



THE REPUBLIC OF UGANDA

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

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OFFICIAL REPORT

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CONTENTS

MONDAY, 5TH DECEMBER 1994

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MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda [Pg 2568]

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**Price Shs. 2,200**

Monday, 5th December, 1994

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

NATIONAL ANTHEM

P R A Y E R S

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

*(The Assembly was called to order)*

CONSIDERATION STAGE OF THE DRAFT  
CONSTITUTION OF THE REPUBLIC OF  
UGANDA

CHAPTER 11 - FINANCE

ARTICLE 180:

**THE CHAIRMAN:** Last Thursday when we adjourned, we had agreed to a recommendation as contained in Clause (1). Now we have Clause (2).

**DR. KABERUKA:** Thank you, Mr. Chairman. I wish to report that on Clause (2), we did not have any Amendment and so the Committee recommended it as it stands in the Draft Constitution.

**THE CHAIRMAN:** I see no desire to comment on two. Can we proceed please.

**DR. KABERUKA:** Likewise, Mr. Chairman, on this Clause there was also no Amendment and so the Committee recommended that we adopt it. Thank you.

**AN HON. DELEGATE:** Mr. Chairman I wanted to find out why the Committee thought that the President should be the one to lay the estimates prepared under Clause (1) of this Article. Why did they not think it should cause it to be later rather than he himself doing it?

**DR. KABERUKA:** Mr. Chairman, as I did point out, our Committee really saw that the question of the Minister was discussed at length and we did come out that the right formulation in the constitution should be a President. As I did point out, another Committee has already passed a Clause which says that the functions of the President can be exercised

either by him or indirectly by an officer subordinate to him. And it was in that spirit that in all the Clauses that we have, we did not go into the question of the Minister because even in the finance Bill, when they talk about the Minister, they have to define the minister at the end of the Statute, there is a definition as to which Minister they are referring to. So, with that in mind, Mr. Chairman, we did not go into changing President to the Minister. We thought that the presidency is the right formulation. In any case, some one did point out that the Ministers or the portfolios are likely to change. They are not lasting as the formulation of the President which is a constitutional position. Thank you.

**THE CHAIRMAN:** But I think what the Hon. Member was saying was, why do we have the language in 181 (1), which says the President shall cause to be laid Estimates. But this one says, the President shall *lay*. Do you not think we should have consistence in language! I think that is what he was raising.

**DR. KABAYO:** Mr. Chairman, I don't believe there is a difference because Clause (3) refers to Clause (1) as well and the Clause does say, "*The President shall cause to be prepared*" by reference to Clause (1), I do not think we need to say it again.

**THE CHAIRMAN:** Yes, Hon. Kawanga, are you satisfied?

**MR. KAWANGA:** Mr. Chairman, I do not want to insist on language, but one notices that the whole of this article has different language. When we shall move to article (4), there it is "*revenue and expenditure laid before it by or on the authority of the President*". There is so much difference in language in this article that one would feel perhaps the Technical Committee will iron out these differences. If that will be done perhaps that will be satisfying.

**THE CHAIRMAN:** I think what Hon. Kawanga is saying is that the language differs from clause to clause - "Shall cause to be laid", "shall be laid under the authority of the president", then "the president himself shall lay" so that - for the lawyers they think that because different language has been used, there must have been an intention separate from the other one. As soon as you find a language changing, there must be a good cause for it to change.

But it seems here, essentially they are saying the president shall receive estimates in two of self accounting bodies like the Human Rights Commission and they are saying the president should not alter them, but he should lay them. But as I think it has been explained, where the president acts, he acts through Ministers and doctors subordinate to him. So, I presume we can go on. Now, we are at (4). Again I think here, the recommendation was that there was no change, is it not?

**DR. KABERUKA:** On clause (4), Mr. Chairman, we did amend it, but mainly to remove the words 'finance and Public Accounts Committee' on page 3 and we replaced those by "*any appropriate committee of parliament*". Because we found that the nomenclature adopted here first of all differs from the one that the parliament uses, and we thought that, in this case, if Parliament thinks that in the future, they change the name of the committee, so we thought it wise to say that - to refer to it as an appropriate committee of Parliament, but the rest remains as it is.

**THE CHAIRMAN:** The question before us is that, Clause 4, be amended by omitting the words, "finance and public accounts" and be replaced with the words "an appropriate". So that it reads as it is formulated on page 7. I see no desire to comment. I put the question.

*(Question put and agreed to)*

**THE CHAIRMAN:** And so, Clause (4) is amended, as recommended.  
Clause (5).

**DR. KABERUKA:** Thank you, Mr. Chairman. Again on clause (5) (a) and (b), we did not receive any amendment, and the committee thought that the formulation is okay, and we adopted it for recommendation to the plenary.

**THE CHAIRMAN:** We go to the next one. The Recommendation on (6) is that it should also remain as it is. Hon. Kaberuka, is that correct?

**DR. KABERUKA:** Mr. Chairman, that is what the committee recommended. We did not pass estimates and we thought that it is appropriate and we retained it as it stands in the draft.

**THE CHAIRMAN:** Now, let me put the question on article 181 as amended. I put the question.

*(Question put and agreed to)*

**THE CHAIRMAN:** Article 181, as amended stands part of the draft constitution.

Article 182 - APPROPRIATION BILL.

**THE CHAIRMAN:** The question is, article 182 do stand part of the Draft Constitution. But now, we shall proceed to deal with various clauses, and then put the question at the end.  
Clause (1) has been called.

**DR. KABERUKA:** Thank you, Mr. Chairman. Likewise, I think we did not have any amendment on that clause, and so we recommended it as it stands in the Draft Constitution.

**THE CHAIRMAN:** Clause (2). Yes, Hon. Kaberuka.

**DR. KABERUKA:** Mr. Chairman, the same stands for Clause (2), we did not have any amendment, and so we recommend that it stands as it appears in the draft.

**DR. MAGEZI:** Thank you, Mr. Chairman. Mr. Chairman, I note from the end of that clause (2) that a supplementary estimate showed sums required or spent shall be laid before parliament, that this time, the committee does not seem to tell us who will do the presentation to parliament, can the Chairman, clarify on that matter?

**THE CHAIRMAN:** Yes, you heard what the question is. That elsewhere, they have said president and in one case we said minister, but here they are silent.

**DR. KABERUKA:** I think this one, we did not see, but I think it is in the same spirit of the drafting. I think it is by the president. If the committee is going to look at consistency, maybe they can come up with a formulation which is consistent, but we thought that it is clear that would be the authority mainly the president.

**MR. MALINGA:** Mr. Chairman, I think this is answered by article 146, which provides for introduction into parliament of measures dealing with the financial matters. "*Parliament shall not, unless the Bill or the Motion is introduced by or on behalf of the President, (a) proceed upon a bill including an*

*amendment to the Bill*'. That is in the opinion of a person. Besides it makes provision for any of the following. (1) In position of taxation and so forth. Thank you.

**THE CHAIRMAN:** Anyway, that covers it in my view, because the two should be related together anyway. Because the measure will be introduced either by way of a Motion, or by way of a Bill, an appropriation Bill, in which case then you go back to 146. Okay, we are now at (3), is it not?

**DR. KABERUKA:** Mr. Chairman, Clause (3) likewise was not changed, because we did not have any amendment there.

**THE CHAIRMAN:** Is that complete? It is 182. Okay, let me now put the question on 182. The question is that, article 182, do stand part of the Draft Constitution.

*(Question put and agreed to)*

**THE CHAIRMAN:** Article 182 do stand part of the Draft Constitution.

**MR. ODOY-ASOKA (West Budama North):** After article 182, clause (3), during the debate, I did move a motion which should - I am bringing this before we come to clause 183 because this is where I had proposed while moving my amendment, if you would allow me, I would like to bring it at this stage because it is more appropriate after clause 182 (3).

**THE CHAIRMAN:** What happened to it in the committee?

**MR. ODOY:** Well, during the Select Committee 3 meeting on Chapter 11, held on Friday October 7th, 1994, while discussing finance, I moved a motion proposing a new article 183, to insert the following clause immediately after article 182 (3) and the original article 183, to become article 184 and subsequent article to adjust accordingly. Now, I had then moved a motion to a new amendment to state that, the state shall establish local development - *(Interruption)-*

**THE CHAIRMAN:** No, no. But before you proceed, I think let us agree on some procedure. Very much like we had agreed when we were getting reports from the Legal and Drafting Committee that, if a motion was moved and it was either negative, or

withdrawn, then we should be advised by the chairman, as to the circumstances that led to the negating or non acceptance.

**MR. ODOY:** Not at all. Mr. Chairman, it was very, very positively accepted, and supported by several delegates, and the Chairman of the Sub-committee recommended that I present this to the Chairman of the Legal and Drafting Committee which I did on the 29th of November, with a copy to you, Mr. Chairman, as recommended by the sub-committee and the Chairman's consent. But I am a bit disappointed, I have not heard from the legal and Drafting Committee. And therefore, I would like to request, Mr. Chairman, that at least, you give me a hearing to present it, as it was really very well received and supported by several delegates who were attending this committee.

**THE CHAIRMAN:** You see, you are putting us in difficulty. If it was so well supported, how come it does not appear in the report of the committee?

**MR. ODOY:** I do not really know what the Clerk to that Committee did or the motive or whatever he had in mind, but for sure, it was reported in the News papers.

**THE CHAIRMAN:** Okay, let us do it this way. You are saying that the matter went to the Legal and Drafting and they have let you down. Can we hear from Hon. Ben Wacha? Because this is a very serious matter. Let us hear from the Legal and Drafting because it was supposed to be in the hands of the Legal and Drafting Committee.

**MR. WACHA:** Thank you, Mr. Chairman. Mr. Chairman, this matter was circulated to Members of the Legal and Drafting Committee, but our understanding is that it was supposed to have gone to the Technical Committee to find out where best it could fit. Because by the time it reached us, we had already done synchronization of all the articles, all the proposed Motions under finance.

