



THE REPUBLIC OF UGANDA

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

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OFFICIAL REPORT

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THURSDAY, 29TH SEPTEMBER 1994

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**Price Shs. 3,400**

Thursday, 29th 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, Hon. James Wapakhabulo, in the Chair)*

*The Assembly was called to order*

COMMUNICATION FROM THE CHAIR

**THE CHAIRMAN:** We do not have communication from the Chair. Can we go on to the next item.

STATEMENTS AND PERSONAL EXPLANATIONS.

**THE CHAIRMAN:** Hon. Delegates, I was approached the day before yesterday by Hon. Tiberio Okeny Atwoma wishing to make a statement which he said was urgent and of public importance. It is a brief statement. I did not find any difficulty in allowing him to come and make the statement and so let us listen to him.

**MR. TIBERIO OKENY (Chua County):** Mr. Chairman, thank you for allowing me to make this statement before this august House. The statement runs as follows:

In its lead story, *The Daily Topic* of September, 26th, 1994 carried a story attributed to Mbale CADs as having declared CA useless and CADs as toddlers. That only 5 Constitutional lawyers, who need not be Ugandans would suffice. This, Mr. Chairman, I consider too presumptuous indeed a statement as well as an exhibition of lack of self confidence. There is nothing magical about the making of a Constitution, if only one knows what he or she wants what to do and how to apply it. We have had the 1962 Constitution which was virtually drawn up by far more than five British Constitutional lawyers; which in practice failed us. Again, in 1967, the country was shocked by the Pigeon hole Constitution drawn up by then, best known Constitutional lawyers in the country. But still we miserably failed. Hence, the present making of a new Constitution, as drafted by the Odoki Commission of 20 - half of whom were lawyers. Now, with our Assembly here composed of 49 lawyers, what then do we lack? We only need good-will, courage and wisdom. We must

give our people who sent us here hope and not despair by instilling into them confidence.

Mr. Chairman, I make this statement to save the country from taking this Assembly as nonentity that cannot produce a good Constitution for them because of the composition here - not giving the Constitutional Lawyers to do this for themselves. So, Mr. Chairman, also I would like to take this chance that before us this morning as I can wave this paper, there is a challenge again - *Acholi CADs are rebels*. If I do not say anything at all about it, people will wonder what I am Okeny up to. I would like to say it this way - I am not making a statement now but as a chairman of the Acholi Constitutional Delegates Group, we are going to sit down and call a press conference and explain ourselves probably very well for the country to know what we stand for. Perhaps our spirit - that is back home there to aid Kony in what he is doing and you stand here as our witness. So, Mr. Chairman, thank you very much for allowing me this opportunity.

**MR. MASIKA (Mbale Municipality):** Thank you Mr. Chairman. I would like to react to that statement because I was one of the Delegates who was at that meeting. I would like to assure the honourable Delegates here and the country at large that no single delegate ever suggested, let alone say that the Constituent Assembly is useless or that the Constituent Assembly Delegates are toddlers. I would like to refute that very strongly and add this - that in the course of our meeting on that day some criticisms were made and some suggestions as to how a Constitution could have been made were made. As every Member here knows - there is the question of the cost and every other week we hear how expensive we are here. Now, some suggestions were made in that meeting but nothing suggested that the Constituent Assembly is useless. I would like to say again further that one can say, for instance that we have spent nearly two weeks discussing Chapter III, which is an important Chapter but when you consider that two weeks will be spent on that and only ten left for the other 16 Chapters, which are of more consequence to the Constitution, I think it will leave one wondering whether we are doing it the right way. But I leave it to the press to say what they want to say about that but that is a valid factual statement. I would go further to say that when we adjourn and normally aim at starting at 8.30 but in most cases we start two hours later. Now, I do not know what the

press will have to say about that? This is a fact! So, when facts are made and the press abstracts what they wish to say, I appeal to the honourable Delegates not to be worked up too much on what they have said.

I go further, Mr. Chairman, and because Hon. Okeny had said the 1962 Constitution and 1967 Constitution were made and they have failed the country, I would tell him in so far as I, personally can see Article 59 of what we have done, it is inferior to the similar articles in 1962 and 1967. We are making a Constitution at a time when fundamental freedoms and human rights are in vogue. I cannot understand how we can fail to protect Article 59 and say we are doing a better Constitution. Now, I am saying this because my honourable Friend has tried to say the previous Constitutions were worse and they failed us. We are doing a Constitution now, it would have been our duty to ensure that in future, police action interfering with rallies and demonstration is prevented, we have not done a thing on Article 59 to prevent that. Now, I am only answering my Hon. Friend Okeny because he thinks 1962 and 1967 were worse Constitutions than what we are doing but so far we have not yet made it better! Thank you Mr. Chairman.

**MR. BABU (Kampala Central):** Thank you very much Mr. Chairman. The press has written quite a lot since this Assembly started. These are not the only things they have written. I would like to request and implore you, through you, Mr. Chairman to all Delegates that if we spend every morning here reacting to every press report that is made, we will be wasting time. My request would be, and a very sincere request, that we let the press write and we answer back by press Conferences like somebody has just answered a few minutes ago - he can help us by making a press statement on a particular issue outside this House. But we would like this House to be saved the problems of those who feel they are going to score political victory. Every time we come and we sit here and people use this forum to attack the press and at the same time insert in that press the very words which have just been used by another delegate - what we are doing is inferior to what was done before. Now, if it is inferior, then the Delegate is part and has a collective responsibility of this very august body and if he feels that what we are doing now is inferior, time has come for him to stand up and tell us so that we can make it better than what it was before.

Lastly, Mr. Chairman, let me request again that the best way to help us to make the press work is for people to clarify this information outside this House and not use the Floor of this House to score political victory. Thank you.

**MR. KARUHANGA (Nyabushozi County):** Thank you Mr. Chairman. *Mzee* I want to thank Hon. Okeny Atwoma for his Statement. I think it was done in a good spirit to improve the image of our Assembly. As an elder he noted that there had been poison spilt into the Public eyes about our stature and it is very good for him to have taken on the responsibility to clean the atmosphere for us. I think he needs commendation. *(Applause)*

Secondly, Mr. Chairman, I am completely perturbed by the statement just made by Hon. Masika. First, Hon. Masika has been in this Assembly taking oath, twice he was working very hard to come here, only to say that what we are doing is inferior to what was done in 1962 and 1967. Then why did he have to come? *(Applause)*

Again on that Chapter three. Mr. Chairman, we have spent two weeks on Chapter III, that, therefore, the rest of the Chapters are going to be treated carelessly. This is a very serious statement, Mr. Chairman. Does he mean to say that he has apportioned days for certain chapters and therefore, if we take time to consider for the benefit of our country important chapters and issues and put to rest future problems - that, that is a mistake? We have a Business Committee here. If he has any complaint with the speed at which we are working, why does he not take his complaint to the organisations we have set to look into the methods of work of this Assembly instead of going to the press and continuing to spill more poison in the eyes of the public about our Assembly.

Mr. Chairman, that the cost of this Assembly is high. This is very serious. The cost of war is higher than the cost of peace. *(Applause)*. How much money can this country spend to destroy this building in itself and in how many days? But to put it up is very difficult. We are doing our best to put at peace this country. The cost of peace should be realised and measured vis-a-viz the cost of war. We have gone through problems since 1966 up to today. We have done nothing, we have been moving in circles. We are trying now to sit down as Ugandans, stop war, fight here, finish, go and start work and somebody says that the cost is high.

I was even perturbed that even our Minister for Constitutional Affairs had this to say! *(Applause)* I do not know whether he said it in his capacity as Minister for Constitutional Affairs or as a delegate that the Constituent Assembly is spending too much money, therefore, it should go. Whatever the case might be, I also find that these are disturbing statements and all trying to undermine the credibility of this Assembly. And I think Mr. Chairman, I call upon the Members to unanimously denounce such statements. Thank you. *(Applause)*

**MR. RINGWEGI (Padyere County):** Thank you Mr. Chairman. There is no better time than now that this honourable Assembly should look at itself as a body entrusted by the people of Uganda to do some serious business which will put this country at peace and also on the road to development. Mr. Chairman, it is, therefore, in that spirit that I would like to join the many voices that will hopefully come out to condemn those very Members of this august Assembly who are trying to put it into contempt and disrepute. *(Applause)*

Mr. Chairman, all of us here, honourable Delegates have taken the Oath of Allegiance to serve the Republic of Uganda in this office of Constitution making and for any Member of this august Assembly to come out and say that what we are doing here is useless, deserves the condemnation of the House and also of the Members of the public. I want to be part of that body which is going to come out to condemn such a statement. *(Applause)*

Mr. Chairman, I would like to also share what Hon. Elly Karuhanga has said about the Statement attributed to Hon. Sam Njuba, Minister for Constitutional Affairs which appeared in *the Monitor* newspaper of yesterday. If it is true that Hon. Sam Njuba said what is said in the papers, then I think this country is not learning the many lessons that it should have learnt. People are using their positions to only create images about themselves, *(Applause)* and they want to shift the blame which hitherto should have been put on them on to some other persons. I do not think some of us in this august Assembly will be used as scapegoats for inefficient Ministers or anybody at all.

Mr. Chairman, it is a known fact that even the Assembly which we are now trying to serve with all the dedication and the loyalty, is not the kind of Assembly that the public is being painted to see. The

public has been given the impression that we are drawing fat allowances and that we are actually a real drain to the tax payer. Mr. Chairman, it is a known fact and I think hon. Delegates here know that the allowances as given by the Ministry, has not been paid to date. This is not to say that we have only come here to look for money but we should be facilitated. Now, for the hon. Minister to come out and say that government is spending 440 million per month, when the Assembly is not even paying the hon. Delegates *(Interruption)* -*(Applause)*- Thank you Mr. Chairman. I am on air again. I was saying that why cannot such an honourable person be called upon to account for the 440 million shillings if it is true that government is releasing such money? So, Mr. Chairman, I think hon. Delegates here will agree with me that we should not try to paint images of ourselves when we are doing it at the expense of others. This Assembly has been entrusted by the people of Uganda to do a job which will hopefully put the Country at peace. Now, we should not slight it with the very Members of the Assembly. This goes for all of us.

I am, therefore, appealing to all the Members here present that let us concentrate on the job here. This is not a forum for politicking. *(Applause)* Mr. Chairman, in that spirit, I would, therefore, call upon every hon. Delegate here to condemn any Member who is going outside and painting a good face for himself at the expense of the Assembly. Thank you Mr. Chairman. *(Applause)*

**MR. CHEBET MAIKUT (Kween County):** Thank you very much Mr. Chairman. Mr. Chairman, I wish to take this opportunity to condemn in the strongest terms the remarks made by Hon. Masika in this august Assembly. *(Applause)* Mr. Chairman, I think it will be remembered that this is the first time in the history of our country that all Ugandans have been involved in the making of their own Constitution. It has never happened before. Sir to me this is the golden opportunity that the people of Uganda have been given the opportunity to shape their own destiny for their future. I can understand a remark that a peasant, for example, in my county - Kween makes about this body. He may say they are using a lot of money; government is doing ABC, or they are not doing ABC. That one is understandable. Mr. Chairman but the remark made by an hon. Member of this august Assembly, is extremely very unfortunate and I would wish to beg that Hon. Masika withdraws that statement. It is serious Mr.

Chairman. If he does not, I will urge him, in the interest of this nation, if he feels that he is not part of the collective responsibility of what is going on in this country, then Hon. Masika can withdraw honorably if he so wishes from this Assembly. *(Applause)* Mr. Chairman, it really goes a long way when we come to paint such a very bad picture amongst ourselves. Right now as we speak, all eyes of Ugandans are focused towards the deliberations of this Assembly. All Ugandans within the country and outside are all focused on the deliberations of this Assembly. Now, if a Member who is part and parcel of us, comes out and makes no difference with somebody who is mad somewhere else and makes such a wild statement, it is extremely unfortunate. So, Mr. Chairman, I beg that Hon. Masika withdraws his statement for the interest of peace in this country. Thank you very much.

**MR. SEBI (Koboko County):** Thank you Mr. Chairman. I would like to express my fears of one of our notorious cultures that we are developing in this country. The culture of loose talk in public office by national leaders, by us, by everybody. Mr. Chairman, at one time President Binaisa said Kampala was a city of seven rumours a day and it looks like we have not quite gone out of this. We still have it up to this moment. I would like to appeal to this hon. Assembly to respect each other and to respect whatever we say. I would also implore on everybody here that the solidarity of this House and the solidarity of this nation as a whole is of paramount importance. At the moment we seem to isolate ourselves from each other when we lose the seriousness that this august Assembly really deserves. I would, therefore, like to appeal to everybody to be serious and to avoid loose talk and sweeping statements. Thank you very much.

**MR. WANENDEYA (Budadiri East):** Mr. Chairman, I thank Hon. Atwoma for his statement and I want to assure the hon. Delegates here who represent the whole Uganda, where the eyes of our people are fixed that the Mbale CADs - and I was at Nakasero Primary School - nobody ever said that the Constituent Assembly was useless. I, therefore, want to again, assure that nobody ever said that. If somebody said that Mbale CADs said so, let the recording of speeches be replayed - say for five selected Members of this House, then we can affirm the truth. Mr. Chairman, there has been a tendency of our press men or reporters writing so much in promoting other peoples' view where they nevertheless, know

very well that they are not correct. They write those views when they know that they are really useless but they want to promote other people who could have given them money to write about individuals. As an example, they have been writing about Hon. Awori's going to court. What do we learn from hon. Awori going to court all the time? There is no lesson to Ugandans but because someone possibly has given some money to write about Hon. Awori, so they go on writing about him. What I would like to do, is to appeal to our press that the freedom which they want for themselves is the freedom which all Ugandans really want and therefore, they will never have that freedom until they compare notes from both sides before they write out anything. So, those people who wrote the story that Mbale CADs have said that the CA is useless, are not serious and if we are making a good Constitution and they want freedom of the press, Mr. Chairman, they must compare stories from both sides, if they are honest themselves. This is why most of them are clamouring that they can write about people without necessarily agreeing to punishments which they must really meet and this is why they do not want the Press Law. So, I would implore and appeal to our reporters to write objectively knowing that they can build Uganda and some of us are freedom lovers and we want the press as a way of advancing the culture of constitutionalism and democracy in our country. I thank you Mr. Chairman.

**MR. KITARIKO (Democratic Party):** Thank you Mr. Chairman. I believe that Democracy is very expensive. The alternative is destruction. The people of Uganda decided through Parliament to have a Constituent Assembly of 284 people. That is a big number. Whatever figure you adopt for allowance is a big number but because they wanted to have democracy to avoid wars. That was necessary. I believe Mr. Chairman, we had nothing to do with determination of allowances for us here. It was done by the Ministry of Constitutional Affairs in conjunction with Ministry of Finance. We had nothing to do with the determination of allowances. So, that should be dispelled for once and for all. We had nothing to do with the determination of allowances for this Mr. Chairman. Secondly, we have sat for 71 days, not 4 months. We have sat for 71 days and that the press should take note of - 71 days, today's Agenda says so. We are not responsible for not sitting when we are appointed and sworn in. So, I believe we should really look at issues objectively. I hope the Press can do better than other sectors in this

country. Do not forget history! In 1962 to 1971, where was the rule of law? 1971 to 1989, where was the rule of Law? I wish the Chief Justice had told me why my case took five years to be determined under a good Constitution? (*Applause*)

**MR. ATAMVAKU (Arua Municipality):** Thank you Mr. Chairman. It should be well known to all of us that more often than not, wars are fought by nations, one nation against another, one state against another; not so much because the wielders of power would wish to go to war. But at times, conditions are created by the press in such a way that one party looks at another as being belligerent. Mr. Chairman, I say this because it is a clear case that the press, as an institution sometimes overgrows and assumes a class character on its own. As a result, it has its own philosophy. It has its own world view and it goes ahead to use the pen and the paper, the ink inclusive to determine for us the way we look at each other. The way we look at one another and at times the way we perceive ourselves. I believe that we would not be having all these condemnations going around if the press had not determined for us the way we should look at what the CADs might have said. Mr. Chairman, whatever transpired at that meeting, we all do not know. We are now obliged to believe what has been said by one party or another. Indeed, if what was reported in the press was true or happens to be true, Hon. Atwoma's response is inevitable and it must be understood in that context.

