



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

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WEDNESDAY, 15TH FEBRUARY 1995

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Wednesday, 15th February 1995

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

NATIONAL ANTHEM

PRAYERS

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

(The Assembly was called to Order)

COMMUNICATION FROM THE CHAIR.

THE CHAIRMAN: I have a brief statement to make. It is a more of a reminder really. I would like to remind Hon. Delegates of the circular we sent out either it was towards the end of last week or early this week, informing Hon. Delegates that from Monday, the next Monday, 20th, we shall have plenary sessions in the morning as well as in the afternoon. This means that if there are any committees that have not completed their work by Friday then they will have to make arrangement of their own time to meet and continue with their work. As far as the Chair is concerned we have made arrangements with the secretariat to have facilities available on Saturdays and Sundays for the committees to meet. It is up to the chairmen of the various committees and their members to take advantage of those facilities but otherwise the Plenary will be Monday in the morning 8.30 and in the afternoon at 2.30. That is the only communication I have from the Chair. Hon. Kabugo are you a chairman of a committee?

MR. MESUSERA KABUGO (Nakaseke County): Thank you, Mr. Chairman. When I read your circular telling us that with effect from Monday the sessions have to be conducted in the morning and afternoon, I had an idea. If you can agree that we could meet right from 9.00 O'clock to 1.30 p.m. and go and attend to other work rather than - because there is a diminishing return in economics there is a point where somebody can work and then come down. Mr. Chairman, judging from what is happening now the committees which are still on- they sit in the morning. Now you may find that very few Members of those committees who have been able to turn up in the afternoon and if they do they will be coming rather late. So in this case, Mr. Chairman, I think we shall be doing a serious work and produce meaningful exercise if we were to start exactly at 9.00 and

then break off at 1.30 p.m. Otherwise, Mr. Chairman, you may get disappointed to find responsible Delegates here failing to turn up in the afternoon. That is my proposal, Mr. Chairman.

MRS. KALEMA RHODA (Kiboga East County): Mr. Chairman, I would like to inform Hon. Kabugo that it is precisely because it is being impossible for us to start in time for all of us to come here that is why the Chairman has decided to make this kind of arrangement. I do not believe that it is a fault of the Chairman. I am sure all of us are aware of how many warnings we have had from the Chairman and the Vice Chairman for us to be here in time and leave as late as possible so that we complete this assignment. So far, unfortunately, we have failed to do so. So I do not believe Hon. Kabugo is in order to complain about that.

MR. ELYAU MIKE (Kalaki County): I appreciate the whole effort of trying to speed up but, Mr. Chairman, like us in Committee One, the kind of work we have, no one had expected that it must be up to this time- that we can finish. We still have a lot of room for us to polish, land problem and so on. Now, if we are to work on Saturdays and Sundays it means we shall not contribute fully to the needs of the people of Uganda. I was trying to say that why don't you revisit that decision so that Committee is allowed some time to finish the job.

MR. OWINY-DOLLO (Agago County): Thank you, Mr. Chairman. Mr. Chairman, this is a rider to Hon. Elyau's plea. Mr. Chairman, at the beginning of the Select Committee work we had to learn a few things. Understandably we spent time longer than we should have. Just when we were maturing in the conduct of the committee work we are being told we should finish by the 18th. I am asking the Chair to go the extra mile if we have to do meaningful work in a subject matter like land and allow us some more time so that whatever we do in the Committee can come before the Plenary here and be presented and appear reasonable instead of having to hurry over the work and look like something done by children. Mr. Chairman you realise land one of those issues which was feared to be controversial, which would raise some amount of contention. If this be the case there is no way we can handle either in Select Committee or in Plenary a matter like land, without giving sufficient time for people to give vent to their various sentiments and what have you and then arrive at a

conclusion or an understanding that would serve the real need and desire of the people. I am asking the Chair to consider going the extra mile for this purpose. Thank you, Mr. Chairman.

DR. HIGIRO SEMAJEGE (Lwemiyaga County): Mr. Chairman, I would like to support Hon. Elyau because, Mr. Chairman, land is a very sensitive subject matter. I have been attending that Committee although I am not a member of that committee, and each time I find that one has to think very hard and doubly so to come to an agreement. Mr. Chairman, in fact, land stands to be more important than merely every other subject matter because there are certain things that we are going to deal with that attract very many people. Some people have got no land and they are living on leases, they are living where, they are threatened but they are Ugandans and we have not yet found a solution. Mr. Chairman, I would prefer that rather than leave them like this, I would suggest that we give them a definite time. Shall we give them up to Wednesday, for instance, or end of next week. The reason I am saying so, Mr. Chairman, is that it is not only the Committee Members, there are very many people here who are in other committees but who are interested to attend and who contribute. So this being such a sensitive matter, Mr. Chairman, I would pray that we allow them to do a good job. By next Friday if they have not finished they will have been lazy, Mr. Chairman.

THE CHAIRMAN: Hon. Delegates, for us lawyers we have what they call coming to equity with clean hands. If you want to plead equity coming on your side you must have clean hands. In other words you do not commit misdemeanors along the way or injury to other peoples interest and then claim that equity should assist you. Now, let me hear from the Chairman of the Committee in all honesty how many times have you began on time in your committee so that we know that the Members have really tried to come on time but the work has been too much. I would like to hear from the Chairman.

MR. BAGUMA ISOKE (Buyanja County): Mr. Chairman, honestly I thought the Assembly needed my opinion rather than me answering how many times we had started on time. But I will start with the latter, Mr. Chairman. It is on record in our minutes of the Select Committee and indeed in the minutes of the sub committee of the Business Committee and in the minutes of the main Business Committee that late coming is not only a problem in the committee but

also a problem in the Plenary. We need a collective solution to this problem of late coming. Each day on average we lose two and a half hours of fresh morning time when the brain is working at its maximum (*Interjection*) yes, because our minutes indicate when we start and when we end. Each time each day we lose about two and a half hours when you quantify that you find it may be nearly equal to the working time that we have in the committee. Now, honestly, we gave ourselves rules, the Business Committee set a working plan and we were to accomplish our committee work at the end of January, two more weeks were granted to us. We tried in the two weeks to start at 8.30 but we could not fulfil the other requirements in the rules for us to do so. I need - the committee needs collective guidance as to how we shall beat the deadline but within the minutes of the Business Committee it is stated that committees will have to find their own time either working late in the evening or even during the week-ends. Now we have come to the grips of the situation, Compatriots Select Committee One let us face it. Maybe next week we shall make our plea to the Business Committee because at the same time we are the committee that is reporting here on Monday morning in the plenary. Our Chapters on IGG and the Leadership Code are lined up. Monday morning we shall be here, in the afternoon we shall be here for the whole week. At the same time we have got that heavy duty of resolving the land chapter. Now, in those circumstances, Mr. Chairman, I would request the Business Committee to- or its sub committee to convene at its earliest convenience and hear from Select Committee One.

THE CHAIRMAN: I think the most important thing the Chairman has made - two points - he confirms that the committee cannot come to us with clean hands because of two and half hours being lost every morning but he makes the point that if we start the plenary on Monday he will be handling the Leadership Code and Public Service. This would mean that the committee will have to be here to report in which case they may find it very difficult to perform - to conform because they will be working all the time. But otherwise I will not say that the plea by Hon. Owiny-Dollo, Hon. Elyau and Hon. Dr. Higiroy does not appear to have come to the plenary with clean hands. Now, we have to find a solution in view of this other complication.

MR. OMARA ATUBO (Otukey County): Thank you very much. Mr. Chairman, I thank you for

bringing this point to the plenary for discussion. My brief proposal Mr. Chairman is that for administrative purposes, I would have appreciated if after our views here you call all the chairmen and possibly deputy chairmen of various select committees and let them brief you in detail how far they have gone with their work and as well as what time they would need in order to complete that work and from those submissions and evaluations you may be able to come out with a workable solution to the problem. What I am seeing, Mr. Chairman, is that if we stick to the deadline of Monday we will find that we are going to hinder the work of the select committees especially those select committees who have not yet completed their work. At the same time there may also be a problem really of the plenary's quorum being realised. So an extra mile which Hon. Owiny-Dollo proposed may be better assessed when you as the Chairman and your Deputy and all the various chairmen meet and put their heads together and possibly come back to the plenary with a conclusive suggestion. Thank you, Mr. Chairman.

MR. WANENDEYA WILLIAM (Budadiri East County): Thank you, Mr. Chairman. I would request that what Hon. Kabugo put forward as a suggestion, instead of ending at 1.30 p.m. we could end at 2.30 p.m. and when we end at 2.30, Committee No. 1 could have lunch for an hour and then go and do its work. I believe that is the best way of getting Committee No. 1 Members almost following the meeting after the plenary and that could go a long way towards solving the problem, Mr. Chairman. I thank you.

DR. MAGEZIDAUDI (Jinja Municipality East): Mr. Chairman, thank you very much. Mr. Chairman, I do not know when it is likely that we shall be discussing the report from the committee on this Chapter Seventeen but I believe it is some time to come, may be May or June. So there could be possibly some time during which even though the plenary is meeting in the morning, we start in the morning and in the afternoon, we could be able as Committee One to find time to do this job. However, land and environment is a very important Chapter and it affects everybody in Uganda notwithstanding what I have suggested, we could ask Committee One that we shall discuss each Chapter in the plenary so that we get the synchronized amendment and we continue to slog through this Chapter as part and parcel of the August Assembly. Otherwise I can see a problem in trying to find time over the weekends, the

people are late during the normal Monday to Friday, how about the weekends coming? So I conclude by saying that if we knew when Chapter Seventeen was likely to be the report to be tabled, there will be sufficient time to find. Maybe during the recess for Easter, some two or three days could be set aside but otherwise I suggest that the Chapter can be discussed from Article 271 to the end in the Plenary. I thank you, Sir.

MR. ONEGI OBEL (Jonam County): Mr. Chairman, I would like to support the suggestion by Hon. Kabugo that we start even at 8.30 from Monday but go on even up to 2.00 or 2.30. That way, Mr. Chairman, will not only be fresh but will avoid a situation where a tendency to come late in the afternoon is greater than in the morning hours. Secondly, we would then give the committee a choice of going for lunch at 2.00 O'clock and coming back may be at 3.00 or 4.00 to continue with the committee work until, Mr. Chairman, the committee work is finished. Then we can perhaps thereafter revert to coming in the morning and also in the afternoon. Thank you, Mr. Chairman.