**THE CHAIRMAN:** Okay, thank you. Chairman of Committee 3.

**DR. KABERUKA:** Thank you, Mr. Chairman. It is true, Hon. Odoy brought up that amendment, and there was also another one which thought to establish an educational fund, the committee took some-time debating those issues, but at the end of the day,

it was pointed out that the issues they were raising were of administrative nature and that we did point out that, under Chapter Three clause (21), articles (4) and (5) cater for those. The Hon. delegate did not agree with us. So we said okay, in our case, we are dealing with matters of public finance and we thought that that was not a proper place for it and we referred him to the Legal and Drafting. In fact there were two which were referred. Even that one of establishment of Education Loan's Fund.

**THE CHAIRMAN:** This matter now ends up in the hands of the Technical Committee who have no competence to speak on the Floor. Because the Deputy Chairman of legal and Drafting, is saying, it was a question of finding a home for it, which makes it appear as if it was acceptable. The Chairman of the Committee is saying, it was not acceptable.

**DR KABERUKA:** According to our minutes, and indeed I remember we did point that out, Mr. Chairman.

**THE CHAIRMAN:** Hon. Guma, are you having some memory of this matter?

**LT. COL. GUMA:** Thank you, Mr. Chairman. In fact we spent a lot of time on that amendment. But our Hon. comrade wanted to turn the constitution into parliament and we pointed it out to him. Because what he is pushing is taken care of almost everywhere as per administrative procedures. Now, the problem is that our friends here, some of our comrades, want to legislate. So, we advised him that, it will be taken care of. Because there is no way you can put it in the constitution. For instance like the education loan fund, how do you put it there? That is what I understand. That we agreed, not that we referred him to plenary because we thought it was right, it is because we thought he should get satisfied. Otherwise, this body does not legislate. It writes a constitution. Thank you very much, Mr. Chairman.

**MR. SEBAANA KIZITO:** Thank you, Mr. Chairman. I think Mr. Chairman, the matter is more fundamental than disagreement with a Member in the Committee. I think the question which Hon. Odoy is raising is whether a matter having been rejected or debated and the results were unsatisfactory to the mover having been debated in the Select Committee, can the mover appeal to the Plenary Session as he is doing now? I think he is doing so because he was dissatisfied with the decision which was arrived at in the Select Committee. I feel that,

Mr. Chairman, I am of the opinion that, any member of this Assembly is free, if he is not satisfied with the decision in the Select Committee, I think he is free to raise the matter here so that all delegates from all constituencies hear what he has to say and make a decision on it, Mr. Chairman.

**THE CHAIRMAN:** Hon. Sebaana Kizito, you put words in his mouth, and then logically argue to that conclusion. Because his was not saying that he was dissatisfied, he said he had a lot of support. But they said, the matter should go to the Legal and Drafting Committee. But he did not say that. Unless Mr. Odoy is prepared now to adopt the language of Hon. Sebaana Kizito, then we can consider that as different matter.

**MR. ODOY:** Thank you, Mr. Chairman. In fact, this Motion by the way some section of the Delegates intended to kill it, but because of the overwhelming support that other delegates like Hon. Kajuka, who in fact after my presentation, invited me so that we could discuss it, afterwards to see the best way that government could implement this. And, Mr. Chairman, I am very happy and glad that, as an example of this particular Motion, a whole ministry has been created in the recent reshuffle, and I am very happy and proud about this particular development.

**THE CHAIRMAN:** There is a point of order on the Floor.

**LT. COL. GUMA:** Point of order! Thank you, very much, Mr. Chairman. Is it in order for the Hon. Delegate to mislead this Plenary Session that he had overwhelming support in Select Committee 3 when in fact he knows we debated it for a long time, and advised him that that was administrative. Is he in order? Thank you very much.

**THE CHAIRMAN:** Well, it is just a question of your word against his because he is saying he had support, it is possible that he interpreted there to be good support. I think let us get the issues clear. Hon. Sebaana Kizito has raised a different angle to this matter, although Hon. Odoy Asoka was not prepared to come out clearly to say he lost - he is saying he received a lot of support, and the matter was referred to the Legal and Drafting. Now, that one then has got us in confusion, because the Legal and Drafting say, it was a question of finding a home for it. Implying it was okay, and yet the Chairman is saying, it was not accepted, as is also being echoed by Hon. Guma.

**MR. WACHA:** Mr. Chairman, we reached the conclusion I talked about because of the impression we were given that the matter had already passed in the relevant committee. If they were passed in the relevant committee, it could only have possibly been referred to us or to the Technical Committee to find the appropriate place for it. Now, we did not have the other aspect of the matter, that it had been rejected.

**THE CHAIRMAN:** Yes, Hon. Wanendeya, you have a memory of this matter?

**MR. WANENDEYA:** Thank you, very much, Mr. Chairman. Mr. Chairman, the matter was not rejected. It was referred to the Legal and Drafting Committee to find a home. And therefore, when I hear Hon. Guma saying that it was rejected, he wanted to turn into his own personal fights, that is not correct, Mr. Chairman. Because some of these things, the Hon. Minister for Trade and Industry said it was a good thing and he thought that it should go to parliament, but Hon. Odoy said no. So there were arguments, and therefore, as Hon. Sebaana Kizito put it, this is the right place where we can debate and see if we should take it to Parliament or not. But, Mr. Chairman, I would say this, that when it goes to parliament, you can get people who support it, depending on the way it is put or rejected. But if it is entrenched in the constitution, Mr. Chairman and Hon. Delegates, there is no way whereby the individuals of Parliament can move that thing around. I thank you, Mr. Chairman.

**THE CHAIRMAN:** But Hon. Delegates, I think you can see my difficulty. Already committee 3 is split. The Chairman says, the matter was not accepted, another Member is saying it was accepted but only referred to the other committee. That one leaves us without any conclusive situation. Hon. Kamuron, are you a Member of that Committee?

**MR. KAMURON:** Mr. Chairman, I am sorry to say that the delegates who have spoken, particularly Hon. Wanendeya, has really confused the Plenary Session. Now, the position of the Committee was like this. The Motion was moved with great support from the delegates, but the delegates were supporting it that it was a good innovation and that it was not a constitutional matter. It was very good, and Hon. Asoka was consoled by Hon. Kaijuka and asked him to press it further and take it to parliament, if he was lucky to be elected to parliament in the next general elections. So, I want to correct the impression that

the motion received an overwhelming support as a constitutional matter, that one we should not confuse it. We sympathise with the good innovation by Hon. Asoka. Thank you, very much.

**MR. ODUR:** Thank you, Mr. Chairman. I am rather surprised that, there is some confusion over this matter. But as far as I can recollect, when this particular motion was brought to the Committee, it was well received. The whole idea was well received but then the problem was that the committee was not very clear as to whether it fitted to be discussed under those articles which are being considered at that particular time. That is why the matter was referred to the Legal and Drafting committee, not only for refinement, but also to make suggestions as to whether there could be a possibility of bringing the Motion for discussion in the Plenary. So, it is not really correct that we should bring any type of confusion of this matter. If it was rejected, I do not see how it could have ended up with the Legal and Drafting Committee. There should have been no reason for it to go there. So, my suggestion would be that we should allow the mover to bring up the matter at an appropriate time if he finds that this is not the right Chapter for it, we can definitely advise otherwise. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Yes, now Hon. Delegates, I think let us take it this way that the committee 3 on this matter is not at one. But the issue is quite simple now. We have to decide whether in principle we should allow matters that have gone through committees, whether those committees have referred them to other committees, with sympathy or otherwise, should be re-opened here in the plenary, and under what circumstances?

**MR. MULENGA:** Mr Chairman, my view is this that as much as possible, we should discourage re-opening issues at plenary which were discussed exhaustively in the Select Committees. The rules provide for minority report that can be utilised, but in absence of that, I think we should discourage. Now, the situation that has arisen is that, as you have observed Mr. Chairman, the committee is not at par with the memory of what transpired. I would have thought that, the last contribution by Hon. Odur makes a point. I want to conclude, Mr. Chairman, this way that, while his point makes sense that there would be no reference to the Legal Committee if it had been rejected. I was wondering why nobody has thought to refer to the minute. Did this

committee not keep minutes? If it did, is there no indication what the decision was so that we go by that, since the memories disagree?

**DR KABERUKA:** Mr. Chairman, the relevant section of the minute is here. It says, "*after extensive debate, it was resolved that the proposed amendment was not a constitutional matter but rather a material for parliament*". Now, then we go further after that, someone brought another amendment to establish an educational fund. In the same spirit we said, that was in the same line as enterprise of funds and we said that, we do not have space for those. And we said if they are very strong about them, they can go and seek guidance. That is when we talked about the Legal and Drafting Committee and Technical Committee to see whether those can be accommodated elsewhere. But otherwise, the committee was very strong and its recommendation are here in the minutes. These minutes have been with us since that time. Thank you.

**MR. AWORI:** Mr. Chairman, given your experience in this matter and your wise leadership hitherto, Mr. Chairman, could you guide us particularly on this matter of cut off point on how to recreate an issue which had been discussed in a select committee. If one feels very strongly about it, one might wish to bring it to the plenary. Already in the pipeline are a number of issues. They may have been discussed and put to rest during the Select Committee discussions, but some of us still feel very strongly about them, and would like to bring them to the plenary for further discussion and consideration. Mr. Chairman, I would like to see, as I said in my introductory remarks, given your experience and wise leadership, I would like to know, if there is a standardized format on how to cut off the situation. If you keep asking us on how to handle it, or how to read a previous minute, it may not give us a correct situation on how to bring up another point. Mr. Chairman, I can say, right now, there is the issue of "*federo*", it is going to come up. (*Applause*) Are we going to put it to rest that it was cleared by a particular select committee? Mr. Chairman, there are some people who would like to bring up the issue of the national language. I would like, for instance, to stick to what was passed at the Select Committee. But other people would like to bring it back. Mr. Chairman, these are issues I am putting up in advance, so that we have a formula on how to handle them. Otherwise, they are going to come up from time to time and they are going to waste more time. I am told, Mr. Chairman, even the

women are complaining that some of the issues which were cleared at the Select Committee were not to their satisfaction, and they would like to bring them up again. Mr. Chairman, I am being echoed that, who told you. I know it, Mr. Chairman.