However, it is also appropriate that Hon. Masika should have tried to clear the air, which I think has been better by Hon. Wanendeya. Therefore, I do not see any reason for this House to be set down with unnecessary polemics and counter polemics. (*Applause*) We do not solve problems by heightening hair-splitting argumentation by unnecessary condemnation. Never, and never at all do you solve any problem by condemnation and the problem of the day shall never be solved by asking Hon. Masika to resign from this House. Never and never. I, therefore, submit that Mr. Chairman, that the best way to look at this problem is to realise that something was said and what was said by Mbale CADs has been clarified by among others, Hon. Wanendeya and we should take it in good faith. We should, therefore, understand that the press only wished us to look at what the CADs from Mbale said in the way the press will wish to term it and no more, no less. Therefore, this House should actually resume its normal business of Constitution making process.

Whatever judgements we have of any of the Constitution we have had, whichever judgements of what we are doing now, maybe made against certain absolute values. Nevertheless, in spite of whatever absolute criteria we have, our own judgements are often relative to those absolute values. Nobody has a monopoly of truth here. Nobody has a monopoly of superior value judgement. Mr. Chairman, I, therefore, wish to propose that, through your good office, we terminate this polemics and we resume our business. Thank you. (*Applause*)

**THE CHAIRMAN:** Hon. Delegates, our rules say that if a Statement of this nature has been made, responses or comments can be made for a time not exceeding 30 minutes. We started just before 10 a.m. - now Hon. Masika was putting up his hand, whether he wants to make a comment or something, then we finish.

**MR. MASIKA:** Mr. Chairman, hon. Delegates, I am a little disturbed at some of the comments made. I assure you, I did not have or intend to say anything of disrespect about this Constituent Assembly. I told you nothing of the kind reported in the press was said. I went further to try and give some factual criticisms and I still maintain those factual criticisms not amounting to the whole Constitution we have made. I said Article 59 was inferior to the articles of 1962 and 1967. I did not say the whole Constitution we have made so far is inferior and I said so because Article 59 is not protected. Hon. Ben Wacha moved an Amendment to protect Article 59; Hon. Okwakol supported him very ably; Hon. Mulenga did so and I felt there was enough said about that Article but still it was defeated! Now, I am not adding anything other than say that Article 59 is not protected and since it is not protected, we shall have worse situations in future where the police will raid any meeting, any rallies and so forth.

Now, I am not attacking the integrity of this Assembly. I was merely pointing out one factual matter and please do not assume or think that I am going to say anything against the House. I have, as you know, fought twice to be here and I intend to be here. (*Applause*) So, do not make a mistake and think that I am here saying we are wasting time. We are doing a valuable job but criticisms must be made. It is part of our African well being and characteristics that we do not accept criticisms. I have not said anything beyond that. I have even criticised ourselves for not starting on time. Now, if that pains you, please it is true.

We are supposed to start at 8.30. We never start before 9.00. Now, you cannot accuse me for that. I have said we have spent two weeks discussing a chapter which is not justiciable. Now, on the tune given, we have 10 weeks left to do 16 chapters, unless it is extended. Now, that is a fact. I do not see why I should be attacked for that. I am pointing out issues which we, as delegates, should consider. Please, do not misunderstand what I say. I stick by the facts I give.

Now, (*Interruption*) there is the issue of cost. I mentioned the cost, not to say we should not write a Constitution but we have to weigh against the cost. The Minister responsible for this, has himself said so. Now, I do not see why I should be attacked for that. It is something which other people are saying. Mr. Chairman, I thank you for giving me time.

**THE CHAIRMAN:** Thank you. I think we stop there and go on with business before us.

#### REPORTS FROM COMMITTEES

**THE CHAIRMAN:** The Chairman of Legal and Drafting Committee, do you want to report or you will report at some later stage? Because yesterday you reported on 12 Amendments which are before us and there are others which have come to us since that time.

**PROF. GEORGE KANYEIHAMBA:** Mr. Chairman, thank you for inviting me to comment on the rest of the Articles of this chapter which have now been circulated to the honourable Members namely, Amendments 12 to 20. Mr. Chairman, in fact, I want to report that almost all these Amendments are non controversial in our opinion. The Movers of these Amendments convinced the Legal and Drafting Committee that what they were proposing would enrich the guidelines as we had cast them in our Appendix Number 2. So, for example, in relation to Amendment Number 12, it was the view of the Committee that in fact, this could be accepted to be moved by Hon. Byakika, Hon. Kasajja with his Colleague Hon. Aggrey Awori without really much debate because we were convinced that this would enrich this particular article.

The same Sir, applies to Amendment Number 13. This is really a matter of argument but we agreed that the word *famine* could be added to that article and enrich it without really further debate.

Sir, I would like to report that hon. Byanyima is proposing Amendment Number 14(a) which is to promote and preserve those cultural values and practices which enhance the dignity and well being of Ugandans. We think this could be debated by the Assembly. However, (b) and (c), is a correction. In our original recommendations - i.e. Legal and Drafting Committee - we had recommended that I think it was Article 1 of that particular original Article 34 to be retained. That is to encourage the development, preservation and enrichment of all Uganda languages. We had said that that should be retained; also sub Clause (2) of the same Clause should have been retained. But in our report, through I think as an omission, these recommendations were left out and the impression given was that they should be deleted but we are saying that that was a mistake. It was our intention that those two should be retained and the only matter to be debated really on amendment 14 is Hon. Byanyima's Amendment which appears in this Amendment as (a).

Mr. Chairman, on amendment 15, we were also convinced that the Amendment to be moved by Hon. Mazima is a good one. This would make the Article fuller than it was before. Again we did not anticipate that there should be much debate on that one.

Amendment 16, Sir. We feel that the proposal by Hon. Dick Odur is a good one because it really fulfills some of the objectives that we had on the debates about this Article. We think that the Assembly should accept that Amendment without debate and it should be incorporated.

Amendment 17, Sir. Again this is the wording which was proposed by Hon. Tumukunde and we think that it is a better wording than the original and what the Legal and Drafting Committee had originally suggested. Again we think that this should be accepted without debate.

Amendment Number 18, Sir. Although we had accepted that this Amendment is non controversial, the Movers seem to have included local authorities - we think that this could be debated. But our own view was that it is redundant. Really, again it is a matter of drafting. We think that if you exclude *including local authorities* then the Amendment as moved by Hon. Dick Odur and Hon. Jack Nyeko is acceptable and again really it should not attract debate. For the same reason that it enriches the Article which was originally inserted in the Draft Constitution, it is the

view of the Legal and Drafting Committee that we could adopt this and approve it without debate. This is the Amendment proposed by Hon. Aggrey Awori, among others and Hon. Kirunda Kivejinja.

Lastly, Mr. Chairman, it is a proposal that amendment Number 20 moved by Hon. Maliro Augustine John and Hon. Didi Bateganya is really a good proposal and it enriches Article 29 particularly. And we think it should be adopted by the Assembly without debate.

All in all, most of these additional Amendments were accepted by the Legal and Drafting Committee and we are proposing that when they come, we could adopt them without debate with the exception of those I have explained. I thank you Mr. Chairman.

**THE CHAIRMAN:** Thank you for the report. I was tempted to suggest that - I think to ask whether Didi is a short form of Dick for Hon. Bateganya or it is a confusion between the Member from Moyo - Yes, Hon. Bateganya.

**MR. BATEGANYA:** Thank you Mr. Chairman. I would like to correct that. It is a typing error. The correct name is Dick, not Didi. Thank you.

**THE CHAIRMAN:** Thank you for that correction.

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

### CHAPTER III NEW ARTICLE 20. FORMER ARTICLE 20, CLAUSE 2

#### NEW ARTICLE 20 CLAUSE 7 AND 26

#### GENERAL SOCIAL AND ECONOMIC OBJECTIVES

**THE CHAIRMAN:** Now, honourable Delegates, we are still on Appendix 2. Yesterday we disposed of Number 18 and 19. We are now at Number 20 on Page 11. I would like to clarify that we still had some proposed Amendments on article 19 but when we accepted the re-written form, and deleted the one which these people thought should be amended; it was not necessary for us to proceed into these other

smaller Amendments. So, that being so, we come to item 7.

Item 7 is the Proposed Amendment by Hon. Sebastiane Sekitoleko and a number of other Members - Hon. Baguma Isoke, Hon. Sebi, Hon. Kateregga, Hon. Toterebuka Bamwenda and many others. They are listed there. I will give the Floor to Hon. Sebastiane Sekitoleko to move an Amendment on Proposed Article 20.

**MR. SEKITOLEKO:** Thank you very much Mr. Chairman. Mr. Chairman, I wish to move an Amendment on Article 20 heading *Social and Economic objectives*, Section (b) after *access to education* add, *land* - now to read: *All Ugandans enjoy rights and opportunities and access to education, to land, health services, clean and safe water, decent shelter, adequate clothing, food, security and pension and retirement benefits*. Mr. Chairman, I beg to move.

**THE CHAIRMAN:** Is that seconded? Seconded by Hon. Baguma Isoke. Yes, go ahead and justify your Motion.

**MR. SEKITOLEKO:** Thank you very much Mr. Chairman. This is a well considered Amendment. We are only adding land after access to education, clean and safe water, food, shelter and adequate clothing. Mr. Chairman, Ugandans in over populated areas need government assistance to allocate and gain access to land because land is the main source of our livelihood. Ninety (90) per cent of us in Uganda live on land and earn our living from land. So, as the Ugandan economy is almost dependent on land, it is not possible here, therefore, to consider decent and clean water or even food without considering land.

Mr. Chairman, today we are people who are evicted, for instance, in Kibale Forest Reserve to make way for rare animal species. Also those evicted from Mt. Elgon and of course land shortages especially in South West of Uganda. All these must be assisted by our government to have access to land. It is needless to mention here that some districts, especially a district like Kibale, where the whole district people live as squatters must be assisted of course, to have access to land. Mr. Chairman, I beg to move.

**MR. KIRUNDA KIVEJINJA:** Thank you very much Mr. Chairman. I beg to support the Amendment. We have to realise that the greatest assets we

have is the human being and the next is land. In the present circumstances of Uganda, despite the greatest turmoil we have passed through, it is because the people have had access to land and that has enabled them to continue alive and fend for their living. So, I think, we should, in our objective, always put into consideration the future government that there should not be a situation whereby some Ugandans become landless and therefore, become a problem to society. It should be the duty for even those who have land to see that they are not surrounded by people who are landless. Otherwise, their security can also be jeopardized. So, on that ground, I find that if we make it one of the things which Ugandans, in the present socioeconomic development - afterwards, when we are industrialized, it will be obvious that most of the people will leave the land and will be able to work in industries and towns. But now as this is likely to be a process that is going to take a very long time, without safeguarding that everybody has got some access to land, it will be very difficult to maintain stability in future. Thank you very much.

**PROF. KANYEIHAMBA:** Point of information. Thank you Mr. Chairman. I only wanted to remind the honourable Delegates that in our report yesterday, we said that we very much sympathized with this motion. But it was our view, that it was in the wrong place and that discussion of land would have been better discussed in Chapter 17. I think when we come to discuss that particular (*Applause*) chapter. So, that is the only point I wanted to say that the Committee felt. While we sympathise with the spirit behind this movement, it will be in the wrong place. That is all I wanted to say.

**MR. KATUREEBE (Bunyaruguru County):** Point of Clarification. Thank you Mr. Chairman. I just wanted to seek some clarification for consistency's sake because my understanding is that we removed the word *control*. The whole idea of the state controlling land was rejected yesterday. Now, if we have rejected the idea of the state controlling land, how do we then say in this Article, as the Movers are trying to say, that the state will then allocate land. How can they allocate what they do not control?

**THE CHAIRMAN:** No, I think what is more pertinent is this - That we passed article 17 (3) - I think 3 days ago. In furtherance of social justice, the state may regulate the acquisition, ownership, use

and disposition of land and other property. I do not know whether Hon. Sekitoleko you think that, that is not adequate particularly with regard to the issue you raised when you were moving your proposed Amendment. In other words, you are saying that the state should have as an objective, the need to make sure that Ugandans have land. But we have made even a broader statement which says that if the state feels that there is need to assist people on the question of land, it should be able to regulate that through the mechanisms of legislation and so forth. Now, let me get a reaction from Hon. Sekitoleko. Maybe Hon. Baguma Isoke may be able to respond to that one.

**MR. BAGUMA ISOKE (Buyanja County):** Thank you Mr. Chairman. We had a fairly long discussion with the Legal and Drafting Committee about the introduction of this single word *land* in pursuance of the objectives of this new Article 20 headed *Social and Economic Objectives*. We also read our Proposed Amendment together with the already passed Article 17(3) and in our view, we saw no harm in adding land, particularly to make it clear that for a very long time to come, the Ugandan people, agrarian as they are, will depend on land for many generations to come. We have got many scenarios of over populated areas and evictions of people from reserves, government reserves; even huge parcels of land parcelled out, either as leases or as freeholds. These people feel disenfranchised. In fact, they always move around as if they are not Ugandans. Our Technology as it is at the moment and certainly in the next generation, will be agrotechnology - The state should make an affirmative action of making land available to the people but not to leave the people to look for land on their own. Because as we know, many of our peasants cannot locate, let alone acquire land on their own. The cases already sighted by my Colleague Hon. Sekitoleko, perhaps I could add the case of Iganga District, Bunya Forest Reserve where people evicted. Mount Elgon, which you honourable Chairman, know better than I do, really need government intervention. And as we progress generation after generation, this accessibility to land by the people with the assistance of the state, should be made imperative in this new article 20. The addition of just one word land, does not stretch, does not expand, does not alter the objectives this article is aimed at achieving.

Hon. Delegates, really the cases we have sighted are not sufficient. We know there are very many cases in every district, in every constituency of Uganda,

where Ugandans really need assistance by the state to acquire land. And we shall cater for them in this provision.

Now, provision 17 (3) - I remember contributing to it on Monday, it talks about the state regulating the acquisition, the ownership of land. It does not specifically put out the need of the people of Uganda, but government should come in and make land available to its people. The state is the only authority the majority slight Ugandans who produce the wealth of Uganda, can resort to. Some of us who are resourceful who have money, can easily by way of advertisement, look for land and buy it anywhere. But the majority cannot do it on their own. They need a central authority, whether it be at decentralised level or centrally at national level to cater for this special interest now and for the generations to come. So, I pray, my Colleagues in the Legal and Drafting Committee to give a second consideration to this special imperative that really the State should do something special to make land available for people. Thank you.

**MR. MALINGA LO OJULLA:** Mr. Chairman, I very much sympathise with the Movers of this Motion. But I am constrained to oppose this Amendment. The reason given for the Amendment is that some areas are becoming over populated and therefore, should move out to other areas and government should assist them in this. I submit that this is approaching the problem in the wrong perspective. I think what we should be doing is to encourage people to live alongside others so that they accept people from other communities other than shifting people forcefully by Government from one area to another. Besides that point, let us assume that the Government adopts that everybody must have a piece of land. Time will come when our population is such that when the land is given to each and everyone, the units which everybody will be holding will be uneconomic units. Yet we know that our salvation in the future will depend on changing our means of agricultural production to larger units so that we can produce efficiently in order to compete in the competitive world.

So, dear Delegates, let us think very seriously about this proposed Amendment saying that Government should as its policy, that Government make land available to each and everyone. First there will be budgetary constraints. Because if Government is going to acquire the land, how is it going to acquire

it - by the stroke of a pen of a Law or is it by purchasing? Because if we are going to provide that no property should be taken without compensation. How is Government going to acquire land which has already been alienated in order to redistribute it unless it spends money on it. The question then is, where shall Government get the money to do this? So, I do sympathise with the problem which obtains in areas like Kibale district where you have absent landlords. Even then, how are going to solve that problem? When we get to chapter 17, I think we will have to find a solution of what we may be able to do about it. But I think this is not the place to say that the Government should be the one responsible for acquiring for each and everyone of us land.

