



THE REPUBLIC OF UGANDA

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

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OFFICIAL REPORT

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CONTENTS

FRIDAY, 9TH DECEMBER 1994

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MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda [Pg 2610]

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Friday, 9th December, 1994

*(The Assembly met at 2.30 p.m. in the International Conference Centre, Kampala)*

PRAYERS

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

*(The Assembly was called to order)*

CONSIDERATION STAGE OF THE DRAFT  
CONSTITUTION OF THE REPUBLIC OF  
UGANDA

CHAPTER VII - FINANCE

ARTICLE 185 POWER OF GOVERNMENT  
TO BORROW OR LEND - Clause VII

**THE DEPUTY CHAIRMAN:** Hon. Delegates, when we adjourned, we were discussing Clause VII of Article 185 and there are two issues on that Clause. The first one was that the Committee had proposed that the original Clause VII be deleted and that is where we stopped. Then there is also another VII that had been proposed to be included in the Constitution. I wonder whether hon. Kaberuka has anything to say.

**DR. KABERUKA:** Thank you Madame Chairperson. Maybe before we begin, let me give a small correction on that new Clause VII. It should read like this: *'Notwithstanding provisions of Clauses 2 and 3 of this Article, but subject to Clause 8 of this Article ...'* then the rest follows as it is printed on Page 10. There were some omissions in typing. If you are looking at - *(Interruption)*

**MR. BAGEYA (Kigulu North):** Point of Clarification. Thank you very much Madame Chairperson. I would like to be clarified on this new change because I am a Member of Committee III and the new change takes me by surprise and yet I am made to understand we are supposed to bring the report of the Committee III which was brought here. When did the Committee sit to change this Clause? I would like to be clarified on that one.

**DR. KABERUKA:** Madame Chairperson, I know ~~this report went to the~~ Technical Committee. So, the Technical Committee advised me that the proper formulation is what I am reading. It does not change anything but they told me that what should be ousted

are Clauses 2 and 3, not the whole Article. As it stood in the original formulation, the Clause seems to oust all the Clauses in this Article but what they did technically draw to my attention was that what was being ousted are Clauses 2 and 3 and the rest remain as they are. That is advice from the Technical Committee on Drafting, not on substance. Thank you.

**THE DEPUTY CHAIRMAN:** Okay, before we proceed can we be more systematic. I had requested hon. Kaberuka on the deletion of the original 7. Can you finish that one first before we come to the new 7.

**DR. KABERUKA:** Thank you Madame Chairperson. As I did point out last time, my Committee deliberated on Clause 7 and found that Clause 7 as it stands seeks to give a definition of the word 'loan' but on closer scrutiny, you will find that the word 'loan' is defined as people normally perceive it. In other words, there is nothing new that is being introduced here which makes the word 'loan' different from what we normally know it to be and therefore, we looked at it as a mere word like any other word which is used in the Constitution which does not need to be defined; and in our wisdom we thought that the Constitution cannot go on defining every word. We can only define a word if the definition that you are providing seeks to differ from the normal definition of a word as it is used ordinarily. So, that is why we chose to recommend that the word 'loan' should not be defined, since the definition is the normal definition that one knows the word loan to be. I thank you.

**THE DEPUTY CHAIRMAN:** Any contrary view? Hon. Kavuma.

**MR. KAVUMA (Kyandondo South):** Thank you very much Madame Chairperson. I am seeking Clarification about the terminology of normal meaning or normal definition of the word 'loan' because to my mind we are dealing with a legal document. I want to be clarified whether something will be normal to everybody at all times or since we are dealing with a legal document, we should be satisfied by a branch maybe which would say we find that word 'loan' is defined in the Interpretation Act in which case we would benefit from that definition having been given to us so that we can be satisfied that what we are talking about is covered in legal terms since this is part of a legal document. I want a bit of Clarification, Madame Chairperson.

**DR. KABERUKA:** Madame Chairperson, I want to call upon the hon. Member first of all to go to Clause VII and read how it is trying to define the word 'loan'. I do not know whether it has any other legal implications but loan normally, implies money borrowed and with a view of repayment. Either repaying the loan with all the terms attached to it and so on. I do not know whether it has any other legal meaning but we took it in terms of financial meaning. Apart from that, Madame Chairperson, Article 8 which we have not yet come to, provides that Parliament may make laws for giving effect for the provisions of this Article. Now, if it was thought that the word 'loan' may require definition, that is where maybe it may come but not in the normal body of the Constitution.