**THE CHAIRMAN:** You do not have to give them your source. Anyway, I think you have made the point.

**MR. AWORI:** Yes, exactly. That is why I am seeking your guidance, Mr. Chairman.

**THE CHAIRMAN:** Okay. The position is this, we have five Select Committees, and we have provisions in our rules relating to committees standing and committees, select - but there are also provisions relating to committees generally, and that is to be found in rule 30. The procedure generally of committees - and these rules start by categorically that, these rules apply to committees with the necessary modifications. In other words, unless specifically stated in relation to a committee or type of committee, the rules as they are, applied generally, including questions of quorum and so on and so forth, and that, the necessary modification are for instance where you read Assembly, insert Committee. The question raised by Hon. Awori relates to how to proceed, revive a matter. Of course the case of Hon. Odoy Asoka is a bit more complicated, because it would imply the conclusion was that the matter should be referred to Parliament instead of being treated as a constitutional matter. But I will come to that later.

Now the procedure which is more pertinent to us now, is the method of reporting by committee, and the method of arriving at their decisions. We start with rule 31, subrule 5, that one talks about the subject matter, so we do not discuss other matters other than those that have been referred to you. But subrule (6), of rule 31, provides for the manner of arriving at a decision in committee, say it shall be essentially by consensus. But if there is no consensus, it shall be by vote, and the nature of recalling the votes is the majority of the Members of the Committee. But provided that the minority of Members of the committee may submit a minority report which shall accompany the main report. And then sub-rule (8), "*Every committee shall report to the Assembly at such time as the Chairman of the Assembly may direct and will be accompanied by the minutes of the committee, and shall be laid...*" Of course we know, that with relation to select committees, after

they have reported, unless we continue them in existence like we did, they cease to exist upon the voting.

So, it would appear under the rules, the more appropriate way of reviving a subject matter here would be that you attend in the committee, you put your case, if your case takes a minority position from the majority, then you are entitled at that time to say that you want to reduce your objection to a minority report, and when the Chairman reports, you would be obliged also to make reference to the matter. For instance, when we say, article such and such, the Chairman reports and upon the basis of the minutes, to say what I have reported is a majority report, but there was also a minority position on this matter, which would then be brought to the attention of the Assembly. If we receive a report of that nature, then the procedure would be as follows: For instance on the question of language, I am told the recommendation is that Swahili to be the national language, and if someone comes and says, No! he does not want Swahili to be the National language, he may either say, he does not want it to be a national language or he says, he prefers any other language. Then what he would do, he will start by discussing the minority report, because should the minority report become a majority view here, then it replaces what was a majority view in the committee, and therefore, that becomes a decision of the Constituent Assembly. If the minority view is defeated again, then we go back now to consider the majority recommendation, and that is why I have been insisting that Members should take advantage, those who wish to raise matters here. Otherwise, it becomes very difficult for us to revive a matter, under just general conditions.

Now, when it comes to this situation therefore, of the case of Hon. Odoy Asoka, I know he did write to me, no, I think he wrote - I do not know whether to the legal Committee, but I think the copy to me, to say that you had raised a certain matter, but that you would like to introduce it in the plenary. What was not clear was whether it was a minority position or just a desire to continue argument, but this time in the plenary. If it came as a minority report, we would have had no choice, but to consider it first before we accept the position of the committee, which represents a majority view. Do I satisfy you?

**MR. AWORI:** Point of clarification! Mr. Chairman, some of us did not have, either by omission or

commission, we did not have the words of your wisdom before today. In other words, there are cases where I could have put minority report, but as I said, out of omission or commission, we did not. What is going to happen to that. Number two, there has been a constant reminder on the Floor and elsewhere that that is a matter of secondary legislation or that is a parliamentary matter. That is a matter for parliament. Again, I am seeking your guidance, when do you cut off constitutional issues and get into the perimeters of parliament?

**THE CHAIRMAN:** No, I do not think there can be a first hand and first rule on that one. But if in your committee, you think this matter is a constitutional matter, and the majority take the view that it is one for parliament, we are entitled to file a report to say you took that view, and then we reopen here, if we think it should be so reopened. On the question of what to do, with regard to matters which have already been concluded, it is not for me to advise, I think that one, we can send it to the Legal and Drafting Committee. But my view would be that since committees have not reported, the matter is still within their hands, among your own ranks, you can reopen the subjects, if you so wish, in accordance with the rules, and if necessary, may be file your minority position on matters you think you should. But as I said, once it is filed as a minority report under these rules, it should accompany the majority report, and the language is quite deliberate, and therefore, we would be under an obligation, to take up that matter.

**MR. MWONDA:** Point of clarification! Thank you, Mr. Chairman, I am seeking clarification on two issues, arising out of your advice, and one arising out of the Chairman of committee 3. May be I will start with the Chairman of committee 3. He has read to us the relevant part of the minute which concluded the matter on Hon. Odoy Asoka's motion. But I thought it had also been established here that that matter was referred to the Legal and Drafting Committee. It does not seem to suggest where in a minute at what point they referred the matter to the Legal and Drafting Committee. Maybe you will be able to answer that. Mr. Chairman, what happened for instance, because every Member of the Constituent Assembly deserves a right to attend any of the committees - the select committees and even move amendments in those committees. What happens when a Member who is not a Member of that committee moves an amendment in another commit-

tee. By the fact that he is not a Member, he cannot therefore, be entitled access to a minority report. How, would a minority report be originated?

**THE CHAIRMAN:** Well, if the Members of the Committee voted enormously against his view, then really the minority report would be a very difficult one to generate. But if the committee was divided, I am sure he can take advantage of the presence of other Members of that Committee to file a report, but also make reference to him as a person who did actually bring up the matter. I do not think, it would be wrong for him to be mentioned as a person who brought up the matter. Unless the chairman of the Legal and Drafting Committee disagrees with my understanding of this matter. I do realise the Chairman of Legal and Drafting was advising other Members at the time. The question has been raised by Hon. Patrick Mwandha - How does a Member who is not a Member of the Constituent Assembly, who is not a Member of the Select Committee - under what circumstances can he file a minority report from a committee of which he is not a Member although he will have been attending and presented matters, which may have led to the deadlock or to the result of which he wants to file a minority report. He is not a Member of the Committee, he presented a matter, he was not happy, he would like to file a minority report, can he, notwithstanding that, he is not a Member of that Committee. Let us first hear from the lawyers then we come back to Hon. Odoy Asoka's case.

**DR. KANYEIHAMBA:** Thank you, Mr. Chairman. My own interpretation with rules that a Member either only presented a view to a select committee, but he was not a Member of that Committee. And cannot present a minority report. The presentation of minority report refers to Members of that sectoral committee who have attended it consistently and have been participating in all the decisions touching on that committee, and disagree with majority views on either some specific articles or generally on the subject matter of that report. So, I do not think that our rules would allow a non-member to a Select Committee to make a minority report. I think what he can do is when the Committee reports in the plenary session, he is then to use his rights in plenary session and point out that either he went there and did not agree with them, or he does not agree with the report because of the majority or minority which is being presented here, and then seek the Chairman's permission to speak as to why he

opposes or disagrees with the Report. I thank you, Sir.

**MR. BEN WACHA:** I am just supporting what the Chairman has said. Mr. Chairman, Rule 31 (6) states that a majority Report has to be filed except that a minority of Members of the Committee may submit a minority Report. In other words, all the Members of that Committee are entitled to make a report. Now I think the issue that he has raised, the Member concerned could take advantage of the membership of that Committee and through them he could ask some of them who voted for him to file a Report on his behalf.

**THE CHAIRMAN:** I think that is the position actually.

**MR. AMAMA MBABAZI:** Mr. Chairman, I though that Rule 31, sub-rule 6, talks about the manner of reporting by the Committee to the Plenary. But once the Report comes to the plenary session, I do not think we are bound to accept the decision of the Committee and we are merely required to endorse it. So, my interpretation of this is that generally the idea of committee was to overcome a problem we were having, of having to go at a very slow pace. Because Committees were 5, we were handling five different things at the same time and we were dealing with raw things like synchronisation and so on and so forth. But once we receive the report from the Committee, then surely the plenary session is entitled to defeat that decision which implies that if a Member, even if he had not submitted a minority Report, has a point of fundamental departure from a decision, if someone feels strongly that although the Committee took a decision that Uganda should for example be a Republic, and that he and his Constituency are for *Federo*. I do not see any problem with that. That would not be inconsistent with this Rule.

**THE CHAIRMAN:** But what do you mean by bringing up? Because bringing it up means, either you bring it up by general comment - in other words, we are debating a Motion that Article so and so do stand part of the Constitution and the recommendation from the Committee is that that Article should be adopted in that form, and then someone just says, well I do not like the contents of that recommendation under that Article. That is a general comment. But Hon. Odoy-Asoka is not proceeding in that manner. He wants to move a Motion which will then be on the Floor as a Motion so that you are now debating a Motion not just a general Debate on the Report.

**MR. KAGGWA SSOZI:** Mr. Chairman, first of all I want to agree with the interpretation of my Chairman for Legal and Drafting Committee in as far as that person would not be a party to the Committee. But most important, I would want you probably to reiterate to us and for clarity because I am a bit worried by what is now going to happen when you look at Rule 31 (6). I would request that you make it absolutely clear to any Member who would want to bring a contentious issue here, to write a Minority Report even if it is in two lines because from your ruling, my understanding is that there is no way an issue can be brought back as by way of Motion in the way Hon. Odoy-Asoka wants to bring it, unless it is by Minority Report. I think it is important that we are clear to that in mind. Otherwise the populace is going to get the impression that whatever the Committee decided is final and we are just coming here to endorse and that is very dangerous. Thank you, Mr. Chairman.