Let me just give a simple example. Suppose a man has two sons. One gets two sons and the other gets 20 sons and the father of these children - their grandfather has to divide his land equally to his two sons. One of the other two sons of the lucky man who has only two children will get a quarter of each of their grandfather's land. But the others will be getting only a very tiny fraction. Now, if we say that we must give people equal access to land, will that be fair? Let us assume that one man goes and buys a piece of land. He invests on the land. His other brother - may be he was given the same amount of money - goes out and drinks it out. He drinks off his money and then when he dies, he has no land to leave his children. But because we have put this Law in place, the State must step in and make sure that the children of this drunkard are given land. So, we better think very seriously about this question of land. It is very, very complicated. I think we should address ourselves to land when we reach to Chapter 17. So, with regrets Mr. Chairman, and dear Delegates, I beg to oppose this Amendment. Thank you.

**MR. KISAMBA-MUGERWA:** Thank you, Mr. Chairman. Much as I accept that land is the basic for which people should have access, it is important to realise that land is entering a commercial sector - it is becoming a commodity for which Government will not have the capacity to go on allocating to each individual. Market forces will prevail according to demand and supply. As long as there is customary tenure which we call public land, in this country there will be customary tenants and as long as there is freehold or mailo land, there will still be free or mailo people in Kibale are squatters *-(interruption)-*

**MR. CHANGO-MACHYO:** Point of Information. Mr. Chairman, I wanted to inform the Speaker that customary tenure is not necessarily public land. Customary tenure is because it is filed under customary system. Public land can be held under another system. Thank you.

**MR. KISAMBA-MUGERWA:** Mr. Chairman, I accept the information but I would like to educate the honourable Delegate, Mr. Chango-Machyo, that what has been customary here is what they call public and is being leased. What we are fighting is to see to it that customary remains for the people in their respective areas and are administered locally. Once it is leased or allocated to an individual, then it starts getting into the market forces that one has to sell it as according to one's will. So, to go back to the argument I was trying to put that as long as some people have acquired land say, in terms of this, then there will be private leases. Once you are on that lease you are a tenant for the landlord. As long as there is freehold and other people are staying on the freehold (they are not owners but tenants) there will be freehold or mailo land tenants. So, it is not true to say that our people are squatters within their country.

Yesterday we passed Article 19 to say that the State will protect natural resources. It is only when you settle where you legally have no right to settle, that you become a squatter. A person on mailo land cannot be a squatter, he is a mailo-tenant. But if you settle on a forest reserve, national park where you have no - according to the Law - right to settle, that is where you can be referred to as a squatter and that is why they are evicted and once they are evicted - I think Article 17, *'in furtherance of social justice, the State may regulate the acquisition of the ownership...'* That is where the State has to come in to facilitate those people evicted to find alternative settlement. As it happened in case of those who were evicted in Kibale Forest, to negotiate and convince them so that these people are settled. But now we cannot guarantee that those people who are settled in Kibale district will always be in Kibale district. They are free to move to any other area as long as they have capacity to acquire land in different ways. On that basis, I beg to oppose the Amendment. Thank you.

**MR. ELYAU:** Thank you, Mr. Chairman. I also oppose the Amendment on these reasons. About 20 years back, we still had a very low population. But, Mr. Chairman, as much as you may remember, we

are now growing. Uganda will never as land grow as the population continues to grow. I remember when the British people tried to change land tenure in Teso it became impossible and it cannot be possible because people alone can adjust themselves. If I go to a friend he will squeeze me somewhere without Government's enforcement. But if you put it to Government, where will Government have the store to stop this land to give the people? I think it is too early. Let us wait until we reach the stage in which we shall discuss the land tenure system in Chapter 17. Maybe there we shall find a reason to adjust this one. But now it is impossible. I oppose it.

**MR. MULONDO:** Thank you, Mr. Chairman. Mr. Chairman, I would like to oppose this Amendment. My reasons for opposing this is that we have Chapter 17 where we specifically are going to look at the land problems and I personally have submitted to the Committee an Amendment and I am sure if Hon. Ssekitooleko and the others were to wait until we have come there, we shall definitely find the solution to this problem.

Much as we would sympathize with the people in Kibale district, Mr. Chairman, I am of the view that we have to accommodate one another. At one stage, although this was later refuted, there was a talk that people who own land in Kibale should leave it. But this will create a very bad precedence in our history. Land has become a very expensive asset and those who are holding it cannot just accept to abandon it. So, we have to look at better means of solving these problems. I would like to ask the honourable Members that we should wait and look at this problem when we reach Chapter 17 Mr. Chairman. Thank you, Mr. Chairman.

**MRS. MUKIIBI:** Thank you, Mr. Chairman. Mr. Chairman, this Amendment was moved in a broader spirit. Since we are considering the economical objectives of Governments and taking into consideration that the Ugandans depend on land for their economic development. This kind of thing is likely to continue for a long time. We did not want the people to be deprived of land. We did not want to create a situation where we will have landless people. Although I come from Kibale I was looking at it on a broader sense that there should not be a situation in future when people will be deprived of land. That is why we moved this Amendment here. If the Government cannot even provide shelter and it is moved here

that it will ensure descent shelter, I do not see any harm if we include land here. Because for a long time the people of Uganda depend on land for their livelihood. That was the spirit of this Amendment. Thank you Mr. Chairman.

**MR. RWOMUSHANA:** Thank you, Mr. Chairman. Mr. Chairman, I rise to support the Amendment. As the economy grows, the Nation is apparently discovering minerals. People have discovered that there are minerals on their land but they cannot therefore, carry out permanent investments. For example, the Banyabutumbe in Rukungiri, were the indigenous people who were there before this came in, they cannot carry out permanent activities and permanent investment. Therefore, the State should enable them to have access to other land. Even compensating them is not enough for they may even give them a small compensation which may not enable them to acquire land somewhere else. So, I support the Amendment that the State should have its obligation to enable its citizens acquire land. Thank you. Mr. Chairman.

**MR. RUHAKANA-RUGUNDA:** Thank you Mr. Chairman. Mr. Chairman, I would like strongly support the Amendment. Mr. Chairman, I am supporting the Amendment because land is really a very important resource for any country and we derive our livelihood essentially from land. Mr. Chairman, we are saying that Ugandans should be given equal rights to decent shelter, to food, water. But essentially all those depend on the availability of land. Therefore, we are looking for secondary rights and leaving aside the fundamental right which is land. I therefore, think that if we include land, it will reinforce these social objectives that we are trying to provide in this very Article.

Mr. Chairman, some ideas have been put across that Government cannot afford to allocate land to everybody. No one is suggesting that land should be allocated to everybody. We are merely saying that, there should be equal opportunities. People may use these opportunities and others may not. So, the critical right of Ugandans to have access to equal opportunities with regard to land is to me so crucial that we should pass this Amendment. Mr. Chairman, this Amendment will also help us stop distortions that have happened in the past where by the stroke of a pen, some few people became landlords and very many people became landless. Therefore, let us have a constitutional basis where social justice

on land and other rights will be respected. I propose that all of us should support the Amendment, Mr. Chairman. Thank you.

**MR. LUBEGA MUSOBYA:** Mr. Chairman, I am seeking clarification because there is some confusion between the Movers and Supporters of this Amendment. One Mover has said that they had a spirit of moving this Amendment because they do not want in future to have people who are landless. Just before this, Hon. Ruhakana-Rugunda has said that there is no one who is moving that Government should allocate people land. Now, if they have a spirit that in future no one should be landless, do you not think that they are suggesting that Government will be looking around to see who ever does not have land to be allocated some? So, I want to be cleared of that confusion before I can either support or reject the Motion.

**AN HON. DELEGATE:** Mr. Chairman, I would like to inform the honourable Delegate on the Floor who is talking about the landless, that this concept of the landless presupposes that Uganda will remain static as it is. Time will come when a Lawyer after graduating and acquiring the job does not think of land but talks of buying a flat in his home area in Mbarara or in Jinja. Land will be left for those to produce. In a country like Britain, you find that small as it is with its heavy population, it still has land for agricultural purposes because people have been absorbed into alternative economic sectors. Thank you.

**MR. KAJARA:** Mr. Chairman, if you are talking of economic objectives I stand to support this Motion in that Mr. Chairman, land is a factor of production and that Uganda being an agricultural country, land tenure and proper land utilisation will have a bearing on development and other environmental issues. Mr. Chairman, we know that land is a common national heritage and an asset to which every one is entitled by reason of birth or citizenship. Mr. Chairman, that is why we are saying that the state should have a duty to work out a clear policy to ensure that land is properly equitably and profitably put to economic use. I support.

**MISS. KALIKWANI:** Thank you, Mr. Chairman. Mr. Chairman, on behalf of the people of Kamuli I would like to support this Amendment. I have in mind one particular scenario. Somebody has told us that they are not going to cater even for

drunks' sons, who, if their fathers gave them money some would go drinking while others would opt to buy land. I am not talking about those ones because there are very many cases in Kamuli where able men went and bought pieces of land and because they have the means to get land titles, they bring in surveyors. Somehow, may be the surveyors here will correct me, it seems the surveyors what to work in strain lines and that kind of thing. So, it ended up enclosing certain peasants' on some people's land. They agreed, and said okay, you can stay here. We shall understand that you are already here. So, just agree to be enclosed and you will get the land titles. After few years they turn round and want to evict these people. These people are in problems. They are landless.

So, we have been told that one of the spirits behind the Motion was for economic livelihood so that everybody is enabled to have some means of living. Now, if we talk of shelter, where will somebody get shelter? This shelter will be upon some land. If you want food, where will these people get their food? They will have to grow it on a piece of land. Which land will this be? Now, in that spirit Mr. Chairman, I would like to support the Motion and see that we must include land here.

**MR. ODOY-ASOKA:** Thank you, Mr. Chairman. Mr. Chairman, I stand to oppose the Motion because this particular provision *land* here is misplaced. What the provision talks about is provision of services and in the Draft Constitution is under social objectives. Now you cannot put the question of property ownership which is in this case land under the provision of services when you are talking about having access to education, health, safe water, descent shelter and so on. We are talking at the level of provision of services we are not talking at the level of acquisition of property such as land. Therefore, when we want to discuss and talk about acquisition of land, we will be talking about it in Chapter 17. I therefore, move that Mr. Chairman, we take a vote. Thank you very much.

**THE CHAIRMAN:** I think we have discussed efficiently on this one. I suggest that we put it to the vote. I now put the Question that the Motion moved by Hon. Sebastiane Sekitoleko and many others, that in Paragraph (b) of article 20, on Page 11, there should be inserted the word '*Land*' before the word '*education*'

*(Question put and negatived)*

**MR. WANENDEYA:** Mr. Chairman, I would like this august Assembly to note that there are people like the Sibolo who have been living on Mt. Elgon, *-(interruption)-*

**THE CHAIRMAN:** Order. Now we have another Amendment on the same Article by Mr. Chango-Machyo and Mr. Leander Komakec, although I think the Chairman of the Legal and Drafting Committee did not indicate that. Hon. Komakec had withdrawn his sponsorship of this Amendment. It is an Amendment to Article 20.

**MR. CHANGO-MACHYO:** Thank you, Mr. Chairman. Mr. Chairman, I was not at the Meeting when the Legal and Drafting Committee advised that this Amendment should not be moved. But Hon. Leander Komakec was there and tried to defend that the Amendment should be moved. Now, when he met me outside, he informed that they had rejected my Motion and I should go there. So I went to the Legal and Drafting Committee and they informed me but I insisted and I think Hon. Komakec and Hon. Chebet Maikut have agreed to second me.

**MR. CHANGO-MACHYO:** Mr. Chairman, the Motion is, that under the Amendment which is now Article 20, I want to add the phrase '*work*' between '*clean and safe water and decent shelter*', so that it reads: '*all Ugandans shall have equal rights, opportunities and access to education, social services, clean water, work, decent shelter, food, security, pension and retirement benefit*. I beg to move.

**MR. LEANDER KOMAKEC:** Seconded.

**MR. CHANGO-MACHYO:** Mr. Chairman, first of all I want inform you and hon. Delegates that I rejected the advice of the Legal and Drafting Committee because even ILO has, I understand the provision whereby work should be a right with respective of the economic system in place. The other question is, does it mean that under privatisation there is no such a thing as work.

So, with that in mind, Mr. Chairman, I want to say that I was compelled or that I am compelled to start presenting my Amendment by reminding the hon. Delegates that the Constitution we are engaged in making, is not only for the present, for tomorrow or for the near future. This Constitution must be seen in terms of generations to come not in terms of the existing current order of things and international

situation and the unfair and unequal relations this constitutes. It must not be dictated by the present and the existing order. There is no such a thing as a permanent and therefore, unchanging international situation. Everything is changing and will always change. Who knew that the colonial rule would end? Who knew that a black man would become the President of South Africa? That is why for us in the Pan African Liberation Movement, the motto is: *'The Struggle Continues. Backward never, forward so ever'*. Let us therefore, Mr. Chairman, cater for the likely future and surrender to the temptation of the fear of the current dominant order. The so called New International Order is a mere paper tiger. The millionaire of today may be the paupers of tomorrow.

In moving this Amendment I am therefore, Mr. Chairman, sincerely reflecting the views - longings of the Ugandan workers, youth and peasants. There is still a great hope for Africa. Let us not surrender it. Mr. Chairman, in moving to have work included among the social rights to which I quote - *'All Ugandans shall have equal opportunities and access...'* like education, health, services, etcetera. I am inspired by the fact that it is work which actually makes a human being. It is work which distinguishes a human being from the rest of the animal world. Without the right to work people cannot participate in the development of their country. And by work, we mean the ability to transform the geographical environment in the social environment for the enjoyment of man as the social being. To deny the people a right to work is therefore tantamount to denying them a right to exist. The purpose of genuine development is to develop every man and woman a human being not merely to produce things for the sake of production. And the development of the human beings ideologically, technically and culturally can only be achieved through the development of the people by the people for the people to develop themselves by themselves and for themselves. That is the social essence and importance of the right to work. It is through work that people develop themselves. Without opportunity and access to work people are therefore, doomed to extinction as human species. It is through work that people recreate and reproduce themselves and thus perpetuate their society. It is through work that people can achieve and enjoy economic, health and therefore facilitate opportunities and access to education, etcetera. To deny people the right work is therefore, to deny them these social benefits.

It therefore, follows Mr. Chairman, without much saying, that it is the right to work that gives man genuine hope and human dignity. It is the right which alone confers genuine dignity and respect for the human being. It is work which induces a human being with a source of self respect. To deny people the right to work is therefore, to deny them human dignity and thus render them social misfits, criminals, etcetera. It is therefore, a gross violation of human rights. Mr. Chairman, I beg to move.

**PROF. KABWEGYERE:** Thank you, Mr. Chairman. I would like to support the Amendment. I believe the objective is important that citizens are assured of Government efforts or indeed the whole society of trying to get jobs. Unlike the emphasis on land ownership, I think work is more fundamental perhaps than owning land because the process of development has shown that people move away from land and find themselves on paid employment. So, I believe that Uganda is heading towards that stage where people will be depending on employment rather than just working on the land. So, I think as an objective let us guarantee that Ugandans can have access to work.

As Mr. Chango-Machyo has said, work is the fulfillment of the individual in particular when that individual works for a fair return. And as we are hoping to build a just society, I think it is in order that we support this Amendment so that work becomes the target for every citizen able to work for his or her living. I thank you Sir.

**MR. KITAKA GAWERA:** Thank you, Mr. Chairman. Mr. Chairman, I entirely agree with Mr. Chango-Machyo in his Amendment. Although we differ, in this particular matter, Mr. Chairman, I would like to say that this is a facility which could be accorded so that every Ugandan should have access to work. But what I would like to emphasize at this particular moment, is the fact that some of the Ugandans particularly these days do not want to work especially on the land. And you find quite a number of the youth who are just dormant are lingering around and when you ask them to work on the farm they do not want to. But any way let us put it in the Constitution that they will have access to work and this should be an incentive. The Government creates work but at the same time the Ugandans should definitely as a sort of a right also have an obligation to work. Thank you.