But as I said, if for instance, there was anything new that is being introduced which is outside the way that we normally perceive the word 'loan' in financial terms, then maybe we would have had to define it here; but I think the hon. Members worry if it ever arose, could be accommodated in the Act that Clause 8 seeks to establish. I thank you.

**MR. AWORI (Samia Bugwe North):** Point of Clarification. Madame Chairperson, I am seeking further Clarification from the Chairman of the Committee on this question of loan. In financial terms you can also syndicate a loan. I was wondering if such authority is included in this particular Amendment. (*Interjection*) Syndication of a loan.

**DR. KABERUKA:** In that case we need a definition then. Can you clarify to the Members what you mean by syndication.

**MR. AWORI:** Madame Chairperson, the Clarification I am seeking seems to imply that I need also to clarify what I meant by syndication of a loan. Syndication of a loan is a financial arrangement whereby a group of people can get together and put together instruments of power to borrow money. It is like borrowing from different sources in order to come to a substantial consortium. A consortium of people who come together and say - we have the capacity, given our assets to raise so much money. Now, the reason I am asking for clarification from the hon. Delegate and the Chairman of the Committee; this is a common practice. It happens often by governments. They go to Geneva or other places where they make that kind of money. They ask well

established institutions "syndicate a loan for my government. I want 200,000,000 USA dollars but I cannot get this kind of money from one source. Can you people put together that kind of money as a syndicated loan?" I am wondering if such authority is inclusive in this Amendment.

**DR. KABERUKA:** Which Amendment are you talking to? We are talking about deletion. But if it is the way I understand it, normally, if they syndicate, it comes in one bunch as a loan to government with terms attached. When you syndicate, it is like pooling together money for lending to government - is it not so? So, once you do that, then the lender becomes one. As you come together as a group, you work out the terms under which you are going to loan the money. So it becomes as a loan to government. It is like for instance, when we borrow from IMF. When we borrow funds from IMF or from World Bank, we are borrowing money of 152 Members of that body. Only that they have syndicated the money into the confers of World Bank.

**MR. AWORI:** I think that is a wrong example. The World Bank, unless it is IFC which can syndicate a loan - although it is other peoples' money (OPM) - but basically they give you as a loan from the World Bank; or if it is a facility from IMF, it is other peoples' money, but it is still a loan from IMF. The one I am referring to are the Commercial institutions that normally come together and lend governments or establish institutions.

**DR. KABERUKA:** But you very well know that you will have to enter into an agreement with one body which has come together. (*Interjection*) No, no what I was saying was that, even the money from World Bank the loan is to Members.

**THE DEPUTY CHAIRMAN:** Hon. Magezi.

**DR. MAGEZI (Jinja Municipality East):** Thank you Madame Chairperson. I would like actually to make a substantive contribution rather than seeking Clarification, with your permission.

**THE DEPUTY CHAIRMAN:** On the deletion?

**DR. MAGEZI:** On the deletion.

**THE DEPUTY CHAIRMAN:** Just let us handle one thing at a go. Let us handle the deletion and get it out of the way.

**DR. MAGEZI:** I sit here to oppose the Proposed deletion of Article 7.

I would start off by saying that do we lose if we have that expression defined? That is Clause 7. Unless this Clause is moved to Article 286 on Page 121 which deals with interpretations and you note that even such expressions as Acts of Parliament are defined in this interpretation. A district is also defined. I think, unless I see in the Odoki report any other contrary view, I personally do not think that we should simply delete this Clause; because in the first sentence, it says 'loan includes...' so it means there is already the normal definition of loan but in this context it includes any money lent and the rest.

Secondly, the replacement of this deletion has no resemblance at all with what was originally in Clause 7; because what is replacing the deletion is talking about giving power to the President to borrow

**THE DEPUTY CHAIRMAN:** Hon. Magezi that was cleared, that is why we are discussing them separately.

**DR. MAGEZI:** Madame Chairperson, don't you think that we should talk about this new Clause first, we should first settle it because I thought if we oppose the deletion, then what is in the Draft automatically stands and we do not even have to go - so, I thought the two should go together to oppose the deletion and by also talking about what is replacing the... *(interruption)*