MR. ONGARIA STEVEN (Tororo Municipality): Thank you, Mr. Chairman. I want to inform the House that we in Committee One have been coming at 8.45 under the Chairmanship of Hon. Owiny Dolo. For instance, Hon. Magezi's argument that the rest of the work of the committee could be brought here for the Plenary to consider. I think it is very unfortunate because, for instance, yesterday and today we laboured on one Article only, one day and involving so many lawyers. So that means that if the work is brought in the Plenary we may not finish them in time involving so many people if only a small committee like ours can take an Article the whole afternoon or the whole morning, you can see that if it is brought here it might complicate the issue. I suggest, Mr. Chairman, that if a period is to be given it could be given up to the end of the month for the Committee one to finish this very sensitive area on land, Mr. Chairman.

MR. KASANGAKI PANTALEO (Buruli County): Thank you, Mr. Chairman. Mr. Chairman, I would like just to remind the Chair that during the last meeting of the Business Committee we had given a schedule to say that all committee work should have been completed during the last week of this month. So I suggest, Mr. Chairman, we stick to the same so that every committee is able to complete

and when we come back here in the Plenary each committee or everybody will be in a position to devote most of the time in the Plenary. Thank you, Mr. Chairman.

MR. RINGWEGISAM (Padyere County): Thank you, Mr. Chairman. Mr. Chairman, I would like to report, through you to this House, that Committee should be able to complete the work assigned to it the discussion on the Chapter remaining by Friday this week but then we shall need time to sit down and write our report. Mr. Chairman, we feel that the work of writing the report should be done by the committee collectively so that we do not have problem when we bring our report to the Plenary. For that matter I would like to agree with the proposal put forward by Hon. Omara Atubo that if the Chair had met the various chairmen and their deputies maybe we would have been in a better position administratively to handle this matter. Then perhaps we could have come to the Plenary with a solution at hand. Now that we have opened this matter to Plenary to debate, I would like to propose further, Mr. Chairman, that if the committees were given may be up to the end of next week, we should be in a position to complete all the committee work and then begin the Plenary the week after. So, Mr. Chairman, I would like the House to consider that proposal that we given an extension of one more week to the select committees to complete the discussion and probably writing the report so that when the Plenary begins we should meet in the mornings and in the afternoons. You will definitely appreciate, Mr. Chairman, that the work of the committees has made the work of the Assembly much easier. You will have noticed that we have been passing more Articles even in the afternoons of Plenary only. So I believe an extension of only one week should not really prejudice the completion of the Assembly's work as programmed by the Business Committee. I so propose, Mr. Chairman. Thank you.

DR. KABAYO PATRICK (Kassanda South County): Thank you, Mr. Chairman. I also wish to support the idea of extension of one week. But in addition to that I would like to propose that since it seems the main problem in most committees has been a problem of quorum which has affected the time when business can begin and some committees have finished their work assignment, maybe you could re-allocate the Members of these committees who have finished to this particular committee. So that the membership is larger and the chance of the

quorum is higher at any one time so that the business can begin more predictably. Those two points, Mr. Chairman, an extension and then expanding the size of the committees would do it. Thank you, Mr. Chairman.

MR. ADYEBO COSMAS (Kwania County): Thank you, Mr. Chairman. Mr. Chairman, I think what we need to do is to accept the moral obligation which we have in this House and we have for the 18 million people. It is really the task of the morals. You see, Mr. Chairman, our being here is costing the government and Ugandans a lot of money every day. We have just extended the period recently and it was not easy in the NRC to extend the period by six more months. Mr. Chairman, I am appealing to my colleagues, the Hon. Members, to re-examine our attitudes towards work. We did campaign and we did promise the population that once we come here we were going to make the constitution within seven months but it was not possible. Mr. Chairman, as I plead with my colleagues, most of you colleagues are going to participate in the next elections, I do know you are politicians and you cannot defeat the country. I am appealing to you whatever we are doing here is going to be a reflection on whatever you will do in the future. I am pleading with you especially with my colleagues in the committees which have not done their job. I am also in Committee Two and our task is not yet finished. Mr. Chairman, this idea of extending the period from time to time is dangerous. It is dangerous, we had the time we are capable, we are able to finish this assignment within the next few months left and I am saying each Member here did accept on his own to join any committee. Therefore at the time of your voluntary choice you would have known that you are responsible to finish your task within the required period as per the regulation set by us here. I am recommending that, Mr. Chairman, and let us agree to extend only one more week to these committees that have not finished their assignment and I am making a proposal that we do agree today to tell Committees One and Two to come with their final report by the end of this month without any further pleading. This month of February, Mr. Chairman, I am not trying to accuse anybody but I am seeing the risk we are entering into. If we do not double our efforts and work harder we may not finish this National Task and the next risk is for you to go back again to NRC and I am giving you a warning ahead of time that will be near an impossible request you will make again. So the only thing is to accept to come here everyday at 8.30 in the morning as we

did agree - *(interruption)* - I appeal to all of you and I am also included. I am winding up, Mr. Chairman, by making a request that this august House do consider making the last extension to Committees One and Two to help them finish their assignments remaining their and report here by the end of this month, February 1995. Thank you very much, Mr. Chairman.

MR. BWANIKA BBALE (Katikamu North County): Thank you very much, Mr. Chairman, for giving me the Floor. I am in support of an extension of one week. Mr. Chairman, I think it is very important that these committees are given enough time to do thorough work and report to us that would be very easy for us to process their work and finish early. I appreciate the fact that we are spending a lot of money but I think that one should not really divert us from the task we are handling. We must do a thorough job, we should not go to the people and take an uncompleted constitution. So the idea of emphasizing the cost is important but not paramount I think to the job that we are doing. We should be able to do a good job. Mr. Chairman, therefore, I support the idea of giving these committees one more week extension. Thank you very much.

MR. KANDOLE CLEMENT (Kyaka County): Thank you very much, Mr. Chairman. Mr. Chairman, in the first place it is true that we have had a number of problems at committee level, in coming on time, raising quorums and the rest of it. But Mr. Chairman, I can assure you I belong to Committee Two, Members try their best. They do a good job and I am very sure that when these committees are given sufficient time and they do a thorough job. When it comes to the Plenary it becomes much easier for us to complete the job on time and beat the time. Mr. Chairman, what we are discussing now is surely not an issue for this plenary. I think it has already been proposed that if the Business Committee meet the respective chairmen and deputies they can report and give them what they have done so far and lay better strategies for finishing the job on time. Mr. Chairman, I think also we need to change our methods of receiving these reports and handling them because we have in most cases spent more time on certain issues at the Plenary than the time that was spent on these same clauses at the committee level. I assume that when the report is made here that the matter has been handled properly at the committee level and whoever is interested has given in his or her opinion - *(Interruption)* if they have not done it, it is unfor-

unate. Because the understanding is that whoever has an issue should raise it at committee level so that when the report comes to the Plenary most of the preliminary work is done. So, Mr. Chairman, I propose that when the reports are being received and the way we are handling them, that we take less time in debating these issues and not re-open them for a further debate. Mr. Chairman you have the experience of the Parliament, what happens in the NRC, when these Select Committees may attend to some issues and make reports, when it comes to the Plenary, more or less there is no detailed discussion except for matters of correction here and there. If we can change also our method of receiving and handling the matters I think we may also save a lot of time. Mr. Chairman. Thank you very much, Mr. Chairman.

THE CHAIRMAN: Hon. Delegates, we have had a good exchange of views on the question of our work methods and also the programming of our work. You heard from Hon. Adyebo about the difficulty of seeking extension. I want to have it put down on record that I will not be associated with any attempt to seek any extension beyond what we have been given because really we will not be making ourselves serious in the presence of our people. We had seven months, we have got another six months and I think that is sufficient for us to write a constitution and the rate at which we are going we are not substantially behind the schedule but I think when we make decisions we should respect them. The original decision in the Business Committee which we reported here was that come 31st of January the committees should have completed their work. That was the position. Then we said but the Deputy Chairman will be liaising with the chairmen of the various select committees to see that we are also kept abreast with the progress of the work. Out of those interactions it was felt that an additional two weeks should be given and those two weeks expired today. On basis of that interaction the Chairman was advised that committees should finish their work by the middle of this month. I chose to set Monday the 20th as a starting point allowing a number of days that is tomorrow and Friday. Now it would appear that too will not be enough. The Chairman of Committee One and some other Members have very publicly said that starting on time has been difficult and indeed even in the Plenary Members have been going away starting around 5.00 p.m. I therefore do not think it will be an improvement if we were to say the Plenary runs up to 2.00, the Members go for lunch

and come back. I would be surprised to see how many Members would come back to start Committee work at 4.00 when they have not been able to come and start at 8.30 when they are fresh. That being the case then the question is simply whether we grant an extension or we stick to our position and say those who have not finished find their own time but in view of the views expressed I think let us make it this way. Let us postpone the double Plenary to the week after next. It will start the other Monday. I forget the date, I do not have my diary here - it will be 27th - Monday the 27th we shall start Plenaries in the morning and in the afternoon. This gives Committee Two and Committee One a whole week within which to complete their work. That being so, it is now up to the chairmen of those committees to make sure that Members start on time and that there will be no need to seek an extension from us to be able to do the work that may not have been finished. That Members are opening themselves to the possibility of having to work on Saturdays and Sundays. As I did indicate the Secretariat would be making arrangements starting from that time for any committee that will not have finished to work on Saturdays and Sundays. So we so agree and now I go on to the next item. Thank you.

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

CHAPTER FIFTEEN - INSPECTORATE
OF GOVERNMENT

THE CHAIRMAN: We turn to the Report of the Committee, of Committee One, and we receive their report on Article 259. I give the Floor to the Chairman of the Committee.

MR. BAGUMA ISOKE: Thank you very much, Mr. Chairman. Article 259 covers functions of the Inspectorate of Government. Select Committee One recommends that paragraph (a) of Clause 1 be retained without any amendment and it reads as follows: *The functions of the Inspectorate of Government shall be prescribed by Parliament and shall include the following-*
(a) to promote and foster strict adherence to the rule of law and principles of natural justice in administration;

The Committee further recommends that sub clause (b) to Clause 1 be also retained without any amend-

ment. It reads thus:

(b) to eliminate and foster the elimination of corruption, abuse of authority and public office;

The Committee recommends further that sub clause (c) of Clause 1 be amended to read as follows:

(c) to promote fair, efficient and good governance in public offices; and our reason for this proposal is as follows: The Odoki text has got the words *"improvement"* on page 110. That *"improvement"* is very subjective and in the Committee's judgement the word *"efficiency"* is more objective and meaningful and then we removed the term *governmental bodies* and instead introduced the term *"public office"* to mean generally the same thing.