**MRS. EGUNYU ASEMO:** Thank you, Mr. Chairman. Mr. Chairman, I would like to draw the attention of this House to the fact that when we were discussing Article 51 (i) there was a Motion to introduce work as a fundamental right which was rejected by this House because we felt that Uganda could not afford to run a welfare State. Mr. Chairman, this current Amendment would, if included, be to the same effect because the Article reads: *'the State shall endeavour to fulfill the fundamental rights of all Ugandans to social justice and economic development.* So, when you include work here it means it also becomes a fundamental right to social justice and economic development. Now, the question we should be asking ourselves is: Can the State afford to avail employment to all its citizens and therefore, can we run a welfare state? I want to be clarified on the difference between the two.

**MR. ERESU (Kaberamaido):** Point of clarification. Thank you, Mr. Chairman. I would like to clarify to the speaker who has just left the Floor that, right to work here as referred, is not specifically pointing to the state, we are only saying that all Ugandans shall have equal rights which is totally different from what the speaker is putting across. And I would like also to clarify to her that, by including this clause, Mr. Chango Machyo - although I find difficult to say, Mister and honourable - is bringing across, is actually trying to bring up that, personal creativity of the people of Uganda, must be realised and it does not point that to the state. Instead it rather provides that the state will only have to provide laws, that give job creation, which probably will make people work that is all. Thank you very much.

**MR. MOSES ALI:** Thank you, Mr. Chairman. I find it difficult to support this amendment, because in my mind I think this amendment is leading to creating lazy citizens who will be seated elsewhere, waiting for the government to provide jobs. (That is my mind and what I am saying. So, you keep yours, and then you will say it.) Mr. Chairman, this country, people are leaving on their own wherever they are. This government or governments that has been here before, even colonial governments have never provided for the welfare of the citizens of Uganda. They live on their own, they find their own way of living. Now the 17 million, nobody has never called for their livelihood. And this I am sure, the situation is going to continue. Ninety (90) percent perhaps of our people are rural *-(interruption)-*

**THE CHAIRMAN:** There is clarification by Hon. Amanya. Are you prepared to give way?

**MR. AMANYA MUSHEGA:** Point of clarification. Thank you, Mr. Chairman. I am seeking clarification from my neighbour and a new friend, Hon. Moses Ali, whether he is satisfied with state of affairs he is describing, and would like us in our objectives to pass on these state of affairs to future generations?

**THE CHAIRMAN:** Order, order. I was saying order, because there are some loud consultations taking place.

**BRIG. MOSES ALI:** Mr. Chairman, I continue to illustrate what I wanted to prove. That in this country 90 percent, and most of our citizens are rural, and they will continue to be so as they depend more on farming. We are having problems of unemployment especially with school leavers - those who finished perhaps Makerere and so on, who are educated without plan. We just produce educated people, these should go back to the land.

Mr. Chairman, we have learnt elsewhere, that if you do not work, you must be provided with some welfare to live on. This situation in Uganda will take us time, I do not think we are going to provide for people, because they have not eaten. It is not going to be easy. If you want to guarantee a job, then let us add the welfare, provide the work and welfare of the people, so that this amendment can have meaning. But if we are not going to provide the welfare of the people, then there is no need to think of these words. Because no government in this world, is going to be 100 percent able to provide work for every citizen. That is my suggestion, Mr. Chairman.

**THE CHAIRMAN:** Hon. Leander Komakec you are a seconder.

**MR. KOMAKEC (Aruu County):** Thank you, Mr. Chairman. Mr. Chairman, I want to clarify one thing. I am seconding this Motion because I think, it could be one of the very cardinal point in promoting and having a prosperous country. Countries prosper, or we make means of livelihood through work. It is work which produces the riches or the good things of life that everybody wants to do. But work as the mover of the Motion has ably explained, does more than that, it enables people to be free; to be themselves. It is really fundamental. That is why this

concept of work is quite different from just mere employment. So, the point we want to clarify, we are not talking about employment. We are not asking the government to employ anybody, or to make sure, everybody gets an employment. We are only saying that, in our constitution, we should recognise that, we want to produce free human beings, men and women who are fully themselves. And they can only do that, if they are able to work. We are not promoting idleness as the Hon. Moses Ali has just been arguing. That is precisely the opposite of the intention of this particular Motion. It is to enable people. It is just that the Government should create an opportunity, an environment whereby people can work. You know that it is possible that there will come a time when people find it difficult to work. But what we are saying is that the future of this country will only be guaranteed if people are able to work and the work here includes salary employment. We are not talking about asking for charity from Government or from anybody. We are just saying that Government should enable the - the important word here is opportunity. When we say about a decent housing, does it mean that a Government is going to pay for houses of people, no. We are not saying that. When talking about adult clothing, are you going to dress up everybody in *busuti*? No, we are only saying that it should create and enable the situation, the environment whereby people will work. Uganda cannot be at standby.

**MR. BATEGANYA:** Thank you, Mr. Chairman. Mr. Chairman, before I support or oppose this Motion I would like to bring your attention to what is happening in Bukholi Central as far as work is concerned. In Bukholi Central I think we are 100 per cent peasants which means that we have work. But work is not our problem anyway. In Bukholi Central and even in other parts in this country, our main problem is to gain full employment. Work is physical exertion even without the State guaranteeing anything, work is available. It is a gainful employment that is our concern here. So, for that reason I would like to oppose, Mr. Machyo's Amendment and I would like to appeal to him may be to change from work to gainful employment because that is it the main problem of most of us. Thank you very much, Mr. Chairman.

**MR. BWAMBALE WALEMBA:** Thank you, Mr. Chairman. I would very much like to oppose the Amendment by Ndugu Chango-Machyo. I have consulted some two simple dictionaries here - one is

*Oxford Learner's Pocket Dictionary*. This defines work as the use of one's body or mind to do or make something. The second one is *Oxford Mini Dictionary*. It defines work as the use of godly or mental power in order to do or make something. In light of these two definitions, Mr. Chairman, therefore, I feel that the word 'work' should not be included in the Amendment as suggested by Ndugu Chango-Machyo. Because these two attributes that is body and mental power are not catered for to Ugandans in equal proportions and therefore Mr. Chairman, we cannot commit the State to provide work for even those who may not be mentally or physically fit to carry out that work. So, I stand to oppose the Amendment Mr. Chairman. Thank you.

**MR. WASSWA-LULE:** Thank you, Mr. Chairman. Mr. Chairman, I would like to draw the attention of this Assembly to Article 51 Clause (i) to which we passed an Amendment saying that every person in Uganda shall enjoy the fundamental rights and freedoms of the individuals mainly and stipulates his rights. And then we inserted after (g) *practice any profession or carry on any obligation*. The right to work has already been catered for under fundamental human rights.

Article 20 states that *the state shall endeavour to fulfil*, so the responsibility here is being put on the State. Now that to me goes beyond - it is more of a communist manifesto. So, Mr. Chairman, in that respect I beg to oppose the Motion. Thank you very much.

**MRS. JANET BAGARUKAYO:** Mr. Chairman, I am very worried about the type of Constitution we may be making because some Articles that we have passed and that we are to pass must not come in conflict. Now, when you look at this Amendment, Mr. Chairman, that there is a right to work and then when you look at Article 67, Clause 3, we were saying that work is the human effort. Now, here we are saying that every worker has a right to withdraw his or her labour according to the Law. Mr. Chairman, what type of Constitution are we making? Here we say we have a right to provide the work and there we say every worker has the right to withdraw his labour. That is work as far as I am concerned - my little knowledge about work. So, Mr. Chairman, I stand to oppose Mr. Chango-Machyo's amendment because work here is a confusing type of concept. Thank you.

**MRS. CECILIA OGWAL:** Thank you, Mr. Chairman. Mr. Chairman, I stand to support the Motion on the Floor for two reasons. One, we are discussing the Chapter on social and economic development; We are providing the broad guidelines. But Mr. Chairman, if you look at the Chapter you will find that two chief factors of production are missing. One of them is labour and the other one is capital. Therefore, Mr. Chairman, if we are to be consistent with what we have already passed in the earlier Chapters I would implore the Members to support the Motion on the Floor so that we allow all workers opportunity to be deployed and that is the only way they can associate themselves with development in their nation Mr. Chairman.

I would like to inform the House that in my Constituency some two or three years ago we had an influx of people from other districts and also from the neighbouring constituencies like Otuke, Moroto, Kitgum and Gulu, and other places. Now, Lira Municipality became congested with people without employment, and guidance. Now when confronted with such a situation, what is the State expected to do? So, I believe, Mr. Chairman, we should have a guiding principle that would direct such labour to productive exercise. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Let us take a decision. No, I think she has finished. Now I think let us vote on this one. I can see there is a lot of interest on this one that - we have so much to cover. I will take Hon. Ongaria and Hon. Adyebo. The workers have had a chance to talk many times.

**MR. ONGARIA:** Thank you, Mr. Chairman, mine is not an amendment actually it is an observation on something and I felt it is very important that I should make some observation on it or rather on them. That is education and health services. Mr. Chairman, nobody has commented on those two issues within this article.

**THE CHAIRMAN:** But we are not discussing that.

**MR. ONGARIA;** Okay, will you let me give an opportunity to say something about it Sir?

**THE CHAIRMAN:** We are now deciding whether or not we should insert the amendment by Hon. Komakec and Hon. Chango Machyo. Now you are debating other aspects - okay let us see how we finish this one.

**MR. ADYEBO:** Thank you very much, Mr. Chairman. This word work is very important and Mr. Chairman and my honourable Colleagues I just do not want to oppose anything or to support anything for the sake of it. It is principle, whoever is sponsoring it, I support. And here I would like to draw your attention to page 5 of the draft constitution - Page 5 the former Clause 10 (8). Mr. Chairman, on page 5 of the draft constitution the former Clause 10 (8) we have said and we have passed and is now part of the new constitution that all Ugandans are free to move, settle, and earn a living anywhere in Uganda. Now the phrase *settle and earn a living* implies work. You cannot just earn a living without working. The essence of work is therefore, embodied here and is catered for. Now, Mr. Chairman, my problem in the present amendment by my brother Mr. Chango Machyo is that, if you read and analyse - First of all let us read the whole article (26). '*All Ugandans shall...*' The word '*shall*' here, Mr. Chairman, is obligatory; it is binding. It is not just will but *shall have equal rights, opportunities then access to work* if we so include. Now who will provide this work which in very important. It will therefore, be the state to provide right these opportunities that is access to education; to healthy services; to clean water; to shelter; to security and include - and including works. Mr. Chairman, I implore you and my Colleagues that we should not peg a law which is going to be impossible to implement in future. We are making this law for the future generation to implement, and we should not make it impossible to implement.

**MR. GUMISIRIZA:** Point of information Mr. Chairman. This article in only a declared objective and if someone fails to secure work or employment it does not mean that he or she can sue the government. It is an objective declared along which future government - incumbent government should really target on. But we are not saying that the moment there is a reserve of unemployed like as it is now in Kampala streets with graduates from Makerere and other institutions, it does not mean that they can stand on this provision and sue government for failing to get them employment. Thank you.

**MR. ADYEBO:** May be another information, I would take all at once and then proceed, Mr. Chairman.

**THE CHAIRMAN:** I think there in a lot of information but I think the general point being made in that, although the provision seems to place respon-

sibility on the state, it is not making it obligatory on the state to be one to provide these things. *(Applause)* It is for instance saying, the government can either through fiscal policy or whatever other policies make available the environment for one to *-(Applause)*. I think that is what it is saying.

**MR. ADYEBO:** I think with that kind of clarification from the Chair, - I am not just withdrawing as I told you. Mr. Chairman -

**BRIG. MOSES ALI:** Mr. Chairman, I think this amendment must be looked at very very carefully. The information I am giving Sir, is that if a situation is created in a part of the country where the populace are not able to work because of insecurity - now who is responsible? That is the situation now which denies people to work. Now who is responsible for that situation. That is very relevant because it is the information which we had been missing, that these people have been peaceful. Now because of some acts of a few people, there is a situation of war which is now bringing conflict and people are running to Lira, to elsewhere. That one you cannot hold on government alone.

**THE CHAIRMAN:** But I do not think you are making a constitution for a war-like a situation within the country, I thought you are making a constitution for peace. And during that time -

**DR. KABAYO:** Mr. Chairman, I thank Hon. Agyebo because he has pointed out something to do with article 10(b) which was recommended by the Legal and Drafting Committee to be deleted because they thought it was already covered in article 59 (2) (a). But actually article 59 (2)(a) does not cover an aspect of employment which Hon. Agyebo was referring to. So this is, I think may be an oversight on the part of the Legal and Drafting Committee, and, therefore, it should be inserted. Thank you.

**MRS. LUBEGA MUTAGAMBA:** Point of clarification. Mr. Chairman, I want clarification. According to the amendment Mr. Chango Machyo is advancing work as a right, but when you look in the same amendment of the of this chapter of objective, work is enlisted as a duty of a citizen and that is in article 29. So I do not know whether we are going to have it as a right or a duty of a citizen. When you look at amendment 29 you find that, every Ugandan shall engage in gainful employment as a duty. So where are we placing it Sir.

**THE CHAIRMAN:** Okay, we shall keep that in mind when we come to it. But I think let Hon. Agyebo complete his remarks now.

**MR. ADYEBO:** Thank you very much, Mr. Chairman, and my Colleagues who have contributed and advised me. Mr. Chairman, I will not go far, I would like to summarise by saying, I take work as a very important phenomenon because really without work we cannot live. These countries we are talking about that are being developed like Japan, and so on are depending on work. And when you go to these countries you do not get anybody wasting any one minute. There is no one minute for reading newspapers when it is time for work. Even here I get flabbergasted when my Colleagues read newspapers when we are at work and I would say work is really very important. I was just contributing because I want to be clarified and bind every Ugandan to really seem to be doing work under the constitution. Because there is a lot of wastage of time, Mr. Chairman in this country. When you now go to offices, you find a group of Ugandans taking 1,2,3,4 hours and reading news papers. This is not work, Mr. Chairman.

I would therefore, propose that the learned brothers who are in the Legal and Drafting Committee will may be after passing this Clause make sure that, in this Clause there is a clear provision to make all Ugandans obligatory to be seen doing work at any given time to develop Uganda. And, Mr. Chairman, this is why yesterday but one, I was advising a group of Uganda but later on only to be misquoted by *the New Vision* as usual. Today I was talking to the - in fact I called them to order that look, I was advising some groups of Uganda to be seen to be working, not to wait for government to provide for maybe services without work. But I will conclude that, at least, I have made clarification, and now I will ask hon. Colleagues to support me so that work is made a duty of the citizen by supporting the proposed amendment of Mr. Chango Machyo. *(Applause)* Thank you.

**THE CHAIRMAN:** The question is the Motion by Mr. Chango Machyo that we include after *safe water* but before the word *decent*, the word "work" in paragraph (b) of proposed article 20 on page 11.

*(Question put and agreed to.)*

**THE CHAIRMAN:** Now these are the amendments we had on article 20, and I now want to put the

question on article 20. The question that article 20 do stand part of the draft constitution.

*(Question put and agreed to).*

**THE CHAIRMAN:** Article 20 stands part of the draft constitution as amended. Article 20 as amended stands part of the draft constitution. Now, could we get guidance from the Legal and Drafting Committee on how we proceed on number 9.

**MR. BEN WACHA:** Mr. Chairman, if you recollect the legal and drafting committee had proposed that we delete Clauses (1) and (2) from original article 27. Now what the movers of this amendment intend to do is to re-insert those Clauses i.e. (1) and (2) so that it stays as originally spelt out in the draft constitution. That is all, Mr. Chairman.

**THE CHAIRMAN:** That is Clauses (1) and (2) what about Clause (3)?

**MR. BEN WACHA:** Clause (3) Sir had not been touched in our amendments, we had retained (3) so that the proposed article 21 as it stands here in our proposals is actually just a retention of Clause (3) that individuals, religious bodies and other non-government organizations shall be free to found and operate educational institutions etc. It is just Clause (3) of article 27. But Hon. Kirunda Kivedindha and others want to retain the original article 27 (1) and article 27(2).

**THE CHAIRMAN:** And the committee agreed with this provision.

**MR. BEN WACHA:** The committee discussed it some reasons for this retention and we agreed that it should be brought here and discussed. Originally we had removed this Sir, because we thought there was a justiciable article under article 62(2) which could take care of article 27(1) and (2). But Hon. Kirunda and others believe that there should a directive objective giving government directions as what to do in respect to education and we thought they had a valid point.

