive because what is superfluous is incapable of any ethicality. What is incapable of ethicality is very active. Therefore, I think that ground of opposition to this provision is rather wanting - *(Interjections)* Madame Chairman, let me continue.

THE DEPUTY CHAIRMAN: Let him continue.

MR. ATAMVAKU: Madame Chairman, the fear that has determined the amendment moved by Hon. Katenta Apuuli is that the Speaker may frustrate the Executive but that argument, I think, it is circular and it solves no problem. The Committee did deliberate at length and did observe that it is dangerous for priority of Bills to be arranged by the Executive because a government has its own programme alright but there is also a danger of the Executive frustrating popular and legitimate interest arising out of members private Bills in case that one will run counter to the interest of the Executive. Now, what the Committee is saying is this, there must be a balance between what the Executive considers as its priority and what we consider as private members' priority or priority of the people coming through the elected parliament. We think that once one is elected a Speaker, then to a great extent one abstracts oneself from the parliamentary politics and he is, what I will call, a neutral umpire or an impartial umpire. That is the rationale behind this provision. Moreover, we are aware that in the so called democracies where the Executive has a say over the arrangement of priorities of Bills, there has been cries that the Executive frustrates voices outside of itself. It is again on this background that a tradition is emerging that Speakers are more often than not, elected from the opposition bench. However, that has not been constitutionalised and we may not constitutionalise it but we are saying that while that tradition has not taken roots here, the safety valve lies in constitutionalising the position of the Speaker in such a way that he holds the golden mean between the Executive that is vulnerable to dictatorial tendencies and a legislator upholding the democratic aspirations of the people of Uganda who will have elected the parliament. Thank you. I oppose that amendment.

THE DEPUTY CHAIRMAN: Hon. Bageya.

MR. BAGEYA (Kigulu North): Thank you very much, Madame Chairperson. I have listened to both sides and I have been wondering and possibly the mover Hon. Katenta Apuuli may be able to enlighten me on this issue. Whereas he prefers the Executive to determine the order for priority in the enactment of laws by parliament, I am wondering who will determine the agenda of the Executive? This is telling us that the agenda of the House of Parliament should be determined by the Executive and we have the Speaker as head of Parliament, now who is going to determine the agenda of cabinet?

THE DEPUTY CHAIRMAN: Hon. Katenta Apuuli, can you answer to that.

MR. KATENTA APUULI: Madame Chairperson, in many countries' Constitutions, this matter is determined by the Leader of Government Business in consultation with the Speaker. That is how most countries do their business. I moved this amendment really as a Member of NRC who has been following parliamentary procedure for a long time.

PROF. NSIBAMBI: Thank you very much, Madame Chairperson. Determining the priority has a lot of political implications. The first one is that you determine the time frame because when you say this thing will be dealt with first, another one would be dealt with second, you are really determining the time frame. Secondly, you are also giving weight to those items because if something is very urgent, obviously, you must give it first priority. Thirdly, there is the problem of marketing these items. When you are dealing with these items, they have to be politically marketed. Recently, we were unable to tackle certain items here because there are still wrangles and those items are not ready to be marketed. So, that is a critical issue of marketing. The government may realise that people are not yet ready. So, you arrange the order of priority accordingly as you market the issues outside and within the system. There is another consideration also, namely that when you give the Speaker so much power, he has now to handle a lot of conflict. The more power you have, the more conflict you have to handle and therefore, he may impair even his capacity to be impartial because he is delving in the realm of conflicts. Under the circumstances, I feel strongly that this responsibility of determining priority should be given to the Executive which

must also have the capacity to shape the destiny of the policy according to the political mandate given to it. I therefore support the amendment that the Executive should determine the priority.

THE DEPUTY CHAIRMAN: Hon. Nekyon.

MR. NEKYON (Maruzi County): Madame Chairman, I would like to oppose the amendment wholeheartedly. First of all, I must say I am very surprised to hear Hon. Katenta Apuuli saying that he is speaking of his long experience in NRC when those of us who have been there have hardly seen him there.

THE DEPUTY CHAIRMAN: There is a point of order, Hon. Nekyon.

MR. KAVUMA: Madame Chairperson, is the Hon. Adoko Nekyon, Member for Maruzi, in order to question Hon. Katenta Apuuli's experience in NRC matters on the basis that he does not see him in the NRC when Hon. Katenta Apuuli has been Member of the NRC ever since the bush days?