**THE CHAIRMAN:** I think we should come to the end on this one.

**MAJ. GEN. TINYEFUZA:** Mr. Chairman, I would like your guidance because I am more concerned about the spirit under lying the interpretation of what the Legal and Drafting Committee Chairman has just given which in effect will be that if a person is not a Member of a Committee and therefore, not in position to file a Minority Report, his views cannot in any way be accommodated. Now, how do we reconcile that with Rule 49 in the Reconsideration Stage, where it does not actually only allow a Delegate to introduce, to delete and amend but even it goes on to say that you can introduce a new provision into what has already been discussed. Now, the provisions of Rule 14 really require notice, that is all and then the rest it says is that the procedure as is provided in the Consideration Stage shall apply. So, it means even if we are to block the Members at this stage from the reopening some of these personal Motions which otherwise they would have wanted to be discussed, our Rules do permit them to bring them up in the Reconsideration Stage. So, I do not know what your advice would be on that because it seems our Rules do allow at a later stage, that person to bring in a Motion.

**THE CHAIRMAN:** Of course it is not an automatic right to come and reintroduce a matter at a Reconsideration Stage. You must first of all collect support of not less than 20 for you to be able to come

and reopen. It is not just an automatic right like it is under the present arrangements. What we are saying is this, that really let us first finish stage one of the consideration stage and apply the rules as they are. When you come to the Reconsideration Stage, that is a different Stage. At that Stage, we shall be applying a different procedure, thus, not less than 20 Members supporting the proposed Amendment before it can be laid. But otherwise, if we just leave it open as it is to re-introduce all and every matter that was taken up in committees, then we might as well have done it here.

**MR. ONEGI OBEL:** Thank you, Mr. Chairman. I have listened to you but I am getting a bit confused on the major issue of these reports from the committee. Mr. Chairman, I am going to be probably the only one, I hope not, who has failed to attend all the select committees. And that is for one reason or another, and therefore, I feel that a lot that have been recommended here for instance by committee (3) missed my participation.

Mr. Chairman, the point I would like to be clear about is that, if a recommendation from a committee include a Clause that I do not agree with, Mr. Chairman, I would like to feel that, as this is only a mere recommendation to us here, to the Assembly here, any Member should be free to comment on that recommendation. If we are agree that it is nothing but a recommendation, nothing final about it, I would be more comfortable with that ruling, Mr. Chairman. I thank you.

**THE CHAIRMAN:** I think we are not disagreeing, we are discussing a recommendation and we have done that even in the last week, but the point I am saying is, if a Member wasn't sure about the recommendation, okay, if he wants to make his own say, for instances you have a recommendation for (a) and is supporting (b) a minority report, and he wants (b) instead of (a), then if he comes with a minority report, we shall discuss that one. If it becomes majority view on the Floor, then it displaces (a). But I am not saying that you as a Member are not free to comment on a recommendation, either seeking clarification or even expressing objection without necessarily having to move a counter Motion. That is all I was saying. I think I have gone far on this one. I think I will allow only one or two comments then we proceed.

**DR. KAWANGA SSEMWOGERERE:** Mr. Chairman, I would like to stress the significance of

the contribution of Hon Amama Mbabazi and of the last speaker Hon. Onegi Obel as well as Maj. Gen. Tinyefuza. Mr. Chairman, the plenary is receiving committee recommendations, the select committee's work does facilitate the work of the Plenary. It sorts out very many things. It does this by a number of amendments and so forth. But they are not really binding until we have passed those recommendations in the plenary, and in the plenary I think as in Parliament, any Member is really free to move a Motion. We can move a Motion to reject a committee recommendation, we can modify it in whole or in part. So your first ruling should really prevail. It should not be necessary, if we are now discussing a Motion moved by a Member of the original committee, there is a difference if he wants that Motion - amendment to be seen as a part of the report. We can say no, if the Members thinks he is free to move a Motion, and if he is going counter to the sentence of the House, that will be expressed. I do not think we can close the door to a Motion from any Member on any subject.

**THE CHAIRMAN:** We have not closed the door, if you read the rules here, they provide that if you want to re-open a subject, to re-open discussion of the subject X as it was discussed in the committee. But if they say that it should be 6 months and you want to replace it with 4 for whatever reason, that is okay. But to re-open the subject like it was discussed, then here they are saying, you should have two reports, the minority report and majority report, then we would go with the minority first and say, do we accept this or we do not, if we do not, then we go to discuss the other one. It does not mean that by rejecting this we have automatically adopted the other one. We have also to discuss it.

**BRIG. KYALIGONZA:** Thank you, Mr. Chairman. I am just seeking clarification from the Chair regarding the formulation of these select committees. Mr. Chairman, if I recollect very well, the spirit under which these select committees came into being had their specific reasons and the manner the discussions were also conducted then is the same. And there was every opportunity for every Member who had a particular point to raise it before that particular committee. Now if under the same spirit we re-open the same discussion having given an opportunity to present a matter before that committee, if we open up a discussion, I am wondering what would have been the purpose for us to have gone into these select committees.

The point from Hon. Asoka is slightly different because it went before this committee and he went and presented his case. But he was advised that this particular case was an administrative matter, and would be handled by the future Parliament where he is likely to be given the chance. But in this situation, Mr. Chairman, I am seeking your clarification to guide me in particular whether it will not have wasted all our time here if we condone to the idea of re-opening up individual discussion of matters which they think have not been properly handled and yet they were not satisfactorily accepted before that committee and that particular Member has had no opportunity to present his case to his satisfaction. Thank you, Mr. Chairman. I am seeking clarification from the Chair.

**MR. MALINGA:** Mr. Chairman, the first problem we have to solve is whether rule 48 applies to our proceedings now or not. In my opinion, it applies and therefore, rule 48 determines the manner in which we proceed at this stage. And rule 37 sub-rule (6) says, *amendments to articles of the Draft Constitution recommended in the report of a select committee may be move at the appropriate time by the chairman, or by the Member of that committee*". So any proposals that committee has had, the only thing for us for discussion here is the Draft Constitution that is the Odoki report. Now, any other report which comes from the committee, comes to this Assembly as an amendment to this document. Therefore, it should be considered as such - as an amendment coming from that committee, and that amendment is subject to amendment by any Member of the Assembly. So that is the position. Rule 37 sub-rule 6 and rule 48 govern our proceedings at this stage. And we should now address ourselves to those rule and proceed accordingly, we can make progress.

**THE CHAIRMAN:** Thank you but I think the point some people are saying is, a report comes and it is a Motion amending an article or Clause coming from the committee. That is the one we are discussing on the Floor. But there is also a desire to re-open the subject as if it never passed through the committee at all, and that is where he is getting worried.

**MR. MALINGA:** What I am saying is, whoever wishes to introduce anything other than what is contained in the report should move an amendment here on the Floor of the House and it is dealt with and disposed of under any of our rules and our rule 48 tells us how to proceed with such amendments. So this is, Mr. Chairman, in my humble opinion, how we should proceed.

**THE CHAIRMAN:** And that is how we have been proceeding in fact. You remember your neighbour moved an amendment to a recommendation relating some of the provisions from committee (3). We discussed them, and in fact it was carried. We replaced the word "President" with the "minister responsible for finance", and that is fine. But where you want to negate the report and go back as if nothing was discussed, that is where I think they are saying we have to apply the rules very, very strictly.

**MR. KITARIKO:** I believe we are really wasting time. What was an issue was whether this proposal should be put in this chapter or elsewhere in the constitution. I believe committee (3) opinion is not legal opinion, so I believe that this should be referred to the Legal and Drafting Committee to find where it should appropriately be put.

**THE CHAIRMAN:** Anyway, the thing is that, I had allowed a wide ranging debating on the matter because I want us to be very clear on how to proceed in view of the fact that we went to committees to make our work more efficient. But if we were to come back and re-open subjects as if we never went through committee, then it will be useless. The procedure is laid out, and I will have Hon. Kabayo with the last comment, then I will make a ruling on the question of Hon. Odoy Asoka.

**DR. KABAYO:** Thank you, Mr. Chairman, I have two comments. One is that according to the interpretation and the explanation we have had from the Floor on the rules, it is evident that the rules overlook one of the effective status of visiting delegates to the various committees. And it is also silent on what constitutes the minority - the definition of minority. Secondly, in the interest of saving time and considering that there has been enough time and opportunity for amendments to be moved and debated in select committees, would it not be a good idea and a good practice to require that any fresh Motion or minority reports seeking to be brought before the plenary, to seek the support of at least 20 seconders, and could I therefore move that we visit rule 45 which provides for the things overlooked and make new regulations so that we can sanction this accommodation. Thank you, Mr. Chairman.

**THE CHAIRMAN:** That one we cannot do it on the Floor today. Those ideas I think can be embodied in a written form. We shall make a reference to our Rules and Orders Committee, they can come back

with either some recommendations as to how we can modify and accommodate situations we are looking at, or even improve on a question of the areas which have become clearly a bit confusing to Members as to what happens to a report that has come from the committee, or in a situation like the one of Hon. Odoy Asoka. But I think that one, Hon. Kabayo, you can frame it we shall refer (1) to Hon. Omara Atubo and his committee, then they will come back to us with a recommendation as required by our rules.

**MR. ELYAU:** Thank you, Mr. Chairman. According to me, as I was listening, it appears as if there has been some difference between an issue for Parliament and an issue for constitutional matter. Mr. Chairman, I had wanted this clarification in respect of argument for some of us so that we all benefit. Is this really, according to Asoka's Motion, an issue of Parliament or an issue for debate in the constitution so that people know the merits of Parliament and merits of constitution. This is where we are a bit puzzled. We need some clearance in this matter, Mr. Chairman, I thank you.

**THE CHAIRMAN:** As I said earlier, it is not easy to draw a hard and first rule that this matter is strictly for the Parliament and this matter is constitutional. It is what we decide as a body in our best judgement that goes into this constitution, of course, taking into account advice from people who are more associated with constitutional and Parliamentary matters. But it is difficult to say I am setting the rules that this can only go into Parliamentary business and this can only go into a constitution.