The committee further recommends that paragraph - sub-clause (d) of Clause 1 be retained without any amendment and it reads as follows:

(d) Subject to the provisions of this Constitution, to supervise the enforcement of the Leadership Code of Conduct;

The Committee further recommends that sub clause (e) of Clause 1 in the Draft be retained without any change and it reads as follows:

(e) to investigate any act, omission, advice, decision or recommendation by a public officer or any other authority to which this article applies, taken, made, given or done in exercise of administrative functions.

The Committee recommends that a new paragraph be inserted here as sub clause (f) and this paragraph appears on page 110 as clause 3 to article 262. The committee found that its proper home is within clause 259 as a function of the IGG and it reads as follows:

(f) to stimulate public awareness about the values of constitutionalism in general and the activities of its office in particular through any media and other means it considers appropriate.

Mr. Chairman, the Committee recommends that a new sub clause (g) to clause 1 be inserted and it reads:

(g) any other function prescribed by Parliament.

THE CHAIRMAN: But that one, how does it fit in with the opening? The functions of the Inspectorate of Government shall be prescribed by Parliament and shall include the following. It is all inclusive is

it not? So I do not see the need for (g) really. Of course, I am a bit unfair I have not given you the chance to give us the rationale but if we have opened like we have then Parliament has the power to prescribe anyway. We are only giving Parliament a chore and they can add.

MR. BAGUMA ISOKE: Mr. Chairman, I concede on behalf of the committee that (g) does not serve any purpose and the committee withdraws that proposal. The Committee recommends the retention of Clause 2 as it appears in the Odoki Draft Constitution which reads: *"The Inspectorate of Government may investigate any matter referred to in paragraph (e) of clause (1) of this article, on its own initiative or upon complaint made to it by any member of the public whether or not that person has personally suffered any injustice by reason of that matter."*

MR. WANENDEYA: Thank you, Mr. Chairman. I would like a clarification from the chairman of the committee as to whether they considered setting up a body or a secretariat which could be composed of a few persons. Possibly if it is included in the Constitution so that it is a secretariat to which all sorts of wrong from the public could be addressed to. So that it is not one man's affair, but rather a number of people to whom reports could be made and then the Inspectorate of Government together with his colleagues, that is his deputy, could sit together and then analyse those reports. Mr. Chairman, the reason why I say this is that a number of things have been reported in our newspapers or media but you find that so far as this law stands and the Inspector General of Government is here nothing is ever investigated and, therefore, nothing is done. So I want the chairman to clarify if they considered a kind of committee to which matters would be reported and from there on be investigated. I thank you, Mr. Chairman.

THE CHAIRMAN: But I thought the set-up of the Inspectorate of Government also demanded them to make their work known to the public under this provision we have just transferred from 262. So that the public knows where to find them but maybe I will give the Floor to the chairman to answer that before we pronounce ourselves on 259.

MR. BAGUMA ISOKE: Mr. Chairman, select committee one considered all that Hon. Wanendeya has pointed to. By establishing the Inspectorate of

Government as an institution it means that it will have offices and officers besides the IGG and the Deputy IGG's and those are the ones to engage. We would be writing a law, the IGG Law in its entirety if we had to mention how the office will perform its functions. We left that as a matter that will be put in details by a law made by Parliament in future.

THE CHAIRMAN: Okay. Hon. Delegates, the question is that Article 259 as recommended to us by Committee One do stand part of the Constitution.

(Question put and agreed to.)

THE CHAIRMAN: We now move on to the next one.

MR. BAGUMA ISOKE: Mr. Chairman, Article 260 addressed jurisdiction of the Inspectorate of the Government. The committee recommends to retain Article 260 as it appears in the Draft and make it Clause 1 of this Article because there is another Clause 2 within the same Article which the committee recommends to be introduced but this one reads: *"The jurisdiction of the Inspectorate of Government shall cover offices or leaders whether employed in the public service or not and also such institution, organisations or enterprises as Parliament may prescribe by law."* As I have already said, Mr. Chairman, the committee recommends that a new clause (2) be introduced to read *"The Inspector General of Government may during the course of his or her duties or as a consequence of his or her findings make such orders and give such directions as are necessary and appropriate in the circumstances"*.

THE CHAIRMAN: What is the difference you are trying to draw between (1) where you say *"The Inspectorate of Government shall cover all offices"* and now you are talking about the *Inspector General of Government*. We thought we had approved that the Inspectorate of Government shall consist of the Inspector General and his Deputies but now you are shifting it to the Inspector General when it comes to Clause (2) - the proposed clause (2). Do you have any specific reasons but maybe Hon. Ben Wacha had some other question also.

MR. BEN WACHA (Oyam North County): Mr. Chairman, I am not comfortable with the placing of this clause. My understanding is that the first clause which is the original 260 (1) is dealing with jurisdic-

tion. Now it looks as if the second clause deals more with the powers rather than the jurisdiction of the Inspectorate. I do not know whether the committee thought that those two could now be combined in this Article so that we eventually even remove 264. If he could clarify this matter to me, if he can convince me that (2) and (1) are both dealing with jurisdiction.

MR. BAGUMA ISOKE: Mr. Chairman, having looked at the minutes of our meeting on the 16th day of November last year, I am now persuaded by the apparent objection to include this new clause here and defer it to a special powers of the Inspectorate of Government in 264. On behalf of the Committee I withdraw the proposal.

THE CHAIRMAN: That being so we now leave 260 as it was formulated. So I will put the question on 260 that Article 260 do stand part of the Draft Constitution.

(Question put and agreed to.)

MR. BAGUMA ISOKE: Mr. Chairman, Article 261 point to the independence of this institution and the committee recommends that - the retention of the Article as it appears in the Odoki Draft Constitution which reads: *"The Inspectorate of Government shall be independent in the performance of its functions and shall not be subject to the direction or control of any person or authority and shall only be responsible to Parliament."*

THE CHAIRMAN: I now put the question.

Question put and agreed to.

THE CHAIRMAN: Hon. Wanendeya, it is too late. We have voted on it and our rules prohibit us really going on debating backwards. I have given the Floor to the chairman of the select committee. 262.

MR. BAGUMA ISOKE: Mr. Chairman, Article 262 addresses how accessible the institution is to the people and the committee recommends the retention of clause (1) to Article 262 as it appears in the Draft Constitution. It reads: *"The Inspectorate of Government may establish branches at district and other administrative levels as it considers fit for the better performance of its functions"*

THE CHAIRMAN: Agreed. Next.

MR. BAGUMA ISOKE: The committee recommends the retention of clause (2) to Article 262 as it appears in the Odoki Draft Constitution. It reads: *"The Inspectorate of Government may sit and hear any matter within its jurisdiction at any place in Uganda"*.

THE CHAIRMAN: Agreed. Next. Just wait a moment. I do not see what would attract any contention on (2).

MRS. MWESIGYE HOPE (Women Delegate - Kabale): Thank you, Mr. Chairman. I would like clarification from the chairman of the committee on what they mean by the Inspectorate of Government may sit and hear any matter. What does sit and hear any matter mean in this context? Because to me it looks like it is giving now the Inspectorate of Government sort of the functions of the court to hear and determine some cases. Thank you.

THE CHAIRMAN: How does the Inspector General of Government perform his duties? Could we hear from the present person in his other capacity.

MR. RUZINDANA AUGUSTINE (Ruhama County): Thank you, Mr. Chairman. Mr. Chairman, I am a Member of Committee One and during our deliberations about this sub article I moved an amendment to replace that phrase to sit and hear with the word *"investigate"*. So that sub article could read as follows: *"The Inspectorate of Government may investigate any matter within its jurisdiction at any place in Uganda,"* but the committee preferred to retain these words. But in my view I think the office is not a court, these words are used for courts. What the office does is to investigate. It does not hear cases and determine them as it is said later in 264(1). So, Mr. Chairman, I would recommend that we replace this phrase with the word *"investigate"*.

THE CHAIRMAN: Is that a Motion?

MR. RUZINDANA: No. You asked for my opinion. I had moved it in the committee and got defeated. I therefore would like to move, Mr. Chairman, that the words *"sit and hear"* be replaced with the word *"investigate"*. I beg to move.

THE CHAIRMAN: Well, the Motion has been seconded you cannot say no. There is Hon. Babu there unless he denies it. Okay, having had the Motion seconded we shall proceed so that we do not

waste time. Let us first of all start this way, there was objection taken by Hon. Hope Mwesigye to the use of the word "sit and hear," it is normally the language used in relation to court. I sought opinion from a person who elsewhere does the job we are now talking about.

AN HON. DELEGATE: The Inspectorate of government would have power to examine witnesses abroad and take care of their concerns.

THE CHAIRMAN: But what have you to say about 262 (2)

AN HON. DELEGATE: Now 262 Sir, raises a question as to whether we should give judicial power to the Inspectorate of Government in addition to the investigative powers. That is a substantive issue I think that we should discuss, and I believe that is why Hon. Ruzindana was raising the amendment.

THE CHAIRMAN: But then it is wrong to say should the IGG have powers to investigate. Hon. Ruzindana do you agree since you are the one who had moved a Motion.

MR. RUZINDANA: No, Mr. Chairman, the intention of this sub-article is related to 262 (1) about branches. The intention was, that the office could carry out its work anywhere in the country. Even when there are no branches for example, the office could go and place itself in Mbale or in Arua and undertake its functions in that area and then move on and on and on and so on.

THE CHAIRMAN: But have you to say that in the constitution?

MR. RUZINDANA: No you do not have to, but that was the intention of the - of this sub-article.

THE CHAIRMAN: Because they could even go to my village. Do we have to state that in the constitution that they should go to my village.

MR. RUZINDANA: Yea it could be deleted, Mr. Chairman.

THE CHAIRMAN: I would like to suggest that we agree on the fate of this one. The chairman of the committee says it is not necessary.