THE DEPUTY CHAIRMAN: That is his personal observation. You can ignore it. Hon. Mulenga, what is the problem?

MR. MULENGA: I want to make a correction.

THE DEPUTY CHAIRMAN: There is a correction to be made by Hon. Mulenga.

MR. MULENGA: Madame Chairman, I wish to apologize to the House. It has been drawn to my attention that what was produced in the Report is not accurate on this Article. What was passed reads like this - and I am reading from the minutes: "*The Speaker shall determine the order of business in Parliament and shall give priority to government business.*" This is what was passed. I have apologized. I am happy that the attention was drawn before we went too far but I think this should really satisfy Hon. Katenta Apuuli and his supporters. If I may read it again. *(Applause)*

THE DEPUTY CHAIRMAN: Okay, Hon. Nekyon. Let Hon. Nekyon proceed and then I will call upon Hon. Katenta Apuuli.

MR. NEKYON: Madame Chairperson, Hon. Katenta Apuuli is supposed to have gained more experience in the bush.

THE DEPUTY CHAIRMAN: Hon. Nekyon, let this not be an attack on Hon. Katenta Apuuli. Address the issue.

MR. NEKYON: But the procedure we are discussing is parliamentary procedure and is down in the Houses of Parliament. He claimed that all over the world the practice is that the Executive determines the order of business in Parliament. Madame Chairperson, I had the luck, jointly with Hon. Semwogerere *-(Interruption)*

THE DEPUTY CHAIRMAN: There is someone who is agitating for procedure - there is Hon. Kaberuka.

MR. KABERUKA (Ndorwa West): Thank you, Madame Chairperson. I thought that in view of Hon. Mulenga's clarification we should have been told whether Hon. Katenta Apuuli's Motion still holds.

THE DEPUTY CHAIRMAN: But Hon. Nekyon was on the Floor.

MR. KABERUKA: But he cannot debate something which he does not understand now because now we do not know what we are going to debate.

THE DEPUTY CHAIRMAN: Okay, let him complete *-(Interjections)* you just listen, it does not harm - then I will go back to him. We should learn to be patient.

MR. NEKYON: Madame Chairperson, I was saying I had the privilege, jointly with Hon. Semwogerere of being trained in the House of Parliament in Britain on parliamentary procedure and I want to state categorically that throughout the Commonwealth, the Speaker has the right of determining the order of business in consultation with the Leader of Government Business and the Leader of Opposition. So, it is not an isolated business. The practice which we adopted from 1962 was that the Speaker would call the Leader of Government Business and the Leader of Opposition to discuss the Order Paper. In their absence, there would be Chief Whip for the government side and Chief Whip for the opposition side to sit with the Speaker and decide on the Order of Business. But where there is more controversy as to which item should come first, a committee of the House would decide the Order Paper and this committee takes the Order

Paper to the Speaker who approves it. This is the procedure I know. The Hon. Mover has been in the United States, he cannot tell us that the Executive of America determines the Order of Business in the Congress. It does not! So, I want to say that when we are making this constitution we must allow Parliament supremacy within its own functions and I want to say that when we are making this constitution we must not think that we are making it for the government in power today because government will be different tomorrow and then we will not have time to go and change the constitution when we are on the wrong side. The Swahili say "*Achimbaye shimo kando la barabara kwanguka mule*" - He who digs a hole on the roadside for others will fall there himself. So, I want to conclude by saying that this Bill provides for a multi party system where in future the opposition will have to sit face to face with the Leader of Government Business in front of the Speaker and decide on the Order Paper. The Speaker will be a popularly elected leader of Parliament and usually *-(Interruption)* So, I continue to say - A speaker who is elected by Parliament -

PROF. KABWEGYERE: Point of Order! Madame Chairperson, is the Hon. Member in order to confuse this House when Clause 4 (a) says "the Speaker shall determine the order of priority" and he is talking in terms of order of business. These two things are separate. Are we to be confused so carelessly like this?

THE DEPUTY CHAIRMAN: Hon. Kabwegyere reserve your reservations. After him, I am going to give the Floor to Hon. Mulenga - so that we go to what Hon. Mulenga advised us. We should not try to gag others.

MR. NEKYON: Chairperson, thank you. I do not see the difference between order of business and priority. It is the priority which forms the order of business but I am not a lecturer at Makerere.

