



THE REPUBLIC OF UGANDA

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

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**OFFICIAL REPORT**

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THURSDAY, 16TH FEBRUARY 1995

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Thursday, 16th February, 1995

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

### PRAYERS

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

*(The Assembly was called to order)*

### COMMUNICATION FROM THE CHAIR

**THE DEPUTY CHAIRMAN:** Hon. Delegates, we have our Order Paper before us and Committee one is continuing with its presentation of their reports. Now we are moving on to the report on the Leadership Code of Conduct. So, I call upon Hon. Baguma Isoke the Chairman of the Committee - Select Committee, to come and lay the papers on the table.

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

#### CHAPTER 16. - LEADERSHIP CODE OF CONDUCT.

Article 267 - Establishment of Leadership Code.

**MR. BAGUMA ISOKE (Buyanja County):** Madam, Chairperson, I thank you. And I have the pleasure today, on behalf of Select Committee 1, to present our report to Chapter 16 Leadership Code of Conduct. Madam Chairperson, this Chapter on leadership code of Conduct is a very short Chapter with only five articles. And yesterday, Madam Chairperson, and the day before, this Constituent Assembly, passed in the Chapter on the Inspectorate of Government, a provision where we empowered the Inspector General of Government among other functions to implement the Leadership Code - the Leadership Code of Conduct. And by that decision, we have now bound our hands to logically proceed. I hope within a day or so, to pass the provisions on Chapter 16. Corruption which is being addressed by the Chapter on IGG. This Chapter on Leadership Code of Conduct is a widely acknowledged malpractice in Uganda and the views of the people were expressed in the Constitutional Commission Report, we very well read which put the case very clearly. The people are for a stern Leadership Code

of Conduct especially for the leaders of our society. The provisions in this Chapter on the Leadership Code of Conduct clearly reflect and answer that expressed aspiration of the people of Uganda.

Madam Chairperson, that report of the Constitutional Commission made the word of my committee very simplified indeed in that respect. The proposed amendments which I represent on behalf of the committee are minimal in the first place and in any case, not departing fundamentally from the original draft. Wherever these amendments come, they only re-enforce an already good provision. May I now, Madam Chairperson proceed to Article 267 - providing for the establishment of the Leadership Code. Select Committee I proposes that Clause 1 to this Article 267, be amended slightly by deleting all the words. At this point, Madam Chairperson, I request Hon. delegates to read our report hand in hand with the Draft Constitution page 113. Clause 1 be amended to read as follows: "*Parliament shall by law establish a Leadership Code of Conduct for persons holding such offices as may be specified by Parliament.*" I want to explain here why we removed the words '*whether or not any such office is in the Public Service.*' The reason for that, is, the committee saw that, a Code is enforceable by government only in a public office, including parastatals, which are directly under the ambit of the state. But the provision in the Odoki Draft spread it beyond the ambit of the state to include '*whether or not, such office is within the public service.*' I beg to move.

**THE DEPUTY CHAIRMAN:** There does not seem to be any objection.

**MR. BAGUMA ISOKE:** Madam Chairperson, Select Committee 1, proposes that, Sub-Clause (a) to Clause 2 to this article be adopted as it is in the Draft Constitution, to read: "*The Leadership Code of Conduct shall- (a) specify the categories of offices to which the Code applies.*"

**DR. ODUR DICK (Dokolo County):** Thank you Madam Chairperson. I just have a little bit of problem with this particular sub clause. When you say categories of offices, I think there are certain jobs whose offices are difficult to describe. As an example, if you are talking of adviser or senior adviser to the President. What would you call his office? So, I have the thinking that, we could include 'persons' in addition to offices - we could also say, we

would specify the categories of offices or persons to which the Code applies, to take care of certain offices which are difficult to describe.

**THE DEPUTY CHAIRMAN:** Hon. Baguma, let us get the view from the committee. He is proposing that we insert the word 'persons,' between 'offices.' That is his proposal. Okay, let us hear from Hon. Bageya first.