**MR. KATENTA APUULI:** Thank you, Mr. Chairman. I am seeking clarification Hon. Chairman, from you and I want to be clarified whether I am wrong in my understanding. My understanding is that a matter would have been raised, debated, and there has been a division for a minority and a majority report to pertain. Therefore, if a matter was not debated one could never possibly talk of a majority or a minority report. So am I right to assume that before we can even talk about a minority or majority report, the correct assumption is that, that matter must have been debated? And is it also correct for me to assume that for your chair to accept a majority position, that minority must be substantial or it can be a minority of one individual? I give you for example, we debated in my committee the issue of Kiswahili, and 20 Members came up in support of that position that Kiswahili becomes a national

language of Ugandans 18 opposed, 4 abstained, in that circumstance, I feel that a minority report must of necessity be filed. Can the minority report be filed when somebody was defeated. Or there was consensus on an issue? I, would like to be clarified Hon. Chairman. Thank you.

**THE CHAIRMAN:** You see, the way you arrive at a decision is set out in stages. If you look at 31 (6), it is saying, first you try consensus, if that consensus fails, then you go to voting or division. And the majority will carry a debate. However, the minority - and I do not think that is defined to me in more than one, the minority can file a minority report in accordance with that rule. So through the stages first, if there is consensus, of course then there is no need but if there is no consensus, you have to vote just like we do here, and when you vote, you take the majority. Now for us, we cannot have a minority report from the plenary because otherwise we will have two constitutions. One confusion of the majority and one confusion of the minority. For us here, once the majority have spoken, unless we get dead locks in accordance with the rules and statute, then we go into referendum. But if the majority is very clear in accordance with the rule, that is the end of the matter, we cannot have minority here. But the committees are coming with recommendations, and therefore, some members may feel so strongly about the matter that they come with their minority view here officially in a form of a report. But if they keep quiet, of course there is no question of us having to say, was there any minority, we do not have to ask you chairman, we just take your report and we discuss it. If we adopt your recommendation fine, we can modify it as we go along.

**MAJ. TUMUKUNDE (Rubabo):** May be, Mr. Chairman, we should, if you allow me, to seal on this problem of the discussion in committee (3) subject being raised by Hon. Odoy Asoka. The working method of committee (3), Mr. Chairman, was that we tried as much as possible to make sure we convince each of us to drop an idea. Or at least convince him that it is not very, very popular so that he proceeds knowing that. However, at every stage we reminded individuals, Mr. Chairman, and the Chairman did this very efficiently, that he can still insist that he would want to present this matter to the plenary session. Mr. Chairman, on this very subject, we argued about where to place this very amendment. That is why we took the matter to the Legal and Drafting Committee because I am a Member of both

of committee (3) and the Legal and Drafting Committee. This was not for anything else but to establish if this can be allocated a place elsewhere in the constitution. Mr. Chairman, the views were clear, and after advise from the Legal and Drafting Committee, we said however, this idea is new and rather fascinating, but still do prefer writing some form of paper so that it can be discussed by Parliament. We even discussed putting it in the constitution, and one of the reasons why we could not have it in the constitution was because, Mr. Chairman, we did not have even enough details on the idea itself since it was new, though fascinating, it was strange. So we said, Hon. Odoy Asoka's proposal is a very good idea but it can best be expanded and entrenched by a Parliamentary discussion and a Parliamentary body and I remember Hon. Odoy Asoka did not give any contrary view to this advise. He did not even insist to say no I want to go to the plenary. He was clear that we liked the idea but that it is irrelevant to the constitution.

So, Mr. Chairman, whereas we are applying all these rules as they are in this book, we should distinguish a situation like this one as being peculiar and it should be treated as such. We agreed it is good, but that it would work better as a Parliamentary paper, Parliamentary discussions - committee discussion, then it be passed and entrenched in an act of Parliament, Mr. Chairman.

**THE CHAIRMAN:** Now I would like us to take this matter this way. There has been a memory in that committee, it was not common and so we ended up with a situation where the chairman of the committee and his deputy had different memories. Because we had the minutes, but we also heard the Legal and Drafting Committee saying, they were not fully briefed as to how the proposal by Hon. Odoy Asoka had failed in the other committee or committee (3). In my view, I think let us give Hon. Odoy Asoka a chance by sending him back to the Legal and Drafting Committee with two questions: One, is this correctly a constitutional or essentially Parliamentary matter? And two, if it is a constitutional matter, where does it fall within the Draft Constitution? And if it falls wherever, then even if it falls where we are, we can always re-open for purposes of that report from the Legal and Drafting Committee. Is that acceptable? Hon. Odoy Asoka, I think then you get it back from the Legal and Drafting Committee, and the chair to prepare to re-open and at whatever place they recommend, if it is recommended to us that it is a matter that we can handle within the constitution.

**MR. ODOY ASOKA:** Thank you, Mr. Chairman. I appreciate that, but I wanted to point out that in fact what I was doing merely was to comply with the committee and the chairman's consent and recommendations but I was surprised that the report which the chairman presented to the plenary here was contrary to what in fact even the news papers published. Thank you very much, Mr. Chairman, I accept that.

**THE CHAIRMAN:** I think the matter is now in the hands of the Legal and Drafting Committee and Hon. Odooy Asoka, they should go there and then come back to us.

#### ARTICLE 183, CONTINGENCY FUND:

Clause 1:

**DR. KABERUKA:** Thank you, Mr. Chairman. On Clause (1) of article 183, we had first of all an amendment to delete the Clause, that was debated and the Motion was lost. Then we had a second amendment which sought to re-phrase the Clause along this line, that the Clause should read: "*Parliament shall make provisions for the establishment of the contingency fund, and shall make laws to regulate the operations of such a fund*". We debated that, and at the end of it, we adopted that the Clause be amended as I have read.

**THE CHAIRMAN:** That is not what appears in your report.

**DR. KABERUKA:** Mr. Chairman, on page 8.

**THE CHAIRMAN:** No, we are on 183 (1). Oh sorry I was looking at (2), 183 (1), The recommendation is that, 183 Clause (1) be formulated in the manner set out on page 8 at E (1): "*Parliament shall make provision for the establishment of a contingency's fund and shall make laws to regulate the operation of such fund.*" I put the question.

*(Question put and agreed too)*

Clause 2:

**DR. KABERUKA:** Thank you Mr Chairman. Having amended Clause (1) in the manner that we have read, we found that Clause (2) was already covered under the regulations and we thought that

Clause (2) should be left for Parliament for legislation so we passed to delete it.

**THE CHAIRMAN:** So you are saying that the provisions of Clause (1) which say, Parliament shall make laws to regulate does cover that.

**DR. KABERUKA:** Yeah! It made it redundant.

**THE CHAIRMAN:** Now, the question is that Clause (2) of article 183 be deleted under that recommendation. I now put the question.

*(Question put and agreed to)*

**THE CHAIRMAN:** Clause (2) is deleted. I now put the question on 183 that article 183 as amended do stand part of the Draft Constitution.

*(Question put and agreed to)*

Article 184: The remuneration of which is charged on the consolidated fund.

Clause 1:

**DR. KABERUKA:** Mr, Chairman, as I did point out last week, my committee considered Clause (1) of article 184 and thought that if it is left as a constitutional issue, that it will make the matters of taxation a bit hard because it says that once these officers have salaries and allowances, they should not be altered and we also felt that there are some circumstances which make government change those terms and the committee was of the opinion that these should be deleted and so we did delete it.

**THE CHAIRMAN:** Yes, the question is that article 184 Clause (1) be deleted.

**MR. MALINGA:** Mr Chairman, with due respect to the committee, I think the provision as proposed in the Draft Constitution is excellent and should stay. I think it necessary for the people who hold constitutional offices to be assured that their terms and conditions of services will not be reduced - I mean will not be changed to their disadvantage by the whims of the government in office. Their appointments will be terminated as per their terms of appointment but not, if you are a Chief Justice today earning say, One million shillings then tomorrow you get in the government says now, Mr. Chief Justice, we have looked into our coffers we can only

pay you 50,000 shillings and then you see a change of life time of a Chief Justice from one who has been earning one million to 50,000/=. I think the provision as contained in the provisions stays as it reads, Mr. Chairman, where any salary or allowance of a head of any office is charged on the consolidated fund, it shall not be altered to his disadvantage after he has been appointed to that office. And the people we have in mind are the Chief Justice, Inspector General of Police and Commissioners of the electoral commission and such like offices, and Judges of the High Court and the Supreme Court. So, I really think that this category of people should be cautioned so that they can act independently in their respective offices and they should not be forced to dance to the tune of government of the day. So I respectfully think that this provision as contained in the Draft should stay. So I do not support the recommendation of the committee. Thank you.

**MR. AWORI AGREY:** Point of clarification. Mr. Chairman, on this particular item vis-a-vis the situation of demonetization, is that taken into consideration, In the event of demonetization of our currency like we did last time, knocking off so many zeros or adding so many zeros. That essentially means change of salary. Now how would that be taken.

**THE CHAIRMAN:** That was answered by someone - I think it was answered that it does not make a real difference in value terms because you are not reducing his salary you are just saying, you have knocked off and it remains one for one.

**MR. SEBAANA KIZITO:** I would like to say that the explanation given before was correct in the sense that the government thought that the value of the money would stay at the same par. However, I was a Member of this committee and I know the reason why in addition to what our Chairman has said, I want to add that we first all thought that it is not the correct thing to write this issue of salaries in a constitution. Secondly, it says salary or allowances, and allowances include housing allowance, we know about three years ago, those of us who are in the property market know that three years ago, the rent values or cost of rent was very high and right now rent is not so high. So if a Chief Justice or somebody of that rank has been getting a housing allowance based on three years ago levels, it will be fair to continue giving him that housing allowance regardless of a change in the rents. Therefore, we thought that this is not a very important provision, and

moreover, we are in a changing world, you cannot say that a salary which was set 20 years ago would still be the same salary. That is why we thought, in order to avoid the ambiguity and uncertainty of this, we should delete it from the constitution but it can remain in the regulations governing appointment of these officers.

**THE CHAIRMAN:** But of course, there is a question of trading off one against the other. Historical background is that, wherever as said the other time, where you had jobs fixed that the occupants should not be removed because of their independence that the executives went for them by reducing their salaries to almost nothing. So that they put pressure on them to resign and then claim that they have not been sacked.

**MR. SEBAANA KIZITO:** That is taking the thing to a ridiculous extent but we think that governments of the modern Uganda are not that ridiculous.