**THE DEPUTY CHAIRMAN:** No, if you read it the content is different.

**DR. MAGEZI:** I see. So I oppose the deletion, Madame Chairperson.

**MR. KASAJJA, G.P. (Bulamogi County):** Madame Chairperson, I think there are two major issues on this Clause. One is that as to whether we should leave it as it is. Then two, as to whether if we leave it as it is, we should just transfer it in the interpretation as hon. Magezi has said. Now, Madame Chairperson, to come to the first point - I think as hon. Magezi has said, it is true there is a definition of a loan in the economic terms but what we are given here is part of the definition and that is why they are saying it includes. Now, in my view, if we leave this Article here as it is, it has no harm at all in our law

because it is just telling us that if we happen to borrow, what is this loan going to involve? What is the mechanism behind this loan? Of course, it involves getting a certain amount of money from an organisation or from a country and then we have to pay it. Now, they are telling us, if we are to pay it, where does this money come from and we are being told how it comes from the consolidated fund. So, Madame Chairperson, I do not think whether there is much for us to discuss on this Article because it gives what exactly is supposed to be in the economic terms, the term loan and therefore, I do not think whether it is necessary for us to delete it. Because if we are going to delete it, the Committee was not telling us as to what if we are to delete it we leave it with. Because as some of my Colleagues have already stated, the substitution of this Article is completely unrelated. In fact, they are bringing in something new which is different from what this Article is telling us. So, I completely disagree with the view of deleting this Article. We should leave it there, it is innocent, it is telling us exactly what a loan is and how the government is going to pay it. So, I oppose the motion, Madame Chairperson.

**BRIG. KYALIGONZA (Bubaguzi County):** I thank you Madame Chairperson. Some times deletions may cause more problems than the few we would be able to contain within the existing proposal in the Draft. There is absolutely no reason why you should put our president into a situation of borrowing money through crisis. I am calling it crisis because we are giving a lee-way that this president may go somewhere, borrow money on behalf of government and then, report to Parliament for ratification within 30 days. What is this special arrangement that government will not be able to put in its planning to have this money borrowed within no time.

When it comes to deletion, I find absolutely no reason at all - as hon. Kasajja is putting it, this Clause is very innocent, we should leave it as it is proposed. I therefore oppose the deletion.

**MR. BYAKIKA (Bunyole County):** Thank you Madame Chairperson. I oppose the deletion of clause 27. The definition given here for loan is wider than what would be expected to be the definition of an ordinary loan. Thus is why the Odoki Commission found it necessary to formulate a definition for the loan because they knew that it went further than an ordinary loan which anybody can go to a bank and solicit for. As they say it includes any money lent or

given to or by government on condition of return. Moreover, it goes further to define the end use of that money and how it should be accounted for. Money which is going to consolidated fund or into any other fund. So, the definition is far wider than the definition of an ordinary loan; and therefore, I strongly oppose the deletion. This Clause should remain as it is. Thank you.

**MR. MURASANYI (Rubanda West):** Thank you Madame Chairperson. This Clause may be innocent but as the Chairman Select Committee III has said, our intention was not to load the Constitution with definitions. If it was necessary to define the word 'loan', it could be moved somewhere else or it could be defined in other books other than the Constitution. Madame Chairperson, our aim is to be concise in the Constitutional making and produce a small volume. Even in a text book, certain ideas are detailed in footnotes. We cannot include everything including the definitions in a Constitution. So, although the Clause is innocent, we felt that definition of words in the Constitution was unnecessary but if the House so feels that it could be included, you may include it but it was the view of Committee III that it was really unnecessary. Thank you Madame Chairperson.

**MR. OKWAKOL (Pallisa County):** Thank you Madame Chairperson. I oppose the deletion of this Clause 7. As has already been stated by some hon. Delegates it is really an innocent Clause. Because of that innocence it does seem obvious that the Amendment is not directed at it. You have to read the import of Clause 2 and 3 of Article 185. Now, those Clauses do provide for the need to obtain the authority or the consent of Parliament before any borrowing is effected. This Amendment opposes that provision. It reads: *"notwithstanding the need to obtain the authority of Parliament to borrow"* and this authority to borrow is supposed to precede the borrowing. This amendment is taking away the need for that authority before the borrowing. So, in effect it is intended to deal a blow to that prior authority before the money is borrowed. In effect, the Constitution is giving to Parliament the authority to insist that government seeks that authority from it before borrowing and this Clause is supposed to take away that authority. What is its meaning? What is the objective? What is the idea behind this Committee's consideration? Why should they give with one hand and then take away with another? This undermines the authority of Parliament to give consent to government to borrow. I oppose it strongly.

**THE DEPUTY CHAIRMAN:** I think we are confusing two things. So, what I propose is that we do away with the deletion, then go to the substance. Because he was debating on a different issue altogether, although I tolerated him to complete. They proposed that Clause 7 be deleted. I now put the question on 7.