MR. BAGEYA GEORGE (Kigulu North County): I was just moving a Motion that sub-

Clause (2) of article 262 be deleted.

(Question put and agreed to on Sub-Clause 2 of article 262 put agreed to).

MR. BAGUMA ISOKE: Mr. Chairman, Clause (3) has already found its home, we can now decide on the article.

THE CHAIRMAN: Okay now let us pronounce ourselves on Article 262 that it does stand part of the draft constitution.

MR. BAGUMA ISOKE: Mr. Chairman, Article 263 provides for the provision of adequate resources to this institution, and the committee recommends the retention of Clause (1) as it appears in the draft constitution. It reads: "The Inspectorate of Government shall have an independent budget appropriated by Parliament and controlled by the Inspectorate." The committee further recommends the retention of Clause (2) Article 263 as it appears in the draft constitution. It reads: "It shall be the duty of all concerned to facilitate the employment by the Inspectorate of Government of such adequate and qualified staff as are needed to enable the Inspectorate to discharge its functions effectively and efficiently."

(Question on article 263 put and agreed to).

MR. BAGUMA ISOKE: Mr. Chairman, now we come to the special powers of the Inspectorate of Government proposed in Article 264. We have since our proposals had presentation Mr. Chairman, but we have not had any time to discuss these presentations to change what we have proposed. Mr. Chairman, the committee recommends the retention of Clause (1) as it appears in the draft constitution. It reads: "The Inspectorate of Government shall have the power to hear and determine cases involving corruption abuse of authority, or public office and to make any order according to law."

MRS. MWESIGYE RUHINDI HOPE: Thank you, Mr. Chairman. Mr. Chairman I beg to move that article 261 Clause- sorry 264 Clause (1) be amended by deleting the words, "hear and determine" and to make any other order according to law replacing them with the words: "Investigate cause investigation, arrest cause arrest, court prosecution in respect of cases involving corruption, abuse of authority or public office." Mr. Chairman, I beg to move.

THE CHAIRMAN: I have received a written Motion to that effect seconded by Hon. Faith Mwendha, Hon. Mwesigwa Rukutana, Hon. Bart Katureebe seeking to replace the formulation appearing in 264 (1) with what has been read out. It has been seconded, and I will give the mover the opportunity to give reasons why and then we proceed from there.

MRS. MWESIGYE RUHINDI HOPE: Mr. Chairman, in moving this Motion, we noted that the Inspectorate of Government needs to be strengthened. And, therefore, should have the powers to investigate, close investigations, the powers to arrest or cause arrest and the powers to prosecute or cause prosecution. Because we noted that, hitherto the Inspector of government has not been - have not been effective because he lacked such powers like powers of arrest and powers to prosecute. Mr. Chairman, we also noted that, having passed Article 259 whereby the functions of the inspectorate of government include to promote and foster adherence to rule of law and principles of natural justice in administration. That would be erroneous to give judicial powers to the inspectorate of government. Because the inspectorate of government is investigating, is prosecuting, then it would be wrong and against the principles of natural justice that such an office hears and determines cases at the sometime. You will all agree with me that it is a cardinal principle of natural justice that one cannot try his own cause. Mr. Chairman, at the same time, we noted that we cannot have prejudicial system operating side by side with one another this will obviously lead to confusion. Because of those reasons, that I beg to move that this Article 264 (1), be amended, Thank you.

CAPT. BABU FRANCIS (Kampala Central Division): Mr. Chairman, thank you very much. I second that amendment, and I would like to request Hon. Hope Mwesigye to even remove the power of prosecution from them, and allow them to cause prosecution. Mr. Chairman, the reason why I am against giving another office or creating another judiciary department, is because one of our historical weaknesses has been our judiciary. And we would like to strengthen our judicial system in this country, and we should not weaken it by giving some of their powers to some other institution. And when we get the judicial section, I would like us to give them more power under different areas. As we talk right now I know very well that the revenue authority for example, can prosecute but with permission of the

DPP. In other words, there must be permission within the judiciary system.

THE CHAIRMAN: But Hon. Babu, how does, the power to prosecute weaken the court system.

CAPT. BABU: I am saying that when you start dividing these powers to another body when we have a body in place, I feel that you are weakening that particular department. I feel that the judiciary system will be weakened I would, therefore like to agree entirely with the amendment. But we should give them the powers to cause prosecution. Therefore, Mr. Chairman, whilst I agree with the amendment entirely, and this is to really strengthen the IGG's office, and leave the IGGs with the powers of investigation which is generally the powers of the ombudsman, I do not agree that we should give them judicial powers. That would make them go slightly beyond the normal work they are supposed to do. We should give this power to the judicial system of this country instead of giving it to the IGG. Thank you very much.

MR. MWESIGWA RUKUTANA (Rushenyi County): Thank you very much Mr. Chairman. Mr. Chairman I stand to support the amendment on grounds that, allowing the article to stand as was recommended in the draft constitutions would be tantamount to creating parallel judicial system with similar powers to those ones of the High Court. Mr. Chairman, that would be very, very dangerous. Because how would this judicial system now relate to other courts of judicature. How would it relate the High Court, what would be the bounds which case would fall under corruption to be investigated by - to be investigated, prosecuted and determined by IGG and which one would fall under cases to go to the High Court. So it would create total confusion between - sorry in the judicial system of the nation. If we are to pass provisions as they are, it would mean that the IGG would be a complainant because most of the times he would be the one to unearth corruption. He would be the complainant, he would be the prosecutor, and he would be the judge. What sort of justice would that be. Mr. Chairman, I do not need to over emphasise the cardinal rules of natural justice that nobody should be a judge in his own cause. So without wasting a lot of time, we should maintain what we already have. These people should have the power to investigate, to arrest and here I differ from my Colleague Hon. Babu, in order to strengthen the department, the IGG should have

powers even to prosecute on his own. What I am wondering is whether we should make it constitutional powers or whether we should also subject it to approval by the DPP. But I would have no quarrel to making it even constitutional that he can on his own prosecute his own cases. So with that, I support the amendment.

THE CHAIRMAN: We have heard two speakers in support of the Motion, I want to hear those against-

MR. NSAMBU NSUBUGA (Makindye Division West): Mr. Chairman, thank you very much. If you read section- Article 264 (1), you will find that the Inspector General of Government is involved in cases of corruption, abuse of authority, or public office. These items some of their cases are not prosecutable. He has to investigate and see where the balances favour. In those circumstances you find the Inspector General can give a directive as to what the officer should do, We have met cases in private practice that - at times he writes his directives and you find that the members of the government do not obey the directives, and they continue doing, going ahead with their wrong. So in the circumstances your honour, it is important that this man must be given some authority of seeing that he has decided is put into a sect that is why we have 264 (c). In order to make him sound so that his decisions are not looked at or frowned at. That is the reason why we say that he should have power to enforce his decision. There may be cases which need to be taken to court, I do not deny, but there are others which definitely do not need to take to court and you cannot prosecute one for having displaced something or it is an abuse of office. In those circumstance your honour, you will find that this power must be given to him, and I oppose the amendment.

MR. KAHEEBWA FOX (Bujenje County): Mr. Chairman, I personally have no quarrel with this amendment by Hon. Mwesigye Ruhindi so long as the word 'arrest' is left out. At least leave in 'cause to arrest,' we stop at that, Mr. Chairman.

THE CHAIRMAN: I think he has a problem with her details really.

MR. ATWOKI AMBROSE (Youth Delegate - Northern): Thank you very much, Mr. Chairman. Mr. Chairman, I rise to support the Motion by Hon. Mwesigye Ruhindi on the grounds that, the moment we give the IGG the power to hear and determine

cases it means that we are already creating another conflicting area in the - I mean in as far as judicial powers in concerned in country. Mr. Chairman, we also must realise that the independence of the judiciary must not be watered, down in any way. The only thing I believe is proper, to entrench in this provision, is to provide a clear relationship between the inspectorate of government and the judiciary so that we should allow the judiciary to issue maybe directives which would expedite the hearing of cases which has been before the inspectorate of government. Mr. Chairman, we are not ready to go to the colonial days where we had the chief as the person who would investigate the cases or hear the cases and then decide on the cases. And this is the kind of impression which Article 264 (1) tries to give the IGG. The principle of natural justice does not allow such a situation to arise. Mr. Chairman, it is also important to know that, in the past the office of the inspectorate of government have not been having a clear relationship in as far as enforcing certain laws are concerned. I believe that by providing for cause to investigate, causing to arrest and causing prosecution, we shall go a long way to provide some powers which will directly expedite the work of the inspectorate of government and see justice to be done, Thank you.

MR. MULENGA JOSEPH (Democratic Party): Thank you, Mr. Chairman, Mr. Chairman, I do not know whether I should put this by way of amendment or by way of clarification. In the original draft there is this function of power to make any order according to laws. It is also in the recommended text of the committee, but the movers of this amendment have omitted it. And yet in my view there is need for that power particularly in respect of corruption. If the law provides that where somebody has been - used funds to maybe purchase properties and so forth or where money can be traced in a bank account and we do not give this investigating authority that power to cease as soon as it is discovered, there is danger that by the time prosecution goes on and so forth, it may disappear. There may also be order to produce certain documents related to the case as investigation goes along, I thought this power would be useful without interfering with - or prejudging the case that the inspectorate can make an order to ensure that its case is not damaged in the process of prosecution. So I wondered whether the movers removed it for a purpose that can be explained. Otherwise, I would have preferred to retain it and add it to the text of the amendments.

MRS. RUHINDI MWESIGYE: Thank you, Mr. Chairman. When we talk of order in legal terms, it actually means that a court takes decision after hearing the case and makes an order. And I believe that bit had been added in this article because the inspectorate of government had been given judicial powers to hear and determine cases. So I still believe that, that is a power which is related to a judicial function which should not be given to the inspectorate of government. Thank you.

THE CHAIRMAN: You are saying that the IGG will have to move a court he wants and order to be made - Hon. Rukutana you are assisting to answer that.

MR. MWESIGWA RUKUTANA: Thank you very much, Mr. Chairman. I can see the fears of my Colleague Hon. Mulenga, but then I want to point out that in our amendments we save Sub-Articles 6, 7 and 8. In Sub-Article 6, I think there are weighed powers given to the IGG to summon, to call for or to retain any document or anything. Now, when it comes to other matters then the IGG will have to comply with the rules of procedure that are set up by the - in the courts. It is common knowledge that if any party desires any document or a thing to be produced, he can make an application to the court, and a court can order for such production. But other fears as I said, are catered for especially, under Sub-Article 6 of Article 264.