**THE CHAIRMAN:** Hon. delegates you look on page 11 at the bottom. The provision will be made to re-number what appears as 21 to be clause (3). And the before that, the movers would like to insert what appears as Clauses (1 and 2) in article 27 in the constitution on page 9.

**MR. KIRUNDA KIVEJINJA:** Thank you very much, Mr. Chairman. As it has been already reported by the Legal and Drafting Committee, that former article 27 part (1) and (2) be deleted. It was our considered opinion that although they are somehow catered for in justiciable Clauses, we could not just set the objectives of the nations in this objective chapter. So, I would like to move that article 27(1) be reinstated to read, *"that the state shall take appropriate measures to promote free compulsory basic education."* That is what I want - no, no - what we agreed was that, to *promote basic education*.

**THE CHAIRMAN:** If you want to reinstate Clauses 1 and 2, Clause (1) should be seen as it appears on page 9 at the bottom by amending article 21 on page 11.

**MR. KIRUNDA KIVEJINJA.** That is it, Mr. Chairman.

**THE CHAIRMAN:** Is that seconded. Okay, could you justify it, or you do not need to.

**MR. KIRUNDA KIVEJINJA:** Mr, Chairman, as indicated when introducing the Motion, it will not be correct to delete a very important Clause in our objectives of the country as enshrined in the new constitution not to say anything about education. So, it is better that it appears in our set of objectives. Everybody knows that all things that we are talking about: work, development, good life can only be serviced with an educated population.

And therefore, unless we take on this question of education as the basis we are not going to have any development that is meaningful. We have tried as part of our history, education of the few with a very big base which is not provided for in education. And we, find that even the small development that may be conceived by those who happen to attain education is grossly frustrated because the base does not understand or does not harmonize with the ideas they have. So if we have really to move it should be set in our objectives that basic education should be our aim and to be free for everybody, if possible. Because when we are making a constitution I do not want arguments that because the state is poor and because we shall always be this way, it will not be possible to devise methods of making sure that this basic equipment is availed to all the human resources we produce in this country. Because we cannot have set as an objective that Uganda shall always perpetually

be poor. That is a very bad objective. I think it is always better to aim high and score according to the chances rather than saying that let us not talk about it.

Hon. Adyebo who is also the Prime Minister has already indicated that in all other countries like Japan, like China, like the whole of Europe everybody is working. In fact the example of Japan is classic because they do not have any resource you are proud of. But because they took education as a fundamental thing they are now the world leaders. If the Western world was not broad enough, they would not be talking in front of a Japanese, but it is because of education. Therefore, we should give the future generation an obligation that the greatest asset they must be able to develop if they have to survive in the 20th century and on wards, is education. And you cannot do so by providing Universities. It is better we attend to the base. So here, you say that we do not want to put the burden on the government alone. In fact in earlier justiciable Clauses, the burden of bringing up the children was squarely put on both the government and the parents. But to me this is very obvious, because a child is normally not a product of government legislation; it is entirely a private arrangement. You end up by producing a child; you bring him up; you cloth him and therefore, the government also must be able to contribute. And the two must ensure the children who are born in this country are entitled to basic education. First of all, before we develop their individual talents for use in other fields/ spheres reinstating it here will definitely be able to give us a state target. Otherwise we cannot talk of resources. We have been very protective about land, but if we did not educate our people even the lands especially, as we open up, will all be taken by the entrepreneurs who are coming from outside. So let us put our House in order with the first step first. Thank you very much.

**THE CHAIRMAN:** The proposition is that we reintroduce what appears in the draft constitution as Clause (1 and 2) of article 27 in the constitution by inserting it in what is now 21 to appear as Clause 1 and 2 of 21.

**DR. ODUR DICK:** Point of clarification. Mr. Chairman, I would like to seek clarification from the Movers if as a policy education is compulsory but not free. What will they suggest the state will do in cases of those parent's who cannot afford school fees, what will be the situation as a policy.

**THE CHAIRMAN:** One of the promoters here Dr. Kinyata, he can explain.

**DR. KINYATA:** Mr. Chairman, in fact some of us on the list of those amendments had proposed free and compulsory education, but the Legal and Drafting Committee got it otherwise. And, therefore, I intended to move a Motion since this is an objective for future governments whether - it is in ten years, whether it is in 100 years, whether this constitution can last for 50 years, - I wanted to say that it should be free and compulsory education. And this does not mean that the government will implement this objective tomorrow. *(Applause)*

**MR. BEN WACHA:** Mr. Chairman, we brought to the attention of the movers the decision of the House in respect to article 62(2) and we pointed it out to them that putting an aspiration which could not be achieved in a constitution would be putting in idle provisions which is not correct in making a constitution the type we are trying to make now. So we advised them that if they were insistent on bringing the issue of free, they were quite entitled to do so in the House, but we would only discuss the intention of article 27 (1 and 2).

There are a number of people - I think Hon. Wagira was also involved - who had wanted to bring in an amendment to put in the words '*free and compulsory basic education*'. But we tried to explain to them that, it would have been a futile and idle provision in the constitution.

**DR. HIGIRO SSEMAJEJE:** Thank you, Mr. Chairman. I support those who say that article 27 (1 and 2) should be in the constitution. When we talk about compulsory, it is just being an objective which intends to promote and improve our country. There are many parents in Uganda who can afford school fees but do not care to take children to school, they are there. It is true they are these who cannot because they just cannot afford and those the State could be able to assist. But once it is compulsory these parents who have got money who have got property might be having two to three hundred animals (200-300) but their children are not going to school. To these ones it should be compulsory and then the state will be able to find what to do with them. It is very true that many parents can afford but they do not send their children to school.

I think as an objective, Mr. Chairman, how we can leave 1 and 2 out. If we care for Uganda to move

forward, definitely these two are the best, we can find in any of the objectives. Without school, without taking children to school then we are not moving anywhere. And therefore, these two objectives, Mr. Chairman, I would like to see that they are in the in this constitution. Mr. Chairman, I support it, and I would like it to be in. Thank you very much.

**MISS AKELLO GRACE:** Mr. Chairman, thank you. I would like to support the Motion, and I want to put it on record very seriously that the provision of compulsory education for the children of Uganda is essential for the long term development of Uganda. And I want particularly to emphasise one group of Ugandans who have been neglected. I think that in most parts of Uganda when there is a squeeze on school fees it is the girls who get left out and the boys are encouraged to go ahead. Even now, Mr. Chairman, I do not believe stories which men put here, the fact is that when the parents of the two girls have no money they are encouraged to say at home and wait to get married. So, it is very very important that every child in Uganda is given an opportunity to get basic education. Then this business of saying that we do not have enough resources for free compulsory education now, that is simply not true because we seem to allocate our resources to other areas. We should therefore, bring some of those resources in some of those areas especially, now that we are getting peaceful and concentrate them on providing education for our children. I think that we should keep this and not take it out of this chapter because it is a basic guideline. And just as we have kept other guidelines in other chapters, so the idea of taking out of this chapter 1 and 2 is not welcome. Thank you Mr. Chairman.

**MRS. KIRAAHWA MONICA (Women Masindi):** Thank you very much, Mr. Chairman. I beg to move the amendment on the amendment to read that, *'the state shall promote free and compulsory basic education. (Applause)*

**THE CHAIRMAN:** Is that seconded.

**HON. DELEGATES:** Yes.

**THE CHAIRMAN:** Okay, let us now make clear what we are debating, there are two Clauses which the movers sought to re-introduce into article 21 by inserting those Clauses that appear as 1 and 2 under 27 on page 9. The proposed Clause (1) would say, *'the state shall promote compulsory basic*

*education'*. Now Hon. Kiraahwa is moving an amendment to read, *'the state shall promote free compulsory basic education. In other words, by inserting the word 'free' between the word promote and the word compulsory. Now that was seconded, and she has not yet given her justification, so just wait a bit. So we give her the Floor to tell us why she is moving the amendment. Now we shall confine ourselves - the debate would then be whether it should be the objective of the state to promote free compulsory basic education instead of basic education.*

**DR. KIYONGA:** Point of order. Mr. Chairman, according to the earlier Motion, the Motion which we have been debating, hon, Kiraahwa is a cosponsor, is it in order that now that she brings a different Motion?

**THE CHAIRMAN:** The hon. Member is raising a question whether Hon. Kiraahwa Monica as one of the sponsors of the Motion, is free to seek an amendment. There is nothing in our rules really which prohibits a Member changing his or her mind along the way *-(Applause)-* to amend the Motion. In fact they are even entitled to withdraw it. So now let us listen to the mover of the amendment to the amendment. Please, go ahead.

**MRS. KIRAAHWA:** Thank you very much, Mr. Chairman. The constitution we are just labouring to write is for everybody in Uganda, the rich and the poor, we have to protect the people who are in the villages back at home and have got our future Ministers, Doctors, Presidents lying idle and cannot afford to see inside a classroom. Mr. Chairman, there is no reason as to why we should plead to have compulsory education promoted by the government as its objective who will this law assist. Shall we be happy to see the peasants being taken to court for failing to take these children to school? And why? We people who have made this law have our children comfortable in schools.

Dear delegates let us have the free and compulsory education to help the peasants. Let the government take it is a long term objective. We have not said that government should face it tomorrow or the day after that, but we want the government to take it on its own that even after five (5) years, it can be implemented and there shall be free and compulsory education, Mr. Chairman. The Government has got the mechanism to see to it that, all citizens are catered for. They

can introduce anything like education tax. When I talk about this I do not mean that the commanders of money will be left idle. We know there are a lot of Ugandans who can take their children to Katatumba, or Namasagali - those private schools. So we want the government to see to it that, at least the peasants' children are cared for, and they can get free and basic education.

Mr. Chairman, we have seen that our neighbours like Kenya and Tanzania are doing it very well. What is wrong with them, what is wrong with Uganda? Are those countries more richer than we are? We must commit our government that whoever is in power during that time, will see to it that, in future it is introduced that every Ugandan should have free compulsory basic education. These objectives will guide our government to see that they are not left idle hanging. I want to oppose the Legal and Drafting Committee who advised us that -

**THE CHAIRMAN:** No that is not necessary. I think you have moved your Motion we do not have to go into -

**MISS. AKELLO GRACE:** Because they advised us, Mr. Chairman, that we are contradicting ourselves with the article passed in article 64 where we say that every child is entitled to basic education which shall be the responsibility of the state and the parents. We are sure that even when the state is providing free and basic education, also the parents will be involved in the system. So Mr. Chairman, I beg to move.

**MR. ONEGI OBEL:** Thank you Mr. Chairman. Mr. Chairman, this Motion should have mentioned me as one of the cosponsors. I pushed this Motion on the 23rd, and it was seconded by Hon. Obiga Kania, but for some reason that is known to the Legal and Drafting committee, I do not appear as a cosponsor there; or even as having proposed the amendment. Mr. Chairman, my problem with that amendment or with article as it states is simply this, under article 62 Clause (2) which we passed in a diluted form; we put the responsibility of the state and the parent to look after the child education. At that time we were also talking about free and compulsory. But then the argument was that the state is unable at this moment to provide free and compulsory education. Mr. Chairman, and hon. delegates my problem with this article is simply the word "*compulsory*". There is no way, the way I see it, there is no way you can make

education compulsory and unless it is free. Otherwise, Mr. Chairman, I do not know the situation in the villages of the electorates we come from and, therefore, I can confine myself to the experience of my electorates that there are many parents in my village who are very, very committed and supportive of sending their children to school. But these parents, Mr. Chairman, are unable, you see these parents are unable to send their children to school. Which means, Mr. Chairman, if you make primary education compulsory, I argued the same way last time an article Clause (2), you are going to end up with thousands if not millions of Ugandan parents in jail. Why not? Mr. Chairman, it is saying something that is very unkind, that you must punish a human being for disability of not having money.

**THE CHAIRMAN:** But which Motion are you debating, we are debating the amendment.

**MR. ONEGI OBEL:** I am supporting the amendment of a free and compulsory. Because, Mr. Chairman, if you make it compulsory, and it is not free then - I have said it. But on the other hand, if it is free, it must also be compulsory so that the onus is on the parent that he has no reason anymore to fail to send that child to school already sponsored by government.

So I am saying finally, Mr. Chairman, either the Clause provides for free education or we forget about the word "*compulsory*". Therefore, I support the Motion for *free and compulsory education* or remove the word "*compulsory*" if you do not give free. Thank you, Mr. Chairman.

**MR. TIRUSASIRA:** Thank you, Mr. Chairman. I stand to support the Motion for the following reasons. Mr. Chairman, one of the obstacles of development in Uganda has been mass illiteracy. If all of us honourable delegates in this august House bothered to look at the statistics of education, the situation is really pathetic. Out of the total number of children all the Ugandans are sending to primary schools, only 35 per cent reach tertiary education, and out of that one per cent goes to Makerere University; 14 per cent goes to colleges of further education, and about 35 per cent reach secondary education. This means therefore, Mr. Chairman, that 65 per cent of the children drop out at primary level. Mr. Chairman this is a situation which is very pathetic which we need to look into with a critical mind. And, Mr. Chairman, as a result of this the Ugandan society is

ignorant, and because of that we remain poorer and poorer and poorer because we are not educated. Now the result of being poor Mr. Chairman, is that we are now even eating the food we should not eat, we are even dressing the way we should not dress. We are even sleeping the way we should not have wanted to really sleep. So, Mr. Chairman, this point is very important and it has been one of the reasons why Uganda has been backward.

It is my humble appeal to this august House that hon. delegates give us total support on this Motion so that in Uganda we have what His Excellency at the beginning referred to normally as *Entandikwa*. Let us have basic free and compulsory education. On that ground, Mr. Chairman, I wish to support the Motion very strongly. Thank you, Mr. Chairman.

**MRS. TURYAHIKAYO RWAHWIRE:** Thank you very much, Mr. Chairman. I was one of the co-sponsors of the original Motion and I fully support the amendment made or proposed by hon. Kiraahwa. Hon. delegates, we have already passed article 62 Clause (2), to the effect that a child's basic education shall be the responsibility of the state and the parents of the child. But we are also aware that it is the aspiration of the majority of our people that basic education be free and compulsory. To many people in our country education of their children is very important just like land is to them. It is their wish to see that education is availed to all Ugandans. At present, Mr. Chairman, only 55 per cent of our primary going age children are enrolled in schools; 45 per cent are not in school. Even those who are enrolled may drop out because they cannot genuinely afford fees.

Our rate of illiteracy, Mr. Chairman, and hon. delegates is alarmingly high even for a developing country. The surest way of fighting this is offering free basic education for all our children. *(Applause)* Mr. Chairman, we aware that this cannot be realized and given full effect immediately, it should nevertheless stand as a clear objective which government and the people of Uganda should strive to achieve over the years. It is also true that we are poor, Mr. Chairman, but we are not going to resign ourselves and to resign this country to perpetual poverty. It should be our aspiration to get out of this poverty and it should also be our aspiration and the aspiration of any government that comes in power to strive and provide free basic education for our children. I beg to support the amendment, Mr. Chairman.

**MR. KATUREEBE:** Thank you, Mr. Chairman. I rise to support the amendment to the amendment. *(Applause)* I support it Sir, because it is the amendment that makes sense as an objective we had already provided in justiciable article 62 that basic education shall compulsory. It would therefore, not make sense to provide for it here as an objective because it is already something enforceable. The only way it can make sense is to say it will be free and compulsory as an objective. And I do remember my contribution in the committee suggesting to the movers that since we have provided that the President would be making an annual account of what steps have been taken to achieve the national objectives we have given ourselves, that if the minister of education has come to Parliament and said, from next year Primary four (P.4) onwards is free, that would be reported as one of the measures taken - progressive measures to achieve a national objective. *(Applause)* Having free compulsory education as an objective, is perfectly in order here. I support it. *(Applause)*

**DR. MUGYENYI (Isingiro North):** Mr. Chairman, I come to support the Motion on the Floor. Mr. Chairman, as Members have said, as an objective, it is not justiciable. nobody can take government to court that it has not provided free and basic and compulsory education. Therefore, I feel it is very necessary that we provide for free and compulsory education.