**THE CHAIRMAN:** It was not ridiculous this is a constitutional rule which developed over many many centuries actually coming to a situation where they had to protect Judges from the Kings - I mean sacking by reducing their salaries to almost nothing.

**MR. SEBAANA KIZITO:** But how about the issue of allowances, Mr. Chairman.

**THE CHAIRMAN:** I am not taking part in the debate, I was only pointing out the historical aspect.

**MR. AMANDRUA (NOTU):** Mr. Chairman, thank you very much for giving me a chance. I do not agree with those who say, anyone should reduce someone's salary at any time. Salary is like life, and the people adjust themselves to this salary and at any time, if some one can come and reduce the salary, definitely it will affect not only that particular person, but it will affect the family and everybody. You have seen a lot of problems now in civil Service, this is because salaries and terms and conditions of employment and allowances are not suitable, and they are changing every now and then. And this is not for the advantage of the employee or a worker, it is for the disadvantage of that person. In fact this, I am sure those who wrote the Draft Constitution had thought seriously about this, and I am sure if this is taken away, definitely tomorrow you are not going to have a stable public service. So, I do not agree with those who feel this Clause should be deleted. Thank you very much.

**MR. KARUHANGA (Nyabushozi):** Mr. Chairman, I want to thank this committee for making this amendment and I agree that the recommendation of the committee should be upheld. Mr. Chairman, having listened to Hon. Malinga and those who support him. I have been reading recently about developing countries which have been changing their currencies and their monetary policies. In the situation of one country in the Third World called Argentina, one man there, a former secretary who had a provision like this in the constitution now earns 400,000/= dollars a month because they could change it, and this situation could easily arise in our country. The rate of Uganda shilling today is about - 19000/= per dollar, but when you look in many African countries, many are about 200 dollars, 206 of their dollars, 200 of their currency for a dollar. Now if we improve our situation such that we are almost level with the dollar to the shilling, and you say the shillings should not be used to his disadvantage, then you will retain what we have we have at the moment. We are not legislating for today's situation, we are constitutionalizing for the future. It does not take any disadvantage for such a person who receives a letter of appointment as a Judge, or chairman of an electoral commission, spelling out his terms of employment. When his terms of employment are over, he will also be paid what was due to him. But to constitutionalize it, would be very dangerous, and therefore, thank the Members of this committee for having had this foresight. Thank you.

**MR. SSENDAWULA:** Mr. Chairman, I would like to express my views on this matter basing on the history of a similar article in the 1962 constitution. Mr. Chairman, in the 1962 constitution under article 104, the same is accommodated and of course, in that particular constitution, they even go further to identify those particular officers whose salaries are drawn direct from the consolidated fund. These include directors of commissions, the Judicial Service Commission, Director of Public Prosecution, Controller and Auditor General and Inspector General of Police.

I entirely oppose the report of this committee to avoid accommodating this in our constitution. There is a need to have this accommodated in our constitution on the basis that should the leader of the day not wish to continue with an Inspector General of Police, the person who is appointed to head the electoral commission or Auditor General, he can get up and reduce the salary so that the person who is occupying

that position decides to resign from that job so that from the public point of view, it is seen that he has not been sacked but that he no long wants that particular job because the remuneration are too low. But this would not be known clearly to the public. We do not loose much in accommodating safe guards of this nature in our constitution, they do not make the constitution bulky, but they make it more in line with the constitutions that have been made in other places and even safeguard the leadership of the day. This is my view and I request that it is restored. There is no harm in having it restored, in our constitution.

**MR. KIRENGA:** Thank you very much, Mr. Chairman. Mr Chairman, I want to address the issue appearing in the Clause. I think this committee must have overlooked this phrase when they decided to delete the section. I have listened to the examples given, let us say, by Hon. Sebaana Kizito, over a Judge's house allowance being altered if the rental values go down. Let us give an example of a Judge who was living in a house where the rent was one million, now because of the market values, the rent goes to maybe 500,000/=, and his rent allowance is reduced to 500,000/=. That would have been reduced but not to his advantage, Mr. Chairman. So it will not be unconstitutional to reduce that housing allowance because it will not be to his advantage in that he will be staying in the same house at a reduced rent, although the allowance would have been reduced, it will not have been to his advantage. Similarly, if somebody was earning 40,000\$ and then later the value of- (Interruption)-

**MR. ETYANG:** Point of information! Mr. Chairman, I think the point made by Hon. Kirenga, while it is logical and understood, it just happened that the case he is giving as an example really does not fit in right now because the allowances - the housing aspect for Judges, has been monetized. In other words, they have that money as part and parcel of their consolidated salary right now.

**THE CHAIRMAN:** So are you suggesting he should be able to reduce it from time to time and raise it and then reduce it again?

**MR. ETYANG:** No, what I am suggesting, under the circumstances right now, because the rents have gone down, it will be wrong to bring down the salaries because they have already been monetized at the level at which the houses were paying a few years ago.

**MR. KIRENGA:** In fact he is supporting my case Mr. Chairman. I was thinking of a situation where the value of the shilling goes down vis-a-vis the value of the dollar. So if the salary of a judge is adjusted accordingly, that is not to his advantage, he will be purchasing the same goods with the same amount of money.

**THE CHAIRMAN:** But I think we are talking of the disadvantage.

**MR. KIRENGA:** What I mean is that it should not be to his advantage. Although it may be adopted, it can be reduced without it being to his disadvantage. So I am saying that there was no need of deleting this because even if there is a reduction, it is not to his advantage. So it should be retained.

**DR. MUSEKURA NDARUHUTSE (Bufumbira North):** Thank you very much, Mr. Chairman. Mr. Chairman, I am also strongly opposed to the deletion of this Clause because the provision in this Clause is actually very good, and I think it should work in the best interest of this nation. The people who are mainly affected are those holding constitutional offices, and these public Servants should be protected such that the government of the day, after appointing them should not just make any changes that will be to the disadvantage of those officers after they have been appointed. Because, Mr. Chairman, when someone is going to be appointed, the terms of service are clearly laid out, it is really very bad after appointing him, then to alter those terms of service to his disadvantage. It would be very unfair and it may even affect the performance of such offices, it could even lead to their resignation. So, Mr. Chairman, in the interest of the stability of the public Service, I would advocate strongly that the deletion of this Clause 184 should be completely avoided, it should stay as it is in the Draft Constitution. Thank you very much, Mr. Chairman.

**MR. OCHYENGH (Kapelebyong County):** Mr. Chairman, I have not changed my mind because, apparently the principle - the committee think the article here talks about principles - is a protection and safeguarding of the office. But they may have been thinking in terms of money values and so forth. The constitution does not fix the amount of money to be paid, the amount to be paid at any particular time is determined on the date of appointment or by Parliament. So, the letter of appointment contains how much is going to be paid. So, the office is not an

eternity which lasts 50 years, 20 years. The office is for five years, may be 10 years, and it is subject to review. So, to say that we look in terms of money values and forget to safeguard the office, I think we shall be misguiding ourselves. I am in favour of retaining this provision in the constitution because the purpose of it is actually to safeguard the interests of the office.

**MR. ONEGI OBEL:** Thank you, Mr. Chairman. I am not talking as a banker but, Mr. Chairman, I think the point made by Hon. Ochyengh makes a lot of sense. We are not talking about how much money these Judges or whoever they are should get but Mr. Chairman, I think we should defeat this initial proposal for one major point that the protection provided here is more psychological, it gives a more psychological satisfaction to those people who hold those jobs on trust, aware that as long as they behave, they do their job well, they are not going to be affected, it is more of a psychological satisfaction. And I would therefore, say, since it does not involve, in real sense, the amount of money to be paid that is decided as it has been said already in the letter of appointment, I think we should keep the provision in the Draft Constitution. Thank you, Mr. Chairman.

**MR. MULEJU KISEMBO:** Thank you, Mr. Chairman. Having heard the contribution from the Hon. delegate, Mr. Chairman, I therefore propose that a question be put.

**THE CHAIRMAN:** I think we have had a broad exchange of views. Hon. Wanendeya would have clarified the point but I am sure most of the points have been covered.

**MR. WANENDEYA:** Thank you, Mr. Chairman. The point I want to clarify is this that when we changed our currency in 1987, it derailed most of the Civil Servants and even with due respect, persons seated here. The shilling was changed from 14,000/= to a dollar to 14 shillings and from there the dollar was raised to 16 and they call it Museveni's new dollar, but from there was some handing 3 Per cent, Mr. Chairman. Therefore, if you go on calculating from 1967 to a rate of 1,000 shillings to a dollar, you find that we have increased our currency by 6,713 per cent, and this is the reason, Mr. Chairman, why our currency should never be changed without a debate by Parliament. And, therefore, Mr. Chairman, what I am saying is that, even if I was a Member of committee No.3, I feel aggrieved and ask Hon.

delegates that, that Clause should stay so that the Judges and any constitutional officers are not unduly disadvantaged because we are even going to debate in NRC, Mr. Chairman, the increase of salaries for constitutional positions and therefore, Mr. Chairman, we should not feel ashamed those on committee (3), but agree and give in to the demands of these delegates if they so wish. I thank you, Mr. Chairman.

**THE CHAIRMAN:** That is a typical example of a minority report, coming from committee (3) but unwritten. Let us vote, let us pronounce ourselves on this matter. I think we have aired enough of it. The question before us is that Clause (1) of article 184 be deleted. That is the Motion before us as recommended by the committee, and you heard the Chairman of the committee plus Members, although as I said, a minority report has developed along the way. I now put the question.

*(Question put and agreed to)*

**THE CHAIRMAN:** In other words, the recommendation of the committee on this one has been disallowed and therefore, unless I hear any other view to the contrary Clause article 184 Clause (1) remains as it is.

Now it had been recommended, if Members will recollect that when we were discussing an earlier article, it had been recommended in this report that Clause (2) of 184 should be transferred to the provision relating to payments out of the consolidated fund. But the view was taken by the constituent Assembly that this matter should await to be discussed here.