THE CHAIRMAN: I think we really have taken a lot of time on this one. The general view was that we vote on it. The recommendation from the committee was that we accept Clause (1) of 264 as it appears in the text. There is an amendment which seeks to delete it, and replace it with the formulation which was read to you that: "*The inspectorate of government shall have power to investigate, cause investigation, arrest, cause arrest, prosecute or cause prosecution in respect of cases involving corruption, abuse of authority or public offices.*" I put the question.

(Question put and agreed to.)

THE CHAIRMAN: That being the case that formulation, is replaced as appears in the Motion.

MR. BAGUMA ISOKE: Mr. Chairman, the consequence of our proposed Clause (1) falling by the way side, is that any matter that emanated from it,

consequently falls by the way side. But before we reach Clause (6), there is a matter which I wish on behalf of the committee to introduce at this stage, for consideration as Clause (2). This is the matter we had earlier recommended in Clause (2) 260 that, the Inspector General of Government may during the course of his duties or as a consequence of his findings make such orders and such directions as are necessary and appropriate in the circumstances. And this is what we mean, Mr. Chairman. For example, in case of a dispute between two parties that is brought before the IGG, he could in the circumstances issue an injunction, do not proceed with any developments until this matter is settled. This is the type of order the committee had in mind and I believe Hon. Mulenga also alluded too. This is the time to consider this Clause immediately coming after what we have just passed, giving powers to the IGG only to do what we have passed, and in doing that, he should be able to issue orders.

MR. AWORI AGGREY (Samia Bugwe North County): Mr. Chairman, I am seeking clarification from the chairman of committee 4 on role - committee 1 on the functions of the IGG as he has just put it. When there is dispute between two parties the office of the IGG shall have the powers to cause injunctions. Will not that amount to arbitration? Mr. Chairman, in other words, one of the functions of the IGG would be arbitration between two contending parties. And it is not included in here, and if was to be included, Mr. Chairman, it would definitely contradict the previous amendment we have just passed.

MR. RUZINDANA: Thank you, Mr. Chairman, I just wanted to give information to the previous speaker concerning the necessity of giving orders for example. Mr. Chairman, take a case a complaint of wrongful dismissal or suspension or something like that. While the Inspectorate is undertaking investigations, the office may be filled and that is rendering the investigations and the complaint superfluous. In other words, in the meantime while the investigations are being undertaken, orders could be given that, that particular post should not be filled until investigations of the complaint are finished. Now, once they are finished and the action taken by a particular agency is found to be right, then they can go ahead and fill the post. But if the office finds that the action taken was not right then it could recommend reinstatement of the individual that was wrongly dismissed for example, and that one will be a case that

necessitates orders of this type. And it will not be arbitration in the sense of Hon. Awori. This is ordinary business of an institution of this nature, and it does not either conflict with the amendment which we have just passed.

THE CHAIRMAN: The proposal is that we insert a new Clause (2) formulated as appears on page 7 of the report under Article 260 remember we did not take it on and Hon. Ruzindana has explained how he sees its usefulness in practical terms.

MR. MASALU MUSENE (Manjia County): Thank you, Mr. Chairman. Mr. Chairman, while I appreciate what Hon. Ruzindana has stated all the same a case he has given is a rare - is of rare nature. It would be very dangerous to put in the constitution anything to do with granting the IGG powers to issue orders. Because you cannot rule out a case of such orders being misused. Mr. Chairman, we have already stated that powers to issue orders should emanate from court and only court which is in line with a doctrine of separation of power. Now, anything to take away whatever little power from court to give to any other institution would definitely violate the doctrine of separation of power. And furthermore, the history of injunction of power to issue injunctions or similar orders from my other experience in this country has been - there has been a lot of problems to the extent that now there is even a practice direction from the High Court that no order of injunction or any sort is to be issued unless two parties are heard. So you can see now the element of hearing two parties coming in, and that is already imputing the powers of court. So I completely oppose any power given to IGG to issue orders be the injunctions or similar orders. Mr. Chairman.

MR. BATEGANYA DICK (Bukooli Central County): Thank you very much, Mr. Chairman. I would like to give this information which is coming from the Odoki report, page 610 paragraph 21.136, and I quote. *"Vesting of enforcement powers would not necessarily mean that the IGG would become a court dealing with all criminal charges of corruption of any kind. It would be expected that the courts would continue to deal with such matters...."* This quotation is necessary to inform the House that the people - the peasants of this country have expressed a special desire to have a strong office of the IGG. This comes out of the rampant corruption that has robbed this country, and noting that the peasants

have no direct - or have lost confidence in the formal judicial system. So I feel that if the IGG, the office of the Inspector General if he is availed extra powers of enforcement, it really avails the Wananchi an avenue to redress themselves from the situation where justice has really been violated by people in influential positions. Going away with billions of money while peasants in the village are imprisoned for lengthy terms say years for maybe minor offences like stealing of chickens and such things. I wish to, Mr. Chairman, to strongly support the strengthening of the office of the IGG with these powers. Thank you very much, Mr. Chairman.

MR. KASAJJA: Thank you very much, Mr. Chairman. As a rider to what Hon. Bateganya has said it is important that this office be strengthened. In light of the many cases that have been sighted of corruption in Uganda, and in view of the fact that all Ugandans would like corruption to be reduced if possible to be minimized or eliminated. Mr. Chairman, it is important that the IGG be given special powers and if you really look at the article in fact it is stating that these are special powers which are being given to the inspectorate of government. And thus one as Hon. Bateganya has already quoted to you, are laws as a result of what has actually happened. Mr. Chairman, many cases have been sighted of misappropriation of funds at various levels. But the IGG has done a good job but because he has been incapacitated in prosecuting those cases, it has been difficult for these people to be brought to justice. Therefore, it is important that Members do take this matter seriously so that we can be able to bring to book people who are trying to wreck this country to dryness. So, Mr. Chairman, I strongly support that the IGG be given these special powers.

MR. RUKUTANA: Mr. Chairman, I am really agreeable to the spirit behind this recommendation that the IGG be given - should be given strength to take some steps to remedy some situations. But then I am very fearful about the word "orders". Because the moment you say order it could mean judicial proceeding of some kind. So I was proposing it was acceptable, to drop out the word "orders" and instead retain directions so that it reads, *"The Inspector General of Government may during the course of his or her duties or as a consequence of his or her findings make such directions as necessary and appropriate in the circumstances"*. This would empower him to make any administrative direction. Because to me, when you say order

somehow you are implying that there has been some judicial or quasi judicial proceeding of some kind. But if we empower him to make direction I think those administrative directions will be still binding. I would move that the recommendation be amended to remove the words "such orders" and retain "such directions as are necessary". I beg to move.

THE CHAIRMAN: I would like to test the ground with Members of the committee as to this new suggestion, or anybody who may - it is suggested that instead of using the word "orders" which imply the judicial power, that we leave it to "directions".

MR. RWABIITA DEO (Ibanda South County): Thank you very much, Mr. Chairman. Though I agree with the new amendment, but I do insist that the last phrase in 264 should be maintained. I think the lawyers are over stretching the meaning of the word "order" as if order only means to be done or to be given by a Judge. But an order in a normal meaning means that you give directives, you order something be done. For example, Mr. Chairman, we have had a lot of social injustices, especially, with the custodian board properties where some people were just evicted without proper assessment of their defaulting. Now, if the IGG found that this action is being done improperly, he would make an order that is an injunction to stop the eviction of this person until something is cleared. So that order necessarily is not so legal but is to stop an action to be done and until something is cleared. Therefore, I would support that this phrase is maintained because the IGG would have a wide scope of giving directives in a lot of circumstances that might come about his work. In our committee we thought this was in order because the new amendment cannot give us all possibilities but the last phrase gives us any eventuality whereby IGG can give instructions or orders. Mr. Chairman.

MR. LIIGA ALOYSIUS (Buvuma County): Thank you, Mr. Chairman. Mr. Chairman, I had risen to oppose the formulation of proposed Clause (2) as it stands for various reasons. But however after Hon Rukutana had made his alteration and after listening to Hon. Ruzindana, I am comfortable with the new formulation if it goes that: "*The Inspector General of Government may during the course of his or her duties or at the consequence of his or her findings, give such directions as are necessary and appropriate in the circumstances.*" That would give him room on either side to issue administrative directives but not to make binding orders. As Hon.

Masalu Musene pointed out, this will bring a conflict between the judicial offices and the IGG. For instance, if the IGG made an order that please stop until I have finished investigations, and the authority so commanded went to court and got a formal order to proceed we would see that there would be creating unnecessary friction. But as this formulation stands it gives the IGG a lot of administrative leeway to handle the situation without bringing any crossing of horns and whatever it is by these two bodies. Thank you, Mr. Chairman.

MR. AWORI: Mr. Chairman, I was never satisfied when I raised a point of clarification I noted the answer, the two answers were contradictory. The initial answer from the chairman of the committee never tallied with the explanation given by Hon. incumbent IGG. Mr. Chairman, I thought know whether arbitration is one of the functions of the office of the Inspectorate of Government. Now, Mr. Chairman, *-(Interruption)-*

THE CHAIRMAN: No, if you look at 259 you find that it is not. Arbitration say if you know - as you know you can submit yourself to arbitration in accordance with the agreement of two parties or more, and you are bound by the answer that comes from there. But the IGG acts on a complaint made to him and investigates it and then comes to a conclusion and gives an order. He does not have to be sitting in arbitration of two parties of course, if they agree to come to him, fine.

MR. AWORI: Given that situation, Mr. Chairman, I was seeking to see clearly the demarcation and functions of this office and the parameters of the judiciary. Mr. Chairman, I see a situation here developing where we have a similar thing developing, anti-smuggling unit is terrorizing the public in the name of chasing corruption. Mr. Chairman, we are creating here too many centres of power to arrest people in the name of eradication of corruption. Mr. Chairman, I would like to see a clear demarcation between the role of judiciary as previously put by other speakers, and the role of the office of the inspectorate of government. And how it can carry out its functions without assuming angelical functions of doing it fairly without prejudicing other parties. Mr. Chairman, as long as we keep giving so many centres of power capacity to arrest people -

THE CHAIRMAN: But Hon. Awori, you are now going to discussing what we have already passed.