THE DEPUTY CHAIRMAN: Hon. Nekyon, but also be brief and we move.

MR. NEKYON: I finish. I want to say that usually for a healthy government to run, there will be a concurrence between the majority in Parliament and the majority behind the President and Executive. So, it is most likely that when you have a Speaker elected, he will have been elected mostly

by the party which has elected the president. It is very rare, as we have seen today in America where the senate has got a majority - but it is very rare that you have a majority in parliament which is different from that party which has got the president in power. That is a very rare occurrence. But should that even happen, you may have a Speaker who is a very popular person as we have in the House of Commons today. A Member of the Labour Party is the Speaker but the majority of the House are Members of the Conservative Party but they considered her a very neutral and steady person, so they all voted for her. So, I do not see any reason why we should try to remove functions of Parliament and transfer it to the Executive when we are talking about separation of powers and I still insist, the Parliament must remain supreme if the state is to function properly. *(Applause)*

THE DEPUTY CHAIRMAN: Hon. Katenta Apuuli, I want you to talk in view of what Hon. Mulenga - because to me, it looks a neutral balance.

MR. KATENTA APUULI: Madame Chairperson, I have understood what Hon. Mulenga wishes to make provision for now as the Motion to be tabled in the House and I am quite comfortable with his new formulation. It achieves the objective that I set to achieve in the first place. *(Applause)*

THE DEPUTY CHAIRMAN: Thank you very much. So, Hon. Mulenga, can you read it out and we pronounce ourselves on it.

MR. MULENGA: Madame Chairman, I am actually correcting the report and I am saying that the Committee recommends that Clause (4) of Article 147 should read as follows: *"The Speaker shall determine the order of business in Parliament and shall give priority to government business."* That last bit had been omitted in typing the report.

THE DEPUTY CHAIRMAN: I now put the question on the report as amended by the Chairman.

(Question put and agreed to)

MR. MULENGA: (b) *"A Member of Parliament has a right to move a private Member's Bill."*

THE DEPUTY CHAIRMAN: I now put the question on (b).

(Question put and agreed to)

MR. MULENGA: (c) *"The member moving a Private Member's Bill shall be afforded reasonable assistance by the department of government whose area of operation is affected by the Bill."*

THE DEPUTY CHAIRMAN: I put the question on (c).

(Question put and agreed to)

MR. MULENGA: (d) *"The Office of the Attorney General shall afford the Member moving the Private member's Bill reasonable professional assistance in the drafting of the Bill."*

THE DEPUTY CHAIRMAN: Hon. Kagimu.

MR. KAGIMU (Bukomansimbi County): Thank you, Madame Chairman. I would like to remove the word *"reasonable"*. Madame Chairperson, this word *"reasonable"* is very relative and subjective. If, for example, a private Member of Parliament takes a Bill to be helped and those in the Attorney General's Office find that it is against, maybe, a certain area of government, they may frustrate him and they may, under this word, say that we have afforded you reasonable assistance whereas they have given him a ram-shackle or nothing. So, Madame Chairperson, I beg to move that this word be struck out and replaced with the clause to read: *"The Office of the Attorney General shall afford the Member moving the Private member's Bill professional assistance in the drafting of the Bill."* I beg to move.

THE DEPUTY CHAIRMAN: Is that seconded? It is not seconded. Hon. Obua Otoa.

MR. OBUA OTOA: Thank you very much, Madame Chairperson - *(Interruption)*

THE DEPUTY CHAIRMAN: Sorry! Hon. Med Kaggwá is seconding the Motion for Hon. Kagimu.

MR. KAGIMU: And Hon. Amana Mushega and Hon. Awori.

THE DEPUTY CHAIRMAN: Okay, sorry!

MR. KAGIMU: Thank you very much.

THE DEPUTY CHAIRMAN: No, no. I said sorry, I had thought that Hon. Kagimu has not been supported but he was. So, let him continue.

MR. OBUA OTOA: But I am making another amendment on that one.

THE DEPUTY CHAIRMAN: Hon. Otoa, Let Hon. Kagimu be satisfied with his explanation, then I will come to you.

MR. OBUA OTOA: It might even help him Madame Chairman. I am not opposing him.

THE DEPUTY CHAIRMAN: It seems Hon. Kagimu has consented.