Point two, Mr. Chairman, is that education is the basis of any development activity you can talk about. We have been talking about defending our constitution by all the citizens. Citizens cannot defend the constitution when they are illiterate. Mr. Chairman, we have been talking of gender issues, gender imbalance, we know in our history that girls have been dropping out of school in preference for boys. When parents have money to pay for only one child, they pay the school fees for the boy. If the school fees is not there and education is free there will be no excuse for any parent to say that he cannot send his girls to school.

Thirdly, Mr. Chairman, we cannot say education is compulsory unless it is free. We are not here to put a rope on the neck of the peasants who sent us here by saying that, they send their children to school compulsorily without education being free. Therefore, I call upon everybody here in this House to support free and compulsory education. Thank you Mr. Chairman. *(Applause)*

**MR. OKANYA JAMES:** Thank you very much, Mr. Chairman. I support the Motion on the Floor. Mr. Chairman, we are all aware that Uganda is composed of almost 95 per cent peasants. These are the people who do not have access to education and those who do, are constrained highly. In very rural districts there are reports of rising school dropouts, when the children do not even know how to read or to write.

**MR. HASHAKA:** Point of clarification. Mr. Chairman, as much as I support the Motion I would like to be clarified whether there will be some guidelines on the number of children, because in African society we are entitled to marry as many women as possible, and have as many children as possible. So, will there be any limit to the number of children that will be given free education.

**THE CHAIRMAN:** I think let us draw the distinction. This one here is not saying that tomorrow there will be free and compulsory basic education if it is carried, it is saying that the state shall promote as it reads; "*The state shall promote compulsory basic education*". The amendment is towards the word *free* but I think the operative word is *promote*. Now when they do come to that stage when they think they can, then the rules will be set. But by that time may be we shall be producing less children.

**MR. OKANYA:** We are endeavoring to build a nation, a viable entity. It is with free compulsory basic education that we can uplift the standards of living of peasants especially those who are disadvantaged with poverty. The constitution we are making is the basic law, it should provide a way to development. At least with these we can do that. With education, we can be sure to enhance development; we are sure of combating ignorance; disease and backwardness which has become our catchword. We should therefore, put these in our objectives so that as we move forward, as this country develops we have a chance to give everybody in this country education and, therefore rise in the standards of living and development. So I stand to support the Motion, and I would beg that you put the question. Thank you very much, Mr. Chairman.

**MR. BABU:** Mr. Chairman, I support this amendment very strongly and meanwhile of course, it will be nice to know that as I support the amendment, I really hope that our government - and when we come to the other relevant sections, you will give them the

strength to be able to get that power to create that atmosphere in which free compulsory basic education can be achieved. Mr. Chairman, free compulsory basic education cannot be achieved by itself. It has to be accompanied by other things. While I agree, Mr. Chairman, that it does appear like free education, indirectly it is not; we have to pay for it. And therefore, in our duties as Members of this august body when we reach the section of revenue for the government, we will make sure, Mr. Chairman, that we promote the collection of revenue to government so that they can pay for this good cause which we all support. And I do hope that when they do make the laws in Parliament in future, that when they are introducing free compulsory basic education that standards -

**MR. MWEBESA:** Point of information. Mr. Chairman, Hon. Babu should also know that when you cannot fail to provide the money for education at the micro level, you expect that you will get the money at the macro level. The people who provide the taxes are still the *Wanainchi*. Therefore, it is not easy for him to think that, we shall be able to tell the population to pay taxes for providing free education. It is not free in other words; that is what I am trying to inform Hon. Babu.

**MR. BABU:** Mr. Chairman, I am not worried I am quite sure all of us put together with this noble cause will be so dutiful to make sure in our leadership that we encourage the rest of the country to pay their dues so that we can have this education. I am quite sure we can do it if people know that they are actually going to get the services that are due to them, am quite sure they will pay these taxes. The only thing is that we have to make sure that we indicate to them that whatever they pay to the state will be used without any corruption and it will be put for the good use of all the children in this country.

Mr. Chairman, I would like to thank the mover of this amendment that already everywhere I have been in Kampala here, one of the questions they are asking is free primary education. They are interested in having the right to free and compulsory basic education. Mr. Chairman, again if you look at the status in this country as expressed by hon. Members especially the case of the girls it is very pathetic and it calls upon the Government to have free compulsory education as an objective. And, Mr. Chairman, since we are all saying and we are agreeing that the only way or one of the ways to safeguard this

Constitution is to introduce the Constitution in the school syllabus and civic education. Then there is need for our citizens at least to be offered the basic education.

Mr. Chairman, on behalf of the people who sent me here I have instructions that any move at least which stipulates as a guideline for free and basic education I should strongly support it with all my might. Thank you and I beg that you put the question.

**MS. ADIO (Women - Soroti):** Thank you, Mr. Chairman. The promotion of compulsory and free education by the State is a good provision because it will enable every child, girl or boy to go to school; whether it is a child of a poor man or a rich man. And considering the great population in our nation being peasants, therefore, this will eliminate the problem of peasants complaining because in my area the people of Teso, the majority are peasants who have no income at all. The little income they may be getting is for a change of "Angala" once in a while and for a parent who has ten (10) children he may not be able to send them all to school. So, Mr. Chairman and hon. Delegates if a father has five boys and five girls tomorrow they will all go to school and there is a saying that, *when you educate a woman you are educating a nation*. So if most of our girls get educated tomorrow there will be no question of fighting for equality because we shall all be equal.

Mr Chairman, definitely I do support the Motion and, therefore, I say in Uganda our country has gone through wars and, therefore, has left many parents with no property and no way of taking their children to school. Therefore, Mr. Chairman, the best is free and compulsory education promoted by the nation. And my mother in the village or any other village of Uganda has a problem of primary health care but tomorrow if you educate their daughters they will eradicate the ignorance of primary health care and therefore they will at least have a little knowledge about what you would call First Aid Box. Because today you will find many of our mothers are taught about Oral Rehydration Salt, for example, and they do not know how to go about it but if you educate our girls there will be no question of oral rehydration salt for children because they will know how to look after their children properly. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Now, I think let us decide on Hon. Kiraahwa's Motion. You are not a cosponsor of her Motion. She moved an amendment to the

Motion you sponsored. You sponsored the Motion and she amended it and she was seconded by many other Members so we are debating her amendment. Now we are resolving whether we take it or we do not. Depending on its fate then we will come back to the Motion which you people have sponsored.

The Motion now is by Hon. Monica Kiraahwa that, if you look at page 9 of the Draft Constitution under Article 27 - now we shall proceed by picking one first so that we do not do both. The first one is about basic education that Article 21 on page 11 - sorry, that the Motion moved by Hon. Kivejinja and others to amend Article 21 and insert what appears as Clause 1 on page 9 at article 27 be amended by inserting the words "free" between the word "promote and compulsory". So that it reads "The State shall promote free compulsory basic education" instead of "the State shall promote compulsory basic education." That is what we are voting on. I now put the question.

*(Question put and agreed to).*

**THE CHAIRMAN:** Now we come to the question, in other words what we have achieved is that we have amended Clause 1 and now the proposition which I am going to put to the vote is that Article 21 on page 11 be amended by inserting immediately as Clause 1, a Clause to the effect that "the State shall promote free compulsory basic education" so that we transfer 1 to Article 21. I will put the question.

*(Question put and agreed to).*

**THE CHAIRMAN:** So now we have another Clause which says "The State shall take appropriate measures to afford every citizen equal opportunity to attain the highest educational standard possible". The Motion was that this should be transferred and also appear as Clause 2 in Article 21 on page 11. Now I will put the question.

*(Question put and agreed to).*

**THE CHAIRMAN:** So now what we have is that article 21 has been amended to include two other Clauses as they appear on Page 9 which have been transferred. Now, we pronounce ourselves on Article 21 as amended.

**MR. BEN WACHA (Oyam County North):** Mr. Chairman, you will notice that under the amendment

sheet on paragraph 10 there is a proposed amendment by Hon. Tiberio Okeny Atwoma.

**THE CHAIRMAN:** Yes, sorry. That Article now has three Clauses but there is also a proposed amendment by Hon. Tiberio Okeny Atwoma and I think it is cosponsored by Hon. Fr. Gaitano Batanyenda. If you look at page 3 - Hon. Hashaka what are you suggesting? No, there is no such a thing as Article 27 we have just done 21. We cannot vote on it again, we have just closed it. You are precluded from proceeding to amend a matter on which we have all pronounced ourselves by our rules. What is now happening is that Hon. Tiberio Okeny Atwoma would like to propose an inclusion of another Article which if included would read (4) not (3) because we have just put in clause (3) and there was already one which has become clause (3). But nevertheless we should move. Hon. Hashaka it is too late. Hon. Tiberio Okeny.

**MR. OKENY ATWOMA (Chua County):** Thank you, Mr. Chairman. My amendment is very simple and I hope hon. Delegates will find that it is quite befitting and it reads as follows: *“That individual religious bodies or Foundation bodies and other non-Governmental organisations shall on negotiation with the Government be free to reclaim any of their educational institutions previously taken over by the Government if they so wish on such terms as may be agreed upon.”*

**THE CHAIRMAN:** Is that seconded? Yes, it is seconded. I can see Hon. Esther Dhugira here and Hon. Specioza Kazibwe and many others. You can now go ahead.

**MR. OKENY ATWOMA:** Mr. Chairman, thank you. Mr. Chairman, before I state the rationale behind this Motion may I first of all clear the prejudicial clouds of doubts thrown against this Motion by the Chairman of the Legal and Drafting Committee, Hon. Kanyeihamba, to murder it when tabling the Committee's Report before this House by saying that *I was advised but in vain* against moving this Motion. This, Mr. Chairman, I must say is not the true picture of the thing. I was in fact advised to re-write or to re-draft this Motion as a runner up to the preceding clauses because if this House will remember I had previously proposed an amendment which was just to reinstate the word *“reclaim”*. But when advised by the Legal and Drafting Committee that I should put it separately as a separate item to be

discussed, I then re-drafted this Motion which befits the purpose of this Chapter of National Objectives and Directive Principles of State Policy.

Mr. Chairman, this is not compulsory on the religious bodies or foundation bodies whose schools or institutions were taken. This is what this Motion is seeking - to deal with and negotiate with the Government to reclaim back those institutions, they should be allowed to do that. This is what this Motion is seeking because it is a well known fact here, Mr. Chairman, that the present Government is very much desirous to champion the human rights observation and we can see that it is doing so now by returning all the properties to their rightful owners on application. What then would be the reason for this to be in acceptance that the denominations that would like to reclaim their institutions should not do so?

Mr. Chairman, I now again go to settle the substance of the Motion itself. Mr. Chairman, in the 1960s, around 1965 - *(interruption)*

**THE CHAIRMAN:** Order, order. There is a point of order from Hon. Ndege, please give way.

**MR. NDEGE (Luuka County):** Thank you, Mr. Chairman. Through you, Mr. Chairman, and with all much respect this amendment has been brought without substantiation. Is he in order to continue deliberating without substantiating whether the Government actually ever took over any educational institutions from anybody?

**THE CHAIRMAN:** Any way the point is that I did hear him, Hon. Ndege is saying that there is no information available to the Assembly to prove that the Government did actually take over educational institutions belonging to foundation bodies and individuals. Now that is arguable but I think let the Motion continue then we see how we proceed from there.

**MR. OKENY ATWOMA:** Mr. Chairman, I am very grateful. This was not a point of order, I think the honourable Delegate was only requesting for information which is readily coming out. *(Interruption)*.

**MR. TIBAMANYA (Kashari County):** Thank you, Mr. Chairman. Mr. Chairman, is it in order for the hon. Member to debate matters which are not

constitutional issues; matters which could be left to Parliament to negotiate?

**THE CHAIRMAN:** Well, I think what the Member is trying to say is that it will be an objective since we have said somewhere that these bodies, some bodies should take part. If you look at article 21 individuals, religious bodies and other non Governmental Organisations shall be free to found and operate educational institutions if they comply with the general educational policy of the country and maintain national standards. We are saying they are free to set up schools and I think what Hon. Atwoma is saying is that since you have told them to set up schools why don't we give them back those they had already set up. I think that is what he is trying to say.

**MR. RINGWEGI (Padyere County):** Mr. Chairman, I would like Hon. Atwoma Okeny to clarify me - *(Interjection)*. Mr. Chairman, can you protect me from that heckler please. I wanted Hon. Atwoma Okeny to clarify me before he proceeds with the presentation of his Motion what he actually seeks to achieve. Does he want a specific right which is enforceable or is he trying to set up an objective? From the look of things Hon. Atwoma Okeny is talking about a right which has already been violated and he is seeking to put a provision, a legal provision, which will restore that right which has already been taken away from either the individuals or the religious bodies and yet what we are concerned with here is to set up objectives which can be used in future to set up new institutions or promote them. So I wanted clarification from Hon. Atwoma Okeny whether this is the right place for his intended Motion. Thank you, Mr. Chairman.

**MR. ATWOMA OKENY:** Well, Mr. Chairman, if I may give the hon. Member information and clarification, I would say if he was attentive at all when I was introducing this Motion, I did say that it befits Chapter 3 which deals only with national objectives and directive principles of State policies. Because this one is to project a principle that the churches or the foundation bodies whose schools or institutions were taken over by the Government if they so wish by now they can go to the Government and negotiate their return as any other owners of properties today are doing with the Government. So this one is an objective to have the door open for them to reclaim their property if they so wish. So this is not a matter - when it is passed today it is enforceable and other things like that. The Churches may not want to

take over, they would not want to claim these things now.

**THE CHAIRMAN:** Hon. Atwoma Okeny there is a lot of information on the Floor now.

**MR. ATWOMA OKENY:** Well, I would not now take any. I will not now take any. Let them be only patient to listen to me.

**THE CHAIRMAN:** I think let the hon. Member present his amendment.

**MR. ATWOMA OKENY:** Yes, they are just trying to block - *(Interruption)*.

**THE CHAIRMAN:** Order, order.

**MR. ATWOMA OKENY:** Thank you very much, Mr. Chairman, for the protection. Mr. Chairman, I was saying that in 1960s, about 1965, certain educational institutions belonging to denominations in the country were unceremoniously taken over from them without consent by the Government then in power. And then ever since, Mr. Chairman, education of this country has suffered considerably and even the buildings have broken down or many of them are in a terrible dilapidated state. And, Mr. Chairman, this was the lamentation expressed before this House when Mzee Mwalimu Nyerere addressed us here, when he was lamenting the drawback in education in Uganda which was leading in East Africa then. This was brought about because of this take over of the schools and which management had become very difficult for the Government. Mr. Chairman, the teaching profession itself suffered a great deal because teachers have lost the morale and the morals and have ceased to be exemplary as the tradition of the teachers were in the country. When you see a teacher you would always respect him because he is an example that everybody envied the way they dressed, the way they take care of themselves morally. But today this is history and this is very dangerous because they are always engaged with our young ones and in order to save this country we must first of all have good citizens and the citizens will always arise from the schools. So, Mr. Chairman, in this age of AIDS, I am terribly worried by the decaying sense of morality among our youth. This is the immense challenge to the nation as a whole and we need to re-activate moral education in all walks of life and the churches are to be expected proponents of this.

Mr. Chairman, if it is applauded that it is the policy of the Government of the day that the privatisation and the returning to Caesar what is Caesar's is meaningful at all it will be seen by the passing of this Motion. I therefore most hopefully put this Motion before this House for it to bolster the policy of the Government to success by not hesitating at all to vote this Motion to be the objective and the principle of our State because these schools were voluntarily built up by the denominations and many of us who are seated today in this Hall are brought up by those institutions. And I think if you look back to the schools from where each one of us have come from you will lament to see the way how they are dilapidated; they are not well looked after and things are falling apart. We should not be sitting here and deceive ourselves that everything is alright, no. Let us come out and help the Government to help ourselves. Thank you, Mr. Chairman.

**DR. MATEKE (Bufumbira South):** Thank you, Mr. Chairman. Mr. Chairman, I beg to strongly oppose the amendment on the Floor. This amendment is very retrogressive, very backward and seeks to take us to the medieval period. Mr. Chairman, since the national integration of our educational institutions Government has been pumping a lot of money in these schools. Government has sought world bank loans to build and rehabilitate some of these institutions. So we would not like a situation to arise whereby public property is being transferred to individuals or religious denominations.