**MR. BAGEYA GEORGE (Kigulu North County):** Thank you, Madam Chairperson. As I look at Clause 1, as we have amended it, I do not see the purpose of specifying because we have already said 'as may be specified by Parliament.' Now we are going ahead to talk about categories, and officers and what have you. Are we not doing a double job here? I wish to be satisfied on this issue before we can go any further.

**MR. BAGUMA ISOKE:** Madam Chairman, at a glance, what we are providing for in this Sub Clause (a) to Clause 2, is already covered by what we have just passed in Clause 1, where Parliament is by law establishing the Code and also to indicate the persons and offices. I am persuaded by my neighbour to drop our recommendation on behalf of the committee. What (a) is seeking to provide, has already been granted by the Clause 1, we have just passed.

**THE DEPUTY CHAIRMAN:** The proposal by the Chairman as indicated by Hon. Bageya that we drop (a). So, 2(a) is deleted.

*(Question put and negatived)*

**MR. BAGUMA ISOKE:** Madam Chairperson, Select Committee 1, recommends that, sub clause (b) as it is appearing in the Draft Constitution to clause 2, be amended by adding at the end a suffix to read 'and how they acquired or incurred them.' It will now read as follows: "The Leadership Code of Conduct shall require specified officers to declare their incomes, assets and liabilities from time to time, and how they acquired or incurred them."

**MR. BYAKIKA KASAJJA (Bunyole County):** Thank you, Madam Chairperson. Madam Chairperson, Clause 1, of Article 267, states that: "Parliament shall by law establish a Leadership Code Conduct for persons holding such offices as may be specified by Parliament." Madam Chairperson, I would think that, since we

are asking Parliament to establish the leadership Code of Conduct, we should leave parliament to outline the functions of that code. Now, already we have set an example by deleting 2(a) which is a function of the Code. Now, we are going down to enumerate other functions of a Code. I think it would be good to leave the functions of the Code, to be actually outlined and be established by the Parliament when they establish the Leadership Code of Conduct.

**MR. KATENTA APUULI (Conservative Party):** Thank you, Madam Chairperson. Madam Chairperson, I am uncomfortable with the formulation of this amendment, particularly at the end where it says, or incurred them. That reference would also mean, incurred the assets and incomes. I think it is necessary to separate incomes and assets from liabilities so that it can read: "...declare their incomes and assets, how they acquired them and liabilities, how they incurred them," or whatever. But here, the way it is formulated, means also that, you can incur assets, and you can also incur incomes.

**MR. BAGEYA:** Madam Chairperson, I wanted to differ a little from the suggestion of Hon. Kassajja, because this Leadership Code has been hanging in Parliament for donkey years, no decision has yet been made. And I think the best way we can have the functional leadership Code is by *-(interruption)-*

**MR. PINTO MANUEL (Kakuuto County):** Point of information. I thank you, Madam Chairperson, I remind the Hon. Member holding the Floor, that his statements are a little erroneous because the Leadership Code is not hanging in parliament. The Leadership Code, was discussed, debated and passed. What is remaining, is the method of its implementation. Thank you, Madam Chairperson.

**MR. BAGEYA:** Thank you, for the information. But at least you have maintained that it is not functioning. Having said that, Madam Chairperson, I would like to recommend that, this particular sub clause is retained in the Constitution such that, it will compel parliament to make the Leadership Code functional. I thank you.

**THE DEPUTY CHAIRMAN:** Okay, I do not see any contrary view. I can take Hon. Katenta Apuuli's suggestion as a draft issue. So for that matter, I put the question.