MR. OBUA OTOA (Erute County): Madame Chairperson, I am wondering whether we really need two sub clauses (c) and (d). I also agree with Hon. Kagimu that the word "reasonable" is a very difficult word to deal with and therefore, I was going to suggest whether one Clause would not do. Instead of having (c) and (d), we just combine the two of them and word it something like this that- "*The Member moving the private Member's Bill shall be afforded assistance by the Department of government whose area of operation is affected by the Bill and the Attorney General shall afford such a Member professional assistance in the drafting of the Bill.*" I think it makes our life a little bit easier, Madame Chairperson.

THE DEPUTY CHAIRMAN: There is a point of Order from Hon. Kavuma.

MR. KAVUMA (Kyadondo South): Madame Chairperson, without undermining the reasoning by Hon. Obua Otoa on (c) - is it in order for him to re-open the arguments on that when it has been passed by the plenary instead of waiting for the reconsideration.

THE DEPUTY CHAIRMAN: Hon. Obua Otoa - actually if we agree on the principal, then that will be a drafting matter. We do not have to go back to things which we have passed.

MR. OBUA OTOA: So, Madame Chairperson, what are we about to pronounce ourselves on.

THE DEPUTY CHAIRMAN: Whether we remove "reasonable" or not in (d). I think I put the

question on Hon. Kagimu's Motion to remove "reasonable".

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So, "reasonable" is removed. Now, I put the question on 147 - that 147 as amended do stand part of this Constitution.

(Question put and agreed to)

MR. MULENGA: Madame Chairman, I now move to Article 148 which the Committee recommends to amend in several aspects. The Committee recommends that Clause (1) of Article 148 should read as follows: "*Where a new Parliament is elected, the President shall by proclamation appoint the place and the date not beyond seven (7) days after expiry of the term of Parliament or of the extended period, as the case maybe, for the first sitting of the new Parliament.*"

(Question put and agreed to)

MR. MULENGA: Madame Chairman, the committee recommends that Clause (2) of Article 148 should read as follows: "*A Session of Parliament shall be held at such a place within Uganda and shall commence at such a time as the Speaker may by proclamation appoint.*"

(Question put and agreed to)

MR. MULENGA: Madame Chairman, the Committee recommends that Clause (3) should be: "*The Speaker may by proclamation prorogue Parliament.*"

MR. KABUGO (Nakaseke County): Madame Chairman, thank you. The Speaker has no authority to adjourn the Parliament but proroguing is only done by Head of State. I think we can clarify it by an Oxford's dictionary. This is not - he can suspend and adjourn but when it comes to proroguing, this is the Head of State who does it. So, in this case, I move that "prorogue" should be deleted and - *(Interjections)*

MR. RINGWEGI (Padyere County): Point of Order! Madame Chairman, I thank you. Is it in order for Hon. Kabugo - Member for Nakaseke to try to introduce a Motion against the decision of the Committee to which he is a member, in absence of a Minority Report?

THE DEPUTY CHAIRMAN: Hon. Kabugo, if you did not present a Minority Report and you are a member of the Committee and you did not move an amendment properly, I think you are out of order. Hon. Med Kaggwa.

MR. KAGGWA M.(Kawempe South): Thank you very much Madame Chairperson. I appreciate the order raised by Hon. Ringwegi but I want to come in support of Hon. Kabugo to move a Motion that this Clause (3) be deleted because the Speaker is being elevated to assume powers which are ordinarily reserved for the Head of State and so, I move.

THE DEPUTY CHAIRMAN: Is that seconded? Seconded by Hon. Akure.

MR. OBUA OTOA: Thank you, Madame Chairperson. I am seeking Clarification. When we delete this Clause, who is going to do the proroguing of Parliament because Parliament at one point or another will have to be prorogued. Are we deleting it and putting in its place that "*the President shall, by proclamation, prorogue Parliament*" or are we simply deleting it all together and leaving nothing in its place?

MR. KAGGWA: Thank you very much, Madame Chairperson. The proroguing of Parliament by the Head of State is an inherent right. The Speaker can only adjourn and these functions should be separated.

THE DEPUTY CHAIRMAN: Then why are you proposing for deletion? Why do you not say that "the President" replaces the word "*Speaker*?"

MR. KAGGWA: We are not dealing with the president, we are dealing with the Speaker. Maybe some other person can move that, Madame Chairperson.