*(Question put and negatived)*

**THE DEPUTY CHAIRMAN:** So, clause 7 remains. Now, we go to 8 which many people have already talked on. Hon. Kaberuka amplified on it. I do not know whether he has anything else before...

**DR. KABERUKA:** Madame Chairperson, I think the problem is that things have been mixed up but now the Clause which was 7 now becomes 8 and 8 then will become 9. So, I do not know whether I should repeat what I have already indicated in Clause 8. I have already made the corrections and it is open for debate, I think.

**MR. LULE W:** Point of Clarification. Thank you Madame Chairperson. This Clarification I sought the last time but I had not got it by the time we adjourned. I want him to clarify why in this particular new Clause - why the person of the presidency? Then, the second thing is that once this president has borrowed, guaranteed or raised a loan on behalf of government and Parliament fails to subsequently ratify his action, what would happen?

**DR. KABERUKA:** Thank you Madame Chairperson. First of all, I did point out that here what this Clause seeks to do is the normal practice of not wanting to paralyse the Executive. This Clause is not saying that the President may borrow unguided. For the last three meetings, I have laboured to point out that where you read 'the president', is not president the person. Even elsewhere in this Draft Constitution, it has already been indicated that the functions of the President can be exercised by him directly or indirectly through officers sub-ordinate to him. It is in that spirit that the word 'president' is used; because that is a Constitutional Office that is the head of the Executive. You could have said the government but the government is headed by the president. Some people say that you say 'the Minister responsible for Finance' but he derives powers from the President.

**MR. MWONDHA (Bukooli North):** Point of Clarification. Madame Chairperson, I wonder whether the Chairman for Committee is answering the question. He does not seem to be addressing himself to the question. The question was what happens if ratification is denied?

**DR. KABERUKA:** Madame Chairperson, there were two questions which hon. Wasswa Lule raised. One was the use of the presidency, which I was just explaining. The other one was if ratification is not granted - I had not gone there. So, I do not know whether the hon. Member is listening to the debate as it goes on.

**AN HON. DELEGATE:** Thank you Madame Chairperson. First of all, I find that the Chairman of Committee III is contradicting himself when he says that the president is the head of government and the government has already been given powers under Clause 2 and 3 to borrow. So why again should we again give the president who is the head of the same government separate powers to borrow? Secondly, it is not clear under what circumstances a president may borrow money so hurriedly before putting the matter to Parliament? What are the circumstances? What are the conditions? Why the hurry so as to borrow money before going through the normal channels which have already been provided? Not only that - because the Amendment says that "notwithstanding Clause 2 and 3" and Clause 2 and 3 give power to government to borrow subject to approval of Parliament and at the same time it says "subject to Clause 8" which Clause 8 also is saying that Parliament shall come in to make laws - So, I do not know whether that is not in itself contradictory because we are saying that, subject to this but notwithstanding this; So, I find Madame Chairperson, that this whole Clause is misconceived and in the circumstances is uncalled for and especially maybe before I leave, we may find a situation that a president for example, knows he has been ruling a country for five or six years - he knows that things are not okay; maybe he knows that any time either pending elections or he can sense a coup, then he borrows money and he goes outside, he is overthrown, what happens? So, we have to guard against such dangers. In the circumstances, therefore, I oppose this Amendment. Thank you. *(Applause)*

**MR. RWOMUSHANA (Bujumbura County):** Thank you Madame Chairperson. I accept and I do admit that it is the Executive which borrows and I do

admit the fact that the president is the head of the Executive but I would also like to first find out or think deeply about the magic as to how we should give the President exclusive powers to borrow or raise a loan on behalf of government and later on seek ratification. Why are we saying he should seek ratification? It is because we do not have 100 percent confidence in him. We say probably he may raise a loan which is unfavourable to us. Madame Chairperson, it is a fact that on a loan or with a loan - go with interest. For every loan we get Madame Chairperson, we pay interest. Those who give loans, expect to get profit, expect to get dividends in terms of or in the form of interest. Therefore, the conditions attached to those loans or to that loan must be favourable to the recipients, i.e. to those who receive it; so that at end of the day, they must bear a debt burden.

Quite often we have got loans which are tied or aid which is tied because our negotiators are sometimes overwhelmed. I do not know whether they are overwhelmed by the hotels in which they sleep; but by the end of the day, they are overwhelmed. Now, we end up getting unfavourable loans. So supposing a situation arises that the president receives a loan because he has got a project to fulfil so as to solve a short-term problem. By the end of the day the long-term effects of the loan are very unfavourable to the population and therefore, the Parliament would like to reject it. So, there would be circus, there would be crisis. So, for me, I say if he has gone to Europe or overseas and they promise him a loan, let him come back, tell the committee which is responsible to go and negotiate and then study the conditions. But if we begin receiving groundnuts like the way mice receive it *(Interjections)* - we shall be trapped.