*(Question put and agreed to)*

**MR. BAGUMA ISOKE:** Madam Chairperson, Select Committee 1, recommends to the plenary that sub clause (c) of Clause 2 as it appears in the Odoki Draft Constitution be adopted to stand part of the Constitution. To read: *"The Leadership Code of Conduct shall prohibit conduct likely to compromise the honesty, impartiality and integrity of specified officers or to lead to corruption in public affairs, or which is detrimental to the public good or welfare."*

**MR. TIBERIO OKENY (Chua County):** Thank you, Madam Chairperson. I think on this paragraph. I notice a motion which is very simple. He is just asking to insert in between the first line starting from the word 'conduct' - between the word 'conduct and likely,' only two rows and statement. So that it will read: *"...prohibit, conduct and statement likely to compromise the honesty, impartiality and integrity of specified officers or to lead to corruption in public affairs, or which is detrimental to the public good or welfare."*

**THE DEPUTY CHAIRMAN:** Is the Motion seconded? Okay, Hon. Okeny Tiberio is suggesting that, we add the word, 'statement' - *"prohibit conduct and statements likely to compromise,"* and so forth.

**MR. TIBERIO OKENY:** Madam Chairperson, the reason why I have sought to insert these two words here is just very simple. That there are words, physical words and there are words of work. Words can cause work, careless words. So, therefore I think our leaders should be guided, should be protected against using words that is likely to propel this country to war with other countries or to disturb the instability within the country. Mr. Chairman, this is very fresh in our minds, that the 26th January pronouncement at Kololo, is very concerning. I think we have been reading the papers through and through. People are concerned about the statement which was made. By referring to all our honourable leaders of this country, who have made us realise the independence of this country. No matter whatever mistakes they might have made, but they are not certainly entitled to be called swine (*Laughter*). Well, Madam Chairman, this may be a laughter, but it is a very serious statement. Because we have got so many of our sons and daughters still outside this country, they have gone out in fear of their lives for certain reasons

and we were very much encouraged by seeing the return of some of our dear sons who were born in exile, they were returning. And now, with this statement. Mr. Chairman, we have read also in the papers that, there were some who were contemplating to return to the country, but I think they were hindered by this statement. And therefore, I would say, by putting this into our code of Conduct of our leaders, would protect us to guide our leaders when they are making public statements. They are responsible for it and they should see that, it does not cause unnecessary turmoil within the country or outside the country.

**THE DEPUTY CHAIRMAN:** I think you are through? Okay let us hear from Hon. Byaruhanga.

**DR. BYARUHANGA:** Thank you, Madam Chairperson. I do not want to question the motives of the Hon. Member moving this Amendment. But what I want to point out to the House, is that, conduct means behaviour. And behaviour definitely includes the making of statements of communication through speech and otherwise. Therefore, Hon. Atwoma's amendment is already taken care of, and should not arise. I thank you, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** It seems people are satisfied. I put the question.

*(Question put and negated)*

**MR. BAGUMA ISOKE:** Madam Chairman, now that the motion by Hon. Atwoma seeking to better a recommendation of our committee has been thrown out by the plenary, I move that you put the question to the committee's recommendation.

**THE DEPUTY CHAIRMAN:** Okay, those in favour of (c) as recommended.

*(Question put and agreed to)*

**MR. BAGUMA ISOKE:** Further Madam Chairperson, the committee recommends that Sub Clause (d) to Clause 2, be amended to read as follows: *"The Leadership Code of Conduct shall prescribe the penalties to be imposed for breach of the Code, and the remedies to be awarded in respect of a breach."*

**MR. KARUHANGA ELLY (Nyabushozi County):** I thank you, Madam Chairperson. Madam Chairperson, there is something which is not very

clear here, as - especially the addition in the Odoki draft. They said: "*The Leadership Code of Conduct shall prescribe the penalties to be imposed for the breach of the Code,*" and they stopped there. The committee has added: "*...and the remedies to be awarded in respect of a breach.*" Now, how do you award a remedy to a breach? So, I would like those words to be struck out and instead, Madam Chairperson- I have consulted professionally, and instead we adopt this wording in that place. "*...without prejudice to the application of criminal penalties prescribed for the acts in question.*" I can repeat. "*Without prejudice,*" add the words "*Without prejudice to the application of criminal penalties prescribed for the acts in question.*" That means, that if you are in breach of this Code, you should suffer - Parliament should make and impose penalties that we should suffer. But my addition also says that, the existing law which has already prescribed certain penalties should also be restricted. That is the implication of my addition.