The role and powers and functions of the IGG. We are now talking about whether the IGG should have powers to make orders during investigations or as a result of investigations. Now that is different from the power of arrest and the judicial power which we had already discussed.

MR. AWORI: Thank you, Mr. Chairman. As long as it is just the capacity to cause arrest rather than to effect arrest. To cause arrest, I will go along with that but to effect arrest, Mr. Chairman, I thank you for the opportunity of seeking clarification.

THE CHAIRMAN: Now we have the following formulations. There was formulation from the committee in terms of Clause (2) appearing on page 7. Hon. Rukutana with the agreement of others, saying that, that will be too drastic power they would rather it was in form of directives that are to be given by the IGG. Now, Members have spoken in respect of this. I would like to know from the chairman of the committee whether this is acceptable to them, the formulation by Hon. Rukutana. If it is acceptable, then we shall modify this and then we take it to be part of 264 then we proceed.

MR. BAGUMA ISOKE: Mr, Chairman we have been advised by delegates with the legal background. They have defined what *orders* in this context means, and what *directions* also mean. At the back of the committee's mind like I pointed out when I was introducing this Motion. We wanted the IGG to give such - now they are directions. To direct an officer for example, submit documents to work here to give information or in the case an on going dispute like we said over some development to some property. To say do not proceed with developments until the dispute is resolved. This is the understanding of the committee. But since the term '*order*' is placing the IGG in another area of jurisdiction, that is not the intention -(*Interruption*)-

MR. MULENGA: Mr. Chairman, I think the chairman may have been carried away by this assertion that order can only be given by court. I do not accept that interpretation. My view is that any authority can give an order really even military they give orders. they make judgement. The other point that seems to have gone and challenge you to suggest that if you give an order in this context, then it means we are not observing separation of powers. We have in law what I called administrative tribunals even, and that is not interfering with the separation of power. So if

here we feel that an institution called Inspectorate of Government needs these powers as I think they do, really we should not get the impression that we are either mixing up the roles of courts and the role of Inspector General of Government. I was indifferent which term we use until I heard the contribution of Hon. Liiga. It was faint but I got something through to the effect that he thinks these directives should not be obeyed if are not binding. If we are taking that as the meaning, then diluting what is intended, if we give the Inspector General power to give these directives or orders whatever name you used, then they should be binding unless a court goes into a matter and cancels it. So, Mr. Chairman, I think the Chairman should not be carried away or misled by the use of order it is inappropriate.

MR. BAGUMA: Finally, Mr. Chairman, select committee I envisaged-

THE CHAIRMAN: There is information, but before I give the Floor to Hon. Rukutana, I think let us- the word *order* yes, it is used in relation to courts, you go and extract an order at the end of a judgement or at the end of hearing of some matter. But when we draft laws sometimes even give ministers power to make orders and they do so by instruments - statutory instruments and so on.

MR. WACHA: Thank you, Mr. Chairman. Mr. Chairman, I do not personally see the fears which are being expressed by my - some of my learned friends. Mr. Chairman. we have already removed the power to hear and determine cases in respect to 264 (1). That by itself is indicative that we are removing judicial powers away from the Inspector General of Government. Now, having removed those judicial powers, we cannot again be seen or even be imagined to be operating or to be giving those judicial powers by just using the word *Itorderv*. I think we must be clear in our minds that, it is also possible to give administrative orders- it is possible. Now if every time we use the word *order* we imagine that we are using it in respect to judicial powers, then we would be restricting our vocabulary unnecessarily. (*Applause*)

MR. RUKUTANA: Thank you, Mr. Chairman. With due respect to my similar Colleagues in another capacity, this constitution is a legal document. It is law. Once we say 'order' to me it connotes 'order' in the legal sense. Of course, as a lay man, one can say anybody can give an order. In

the army they "*Towa Amuli*". A Minister can give an administrative order, but putting it here in the constitution, to me gives the IGG powers to make a constitutional order that is very dangerous. I am very sure, it would definitely in short time have some conflict with the judicial system. Now, if they are saying - that those orders will not necessarily be judicial but what they want is the orders to be obeyed, what is wrong with directions. The moment we empower the IGG to have power to make administrative directions, to me we save ourselves the trouble and the ambiguity that may arise if later this word 'order' was to be taken in the legal context. Now, what is wrong with giving him power to make directions as he may deem fit without confusing ourselves with the judicial process of granting orders. So I still insist, Mr. Chairman, that the word 'order' however innocent it is intended, will still confuse with the orders of the high court since a constitution is law and is a legal documents.

THE CHAIRMAN: I think the Lawyers are having the effect of confusing the House. I will try assessors. Can I try Hon. Leander Komakec.

MR. LEANDER KOMAKEC (Aruu County): Thank you, Mr. Chairman. When we passed the Clause, a new Clause as formulated by Hon. Hope Ruhindi. I think with the position the House had actually made its position clear that the IGG may not act as a court. I think that one has been taken out so this quarrel over the word 'order.' I do not see the problem at all. Because we have just passed a Clause, what is the implication, I think what follows is that Article 2 should actually fall by the way side. I would go by the amendment which has logical sequence in retaining the other 2 Clauses - 3 Clauses. No. 6, 7 and 8 the threes. If we do that we will save our time - I mean the problem of having whether or not to give judicial powers to the IGG. I think the amendment as proposed is much clearer and I plead that we actually take that one, it will save us a lot of problems. The three, I think Hon. Hope and Madam

MR. CHAIRMAN: Let us do it this way. I will - what I am trying to see is trying to find out how it would have been understood by people other than lawyers.

MR. AKURE PETER (Jie County): Mr. Chairman, at times I get surprised when just one word confuses the whole House. Because an order then

does not mean that in the way Hon. Rukutana is referring to. But a word 'order' can be used anywhere. It can be used let us say in MchakaMchaka, in schools at times, administratively it can be used. And now we are giving this IGG powers to cause an arrest, to investigate or to prosecute. Now supposing somebody in a ministry has refused to obey what he says, what will he do. He has to instruct the police if the minister arrests him the orders are used to get the whole of that man or that person rather. Me I am not comfortable with the way the amendment has been put. Just arguing because of the word 'order,' to me it does not mean anything. Any word can be used in any form provided that things are done in the way they are supposed to be done. Therefore, we have passed this article empowering the IGG to - cause all this in whatever he does. Now if IGG will not have a direction of ordering something, then it means we are actually - we have declined to give him power. Why do we establish an institution which at times when he has got to do something, is withdrawn somehow. Me the word 'order' does not really cause any trouble as far as this problem is concerned, Mr. Chairman. Thank you.

MR. NGOBI MATHIAS (Presidential Nominee): Thank you, Mr. Chairman. As a lay man in this legal field I find that it is perfectly in order to make - to ask the IGG to make such orders and give such directions as he may think fit. I do not think that this would in any way involve the judicial - put in as much as possible in terms of powers, forgetting that sooner or later this situation will come and we shall have the IGG running beyond the speed that we shall want him to. I think this is wrong! Maybe, what is important for us, Mr. Chairman, is to accompany such a clause with a definition of the orders as understood by the legal people. Otherwise, orders per se has a different meaning. In as far as I know, orders are only a prerogative of the High Court. But I am saying that is as far as I know, even if you know it from wherever.

THE CHAIRMAN: Okay, Hon. Pinto.

MR. PINTO MANUEL (Kakuuto County): Thank you, Mr. Chairman. Mr. Chairman, as a lay man, I am very clear having heard the arguments advanced by Hon. Rukutana and the other members of the legal profession. But I am sufficiently clear that the word *order* as it stands here does not exclusively imply court order. I hear and understand it to be a lawful order, and I think order has been used so many

times. You yourself, Mr. Chairman, did guide and you said that in law there are many cases where ministers have been given powers to issue orders. These are lawful orders according to law! Recently our Minister of Commerce and Trade issued an order to ban the importation of milk, he did not have necessarily to have a court order. So, I am very clear as a lay person that without confusing the issue the way the Amendment as it stands today with order does not necessarily imply a court order, and I believe that it should left as it is, it is sufficiently clear. Thank you, Mr. Chairman.

THE CHAIRMAN: I think let us sit down and decide this one, because we have spent quite a bit of time. We have heard from lawyers, we have heard from non-lawyers, we have heard from learned members and we have also heard from highly educated members. So, there is that difference, and I think it is becoming very clear that - I think the most important point was advanced by Hon. Ben Wacha that once we took away the Judicial function of the IGG, then what was left would be orders to assist the IGG in the investigations rather than making judicial orders, I think that is what he said, but really let us decide. Now, there are two things, there was a recommendation from the committee. The Chairman has not agreed to take on the position as suggested by Hon. Rukutana. Hon. Rukutana had moved an Amendment to delete some words so that we remain with a reference to *directions* only. I think it was seconded, was it?

HON. DELEGATES: No, no.

THE CHAIRMAN: It was not seconded - *(Interjections)*- no, the Chairman was busy finding the general view in the House. Now, let us vote whether we accept the one from the committee or not. I will put the question.

(Question put and agreed to.)

THE CHAIRMAN: I am surprised if Hon. Rukutana did not say no! I was expecting to hear a 'no' from this side. So, now this formulation appearing on Page 7 now becomes part of Article 264 appearing as Clause 2 of 264 and it would appear from the Chairman of the committee that he concedes a number of deletions. Do you agree with the Motion which was before that we delete the original 2, 3, 4 and 5?

MR. BAGUMA ISOKE: Mr. Chairman, going by our report on Page 9, what is- Clause 2 there has already been overtaken by our decision. Powers of the High Court are no longer powers of the institution we are creating. Clause 3 giving evidence is also a function of a court, that also falls by wayside. Clause 4 appeals to the Supreme Court- out of the judgement of our institution has also fallen by the wayside. And 5 the procedure of this institution which here seems to be a court also falls by the wayside. Now we come to -*(Interruption)*.

THE CHAIRMAN: So, the position that the committee, in view of our decision, the Chairman is saying that it is not necessary to have 2,3,4 and 5 as appears in the text. Agreed?

HON. DELEGATES: Yes.

THE CHAIRMAN: It has been agreed, the problem of person against the rest cannot hold us, please go ahead. No, Hon. Chebet Maikut, we have already agreed that these fall by the wayside, and it was by general agreement. Now, the problem of one Member does not hold us behind. Chairman of committee I.