Secondly, Mr. Chairman, I do not know whether even these religious denominations, organisations or individuals would be able to run these institutions if transferred to them, I very much doubt because with the little experience I have a Bishop comes to the Ministry of Education and he says I want a school. Now, a school is established, after a year he goes back to the Ministry of Education to say I have failed to run this institution can you take it over? Another important point is that with the national integration of our schools the majority of our people have come together people, students from different corners of the country come together exchange experiences and so on and so forth meaning that this has assisted us to foster a spirit of nationalism and national unity. So on those two grounds, Mr. Chairman, I strongly oppose this amendment.

**MR. KAYONDE (Gomba County):** Mr. Chairman, I support the intention of this amendment

though I do not agree with the formulation. What Hon. Atwoma Okeny seeks is that the institutions we have allowed in article 21 *religious and individuals and non-Governmental Organisations* to establish institutions and run them. But what happens to those which the State took over? So I think what we need to do and if he does not object I may assist him to incorporate what he intends to move if it could read this way '*The individuals, religious bodies and other non-Governmental Organisations, shall be free to found and operate educational institutions, including those taken over by the State before the coming into force of this new Constitutional...*' And the rest remains the same. So that will mean that those institutions which were taken over - (*Interruption*)

**THE CHAIRMAN:** Anyway let us regard that as his contribution because it has not been seconded.

**MR. KAYONDE:** Well, I will ask Hon. Atwoma Okeny if he does not object.

**THE CHAIRMAN:** Hon. Kayonde, there is Hon. Eresu who wants to inform you.

**MR. ERESU (Kaberamaido County):** I would like to inform the speaker holding the Floor that this amendment which is to be added to the already Clause 3 which is there looked more of an administrative matter than a Constitutional matter and for that reason I also have information that already an Act of Parliament has been passed to give back property to Caesar what belongs to Caesar as the Mover of the Motion puts it. So I do not know if for example in future after we have given back the schools whether this particular Clause will stand in the Constitution. So for that reason I think we are labouring on a wrong point. So I would like to inform the speaker that he is actually labouring on administrative matters than Constitutional matters. Thank you.

**THE CHAIRMAN:** Hon. Mushega would you like to give information or what? Hon. Kayonde is still on the Floor, do you want to inform him or you want to make a contribution? Let us finish with Hon. Kayonde if you could wind up your remarks. Just before that there is the deputy Chairman of the Legal and Drafting Committee, Hon. Ben Wacha. Are you raising your hand as Deputy Chairman or as Ben Wacha from your constituency?

**MR. BEN WACHA:** Mr. Chairman, Sir, I wanted to inform Hon. Kayonde about his proposed inclusion of Hon. Tiberio Okeny's amendment into Clause 3 of proposed Article 21. Sir, we tried and when Hon. Tiberio Okeny brought this amendment his intention was actually to include it within the provisions of Clause 3. We looked at it, we discussed it, we found that his intention was diametrically opposed to whatever was being provided for under Clause 3. Clause 3, Sir, provides for founding and operation of educational institutions. Hon. Tiberio Okeny wants to reclaim institutions which might have been taken over by the government.

Our idea was this: That Hon. Okeny's intention was maybe to institute litigation into the Constitution and that may be he wants to go further and reclaim compensation for whatever has already been taken over by the Government. Now, when we saw that this matter could not be conveniently included in Clause 3 and since Hon. Tiberio Okeny insisted that although this matter might not be Constitutional he still wanted it debated on the Floor of the House. We then suggested that for clarity's sake the matter should come as an individual Clause in his amendment. That is what I want to inform Hon. Kayonde.

**THE CHAIRMAN:** Now I think the position should be this. Let us take advantage of the presence of one of the Members from Igara who is generally associated with these matters not that you are declared to have some Ministerial position to tell us exactly the status of some of these schools so that we know what we are talking about because we could be wasting time.

**MR. AMANYA MUSHEGA (Igara East):** Thank you, Mr. Chairman. I am afraid as you have said I will take advantage of my other occupation may be to assist the House with the facts on the ground. The spirit of the Motion is welcome but it is misplaced because people mix up *Ebyaffe*. *Ebyaffe* was in two parts. Part one, there is sentiment of the right to do a thing that had been abolished by the Constitution. So Parliament amended the Constitution. Then there was part two, properties of these Kingdoms which were taken over by an Act of Parliament. There was a move to amend the Act of Parliament to hand over the properties and we cannot really bring this matter into the Constitution otherwise then we may as well write in that we either condemn or praise the Israelis when they raided Entebbe Airport because it is also a matter of national concern. Everything as the Bible says has its place and this amendment really is in the

As we stand now I have just in my Ministry approved not less than eighty schools 'O' level and not less than fifty schools 'A' level where the foundation bodies themselves applied for the Government grant aided to these institutions. What is the grant? They apply for grants aid which grant comes in the sharing of the management of the institution. This is taking place, I even have letters from Members of this hon. House handed to me here insisting that the situation, the parents can no longer support this situation, therefore, the government come to our rescue. And this will be even contradicting what we have just passed on the State promoting compulsory basic education, a Motion I fully associate with. If I could help on some of them that is information which is free you can come and check it where the parents start a school or the church starts a school - originally it made sense when the teacher was neglected and, of course, one could ask who mis-run Uganda, it was not people unborn, it was people like Hon. Tiberio Okeny who went to these institutions - but this is not a place for exchanging unpleasant words, it is solving a problem. So that information is available.

Secondly, I would like not to have some people who want to be more catholic than the Pope. In my other capacity we have had many discussions with church leaders including the both Archbishops and the Chief Kadhi about the management of these institutions. Their basic demand was not that they want the schools back because there is no capacity for the churches to run them, they will still be run by the parents. Their main interest has been:

(i) a right to be recognised as people who started an institution - *recognition*;

(ii) to have a right in management and the Chairmanship of these institutions which has been granted on the other side I belong to;

(iii) to have the right to head the institutions, they do not insist on staff because it is no longer possible now to have a Moslem school run by moslems only or a Protestant school run by protestants only or a Catholic school by catholics only. On that ground it is no longer feasible. You go to a school where the headmaster is a catholic or a protestant or a moslem but the mathematic teacher is a mathematic teacher irrespective of where he belongs. Even some of them are have not as good as they should be but they happen to possess the skills we want. This is the other area they again insist on and then the right to access, which I would call inspection.

(iv) The Inspectors, the Education Officers to get access to the schools and recommend to the govern-

(v) The fifth one has been the right to teach religious education in schools. So we are mixing up these issues and we may end up consuming the time of the Constituent Assembly with areas which could have been handled administratively in the Parliament or elsewhere.

Maybe one also could mention a few advantages that partnership has created. Mzee Okeny - and I when we went to school it was impossible for a person of a different religious sect to go and study in another school; it was very difficult. Even to teach in it. At the moment you will find in Namagunga Moslems and Protestants and Seventh Days. The same happens in Kisubi, Gayaza, Budo. I think these schools are becoming truly national because this is the melting pot, the meriting pot where future leaders should lead. And I have been emphasizing this point to the religious leaders, why should I study separately from another and the first time you meet is when one is appointed a Permanent Secretary and another one an Under Secretary. That is when you are coming to work with a man of another religion in the management of public affairs. So Mr. Chairman, I would like to appeal to the Movers of this Motion that this part be left:

- (i) to the religious organisations to discuss with the relevant departments of government;
- (ii) to lobby Parliament so that the law which brought in partnership between the State and the churches is revised to accommodate this and leave Constitutional matters under Constitution matters.

If they have read the Bible it says "Everything has its place" and I think this good Motion is in the wrong place. I thank you, Mr. Chairman.

**THE CHAIRMAN:** Let us now proceed this way. In view of the clarification we have had about the status of these bodies I would have wanted to ask Fr. Gaitano and Mzee Atwoma whether they think they should continue with this Motion because it is taking up quite a bit of time.

**FR. GAITANO:** Thank you very much, Mr. Chairman. On the paper it is shown that I am a cosponsor but I was a seconder, I was not a cosponsor of the Motion. First of all, when the Mover, Hon. Atwoma Okeny approached me to second him on this Motion, I put to him that, are there certain institutions as of now to be claimed? He told me that in the North there are some institutions which are dilapidated, they are not cared for and may be the missionaries would like

to take them over and develop them and rehabilitate them. I said that if that be the case then it is okay. But from the expression we have just received, Mr. Chairman, I think we leave the matter to be done administratively so that we save the situation.

**MR. ATWOMA OKENY:** Well, Mr. Chairman, I think I should not go all the way with regard to what Hon. Amanyu Mushega as a delegate has explained to us and, of course, I am recognising him here also as a responsible Minister of Education and I was only wanting to aid him to see that he educates this country more adequately. And if he is now saying that the arrangements under his portfolio is quite adequate and he is providing adequate facilities for educating our children I would advise the Minister to throw his eyes to the north and go and see for himself. When we talk here we talk of experiences and some of the experiences are bitter. I therefore will take his advice that it may be of any good to the country and I withdraw this Motion honorably.

**THE CHAIRMAN:** Thank you but, of course, the Motion has achieved one purpose that you have got some assurances from the Member from Igara East. I thank Hon. Atwoma for that. Now, you remember that we had not yet declared ourselves on article 21. So let us now declare ourselves on it and I want to put the question that Article 21 as amended do stand part of the Draft Constitution.

*(Question put and agreed to)*

**THE CHAIRMAN:** There is no amendment on article 22 either. Let me put the question on article 22. The question is that Article 22 do stand part of the Draft Constitution.

*(Question put and agreed to)*

**THE CHAIRMAN:** On the proposed Article 23 we have got an amendment by Hon. Aggrey Awori and Byakika Kasajja. The report from the Legal and Drafting Committee was that this was an acceptable proposition. Could Hon. Byakika move quickly so that we dispose - I am anxious that we finish the Social Objectives before we break. *(interruption)*. Hon. Delegates, before we go to Hon. Byakika, if you look at Page 3, Number 11, it was recommended that it be deleted. I think Hon. Ssemaala Kiwanuka has got a Motion at Page 3 to insert a new Clause.

**MR SSEMAALA KIWANUKA:** Thank you, Mr. Chairman. I had wanted to amend article 28 to include the words "*free basic medical service*". However, when I realised it was deleted I wanted it to be replaced with another amendment.

**THE CHAIRMAN:** Hon. Ben Wacha what is the position on this one?

**MR. BEN WACHA:** Mr. Chairman, Sir, Hon. Ssemaala Kiwanuka wanted the original Article 28 to follow immediately after what we have discussed in article 21 so that may be that original article 28 should now become article 22. I think that is how we understood him.

**THE CHAIRMAN:** Okay we have adopted article 22 as it is so that we could call it article 22(a) and then the Draftsmen will do whatever will be needed if it is carried. Hon. Ssemaala Kiwanuka do you want to move your Motion?*(interruption)*Hon. Tibamanya what is the point?

**MR. TIBAMANYA:** Mr. Chairman, I heard you earlier on saying that you wanted us to go through the social and economic objectives. Hon. Kiwanuka's amendment comes under another heading. We are dealing with economic objectives.

**THE CHAIRMAN:** No, if you look at the papers we are using, may be you are using another one - a different one - we are on social objectives.

**MR. TIBAMANYA:** I withdraw, Mr. Chairman.

**MR. SSEMAALA KIWANUKA:** Sir, I wish to move an amendment on original article 28 which was deleted by the Legal and Drafting Committee and instead insert that "*The State shall provide free medical services to all citizens of Uganda*".

**THE CHAIRMAN:** Is that seconded? It is seconded by Hon. Muiyisa from Kalangala and a number of others.

**MR. SSEMAALA KIWANUKA:** Yes, Sir, if I may continue. Most of our people who sent us here regardless of what these hon. Delegates would like to believe is that this is an important issue to them although a lot of them raise objections and say that is not a Constitutional matter and when you tell them who says what a Constitutional matter should say

they quote you an English professor and those people do not even have a written Constitution. I would like to quote George Washington. He said that a Constitution is like a dress when you make it you make it to fit an individual you do not make it to fit a whole village but an individual. You are making a Constitution to fit Uganda so other Constitutions do not matter to us, we have our own problems and these problems have not been addressed before, I think it is high time we address them ourselves.

Our people, mainly my people in Sseese Island have recognised that health is a problem to them and they cannot on their own be able to support themselves as far as paying for medical services is concerned. Now, we have developed a system whereby they say there will be co-payment or the people must pay for medical care. But then there is a group of people in this country when they get sick they go outside Uganda for medical care. We read in the papers - I read once in *the Monitor* where they said "high ranking government official" went to Germany for medical care and the State had to spend 45 million shillings on this individual. Now, this is one person. Shs 45 million if it was given to our people in Sseese Island they could take care of medical services for over three years. This is one person, this is unequal distribution of the wealth of this nation. If we say that the people should pay taxes, if we say that people should pay for the money that we borrow outside which now I think it is reaching almost Shs.3 billion dollars. what do these people get out of this? Our people, although most of these people are advancing an argument that this is not a welfare state. What state is 'Uganda'? We cannot dictate to our people that you should do this because even in other countries it is done like that. Some of these countries we call capitalists have a lot of money to spend on social services to which its citizens cannot afford. But we are neglecting the basic fundamental right of our citizens which is a right to life. Most of our people are dropping dead like flies in this country although nobody seems to care. Even if somebody was admitted to the hospital it does not mean that he will come out alive because there will be a demand for that person to buy prescriptions which most people in this country cannot afford. I am saying this as an objective that the State should look forward to providing some medical services to people to a great extent. I have been advised that part of the budget that goes to medical services is 8 percent and the largest chunk of that goes to Mulago Hospital which means 2/3 percent is left to be divided. Can this

country really survive on that kind of allocation. There is a Mr. Aliro of *the Monitor* who did a research in both districts of Nebbi and Mukono and because the government from what and I will quote what he wrote, he said that *“on average there is about one doctor to every 30,000 Ugandans but in Nebbi according to 1991 census, the 325,815 people and there you have one doctor to every 81,000 people.* When the President of Uganda visited Nebbi he went to one of the hospitals and found the children’s ward empty, the DMO for the district told him the reason it is empty is because our immunization programme is so good that children are not getting sick. But the reports in the district are indicating that five kids were dying a day in the district. The DMO did not want to tell the President because he did not want to annoy him but this is a fact, our people are dying and the State has to come to their rescue at one time to promote their being. Now we are saying that let us give the peasants land but the so called peasants you give land to cannot till it if they are dead; if they are sick; they cannot till it if they are bedridden. They can only utilise that land when you give them the basic fundamental right which is the right to life.

Now, Ladies and Gentlemen of this august body you might think like my Friend here said I was a communist because I was advocating for this but I am advocating for something that I know that our people cannot afford. It is true other countries can afford. We are talking about people who pay for their medical services and those people earn more in a day than our people earn in a year. There some people in this country who cannot afford to hold Shs. 10,000 in their hands for almost three months or hold it at all. Now we are telling the same people that yes, you should pay for medical services. We are trying to create a class of people in this country whereby if the father was a fishmonger, the child will be a fishmonger and the great grand child will be a fishmonger. Because the parent has no way of paying for medical services, for education, clothing the child and feeding the child. So really what it means is that this child, because he will never be able to improve at any level he will also become a fishmonger. Now, the statistics in this country indicate that 13.2 million people in Uganda live below the poverty line. Now, if these people live below the poverty line you expect them to pay for medical services that exceed at any time Shs 50,000? We have children dying before the age of five and are about 162,000. Life expectancy for Uganda is 42.6 years while the average for sub

Saharan Africa is 50.8 yet the external debt that we have or we had by 1992/1991 was over 2.8 billion. This is the money that was borrowed to help us or do whatever who knows but this is the money that the citizens in this country have to pay back. But when you look at the justification for paying all this money when the selected class of people are the ones who are entitled to free, not only free but exorbitant medical care, Mr. Chairman, I suggest as an objective that the country or the State should look into the provision of free medical services to the citizens of this country. Mr. Chairman, I beg to move.