**THE DEPUTY CHAIRMAN:** Hon. Baguma who do you have to say?

**MR. KARUHANGA:** Madam Chairperson, I was still on the Floor.

**THE DEPUTY CHAIRMAN:** You see, when you paused for a long time, I thought you are through.

**MR. KARUHANGA:** Yes, I wanted it to sink. Madam Chairperson, the words added by the Committee, are extremely confusing. Because if you are going to award remedies, because of a breach, what are you doing? So, I would really call upon the Chairman to accept my wording. And incidently my wording is something that we also researched on extensively, and you have it even circulated in various books over this clause.

**THE DEPUTY CHAIRMAN:** Let us hear the views from Hon. Baguma, they may have justifications for their inclusion.

**MR. KARUHANGA:** I hope that, the Chairman of the Committee will appreciate my points.

**MR. BAGUMA ISOKE:** Madam Chairperson, without opposing the proposal by Hon. Karuhanga, what the committee sought to add and what we added is providing for a situation where for example the

IGG is administering the Code. As a solution to the problem before him, he may give an order as we passed yesterday or an injunction which is not a penalty as such. Stay where you are until the issue is resolved. That is not a penalty. Now, the Code's prescribing will be made in detail by law made by Parliament. Make categories of punishments. But these punishments should also include certain remedial measures in the administration of the Code. For example to recommend for the transport of an individual from one station to another as a solution to you know- breach of the Code. Now, transfer in our understanding is not a penalty. But is a remedy to the breach of the Code. So, we still maintain our original position unless in that understanding there is a better formulation. But this formulation was accepted by the Technical Committee which serves this Assembly.

**MR. OKWAKOL NATHAN (Pallisa County):** Thank you, Madam Chairperson. Madam Chairperson, it seems to me that, the construction as it is formulated by the Committee, is clear and unequivocal. If we are to read the statement: "*The Leadership Code of Conduct shall prescribe,*" that is the operative word. Prescribe and prescribes two things. It prescribes first, the penalties to be imposed for breach of the Code and two, the remedies to be awarded in respect of the breach. It is so clear to me, I do not see why there should be an ambiguity. I therefore, support the formulation by the Committee, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** I can see Hon. Karuhanga and the Chairman, consulting without getting permission. So, what are you consulting on? It seems they want to come to a consensus. Yes, Hon. Karuhanga.

**MR. KARUHANGA:** You see, Madam Chairperson, the addition I am seeking to have, is what has been omitted in the draft so far. What the draft and the committee have done, you could say it is okay from the explanation that I got from the Chairman. But there is still something missing from it. And that which is missing is what I am seeking to add. And that is to say, that if you have breached the Code, in a way whereby, you have committed a crime in the process, the existing law in place- especially if it is a criminal case, should be respected. You should not just run away on the penalties prescribed only for the Code. So, we say, and we add: "*...without prejudice to the application of criminal penalties prescribed*

*for the acts in question.*" the acts that you have committed. So, this is a great improvement, and it respects the penalties, so if I could again read my wording so that Members can internalise it.

**THE DEPUTY CHAIRMAN:** Okay, let us do it like this.

**MR. KARUHANGA:** But you can have another view from my learned friend there who has -

**THE DEPUTY CHAIRMAN:** Let us do like this. If you agree that (d) passes, let us clear (d). Then bring a proposal or a motion to insert another sub clause or another paragraph.

**MR. KARUHANGA:** It is the same sentence Madam.

**THE DEPUTY CHAIRMAN:** It is the same sentence. But how do we read from the beginning?

**MR. KARUHANGA:** I think the Chairman here, has accepted the -

**THE DEPUTY Chairman:** Okay, let us have it as a whole Floor.

**MR. BAGUMA ISOKE:** Madam Chair, having seen the proposal by Hon. Karuhanga, it is good and logical that, whoever is administering the Leadership Code in meting out penalties and remedies. The penalties should not prejudice the penalties that could be imposed by a law court. So, the addition really respects what would happen in the courts of law, and that addition reads, without prejudice the whole thing would become now, Madam Chairperson: "*The Leadership Code of Conduct shall prescribe the penalties to be imposed for breach of the Code and the remedies to be awarded in respect of a breach without prejudice to the application of criminal penalties prescribed for the breach in question.*"

**THE DEPUTY CHAIRMAN:** Where is the procedural problem?

**MR. AKURE PETER (Jie County):** Madam Chairperson, I wondering whether Hon. Karuhanga was right to have debated his motion when it has not even been seconded.