THE DEPUTY CHAIRMAN: Okay, let me hear from the Chairman of the Committee.

MR. MULENGA: Thank you, Madame Chairperson. I wish to respond quickly. It is not correct that the word "prorogue" is reserved as an inherent right or prerogative of Head of State. To prorogue Parliament is to send Parliament on recess. (*Inter-Sections*) Therefore, there is no argument at all for this amendment that is being proposed to say we should use the word adjourn - I think it is coming out

of misunderstanding of the word "prorogue" that the amendment is being proposed.

THE DEPUTY CHAIRMAN: Let us pronounce ourselves on Hon. Med Kaggwa's Motion. Hon. Kaggwa is calling for deletion. Let us pronounce ourselves on it then we move.

(Question put and negatived)

THE DEPUTY CHAIRMAN: So, now we go back to (3). Hon. Obuga Otoa.

MR. OBUA OTOA: Madame Chairperson, thank you very much. I would like now to move an amendment - a very simple one in place of the one we have just negatived to say: "*The President shall by proclamation prorogue parliament.*"

THE DEPUTY CHAIRMAN: It seems you are not getting support. Hon. Delegates, instead of going round, why do we not pronounce ourselves on the provision? Hon. Kavuma.

MR. KAVUMA: Madame Chairperson, I wanted a small clarification before I make up my mind. I followed the argument of Hon. Mulenga that it is normally the Speaker to prorogue but in light of what we passed saying that in determining the priority of business, the Speaker should take into account the government view, does he think it is also prudent to say "*in consultation with*" so that we tally them, so that a situation does not arise when government has priorities set and then the Speaker unilaterally prorogues. Would consultation not assist in this situation.

THE DEPUTY CHAIRMAN: Hon. Katenta Apuuli.

MR. KATENTA APUULI: Madame Chairperson, I thank you. The comments of Hon. Nekyon about my participation in parliamentary.

THE DEPUTY CHAIRMAN: Hon. Katenta Apuuli, that is not where we are. We are on (3). Concentrate on (3) please. Do not open a Pandora's box.

MR. KATENTA APUULI: Madame Chairperson, I am sorry for making that interruption, however, I would like to clarify to Hon. Members that when Parliament opens, when there is a new Session of Parliament, they set an agenda. When they

have come to the end of that agenda, there is no further business so parliament is not adjourned. It is actually prorogued. It means they have come to the end of the business which they set themselves to do and they will go away for one month or two months or longer depending on when their next agenda will be. That process of going on a long recess is called proroguing. It cannot be called adjournment and there is no harm in a Speaker proroguing Parliament. There is nothing important about it. You just tell people to go home. Even any ordinary Member, if he was allowed to move a Motion of going home, he could move a Motion on going home. We would not like the House to be excited about a matter that is really very mundane. I thank you Madame Chairperson.

THE DEPUTY CHAIRMAN: I think that is clear enough from Hon. Mulenga and from Hon. Katenta Apuuli. I now put the question on (3).

(Question put and agreed to)

MR. MULENGA: The Committee recommends that Clause (4) should read - "*A Session of Parliament shall be held at least once a year but the period between one Session and the next following Session shall be less than 12 months.*"

MR. BATEGANYA: Thank you, Madame Chairperson. I would like to get some clearance or rather clarification from the Chairman of this Committee about the 12 months. Knowing this country very well, if we go for 2 months - I am sure recesses will be 12 months. Would it not be better if we went for say 6 months?

MR. MULENGA: Madame Chairperson, I do not share Hon. Bateganya's fear that because we have put 12 months, therefore, there will always be a gap of 12 months. Once there is business to be transacted, the Speaker will know that there is business. The Government will have to produce Bills. If there are any Private Members' Bills, they will be there and he will call Parliament irrespective of the 12 months we are talking about. The 12 months is to say - in fact it should be under seal - is to say that even if there is no business, there must be a Session. We should not go beyond 12 months. Business must be found. So, it is the limit. The 12 months is the absolute limit beyond which parliament cannot continue.

MR. AGREY AWORI: Madam Chairman, I am asking for clarification from the Hon. Chairman, whether we could not start that Provision with the condition that: "*Subject to the Provisions of this Constitution*", then we continue.

THE DEPUTY CHAIRMAN: You are not clear. Can you amplify.