MR. BAGUMA ISOKE: Mr. Chairman, at this stage Select Committee one recommends the retention of clause 6 as it appears in the Draft Constitution. The numbering now will change and this will become clause 3 to read: "*Subject to the provisions of any law the Inspectorate of Government shall have power to enter and inspect the premises of any department of Government or of any authority to call for, examine and where necessary retain any document kept on those premises and there to carry out any investigation for the purposes of its functions.*"

MRS. MWESIGYE (Women - Kabale): Thank you, Mr. Chairman. Mr. Chairman, I beg to move that former clause 2 be amended and read as follows: "*Subject to the provisions of the any law, the inspectorate of government shall have power to enter and inspect the premises of any department of government or of any authority to call for, examine and where necessary retain any document or item in connection with the case being investigated found on the premises and may thereon carry out any investigation for the purpose of its functions.*" Mr. Chairman, I beg to move.

MR. BAGUMA ISOKE: No, objection to that.

THE CHAIRMAN: The Chairman has no objection. Hon. Odur.

DR. ODUR DICK (Dokolo County): Point of clarification. Thank you, Mr. Chairman. Mine is seeking a clarification with respect to where the Inspectorate of Government would be required, for example, to investigate private companies or firms as is stipulated in Article 60 which says that the jurisdiction of the Inspectorate of Government shall cover officers or leaders whether employed in Public Service or not. Now, in this case would it be proper to assume that when you say 'any authority' with respect to those areas or premises in which the Inspector General might want to enter and receive documents, will it include private premises?

MR. HASHAKA JACKSON (Kibale County): Point of clarification. Thank you, Mr. Chairman. I am seeking clarification from the Hon. Mover as to whether the breaking in of these premises would be carried out by the officers from the IGG's office or with the help of the Police. Or they would just break in for the sake of investigation, whether they are locked or not. Does this cover this issue? I wish to be clarified, Mr. Chairman.

MR. SSEBAANA-KIZITO (Makindye Division East): Point of clarification. Thank you, Mr. Chairman. I want to ask, before the mover comes to clarify other issues. This question of found on the premises, supposing the Inspector of Government does not find these items on the premises, but he finds that this man or woman about whom there is investigation has hidden the items somewhere else. Is it going to be out of his reach or is it the intention that it should not be part of the investigations?

MR. AWORI: Mr. Chairman, on the word 'property' and 'premises.' I do not want to go into the semantics of it, whether the two are interchangeable. When you say premises and particularly when you are looking for documents, Mr. Chairman, I could keep such documents in a Pajero outside or a Land Rover. If we were to use the word 'property' here, it would cover a Pajero or a Land Rover where you have kept the documents.

MR. RUKUTANA: Thank you, Mr. Chairman. Having listened to a number of Delegates inquiring about whether it was a private company or a private person keeping the property being

investigated. Whether the IGG would honour this provision to empowered to such, I am of the view that we make an Amendment to include the word 'Person' so that it reads: "*Subject to the provisions of any law, the Inspectorate of Government shall have power to enter and inspect the premises,*" - and here I am ready to accommodate Hon. Aggrey Awori's, actually, to say "... *property of any department of government, person or authority to call for, examine and where necessary retain any document...*" here, there should be no fear that this would give the Inspector General of Government power to investigate private cases. What he is supposed to investigate is already highlighted in the provisions passed. But it may happen that during the investigations - it may transpire during his investigations that the property he is searching for, or the documents or the items are in the keeping of a private person in his private premises or in a Pajero he suggested. If we do not add the word *person* it may be difficult for the enforcement officers to inspect the private premises of any particular person, however sure they may be, that the property is lying in that house. It may be cumbersome, first of all, to go to seek for search warrant and all that. So, I suggest that we include the word 'person' and I suggest that we include - I think we say premises or property, in which case to be specific it would read: "*Subject to the provisions of any law, the Inspectorate of Government shall have power to enter and inspect any property or premises of any department of government, person or authority to call for, examine and where necessary retain any document or item in connection with the case being investigated found on the premises or in the property and may thereon carry out any investigation for the purpose of its function.*" I beg to move.

THE CHAIRMAN: I put the question.

(Question put and agreed to)

MR. BAGUMA ISOKE: Mr. Chairman, at this stage I want to express the pleasure of Select Committee 1, for the support given by the plenary to our report.

Further, Mr. Chairman, the committee recommends the retention of Clause 7 as it appears in the Draft Constitution to become clause 4 to this article, and it reads: "*For the avoidance of doubt, the Inspectorate of Government shall when enforcing the leadership Code of Conduct have all the powers conferred on it by this Chapter in addition to any other powers conferred by law.*"

(Question put and agreed to.)

MR. BAGUMA ISOKE: Mr. Chairman, the committee further recommends that clause 8 as it appears in the Draft Constitution be retained to become clause 5 to this article, reading: *"Subject to this Constitution, Parliament shall enact any law necessary for enabling the Inspectorate of Government to discharge its functions effectively and efficiently and in particular to ensure that the discharge of those functions is not frustrated by any person or authority"*.

THE CHAIRMAN: Agreed; now, I put the question on 264 as amended to stand part of the Draft Constitution.

(Question put and agreed to.)

MR. RUKUTANA: Point of clarification. Mr. Chairman, I am sorry there is a matter I want to be clarified, because going through-I think there is a big omission in respect of how the IGG relates to other courts. For example, the powers we have given him to investigate, if a case was already pending in court would he still have the powers to carry out the investigations? I have combed this Chapter and I do not see where it is provided for. I am afraid unless we make a provision for that there will be a big room of confusion and conflict between the IGG and the courts of judicature.

THE CHAIRMAN: Can I suggest that Hon. Rukutana acquaint himself fully with the Chapter as we are about to approve it, and comes back with a proposition at the reconsideration stage, so that we fill in any lacuna that may be existing. Otherwise, it will be difficult to get 200 Members thinking about how to fill those lacunas now.

MR. RUZINDANA: Mr. Chairman, we are making constitutional an institution that already existed by Statute, and the Statute provides adequately for the worry of Hon. Rukutana. There is a section which makes matters which are subjudice or matters which have already been decided by courts outside the jurisdiction of the existing office, and unless we put a specific article in this Constitution which abrogates those section, then I think that one is adequately handled by the Statute.

THE CHAIRMAN: Now are you saying that merely because our Statute exists, what we have

written does not - because the danger is that the Constitution may prejudice those provisions in the Statutes to the extent that they are inconsistent with what we have approved by virtue of the ranking of the laws. Maybe, it would have been better if the provisions in the Statute were studied and at some stage transferred to be part of the Constitution. So that it is very, very clear that matters subjudice and matters finally decided in a court of law are not matters available to the IGG to go into. That would be better here than leaving it to the Statute where someone could stay in the argument - because the only provision which could have been useful is only talking about enabling the IGG to perform effectively and efficiently without interference. But that does not necessarily mean that the courts are left out. So, Hon. Rukutana do you want to come with a proposition or should we give that job to the committee itself? Because Hon. Ruzindana is saying that he is acquainted with some legislation which has some provision. I would like to suggest that those provisions could be extracted and if possible made part of this Constitution so that they rank at the same level as authority together with the other provisions we have approved. What do you think of that Hon. Rukutana?

MR. RUKUTANA: Mr. Chairman, I agree with you entirely, because that Statute was passed before the promulgation of this Constitution. Of course, it was passed after the 1967 Constitution and it was not a constitutional body. Now that it is a constitutional body, I am sure that there are some ideas we have passed which may in some way conflict with law as it is set up in the statute. I did not think that there were powers of arrest, there were powers to detain, to search in the old Statute. So, it is imperative, now that we have made it a constitutional authority also to prescribe its relationship with other courts of judicature in the Constitution itself. It is unfortunate it is too late, it seems we are finishing the Chapter, but otherwise I would formulate an Amendment to some article - *(Interruption)*.

THE CHAIRMAN: No, what we can do is to proceed with what there is and to leave the opportunity open for you to come back, maybe, Monday and then we can finalise with the Chapter, because that is important if we are going to avoid conflicts in due course.

MR. RUKUTANA: Thank you, Mr. Chairman. If the Chairman of the committee would bear with me,

they would formulate that Amendment, but if they deem it - I undertake to come up with some Amendments on Monday. I will circulate it well in time so that on Monday we can discuss it.

THE CHAIRMAN: Hon. Baguma Isoke what do you say to that?

MR. BAGUMA ISOKE: Mr. Chairman, I wish to say that we are grateful to Hon. Rukutana for pointing out this missing gap in this Chapter. I add that even the Chapter which has already gone through the plenary consideration stage, Chapter 5, on human rights, in particular - the numbering might have changed, about functions of the Human Rights Commission. The Human Rights Commission is also a para-judicial institution investigating violations of human rights. In case such matters are being litigated in any court, whether it is RC I court or a High Court, I think we never mentioned that those matters should not be handled by this Human Rights Commission. Therefore, we shall seize the earliest opportunity as a committee to come up with an appropriate provision to become part of this Article 264. The special powers of this institution, and if the Technical Committee which services this Assembly has seen value in what Hon. Rukutana has said. What I have pointed out in respect of Chapter 5, then also the same should be done to that Chapter 5 on Human Rights Commission.

THE CHAIRMAN: So, we shall leave the position this way, that Hon. Rukutana together with the Technical Committee they can come out with the formulation in respect of this Chapter. The formulation may not necessarily appear under 264, its location there can be determined when this wording is - so that we prevent any clashes between the various judicial bodies. Hon. Ben Wacha.

MR. WACHA: Mr. Chairman, proposed Article 266, powers to Parliament. We make laws for purposes of enforcing this Chapter. I was proposing that the fears which are being expressed by Hon. Rukutana could find some room under this article when we reach it.

THE CHAIRMAN: Okay, let us go this way. Thank you for pointing out this, but let us proceed to the next article. We have just pronounced ourselves on 264, we do 265 and 266, and if that answers the fears of Hon. Rukutana then we shall withdraw the instruction as we go along.