We have always been over bull-dosed by those who give us loans and the debt burden is now too big. So, I am of the view that we should not give the president exclusive powers to borrow on behalf of the government. Let there be a committee established by law or whatever organ to study the conditions. These emergency powers to the president sometimes maybe misused. I therefore oppose this Motion. Thank you Madame Chairperson.

**MR. KABUGO (Nakaseke County):** Thank you very much Madame Chairperson. When I read Article 2 and 3, I find that there is a prohibition where the government is prevented from borrowing on its own behalf and then when we introduce this

new Clause authorising the President to borrow, then there is an inconsistency that I can see in this case. Madame Chairperson, this authority, though the Chairman is expressing that whatever is done, whether it is a Minister for Finance or somebody else authorised by the Minister is doing it on behalf of government or the President, we are trying to enter into problems. We have to cross-check the terms of repayment, the terms of the loan and strings attached to such loans and the purpose for which it is raised. Madame Chairperson, the President, as one Delegate has raised a caution to us, he may be about to run out of office and decides to go outside and negotiate a loan without the knowledge of government and Parliament in that matter. He will raise this money, put it on his external account and then leave the country to suffer and there will be no way that this money will be recovered from him, especially when he decides to go and stay outside Uganda. I strongly oppose this idea. Let us stick to the provisions given in Article 2 and 3 and then carry out the functions of loans, rather than to authorise the president to go outside and raise loan on behalf of government, because there is a danger - Parliament may come here and find that we are too committed and there is no way we can repay this money on the agreed date. What will happen? This is very dangerous, Madame Chairperson.

**MR. ONEGI OBEL (Jonam County):** Thank you very much Madame Chairperson. I am sorry to say, before I go any further, that this is probably the first time that I have heard of a President of a country being empowered to go and borrow money on its behalf. First of all I do not know what we mean by borrowing here - because the borrowing we are trying to assign to the President seems to ignore a number of things, the most important of which is that there are negotiations which are very complicated sometimes before any borrowing is concluded and therefore, we are going to address ourselves to when does borrowing begin and end? If we are talking about the President going to find out possibilities of borrowing money or of getting assistance of foreign or local finances, then that is fine. He can do that but you cannot call that borrowing because borrowing will begin with negotiations which are very complicated sometimes: with fulfilment of conditions attached to the loans and these conditions many times, are fulfilled with the very serious assistance of the Attorney General's Office. That is why in most cases, if not all, there is no loan negotiation without an official from the Attorney General's office. These conditions are *(Interruption)*

**THE DEPUTY CHAIRMAN:** You want information?

**MR. ONEGI OBEL:** I am listening.

**MR. BASOGA:** Point of Information. Thank you Madame Chairperson. I would like to inform the Speaker on the Floor that I have with me the report of the National Resistance Council Select Committee on Bank Paribus - Uganda Government Contracts - and on Page 41 of the recommendations and conclusions, the Committee states as follows: *Consultation of the Attorney General - The Committee is of the strong view that whenever contracts involving huge amounts of money and negotiated on behalf of government, the Attorney General must be consulted. It is important that the legal interests of the government are properly safeguarded in such cases. It does not serve much purpose to bring in the Attorney General after things have gone wrong. It is the considered opinion of the Committee that the time has come to put into place any authority charged with the responsibility of negotiating government contracts. The system where one or two individuals negotiate government contracts involving huge sums of money is susceptible to corrupt practices. The Committee has not lost sight of the possible bureaucratic delays this might bring about but we believe that a system can be formulated to enable contracts to be concluded expeditiously while at the same time allowing for the establishment of this negotiating authority.* That is information for the Speaker on the Floor, Madame Chairperson.

**MR. ONEGI OBEL:** Madame Chairperson, I think all that has been read in the process of the information goes to reinforce the point I am making. Finally, when an agreement is reached, there are conditions known as pre-disbursement conditions; to be fulfilled before the money can be disbursed. These are part of the agreement which a president has not time or even knowledge to provide to make that loan effective or that borrowing effective.