**THE DEPUTY CHAIRMAN:** You see, when they are seconded by implication. That was the

chairman. If the Chairman of a whole Committee seconds a Motion. Yah, I would not think that, definitely, we need another opinion. That was my assumption.

**MR. KWERONDA RUHEMBA (Kajara County):** Thank you, Madam Chairperson. Madam Chairperson, I have heard the sentiments of Hon. Karuhanga and those sentiments, I am limiting them to the word 'award.' Madam Chairperson, this clause is intended to make this Leadership Code prescribe the penalties to be imposed for breach of the Code. I believe that, Madam Chairperson, when you breach the Code, you are punished. That is acceptable, as far as I am concerned. But when are you awarded? So, I believe by this addition, the committee erred. It erred in that, it is intending to award somebody who has breached the Code. And I do not know what they can award. So, Madam Chairperson, I would like us to stick to the original. Because if it is a punishment, Madam Chairperson, if you are going to award this man by way of punishing him, it would be a double punishment. So, Madam Chairperson, I would like to suggest that, we delete these words which were added. That is: "...and the remedies to be awarded in respect of a breach." I beg to move, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Then what do you say about Hon. Karuhanga's addition?

**MR. KWERONDA:** Hon. Karuhanga's addition Madam Chairperson, was not even seconded. We did not even understand it, it is simply *-(interjection)-*

**THE DEPUTY CHAIRMAN:** It was seconded by Hon. Isoke. It is a procedural problem.

**MR. PINTO:** Not so much of a procedural problem, as a requirement, Madam Chairperson that we should follow our rules of procedure. If the Committee has made its recommendations which we have, if there are going to be any amendments I pray that they are formally tabled then. Members would have a chance to debate them, and not simply the Chairman to accept on his own amendment. Because this is the work of the Committee. Thank you, Madam Chair.

**MR. MEDI KAGGWA (Kawempe Division South):** Thank you, Madam Chairperson. *-(interjection)-*

**THE DEPUTY CHAIRMAN:** Okay, before you proceed; I thought you were answering. Do we have anybody -

**MR. KAGGWA:** By the way, I am going to answer Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Just hang on! Just hang on! Hon. Pinto had a procedural problem. That is my assumption, that Hon. Isoke can second a motion in his own merit, he is being contested. So, I would like to see whether there is anybody who is seconding Hon. Karuhanga's Motion and write it off the way, then we come back to the original. Hon. Byanyima, are you seconding it? So, Hon. Pinto, the Motion was seconded by Hon. Byanyima. So, what we do- let us clear Hon. Karuhanga's Motion.

**MR. KAGGWA:** What Hon. Karuhanga seeks to introduce, apart from agreeing to what Hon. Pinto has said by way of procedure though he has been greatly secondly, is to say that, it will bring in the notion of double jeopardy. I think this august House should not sit here to doubly punish individuals. It is contrary to the principles of natural justice. Will it be doing service to the citizens of this country?

**MISS. BYANYIMA WINNIE (Mbarara Municipality):** Thank you, Chairperson. Madam Chairperson, I support the Motion. I support it because the way I understand it, this will allow Parliament to make laws that will deal with those who have enriched themselves through corruption to return what they have taken, back to the public. Mr. Chairman, where I come from, people are crying out about corruption. They feel that, the law today although sometimes it gets these corrupt people and punishes them by jailing them or fining them, they still manage to keep most of what they have taken illegally from the public. They want- and they have strongly requested me to make sure that we make a provision that will ensure that, what has been taken out of the public is returned by those who have been found corrupt. And I think that, this provision gives us that opportunity to do that. I understand the arguments about double jeopardy, and the principles of natural justice and what have you. But, Madam Chairperson, if I could be given another way to ensure that, actually corrupt people pay back what they have taken, then may be we could do away with this. But otherwise, I will support it until there is an alternative to actually bring back what the people have lost. Thank you Chairperson.