**DR. KABERUKA:** Mr. Chairman, (2) remains but in an amended form and the committee recommended that the Clause should read as follows: "*Subject to this constitution, Parliament shall prescribe the salaries and allowances of holders of offices, salaries and allowances in respect of which are to be charged on the consolidated fund*". In other words we are leaving out the words "*by this constitution*".

**MR. BAGENA (Bufumbira East):** In view of the fact that we refuse to accept their recommendation as Clause No. 6 of article 180, does it not therefore, remain in place as put here, Mr. Chairman?

**THE CHAIRMAN:** That is why the Chairman is saying - except that his committee's recommending that we knock off the last three words "*by this constitution*" and insert a comma immediately after the word "*fund*". Is that correct? So it would remain where it is.

**DR. MAGEZI:** Point of clarification! Thank you, Mr. Chairman. I am seeking some clarification from the chairman of the sectoral committee. First of all, the statement that "*Parliament shall prescribe*". I find it a bit difficult to comprehend. I would have thought that "*Parliament shall approve*" because this prescription would have been done by the public service authority or commission for the civil servants. And there is no way how this is initiated if it is just that Parliament is to do the prescription of salaries and allowances.

**THE CHAIRMAN:** I think I can help him with that. "Prescribe" when used in legislation either in an article or in regulations is being used as a technical term really.

**MR. MULONGO:** Thank you, Mr. Chairman. Mr. Chairman, now that you have passed that 184 (1) remains, I see some technical problem. When you talk of salary or allowance, there are other accompaniments that are very vital to any holder of an office that need to be retained like the salary or allowance. Now, what are you debating, are you debating (1) or (2) because (1) is already closed?

**THE CHAIRMAN:** But I was just trying to remind Members of the technical error we - *(Interruption)* -

**MR. MULONGO:** Mr. Chairman, instead of saying salary or allowance it should have been salary or other terms of service. This would include other benefits of the company that may benefit of that office. Otherwise salary or allowance alone are very limited. But as a Minister holding the public service did say, the situation now is that our Judges, whatever they have, be it house rent or payment of telephone and other things have been monetised so that salaries and all other allowances relating to costs like electricity and all that, are being paid to them and they pay themselves. To me, it is beginning to sound more and more as if we are consolidating class society. Some people's income and jobs must be guaranteed in the constitution, and yet the common man has yet to see his position being consolidated, his income being guaranteed -

**ELYAU (Kalaki County):** Thank you, Mr. Chairman. I also rise up to support the Amendment because the Constitutional matter appears twice, there is no point of repeating it since it is said at the beginning that it is the Constitution - that "*subject to the provision of this Constitution*", that means it has been catered for. So, it is appropriate, it is very sound, I support it.

**THE CHAIRMAN:** But I think, here what it is saying is that there are certain constitutional offices which this Constitution has declared as being offices, the holders of which will earn salary directly from the consolidated fund, and Parliament should determine by way of legislation or regulation, those salaries. Otherwise, if you leave it that way - because there are other offices which are established but whose salaries also can be charged to the consolidated fund directly by Statute, they do not have to be within the Constitution, but I think this one was specifically making reference to those in the Constitution.

**MR. SSENDAWULA (Kakoto South):** Mr. Chairman, I am seeking guidance in order to clear my mind about this particular amendment and what was in fact, in the Draft. First, what was in the Draft indicates, when you still have that by this Constitution, it implies that those offices have been named somewhere within this Draft, and I am only wondering whether somewhere within this Draft, these offices have been named, and if they have not been named, for us merely to stop and only remove "*by this Constitution*" it still remains hanging in the air. There is need for those offices to be named. I feel this article 184 will not be complete unless we also take and accommodate another clause naming those particular offices, as it was done in the 1962 Constitution.

**THE CHAIRMAN:** Hon. Malinga, can you help, because I think they are littered all over the Draft Constitution?

**MR. MALINGA (Usuk County):** Yes, Mr. Chairman. Article 109, clause (3) provides for the Office of the President and charges the emoluments to be paid to the President on the Consolidated Funds. Article 115, clause (5) applies articles 108 and 109 to the Office of the Vice President, therefore charging the emoluments payable to the Vice President to the Consolidated Fund. Article 158, clause (7) charges the emoluments of Judges onto the Consoli-

dated Fund and there are other offices. I think this suffices. So, this clause (2) is speaking only of a restricted class of people, those people whose salaries are charged directly onto the Consolidated Fund. For the rest of the Public Service, we have already provided in 182 that government will prepare Estimates for the government wage bill and present it to Parliament for provision each year. So, here we are only talking about the small class of people or offices whose salaries are charged to the Consolidated Fund and that is the President, the Vice President and Judges.

**MR. SSENDAWULA:** Therefore, there is a need, Mr. Chairman, to retain this fund by this Constitution because these are littered all over the place as mentioned by Hon. Malinga. For purpose of reference, for any paying officer, any officer or anybody in Parliament when they are debating, they will be fishing them all over the place. Something which was done and made simple by the 1962 Constitution that, in spite of the fact that they could have been named elsewhere, they were still accommodated in bulk in that particular article and put there; the Judges of the High Court, Electoral Commission, Judicial Service Commission, Director of Public Prosecution, Controller and Auditor General. But now that they are littered all over the place and we want it in that order, then we better retain the "*Consolidated Fund by this Constitution*", there is no danger. It must be.

**THE CHAIRMAN:** Well, let me put it this way, the recommendation was that the words "*by this Constitution*" be deleted, but on reflection, my advice to the committee would be that they do not insist on the Amendment essentially because this is trying to be less - you see, the other Constitution of 1962 did list them, but this one is saying we do not have to list them, let Parliament be the one to decide the salaries of those people either by Statute or by regulations made whatever way, and in that way, they will they will pick them from the entire Constitution and then list them and say their wages and terms are as follows without having to list them here within the Constitution, and that is why those words were being used without opening it to other people who may be set up by Statute and whose wages may also be charged to the Consolidated Fund but may be of smaller significance than those which are being protected within the Constitution itself. I would, therefore - if they withdraw we do not have to vote

**DR. KABERUKA :** Mr. Chairman, as you have already heard, we had thought that those words are redundant and if in the wisdom of plenary we find that they are not, we are willing to withdraw that. Thank you.

**THE CHAIRMAN:** Yes, the committee has withdrawn, now we have two clauses, clause (1) which was reinstated, the recommendation was that clause (2) should stay except for the Motion which has now been withdrawn, which was seeking to amend it. Now, I take it that we accept the two clauses as they are, and I will now proceed to put the question on article 184. The question is that article 184 do stand part of the Draft Constitution.

*(Question put and agreed to)*

**ARTICLE 185: POWER OF GOVERNMENT TO BORROW OR LEND.**

**Clause 1:**

**DR. KABERUKA:** Thank you, Mr. Chairman. On clause (1) of article 185, we had an amendment which sought to introduce the word "funds" so that the clause would have read that "*Subject to the provisions of this Constitution, government may borrow funds from any sources*". That was debated and defeated, so the word "funds" was not introduced and we went on instead to retain what appears in the Draft Constitution. So, that is what we recommended, Mr. Chairman.

**MR. MALINGA:** Point of clarification! Mr. Chairman, I just want to get clarification from the Chairman whether this provision would mean that the government is free to borrow from the Mafia and - I do not know that the government is welcome to borrow from any source, or even if you put sources now, but it does not make any difference to me. Any source is good enough.

**THE CHAIRMAN:** Can we get clarification from the person seeking clarification as to what Mafia money look like?

**MR. MALINGA:** Well, Mr. Chairman, I have not seen it but it is money obtained from illegal means which is being loaned. It would be clean if we borrowed it, because when we repay it it would be coming from a legitimate source.

**THE CHAIRMAN:** Okay, Hon. Kitariko seems to know something about Mafia money.

**MR. KITARIKO:** Mr. Chairman, a Rupee or a Robo is also money so, I do not know what he means by Mafia money but I believe, Mr. Chairman, clauses (2) and (3) spell out how Parliament should authorise borrowing. They will not authorise government to borrow from the Mafia I hope.

**THE CHAIRMAN:** Hon. Paul Etiang, you also seem to have wanted to express some views on Mafia money?

**MR. ETIANG:** Mr. Chairman, I had some fears as Hon. Malinga had, because for any source, not necessarily from the Mafia which we know originated from Italy, but worldwide now, there is a lot of laundered money, either arising from kidnaps or from drugs. So, really, I would plead with my Colleagues that we put there funds, first of all - *(Interruption)*.

**THE CHAIRMAN:** Could you speak through the microphone, please, we can hardly hear you.

**MR. ETIANG:** I submit that given the present trend in the financial world where besides Mafia we also have situations where drugs have come in with a lot of money and that illegal money is easily available, I do not know where, but I know it is somewhere, and that I would like the borrowing here to be related to funds from legitimate sources. To borrow funds from legitimate sources would be a very clean thing to do so that the Constitution does not in any way by implication or interpretation, end us in having a government of this country having the temptation of borrowing illegitimate money. Thank you.

**THE CHAIRMAN:** But do you envisage a situation where a serious government would go out of its way to go and borrow from the Mafia?

**MR. ETIANG:** Mr. Chairman, it is possible, it depends on the interpretation that you are going to give here. Unless it is clearly stipulated somewhere that indeed it is understood that government may not borrow unless it has got clearance of a,b,c, but as it stands right now, it is just possible that you end up with some government which will have a convenient interpretation of this clause.

**MR. AWORI (Samia Bugwe North):** Mr. Chairman, this question of borrowing from any source, I would like to make special reference to what some people call Mafia money. Mr. Chairman, you and I know that on international financial systems, there are well known financial laundry markets whereby dirty money is put there and comes out clean and there are banks who front for such laundry markets. We know one bank which loans a lot of countries I do not want to name it - and went burst because the original financiers where actually what some people call "Mafia and drug Kings." They put their money in such a bank, they innocently go and borrow on very favourable terms, bring it to Uganda and it will create problems. Mr. Chairman, without naming or calling names as such, we know of two big companies in this country which are doing a lot of business, and their sources were, actually, from such a bank! So, what stops a government in future going to such an institution, not only to borrow but even to bring such a financial institution in this country as a respectable looking bank, and yet the real source of money is from laundering dirty money or what we call money from drugs, illegally acquired. There have been offers, Mr. Chairman, in terms of external reserves to some countries including, maybe, one of us - I mean this country, whereby they say you can borrow but we shall guarantee your LCs overseas. In other words Uganda Government or companies in Uganda can go overseas, borrow a lot of things in kind, borrow a lot of money in kind, these people will guarantee, but when it comes to payment, they will ask for certain favours. So, when it comes to borrowing, Mr. Chairman, I think there must be very strict constitutional safeguards, otherwise we might be so hard up on occasions in terms of foreign reserves and go to such a source, and the only way to inhibit such a move is to make a constitutional provision now, and we cannot leave it loose in that format of "any source".