That is why we have, where we are borrowing from abroad an External Loans Act which specifically assigns the responsibility of borrowing to the Minister responsible for Finance - That is section III (1) of that Chapter 156 - The External Loans Act. That same law goes on to request and in fact, to demand that the Minister as soon as possible, after the negotiations must present a report to Parliament

stating the conditions - First of all, the name of the lender, the sum borrowed, the terms and conditions, the interest rates and all that is information to Parliament. The whole idea here is that the President cannot do it and has no authority to do so. More than that, Madame Chairperson, if we are talking about an emergency, there is no loan that can be given in an emergency. The lenders are all going to demand that these conditions for the borrowing must be fulfilled before the first disbursement, if it is staggered - is allowed. Given all that, I am tempted to say that we are dragging the President down to a status that is even belittling because I know I have heard of one case where a country was in need of borrowing a huge sum of money from the IMF. The Prime Minister of that country saw it necessary to go with his Finance Minister to present the case for the borrowing but he appeared there only once and left the whole of the negotiation to his Minister for Finance and the officials that were responsible for that work. Madame Chairperson, let us not drag the President. I do not agree. First of all with the suspicious part of it that the President will borrow money and bank it on his external account. That one is impossible. That one is not practical because fellows who lend money have a system they follow to release that fund, to an external account or to the Bank of Uganda - either in New York, London or where else we hold our external balances. So, there is no way a president is going to borrow money when he is in London and bank it on his Account. That is not a reason for my opposition because it will not happen. Unless of course, if it happens, the country will then object - we will object that that loan was not given to us because if it was given to us, it would go to our external account where we signify where it should go. Madame Chairperson, I could say a little more but let me stop there and oppose the Amendment. Because it is belittling our President and also drawing him to do what he is not supposed to do. It is too technical and a technical job is better done by his technical people. I thank you Madame Chairperson.

**MR LUBEGA WAGWA (Butambala County):** Thank you Madame Chairperson. I support this Amendment because this country has been mortgaged by some leaders and the only person who can mortgage with the consent of the people is the President who has been elected. He is elected by all the people. So, he is in the right position to mortgage this country - if we say he sends other people to mortgage this country, it will be very unfair. Those people are working on his behalf.

**MR. ERESU (Kaberamaido County):** Point of Clarification. I would like to be clarified by the Speaker holding the Floor on the concept of mortgaging by the president and mortgaging by the people on behalf of the President. How different are they and what benefit are they to us in any case?

**MR. BAGEYA:** Point of Clarification. I would like the Speaker holding the Floor to clarify to me when he says that the president who has been elected by the people - Does he want to inform this House that actually the Members of Parliament will not have been elected by the people and therefore, they do not have powers to mortgage this country?

**MR. RWOMUSHANA:** Point of order. Is the hon. Member in order to imply that we are making a constitution to put general elections in place so as to elect a president to go and mortgage us? Is he in order?

**THE DEPUTY CHAIRMAN:** That is his interpretation. He was still explaining. Continue hon. Wagwa.

**MR. LUBEGA-WAGWA:** Madame Chairperson, when somebody talks of elections by the Members of Parliament, it is different. A Member of Parliament is elected by a small constituency. The President will be elected by all the people of this country. So, he is more responsible than the man who is elected by a small constituency to represent that particular constituency. *(Interjections)* Okay, man or woman. I am supporting this because I can see that the people who go and negotiate, most of them are corrupt and as we have said *(Interruption)*

**MR. LIIGA (Buvuma Islands):** Madame Chairperson, I would like the Speaker on the Floor to clarify to me whether he is suggesting that this President to be elected by all the people, he is free to go and mortgage this country by borrowing left, right and centre and then not account for what is borrowed and he is also suggesting that the people who go to negotiate these loans are corrupt including that President elected by the people. Thank you Madame Chairperson.

**MR. LUBEGA-WAGWA:** Madame Chairperson, I think most of the Delegates have been reading some newspapers. It has been alleged that most of the negotiators who go tend to suggest a kick-back. They leave some percentage there but if somebody is

responsible to manage this country as a president, he should be able to negotiate, to persuade some countries to loan his own country some money for developmental purposes.

**MRS. MUTAGAMBA (Women Delegate - Rakai):** Thank you Madame Chairperson. I seek Clarification from the hon. Speaker. He talks of an elected President having a free hand to mortgage the country. Supposing this country unfortunately lands in the hands of an unelected president in the future and he borrows, shall we say that that one is not allowed and the country is not responsible?

**MR. LUBEGA-WAGWA:** Madame Chairperson, that would be unconstitutional. He would not be allowed to go and get loans on behalf of the government of Uganda.