MR. AWORI: "*Subject to the Provisions of this Constitution, a Session of Parliament shall be held at least once a year, but the period between one Session and the next shall be less than 12 months.*" Madam Chairperson, I am just requesting that the Committee should consider that because there are certain conditions we have allowed in this Constitution which might make it difficult for this to happen.

MR. MULENGA: Madam Chairman, I seem to recall that we envisage that even in a war situation, Parliament would have to meet to confirm the existence of war. In case they have to extend the time of Parliament, they will have to meet. So, what is envisaged is that even in war, Parliament would meet somehow. So, if you say "*subject to provisions of this Constitution*", I do not see what you would be excepting because when you say, "*subject to the provisions of this Constitution*", you are saying that there are certain provisions which prohibit the provision you are going to write. Now, here we are saying, at least once a year, Parliament must have a Session. There is nothing that we have passed which would require it not to.

THE DEPUTY CHAIRMAN: I think that is clear. Now I put the question on (4) to stand part of the Draft Constitution.

(Question put and agreed to)

MR. MULENGA: Madam Chairperson, the Committee recommends that Clause (5) should read, "*Notwithstanding any other Provision of this Article, one third of all Members of Parliament may, in writing, signed by them, request a meeting of Parliament and a Speaker shall summon Parliament to meet within 21 days after receipt of the request.*"

THE DEPUTY CHAIRMAN: I put the question as read above.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: I put the question that Article 148 do stand part of the Draft Constitution.

(Question put and agreed to)

MR. MULENGA: Madam Chairman, I now move to Article 149, where the Committee recommends to retain two paragraphs and to delete two paragraphs on the Draft. The Committee recommends that Article 149 should read as follows: "*Parliament shall stand dissolved; (a) upon the expiration of its term as prescribed by Clause (2) of Article 130 or (b) if the life of Parliament is extended as provided for in Clause (3) of Article 130, upon the expiration of the extended period.*"

MR. LEANDER KOMAKEC: Madam Chairperson, I think perhaps the correct provision could be actually Article 130 as a whole because it is Clause (2) and Clause (3) of that Article in application. I think he will call it according to Article 130. That will suffice because it will cover both grounds. I beg to submit.

MR. MULENGA: Madam Chairman, the observation has substance but he has not helped to rephrase what it would read then. "*Parliament shall stand dissolved upon the expiration of its term under Article 130.*" I would have no objection to the Clause and I think the Committee would have no objection to the whole Article being shortened to read: "*Parliament shall stand dissolved upon the expiration of its term under Article 130.*"

THE DEPUTY CHAIRMAN: I now put the Question as read above.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: I now put the Question that Article 149 as amended do stand part of this Constitution.

(Question put and agreed to)

MR. MULENGA: Madam Chairperson, the Committee recommends that Article 150 be retained without amendment. It reads: "*The Deputy Speaker, Members of Parliament and any other person participating or assisting in or acting in connection*

with or reporting the proceedings Of Parliament or any of its Committees shall be entitled to such amenities and beverages as Parliament shall by Law prescribe."

THE DEPUTY CHAIRMAN: I now put the Question that Article 150 that do stand part of the Constitution.

(Question put and agreed to)

MR. MULENGA: Madam Chairperson, the Committee recommends that Article 151 be deleted as unnecessary and likely to lead to confusion on the following grounds that there is no need for an omnibus or residual Clause since Parliament has power to legislate on any matter and even to amend the Constitution so that if the Constitution has omitted to provide for any matter, Parliament can provide for it by an Amendment to the Constitution and if the matter is not constitutional, by ordinary legislation. Parliament exercises the legislative powers by making Law and there is no other mode it can use to provide for such omitted matter.

THE DEPUTY CHAIRMAN: The proposal is that 151 be deleted.

(Question put and agreed to)

MR. MULENGA: Madam Chairman, apart from what has been reserved, that is the end of the Report on the Legislature. *(Applause)*

THE DEPUTY CHAIRMAN: Hon. Delegates, thank you very much for the seriousness you have shown when we have been deliberating on this Chapter, and we know that there are some areas which were differed. They shall come back to the Floor, following our procedures, through the Legal and Drafting Committee. At this juncture let us stand adjourned until tomorrow at 9.00 a.m.

(The Assembly rose and adjourned until 28th March, 1995, at 9.00 a.m.)