**MAJ. GEN. TINYEFUNZA (NRA - Delegate):** Thank you, Mr. Chairman. Mr. Chairman, though personally I believe that money has no smell, really it is at the source that you may detect something, but once it is got, then the purpose is the same. I do think that we will rather be going into very dangerous details in this Constitution if we ventured to state which money is clean and which money may be termed unclean. I think the Odoki Commission did perform its duty very well, in that article they say: "Subject to the provisions of this Constitution, government may borrow money from any source".

Now, they go ahead to limit this by 185(2) and (3) and that is by empowering Parliament to be the one to detect the smell should time come. But if this Constitution is going to say now this laundering - if you are dealing, for instance, today, I will give you an example in the Army, a company comes and you want to buy uniforms of the Army, you do not have cash, a certain company in Taiwan says yes, get uniforms we shall pay you at a certain percentage in six months. If we even include this provision here it means we are duty bound to go and find where Daewoo is going to get its money in nine months to pay for our uniforms. I think this is very dangerous and we cannot afford to do that. So, I think we should enshrine the principle that government borrows from any source, but as it says that government shall not borrow or raise a loan on behalf of itself or any other public institutional authority, except as authorised by or under an Act of Parliament, for me, I think, that is at the level of control, and the rest is not a constitutional matter. So, Mr. Chairman, I would beg that we really do not go in to talk about some money which is not good and clean as Hon. Aggrey - I will not go in details, he knows what I mean. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Hon. Ssenteza Kajubi, have you changed your mind, it seemed you had some idea on this money?

**PROF. SSENTEZA KAJUBI (Kyadondo North):** Thank you, Mr. Chairman. Mr. Chairman, I was just seeking clarification whether - not being a lawyer, whether adding the words: "Subject to the provisions of this Constitution, government may borrow money from any legitimate source", would permit us, Mr. Chairman, to borrow even from those sources. What I was saying is that apart from the Mafia, there could be other circumstances where, maybe, UN or other international organisations to which we belong have ostracized some country or some source, and that our government would then, therefore, be duty bound not to borrow from such sources.

**MR. OBIGA KANIA (Terego County):** Thank you, Mr. Chairman. To me, Mr. Chairman, the issue of the source of the funds is well covered when you come to item 185(3) whereby when the government wants to borrow, it will put its terms and conditions to Parliament which will approve. It is only then that Parliament can look at the dirtiness or the cleanliness of that source. And in item (1), in my view, the best

thing would be to say the use for which the funds are to be made rather than to emphasise the source. So, I was going to make a proposal that we say "Subject to the provisions for this Constitution, government may borrow funds for these activities..." I would emphasise the use rather than the source because I am also uncomfortable with the word "any source". The moment you put "any source", it is true we may not be able to see the colour of that money whether bad or good money, but nevertheless, I think in our minds, we are clear that there are such things as far as the source is concerned with dirty money or clean money. So, when you say it is from any source and tomorrow the government borrows from what I am calling dirty source, then you are definitely making it legitimate. So, I would rather say we drop the words "any source" and if possible, replace them with the use to which those funds are to be put. Then the source is taken care of in article 185(3) as Parliament will investigate before approval of that fund. Thank you.

**THE CHAIRMAN:** But then, are you not contradicting - you see, you began off by saying you are happy with the requirements of (3) because (3) has two legs to it. There is first of all 185(1) which opens with subjecting that power to borrow to the Constitution, and of course, more particularly, I think they are looking at the other provisions of 185, then it goes on to say in (3)(a), you have to declare to Parliament the terms and conditions of the loan, and in (b) what they are, in fact, talking about - is it money to be spent through the consolidated fund or is it money to be spent in a special fund or the money to be used for a specified purpose, and all these are to be disclosed to Parliament. So, in fact, what you are thinking to place in (1) is already covered in clause (3) unless it has been amended, of course, by the committee.

**MR. OBIGA KANIA:** Mr. Chairman, I entirely agree with what you are saying as far as 3(b) is concerned, but what about 3(a), the effect of 3(a) I think is to give Parliament a look at the terms and conditions on which these funds are borrowed before becoming effective. So, I thought that could take care of our source.

**THE CHAIRMAN:** Yes, I agree with you, but you also had began to add another Amendment to (1), by saying the purpose for which the money has been borrowed, but I am saying the purpose for which the monies will be borrowed can be identified to Parliament under 3(b).

**MR. OBIGA KANIA:** Okay.

**THE CHAIRMAN:** Hon. Atwoma, have you changed your mind, you seemed to have great ideas on this.

**MR. OKENY TIBERIO:** No, thank you. Mine is really raising a point of order with a very heavy heart. Mr. Chairman, just as you are seeing we are discussing here very important issues, and by the walk out of our gender section, it appears that this House is completely falling down to the requirements of this House. So, Mr. Chairman, I think - I know they have gone out for their caucus. I think there should be a better time found for caucuses. So, I wish to call the attention of the Chair.

**THE CHAIRMAN:** Thank you. I can see the lady is left behind to follow up what is going on - but can I suggest we call them, are they meeting somewhere near here?

**MR. AWORI:** Mr. Chairman, in the light of Hon. Atwoma's information, I was questioning our capacity to operate under quorum factor.

**THE CHAIRMAN:** We have given ourselves rules that we can discuss and the only thing that we will not do is to pronounce ourselves on 185, but we can continue conveying the issues that are necessary, and we are not about to adopt 185 yet, given the length of it.

**MR. BIDANDI SSALI:** Mr. Chairman, I believe we are in quorum, especially, when you take into account the people in the lobby, but for the sake of really making some advance, I would like to submit that if you read 185(1) and then (3) together, definitely with (2), I find that we are really involved in much ado about nothing, because as some Members have said, the government is not told to go and borrow anywhere, it is actually, government plus Parliament, because Parliament has been given a chance to look at the terms of borrowing and if there is anything obnoxious, Parliament definitely will not approve, or will make it as a condition. So, for the sake of moving ahead, Mr. Chairman, I suggest that we do not really go into small, small things which just make us amused to continue debating, when what we are trying to point out as a danger has already been taken care of as a necessary condition before such a step is taken. Mr. Chairman, I beg to move that the question be put on 185(1).

**THE CHAIRMAN:** Well, the thing is that there was no Motion on it. What had happened was, it was the view of the committee that this one should remain as it is, and I think Members were seeking clarification and that gave right to this discussion. We do not have to vote on a clause where there is no Amendment, we only pick those where there is an Amendment, then we come and put the question on the whole Article. Now, if there are no further clarification sought on clause (1) we go on to discuss clause (2).

**DR. KABERUKA:** Thank you, Mr. Chairman. On clause (2), we had a couple of Amendments, the first one was phrased in this manner, the Mover wanted to delete clause (2) and insert the following that: *"such borrowing will be made on behalf of the people of Uganda and shall be approved by Parliament."* That Amendment was rejected and we moved to another one which was eventually withdrawn and it read: *"No government institution, organ, agency or official shall contract any public debt without the approval of Parliament or under an Act of Parliament."* Then the third one also sought to insert the words *"...on behalf of itself or any other public institution or authority"* that one was also negated and we had the last one which read as follows that: *"Government shall not borrow, guarantee or raise a loan on behalf of itself or any other public institution, authority or person, except as authorised by or under an Act of Parliament."* That one, I think, Mr. Chairman, introduced the words *"or guarantee."* In other words, the words *"or raise"*, there was another one *"or guarantee a loan"* and the rest left as it is *-(Interjections)-* Yes! It introduced the words *"or guarantee"* and then *"or person"* after *"authority"*.

**THE CHAIRMAN:** So, the recommendation from the committee is what is appearing on page 9?

**DR. KABERUKA:** Yes please, and there are only two words which are introduced, *"guarantee"* and *"person"*.

**MR. KITARIKO:** Thank you, Mr. Chairman. As I read the Amendment, I think, it now seems to be well synchronized, I hope that was referred to the Legal and Drafting Committee.

**MR. MALINGA:** Mr. Chairman, I am wondering under what circumstances government should borrow or guarantee a loan to an individual. I have not been given the reasons why the committee thought

that government should be borrowing or guaranteeing loans to individuals, I thought that the purpose of borrowing would be for public purposes, that one I am comfortable with, but borrowing for private purposes may be difficult unless there is a no to lend to individuals, but not one particular individual.

**MR. BIDANDISSALI:** Mr. Chairman, I was only providing an example where donors could provide money through say Bank of Uganda so that it becomes a line of credit which has to be guaranteed by government before this line of credit can be utilised by any private institution or anybody.

**THE CHAIRMAN:** No, for me when I read this, what came to my mind was a situation where, for instance, there is a housing scheme introduced by say a consortium of banks to the civil servants but the requirement would be that - now that you have introduced the word *"guarantee"*, then the government can guarantee and say *'well, we shall be deducting payment from their salary and pay to you, but you give them the money to buy the house'*, you know, that is what I was looking at, the Civil Service sort of situation. But, I think, I would like to suggest that we revisit this subject tomorrow and then we pronounce ourselves on it, and there are some inherent powers in the Chairman to adjourn any time. So, we shall continue with discussion on clause (2) or article 185 tomorrow, and for that matter, therefore, I adjourn the Assembly to tomorrow at 2.30 in the afternoon. We stand adjourned. Thank you.

*(The Assembly rose and adjourned until Tuesday 6th December, 1994 at 2.30 p.m.)*