**MR. MIGADE:** Point of Information. I just wanted to inform the hon. Member on the Floor on the procedures of borrowing and raising loans in this country. I think hon. Onegi Obel has really tried to say that a country should borrow for a purpose and a country should borrow viably for the purpose. In order to establish the viability of a purpose, there is need to appraise. There is need to establish a number of factors affecting that borrowing, whether it is in the interest of a country or not. Because of that, Madame Chairperson, I would believe that it should be the technical people to do this type of work and if it is the Technical people, the president is not a technical person in as far as appraising the viability of an idea is concerned - it should be the Minister with his people who can really take a decision as to whether there is need to borrow or not. Therefore, Madame Chairperson, I want to inform the hon. Member on the Floor that the right person to do this one is not the President, but the Technical Staff and the idea is floated by the Minister, it is appraised in the technical Ministry, then it is brought to Parliament for ratification and not the President. Thank you Madame Chairperson.

**AN HON. DELEGATE:** Point of Clarification. Thank you Madame Chairperson. I am seeking clarification as to whether the borrowing which is implied in Clause 2 does not include negotiations by that very good, careful President?

**MR. LUBEGA WAGWA:** Madam Chairperson, the President can initiate the idea of getting a Loan and passes it over to his Minister and the Minister

passes it over to the technical men. But it is the man who has to initiate this idea. So, if all Ministers are working on behalf of the President, then it is better we say the President because everybody works on behalf of the President who is the Chief Executive Officer of Government. We cannot say the Minister of Finance, supposing tomorrow the president changes that Ministry into another name. So, we say the President is the right person to negotiate or initiate this idea of getting a Loan.

**AN HON. DELEGATE:** Point of Order. Madam Chairperson, is the hon. Member on the Floor in order to confuse this House by saying that negotiating for a Loan is the same as borrowing and then reporting to the Parliament 30 days after the money has been secured. Is he in order?

**THE DEPUTY CHAIRMAN:** You can clarify to him if you have a contrary view.

**MR. LUBEGA WAGWA:** Let him give me the information first then I will clarify.

**AN HON. DELEGATE:** Point of Information. May I inform the hon. Member on the Floor that the President does not initiate the borrowing as he said. It is usually the Ministry of Planning which plans which projects must be undertaken and how to find Funds for that kind of project.

**MR. LUBEGA WAGWA:** Madam Chairperson, Ministry of Economic Planning works on behalf of the President.

**THE DEPUTY CHAIRMAN:** Anyway I think the Members have got your point.

**MR. BAGEYA:** Thank you, Madam Chairperson. Unless the hon. Member holding the Floor has a contrary view to what has already been passed 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. I am not quite sure whether the Gentleman holding the Floor is aware that the President is part and parcel of Government.

Secondly, since I was on this Committee, the reason why we put up this Clause was purely because I have been taking pains to establish what the current debt burden of this country is. What I have so far got forces me not to encourage this other new Clause to

be imported in. This is what it is. The total debt stock of Uganda is estimated at U.S Dollars 2.999 billion, with arrears estimated at U.S Dollars 251-09 million. This was by June, 1994. Not October or November, 1994.

**AN HON. DELEGATE:** Point of Information. Madam Chairperson, the information I would like to give to the hon. Member on the Floor is that the Figure of 2.999 is not an estimate but an actual total borrowing as of June, 1994. Thank you.

**MR. RWABITA:** Madam Chairperson, Madam Chairperson. Governments differ in a way they handle Public Affairs. Interpretation of the Constitution we are making now will depend on what sort of Government we shall have in future. Now when you put such a Clause like this one, and you allow the President to go out and negotiate Loans and come back to report to Parliament after 30 days, then you have given a leeway of controversy between the Executive and Legislature. What happens when he comes back? The Legislature says the Loan is not in the interest of the country, then there we shall get a crisis. The crisis can stand up to the time the President can even order Parliament to close. That will bring a political crisis in our country. Madam Chairperson, if a President is offered a Loan on his safaris abroad, what he should do is to know the terms of that Loan. As you know, Madam Chairperson, Loans are always with strings attached. There is no Loan which does not have strings attached. Either we are looking for political friendship, but basically those who give us Loans are looking for economic advantages for their own countries. Therefore, if we just take a Loan for the sake of it, despite our needs, we can, as some Members have said, mortgage our country unnecessarily.