MR. BAGUMA ISOKE: Mr. Chairman, we now move to Article 265 providing for reports of the Inspectorate of Government. The committee recommends the retention of Clause 1 as it appears in the Draft Constitution. But Mr. Chairman, while that decision was arrived at by majority vote, there was a strong minority position against the frequency to which the IGG will be reporting to Parliament. The recommendation of the Committee reads: "*The Inspectorate of Government shall submit to Parliament, at least, once in every six months, a report on the performance of its functions, making such recommendations as it considers necessary and containing such information as Parliament may require.*"

THE CHAIRMAN: Now, the committee recommends in majority that we adopt that, the frequency being six months, there is a minority report saying that it should be once every 12 months. We cannot put the question on the majority view, we first of all decide whether we like the 12 months. Can I hear Hon. Obua Otua?

MR. OBUA OTUA (Erute North County): Thank you very much, Mr. Chairman. Mr. Chairman, I think the minority view is the more reasonable, of the two. Making the inspectorate report every six months, I think is a little too frequent. It is in keeping with annual reports, that we should make them report every year rather than every six months. Because, Mr. Chairman, I think they will be spending most of their time preparing reports if it is to be once every six months. Mr. Chairman, I really strongly feel that we should not bog them down in business of preparing good reports, once a year is quite adequate. I beg to support the minority, Mr....

THE CHAIRMAN: Okay, let me hear those in favour of the minority report, of 12 months.

MR. KWERONDA RUHEMBA (Kajara County): Mr. Chairman, making a report is quite obstructive and diversionary, it takes you away from the normal duties to go and compile a report and no sooner have you finished a report, in respect of those who want six months, than you are again making another report. It is also costly, Mr. Chairman, submitting frequent reports. Therefore, Mr. Chairman, I wish to go with those minorities who suggested that a report should be made every 12 months. I support the minority report.

MR. MULINDWA BIRIMUMAASO (Bukoto County): Mr. Chairman, I am a member of this committee 1, and I supported this view. The reason is that the work of the Inspector General is so wide, investigating, carrying out all sorts of things, and within six months you will find that he has not completed, but the Constitution requires him to submit a report. In view of other bodies that will submit reports they always submit annually, and I find it necessary and fitting for the Inspector General to be given enough time to make a reasonable and concrete report. That is why I support the 12 months. Mr. Chairman.

DR. MATOVU BYATIKE (Entebbe Municipality): Thank you, Mr. Chairman. Mr. Chairman, I am supporting the minority view on the grounds that some of these investigations can be very expensive indeed, and we are aware of the problems of government departments. After three or four months in the financial year the departments have run out of money and may necessitate going into the next financial year. So, six months I think is a bit too short and that 12 months are quite reasonable and more realistic. I support the minority view.

THE CHAIRMAN: Okay, those against.

MR. ELYAU: Thank you very much. I do not support the minority report because, Mr. Chairman, you have seen problems we had in Uganda. If you give somebody 12 months it means now three years, you will see a lot of arrears. So, I think six months will give the Inspector General to act promptly so that, at least, although he will take more than six months, at least, he will have reported. We said the IGG to be very active, you see, we are going to give this man a lot of staff and they will have to make a report of what they have finished. Not that they are going to report everything. When you are reporting you report what you have already done after a given time of six months. So, I think the report of six months is good and indicates activeness. But if you want the IGG to be idle he will really not even make a report for even two years, I can assure you. Mr. Chairman, I oppose.

MR. KITAKA GAWERA (Bbale County): Thank you very much, Mr. Chairman. According to my experience, Mr. Chairman, although we cannot forget the bureaucracy and red-tape of the civil servant that with this liberalisation whereby the civil servants are encouraged to work quickly. I think with

the coming in of the computerisation, it will be possible for the IGG to produce a report in six months. But according to my previous experience again with the Civil Service, the bureaucracy, I would have thought that possibly one year is a reasonable time.

THE CHAIRMAN: That is not in keeping with - Hon. Kitaka Gawera, you are not keeping with your religious beliefs, because you mislead the Chair.

PROF. NABUDERE DANI (Budadiri West County): Thank you, Mr. Chairman. Mr. Chairman, the six months recommended by the commission envisaged the need to implement decisions of the commission. It is not in the nature of an annual report as has been argued by some people, it is necessary according to the commission to enable regular implementation or enforcement of the decisions of the commission. So, I think we should consider and agree with the main report.

CAPT. MUKWAYA ABBEY (Busiro East County): Thank you, Mr. Chairman. Mr. Chairman, I am in support of six months. When you in the Draft, Article 263 Clause 1 and 2 have provided adequately for the office of Inspectorate of Government to have, first of all, an independent Budget appropriated by Parliament and only controlled by the inspectorate to provide funds to run his office. Secondly, clause 2 gives the privilege to look for staff needed to enable the inspectorate to discharge its functions effectively and efficiently. I think with those two areas under the Inspectorate, I think the inspector will be in position to present a report within six months. I support this six months, Mr. Chairman.

MR. MALIRO GASTON (Mwenge North County): Thank you, Mr. Chairman. I also rise to support the majority report, I support the six months. Mr. Chairman, I am against the minority report, for the reason that the issue which we are dealing with is really very sensitive. We are dealing with corruption and misuse of office. I do not think it is really good to wait for a complete year without the authority knowing what exactly is going on in the offices. Mr. Chairman, as a Member has just remarked, we are moving to an age of computerisation, I do not see if somebody is keeping a daily record how this person fails to compile a report within six months. Mr. Chairman, for those few reasons, I oppose the minority report.

CHAIRMAN: Okay, let us vote on it. The minority one first, because if we take the twelve months there is no point in considering six, so we start with the minority one. I put the question.

(Question put and negated.)

THE CHAIRMAN: Now, I put the question on the main report, on the recommendation which is before of the majority.

(Question put and agreed to.)

MR. BAGUMA ISOKE: Mr. Chairman, the committee I recommends that Clause 2 to Article 265 as it appears in the Draft Constitution be retained to read as follows: *"A copy of the report referred to in Clause 1 of this article shall be forwarded by the Inspectorate of Government to the President, and where any matter contained in the report relates to the administration of any local authority, an extract of the portion of the report on the matter shall be forwarded to that local authority*

(Question put and agreed to.)

MR. BAGUMA ISOKE: Mr. Chairman, the committee recommends the retention of clause 3 to article 265 to read: *"The Speaker of Parliament shall lay before Parliament the report submitted under clause (1) of this article, within thirty days after it has been submitted if Parliament is then in session, or, if Parliament is not in session, within thirty days after the commencement of its next following session."*

(Question put and agreed to.)

THE CHAIRMAN: I now would like us to pronounce ourselves on 265, that Article 265 as recommended to us by the committee do stand part of the Draft Constitution.

(Question put and agreed to.)

MR. BAGUMA ISOKE: Mr. Chairman, we now move to Article 266 providing for powers of Parliament regarding the Inspectorate of Government. The committee recommends the retention of clause I as it appears on page 112 of the Draft Constitution to read: *"Parliament shall subject to the provisions of this Constitution make laws to give effect to the provisions of this chapter."*

(Question put and agreed to.)

MR. BAGUMA ISOKE: The committee recommends the retention of clause 2 as it appears in the Draft Constitution. Clause 3 has got to subclauses (a) (b) and (c) all of them to be retained. (a) reads: *"Laws made for the purpose of this Chapter may in particular provide - for regulating the procedure for the making of complaints and requests to the Inspectorate of Government and for the exercise of its functions."*

(Question put and agreed to.)

MR. BAGUMA ISOKE: (b) *"for conferring such powers on it and imposing such duties on persons concerned as are necessary to facilitate it in the performance of its functions; and (c) for ensuring accessibility to the services of the Inspectorate by the general public and decentralising the exercise of those functions and where necessary, for enabling the delegation by the inspectorate of those functions to other authorities or persons at district or lower local government levels."*

(Question put and agreed to.)

MR. RUKUTANA: Thank you, Mr. Chairman. I have been seriously thinking about my fears on relationship between the IGG and the judicature. But then from discussion with various Members, I find that it is not only the courts that should be streamlined with their relationship to the IGG. There are other bodies both created by this Constitution and bodies that may be created by the Statute, there other institution. For example, there is the DPP, there is the Police, there is the Human Rights Commission as some Member pointed out, and so many others. So, I was thinking that in this particular Chapter, we put a provision empowering Parliament to make laws regulating the functioning of the IGG vis-a-vis those other institutions or bodies. In particular, Mr. Chairman, I want to move to add sub-article (g) to article 266.2 reading as follows: *"For regulating the functioning of the Inspectorate of Government vis-a-vis other institutions or bodies established under this Constitution or any other law."*

THE CHAIRMAN: But the word 'vis-a-vis' does not sound very -

MR. RUKUTANA: Mr. Chairman, I can improve on the word, maybe, to make it go palatable. Sup-

pose you say, for regulating the functioning of the Inspectorate of Government in relation to other institutions or bodies established under this Constitution.

MR. RINGWEGI (Padyere County): Thank you, Mr. Chairman. I second that Motion as moved by Hon. Rukutana. So that when we establish under this Article 266.2 for Parliament to make laws and particularise the kind of laws that Parliament will make, we are actually, catering for the fear that has been expressed by the Hon. Member. The fears that in performing its function the Inspectorate of Government should coordinate itself with the other institutions that will have been established under this Constitution or established by any other law. Now, when we make that provision that has been moved, Mr. Chairman, we are giving just an enabling provision which can now make the work of Parliament easy. We shall have directed Parliament in what spheres it should legislate as far as the function of the Inspectorate of Government and the office of the DPP, the office of the Human Rights Commission are concerned, so that we can avoid conflict. We shall also have provided for minimum interference by the Inspectorate of Government in judicial decisions which govern the principle of subjudice. Mr. Chairman, I think Hon. Delegates should support this Motion as moved by Hon. Rukutana because it is for the betterment of our work and for the noble cause that we seek to write this Constitution. I, therefore, support this Motion, Mr. Chairman. I thank you.

(Question put and agreed to.)

THE CHAIRMAN: Now, let me put the question on Article 266 as amended to stand part of the Draft Constitution.

(Question put and agreed to)

THE CHAIRMAN: Article 266 stands part of the Draft Constitution, and that brings us to the end of Chapter 15 - Inspectorate of Government. We shall be proceeding tomorrow to consider the next Chapter, I think that is on the Leadership Code. With this very good performance we should adjourn. Hon. Delegates I adjourn the Assembly to tomorrow 2.30; we stand adjourned, thank you.

(The Assembly rose and adjourned until Thursday 16 February, 1995 at 2.30 p.m)