**DR. KAKUNGULU (Presidential nominee):** Thank you, Mr. Chairman. I stand to oppose the Motion. Although I am a doctor, the practicability of it at this time is not possible. I would like to remind the Mover that we are talking about the objectives and it would read better if it was left in the format it is the original article 28 which states *“the State shall take all practical measures to ensure the provision of basic medical services to the population.”* It sounds much better as an objective of a Constitution, rather than saying that the state shall provide free medical services; it is as if you are putting a section which is enforceable. So, I would rather beg that the Mover accepts to bring it back in the format it is in the Draft Constitution. Thank you, Mr. Chairman.

**MR. KABUGO (Nakaseke county):** Thank you, Mr. Chairman. I belong to Nakaseke a county that has got one government hospital and a county that has got one private hospital at Kiwoko. If you go to Kiwoko where there is a fee payable by patients, you will find that Kiwoko is full of patients. And when you go to Nakaseke you will find that the doctors are doing their own private business because they do not have patients. So, in this case I would support the Motion if the Mover had come in with a provision whereby he proposes to introduce an insurance scheme as the case in other countries is whereby all citizens of the country working can make contribution in order to have free medical services. Otherwise, there is no anywhere in the world where you find free medical services without making some kind of contribution, and the more we introduce such measures more people will die because there will not be a possibility of getting medicine which is free. And the cost of medicine from wherever it is bought is very high and very expensive, and that is why you will find that it is not very long ago when the government came up with an idea of introducing

cost-sharing schemes. And because people are used to have free everything in Mulago, and since it started that when you go they charge you Shs.300/- to pay for your medical form - that form you get is bought from a certain printer. In this case, Mr. Chairman, I take it that though we are discussing matter of general principles, yet whatever - the Mover is trying to introduce cannot be imposed by the Act of Parliament or by law. In this case I stand to support the original proposal as it appears in the Draft Constitution. Thank you very much.

**MR. MUSOBYA (Kagoma County):** Thank you, Mr. Chairman. I stand to support the Motion. Health services is something a person cannot bargain for; I want to equate it with the two enemies that attack our people in Uganda. We have an enemy like Kony and then we have the disease, but government cannot fail to buy guns to fight Kony. And why should, just as the argument has been world wide that governments are spending much on defence than health services or education? So, since this is an Agenda for successive governments to follow while implementing their plans for the people, this Motion is suitable so that government can always try to plan for the people, because sickness or disease is something which has no prior intention of coming to attack someone. When you go to Jinja hospital now, because I happen to be on a District Council which has introduced the users charge though we knew and we came about it under the pains of the people. A person who is representing peasants like me cannot oppose this Motion because the income of our people plus the problems which are affecting our people, education and what not cannot manage someone to save an income for medical services. We should not think in terms of inferior medical services, aspirins what not. But when you go Jinja hospital, someone is demanded Shs. 80,000/- to treated. How can a man selling maize at Shs.50 a kilo, who has no land, but is cultivating and getting a sack of maize manage that service

So, I support the Motion that successive governments should always plan to see they save something for the health services just as it is done with defence. Because since we have proposed that basic education be provided, you cannot compare basic education with health. A child goes to school when he is healthy, so, the primary objective should be health before we can embark on education. But as you have passed education then basic health services should be provided to our people of Uganda. So, I stand to

propose that this Motion be supported by the fellow hon. Members who are in this House. Thank you very much.

**MR. MULINDWA BIRIMUMASO (Bukoto West):** Mr. Chairman, I beg to move an Amendment to this Amendment which will read like this: "*The State shall endeavour to provide free medical services to all citizens of Uganda.*" I call upon the original Mover of the Motion to agree with me to allow the Amendment by inserting the words *the state shall endeavour to*. I beg to move, Mr. Chairman.

**THE CHAIRMAN:** No, but you see now we have three ideas on the Floor. Hon. Kakungulu invited the Mover to consider accepting the formulation in article 28 and Hon. Kabugo seems to support that proposition. We did not get a reaction because the Chair did not put it to the Mover whether he liked that - *(Interjection)* - He was suggesting that if he did then it would have been easier to replace the formulation without going through the procedures and so on. Now, Hon. Mulindwa is saying that the Motion should remain as it is but only insert the words *endeavour to* and he is also putting it to the Mover whether he is accepting this. What comes from Hon. Mulindwa will still be more or less the same terms except the words *endeavor to*; but the other one reads: "*The State shall take all practical measure to ensure the provision of basic medical services to the people*" without making reference to *free*. Now, let us hear from the Mover, and how he reacts to these two propositions so that we debate what has been sorted out.

**MR. SSEMAALA KIWANUKA:** Thank you very much, Mr. Chairman. I think the one by Mr. Mulindwa Birimumaaso is more palatable than the first one. The point here is the word "*free*". Thank you very much. I accept his Amendment.

**THE CHAIRMAN:** In other words, without having us to go through the formalities of Amendment the Mover is prepared to accept to insert the words *endeavour to* so that the State shall endeavour to provide free medical services.

**DR. MUGYENYI:** Point of information. Thank you, Mr. Chairman. Mr. Chairman, the information I want to provide would help to polish up the Amendment by hon. Mulindwa Birimumaaso. When we talk of medical services we are concentrating our

attention on the curative services. The best word here would be 'health services' because health services has got a wider perspective of a preventive aspect of it.

Secondly, when the Motion which is moved by Hon. Kiwanuka talks of free medical services, in my own view it is very difficult to provide that. What can be provided is free, basic health services because free, basic health services talks of mainly primary health care services which, actually, in my view the state should be able to provide. Talk of immunization; talk of maternity services for mothers; talk of nutrition; talk of health; education and so on, and simple curative services. That in my view, if it could read, *free basic health services* the state should be able to promote that one. And I would strongly urge Members to support that one, but medical services include expensive operations, and investigations like X-rays and so on, which some people have said that when you go Germany they will cost up to 15,000 dollars. So, those ones I think are not easy to provide free. But the state should be able to promote free health services. Thank you, Mr. Chairman - but, Mr. Chairman, before I leave the Floor I could move an Amendment to Hon. Kiwanuka's Amendment that his Amendment reads as follows: *'The state shall promote free, basic health services to the population of Uganda.'*

**THE CHAIRMAN:** Hon. Mugenyi why do you choose to use the word 'promote' instead of 'provide'?

**DR. MUGYENYI:** Mr. Chairman, why I use the word 'promote' is because what is on the ground now is that a big percentage of the health services in Uganda are actually not provided by the government. They are actually provided either by the NGOs or by the communities themselves. So, in which case the government should create an environment that will promote those services. When you say provide that means it is the government, actually, delivering. But when you say promote the government is creating a conducive environment for these services to be provided. That is why I use the word *promote*. Thank you.

**THE CHAIRMAN:** Okay, now let us sort out this. There is a Motion by Hon. Ssemaala Kiwanuka to the effect that the State shall provide free Medical services to all citizens of Uganda to be inserted as a new article immediately after article 22 in appendix

2. And we are preferring to call it article 22(a) until the draftsmen are able to sort out the chronology of numbers. Now, from the comments so far received, it was said that possibly this one is too drastic and, therefore, proposals were made either to take it back to the basic text or to try and make it less drastic as was suggested by Hon. Mulindwa, but previously Hon. Kakungulu and others had suggested a new formulation. Now, Dr. Mugenyi is saying that this would not meet the real intentions that the House may have in mind. Of course, Hon. Ssemaala Kiwanuka has a different view, because he is talking about free medical services.

Now, let us agree on one thing. Let us first take Dr. Mugenyi's proposition, it is in a form of Amendment. Well, it was in a form of an Amendment and it was not seconded. Now, it has been seconded by doctors and others.

**PROF. NABUDERE (Budairi West):** Mr. Chairman, if we are going to consider that Amendment of Hon. Mugenyi, we would like to draw your attention to the Amendment which we passed already, that is article 20 which deals with the issue of health. The new article 20 at page 11 of the Legal and Drafting Committee's report which states: *'The shall endeavour to fulfil the fundamental rights of all Ugandans, social justice and economic development, and shall in particular ensure that all Ugandans enjoy rights and opportunities and access to education, health services, clean and save water, decent shelter, adequate clothing ...'* So, it sounds that this article that Dr. Mugenyi wishes to add is, in fact, already catered for. In fact, the attention of Hon. Ssemakula was drawn to this fact by the Legal and Drafting Committee, and he was advised that his wish for free medical services could not, in fact, be realised but that some kind of support to help services was already provided for under this article. And it was on the basis of that information that he himself decided he will move this Amendment despite the advice given to him by the Legal and Drafting Committee.

**MR. SAMKUTESA (Mawogola County):** Thank you, Mr. Chairman. Mr. Chairman, I think the clarification that has been brought by Hon. Nabudere is unfounded, because access to health is not necessarily meaning *free health services*. And indeed in the same article we have talked about access to education, but we have just provided for free education as an objective. So, I do not see why Hon.

Kiwanuka's Motion should be swept aside, because it is not adequately covered under the clause that Hon. Nabudere is talking about. So, I would strongly feel that the Motion as brought by Ssemakula should be supported in the way it has been amended by Hon. Mugenyi and Hon. Birimumaaso. Thank you.

**THE CHAIRMAN:** Well, the thing is that I allowed the continuation notwithstanding article 20 because of the treatment we have given to education. Because it was mentioned, but we still went ahead and said that the state shall promote free and compulsory education, so that now we are looking at it from the other side of health, and I guess that that may not necessarily be on the same footing.

**DR. NAKYANZI (Ntenjeru South):** Thank you very much, Mr. Chairman. My attention has been drawn to the Amendment moved by Hon. Kiwanuka and I think his intention is not really covered by the Amendment given by my Colleague Dr. Mugenyi. Dr. Mugenyi is primarily talking about Primary Healthy Care and I feel that hon. Ssemaala's Amendment was aimed at curative services, in which he is not covered. So, I feel that what we should do is to handle the Amendment probably amend it a bit specifically to cover the curative services, and either we agree to take it or to drop it but not to try to lose what he intended to do by bringing in primary health care and preventive services, Mr. Chairman.

**DR. KAMANDA BATARINGAYA (Bwamba County):** Thank you very much, Mr. Chairman. I want first of all, because I heard Hon. Wadada Nabudere trying to say that article 26 is mainly concerned with equal rights to health services. And that is why Hon. Ssemaala the Mover was talking of people who were flown out of the country. That is where we talk of equal rights. Others are deprived of that and others are given a chance, that is unequal rights. But that one is not what the mover is seeking. Now, the other one is provision of medical care, this is curative as Hon. Dr. Nakyanzi put it. So, to me I would request the Mover of the Motion to adopt it as it is in article 28.1 and 2, and then because the problem here is the phrase "*free medical services*" which is actually very expensive for the government, if it has to provide that. But at this particular time when we say the state shall take all practical measure to ensure the provision of basic medical services to the population actually, this is covered. Because the state will at all times take the measure to ensure the

basic, which are: immunization, primary health care, which are provided even in the hospitals where some treatment is provided depending on the income of the government. So, I would request the Mover, Hon. Kiwanuka, if he would accept that we adopt article 28.1 and 2. Thank you, Mr. Chairman.

**MR. TIGWEZIRE (Bunyangabu County):** Thank you very much, Mr. Chairman. In light of what we have heard from the hon. Members, I want to persuade the Mover of the Motion to accept the following, because it will cater for his free medical services he is looking for and then the basic part of it, because to me the catch words are 'free' and then 'basic'. When you make it free and basic it does not cater for all sorts of medical services where one may require, maybe, to be flown out and the rest of it. So, I would move that it reads as follows: "*The State shall take all practical measures to ensure the provision of free, basic medical services to the population.*" I beg to move, Mr. Chairman.

**HON. MEMBERS:** Seconded.

**THE CHAIRMAN:** Okay, but let us sort out the Motion first. Hon. Kiwanuka what do you say to that? There is a proposition from Hon. Tigwezire in terms of article 28 as it appears in the Draft plus the word 'free'.

**MR. SSEMAALA KIWANUKA:** I would just like to be clarified by basic medical services, is there an element of curative involved.

**THE CHAIRMAN:** Okay, let us get a doctor to clarify that. Hon. Ruhakana Rugunda, though I do not think you have practiced for many years.

**DR. RUHAKANA RUGUNDA:** Thank you very much, Mr. Chairman. Mr. Chairman, I think that we should straight away reject any motion talking about the state providing free medical services to the people. Because in practice many countries, even those that had started have moved away and are moving away from this because it is not practical; it is not affordable.

**THE CHAIRMAN:** No, but you see Dr. Ruhakana Rugunda, what we are doing is to find a formulation which is acceptable without having spent too much time. So, we thought that you wanted to clarify whether medical services has a curative part so that the Mover can decide. Hon. Dr. Wandira, whose practice also may be doubtful.

**MRS. KAZIBWE (Kigulu County South):** Thank you very much, Mr. Chairman. My practice is not only assured but it is also crowned by having a Masters. Mr. Chairman, I have a Masters degree in Medicine.

**THE CHAIRMAN:** But we were not doubting that, what we wanted was your clarification as to the formulation by Hon. Tigwezire.

**MRS. KAZIBWE:** Mr. Chairman, because I am a Master of Medicine, I am going to clarify on that. The formulation which is on the Floor of free basic medical services, actually, includes all those services both curative and preventive, that are basic to the needs of any human being. And I want to go ahead to support the new formulation by saying that almost over 90 per cent of diseases that bedevil our population now and for a good number of years to come is, actually, due to diseases that are preventable, and the example that was given by the Hon. Ssemaala Kiwanuka of the problem in Nebbi is that maybe those children are not only dying because of immunization, but because nutrition is so bad. Then you go out and educate people on nutrition. That is a basic health service in that you are mobilising the people to know that if they eat well they will, actually, fall less sick and do not need to go to the hospital.

Mr. Chairman, the free basic medical services can be stratified according to population and gender. According to age, children who are below five years old should be given free basic medical services. Mr. Chairman, this we have, I think, already catered for in another clause. But if you go for free medical services as tabled by hon. Ssemaala Kiwanuka I may also claim that - and it is curative, at my age I may say that I need a facelift to be able to work better as a minister for women. And if I do not I would be psychologically sick and I will not be able to carry out my duties because plastic surgery is also treatment. So, Mr. Chairman, if we are not to dwell further on this and we want to actually if we want to put a clause as an objective to make us move towards that which we would like, we should go for the newest Motion on the Floor that the state shall take all practical measures to ensure the provision of free, basic medical services to the population which includes public health, maternal and child health and also mobilising people to know what they need to do to promote their health. Thank you, Mr. Chairman.

**THE CHAIRMAN:** All this time we have been trying to find an appropriate wording. Hon. Ssemaala

Kiwanuka what do you think of this formulation?

**MR. SSEMAALA KIWANUKA:** Sir, if that includes curative then I accept.

**THE CHAIRMAN:** Now, hon. Delegates, the proposition from hon. Kiwanuka is that we insert a new article in appendix 2, which we can refer to as 22(a) and which would read that: *'The State shall take all practical measures to ensure the provision of free, basic medical services to the population.'* So, now if the formulation is acceptable, and it is acceptable to the Mover. I will now put the question.

*(Question put and agreed to.)*

**THE CHAIRMAN:** So, what we have is a new article 22(a) reading in terms I have just read out and will stand part of the Draft Constitution. Thank you.

Now, my earlier objective seems to be slightly over ambitious. We have had to push this long because I think Parliament is not in session and so Members who were going to rush do not have to rush. But there are some committees which have been arranged to take place, and I will give Floor to hon. Ben Wacha to make an announcement.

**MR. WACHA:** Thank you, Mr. Chairman. Mr. Chairman, this is to announce that the Legal and Drafting Committee will meet at 3.30 this afternoon to consider certain matters which were referred to the committee. The matters which we are specifically interested in are:

(1) The protection of widows' rights which was moved by Hon. Rhoda Kalema and Winifred Adio; (2) Then two, the right of access to information which was moved by Hon. David Pulkol, Hon. Omara Atubo and Hon. Wasswa Lule. We will also deal with certain other technical matters which are specifically within the confines of the committee. So, if Members of the Legal and Drafting Committee could meet here at 3.30 this afternoon, we will handle these matters. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Thank you. With that we come to the end of today's business and I would like, therefore, to adjourn the Constituent Assembly to 8.30 tomorrow morning. We stand adjourned, thank you very much.

*(The Assembly rose and adjourned until Friday 30th September, 1994 at 8.30 a.m.)*