When you talk of the bureaucrats being slow and sometimes having kick backs, but the fact is, that a Loan should be studied. It should be evaluated - the job it is going to do, the terms and conditions of the interest rates. The President has got no time when he is abroad meeting this other Executives and if he is not an alert person, he can be cornered very easily. They will say here we are, we have got one million Dollars, can you take it. He will say, 'I need it, I will take it'. But what is behind that Loan? What are the conditions of paying it back? Especially when our debt-burden is so heavy. So, Madam Chairperson, with all these reasons, I stand to oppose this new Amendment because it can frustrate our develop-

ment and can put us in the bottleneck of external forces. Thank you very much Madam Chairperson.

**MR. SSEBI DATA:** Thank you, Madam Chairperson. I would like to support this Motion on the issue of giving the President powers to borrow. All along we have been looking at a situation where borrowing is from external sources. At the same time we could look at a situation where we get a very wealthy President - extremely rich and capable of lending the country money. I think we have such cases of very rich Presidents who have assets abroad in Metropolitan Cities - they have shares in Multi-national Corporations, they have fleets of Aircraft. I do not see why we cannot allow such a President to lend the country money. Because he is one of us, I do not see why we cannot allow such a President to lend the country money and at softer interest rates.

**AN HON. DELEGATE:** Point of Order. Madam Chairperson, is hon. Ssebi in order to confuse this Assembly with the word 'Lending' when we are in fact considering borrowing by Government or by President. Is he in order to say that we are discussing lending by the President?

**THE DEPUTY CHAIRMAN:** Perhaps you should have asked for clarification.

**MR. SSEBI:** Thank you, Madam Chairman. You can substitute the word here.

**MR. BYAKIKA:** Madam Chairperson, is the hon. Member in order to continue boring us with confused sort of points and in the circumstances, may I request you to put the Question?

**THE DEPUTY CHAIRMAN:** The hon. Member was still explaining the previous point of order. So, can we give him time to complete his submission.

**MR. SSEBI:** Madam Chairperson, thank you very much. You did not rule me out of order. You said I could actually inform the hon. Member. I still stick to my guns because I am saying if you put yourself in a situation where the President has a Multi-national Corporation, he has a very large company; it is not his own alone - it is a consortium. If he wants to give money to this country, he has to borrow from that consortium.

**DR. BYARUHANGA:** Madam Chairperson, I wish to inform my Brother hon. Ssebi, that the issue

he is raising is not funny; he should not think that we are looking at it as a funny issue. But if the President wishes to lend his country, he will just be acting like a bank and then the Government can borrow from his Body using a well laid down procedure. The machinery we have instituted in this constitution does not have to get money from one pocket and put it in another without passing through the machinery we shall have laid down. Thank you.

**MR. AWORI:** Point of Clarification. Madam Chairperson, I am seeking clarification from the Committee Chairman in a general Principles on the formation of this particular Amendment. Whether he had opportunity of looking at the current existing external Loans Act of 1962; because it seems to be clearer than what he has put here as an Amendment which is causing a lot of heat and no light. So, if the two were to be synchronised, some of the points which have been raised on the Floor, may not necessarily come up.

Furthermore, I am seeking clarification on this Amendment. Madam Chairperson, the points raised here are very important. But it is the format of the Amendment that is creating a lot of heat. I only have the Floor under special conditions. Otherwise in my own submission, I would have moved a Motion to the effect that we stand over this matter until it has been *-(interruption)-*

**MR. WANENDEYA:** Thank you, Madam Chairperson. I note that we are not adequate in forming quorum. Madam Chairperson therefore, would it be in order for us to continue because we are not 140. Would it be in order for us to continue?

**THE DEPUTY CHAIRMAN:** Let me respond to that. Actually that is why I have prolonged the discussion. We are only 86. So, that is why I gave you time to debate. We would have finished this long ago. But 86 out of the required 142, I do not think our requisition will be binding.

**PROF. SENTEZA KAJUBI:** Madam Chairperson, under Rule 9 (3), it says, *'Whenever objection is taken under sub-Rule 2 of this Rule and it is upheld by the Chairman, the Chairman shall suspend the Assembly for 15 minutes during which bells shall be rang.'* Is it in order not to follow that Rule?

**THE DEPUTY CHAIRMAN:** With due respect, at this time I do not expect anybody else to come. Unless you are saying that we stop the Debate and adjourn.

**DR. CHEBROT:** Seconded.

**THE DEPUTY CHAIRMAN:** Okay there is a proposal that we adjourn because we do not form a quorum. So, I declare that we adjourn until Monday 2.30 p.m.

*(The Assembly rose and adjourned until Monday, the 12th December, 1994 at 2.30 p.m).*