**MR. RINGWEGISAM (Padyere County):** Thank you, Madam Chairperson. Madam Chairperson, the amendment being brought by Hon. Karuhanga is an amendment which is good. And I would like to implore all the Hon. Delegates, to look at it carefully and support it. My reasons, Madam Chairperson are these. It is true on the face of it, it would appear that, the amendment is introducing the principle of double jeopardy which actually means that a person should not be punished twice for the same crime. But here, Madam Chairperson, we are not trying to punish the corrupt twice. The amendment is saying that, if this person through his employment was very corrupt and he acquired wealthy, so that he built bungalows in Muyenga or elsewhere. When he is found, such a person should in addition to surrendering the bungalows also be tried and convicted and imprisoned. This person will be imprisoned under the ordinary criminal laws which charge him with corruption. And the penalty in this case, may be either two years imprisonment but without any - I have read the rationale behind the recommendation of committee I, and they say that, the rationale was to try and see whether it would be possible for the state to recover the money that the state might have lost through the acts of these particular corrupt officials. Now, the best way to do that, would be to empower the Leadership Code of Conduct to provide for its own penalties. Now, such penalties that the Leadership Code may provide, would include forfeiture - and forfeiture here means the assets of these corrupt officials, being taken over by the state. But this should not prejudice the ordinary law of prosecuting this man and also sending him to the jail. So, this is the intention of this amendment. We are not trying to say that, he is being punished twice. But we are saying, for your corruption, first of all, go to the jail and dig, secondly what you acquired falsely should also be got back and given to the state. So, Madam Chairperson, I would implore Hon. Delegates to support this Amendment.

**THE DEPUTY CHAIRMAN:** Hon. Ringwegi there is a persistent hand by Hon. Bageya.

**MR. BAGEYA:** Point of clarification. Thank you, Madam Chairperson. I would just like to get a clarification from the Hon. speaker on the Floor as he narrated the scenario of somebody who steals money, goes and puts up a bungalow, he is punished for stealing the money and then he forfeits the bungalow. I would like to be clarified. What would happen to somebody who does not instead build a

bungalow in Muyenga or wherever it is. But instead puts that money in a Swiss Bank? Or rather if he has been drinking that money every night, instead of putting up a house?

**THE DEPUTY CHAIRMAN:** Hon. Ringwegi, are you answering or I give the Floor to Hon. Karuhanga?

**MR. KARUHANGA:** Point of information. Madam Chairperson, actually let me inform the Members that, the Leadership Code is trying to remedy ills committed by especially Public servants who misuse their positions. Now, for example- let me give an example for one of our colleagues in the House, who has been appearing in newspapers recently. The Hon. Rwomushana. With his permission, let us take the case of that. And you then appreciate my amendment. If it is alleged that you have say stolen public funds, and you pay back public funds. Either you pay or somebody else pays for you. It does not take away the crime of stealing. So, the Criminal Code provisions in place, must continue to exist and should be tried for stealing. This is the case of Rwakatogoro. He paid, the Leadership Code compelled him to do what he thought was right, in his case, it was Jesus. But the crime still exists. So to expect that somebody is still free because they have paid, and satisfied the provisions of those they wronged does not take away the current provisions of the Penal Code. And the Police is still empowered to arrest anybody who committed a crime on behalf of the state. Now, what I am asking you to do is to say, that without prejudice to this provision of the remedy of the Leadership Code, the existing Penal Code provisions should still prevail in the case of crimes.

**THE DEPUTY CHAIRMAN:** Hon. Amanyamushhega. And I think that will be the last one and we pronounce ourselves on this issue.

**MR. AMANYA MUSHEGA (Igara East County):** Thank you, Madam Chairman. In the article we have just passed, we have empowered parliament to make appropriate laws. But we seem at the same time- *-(interruption)-*

**THE DEPUTY CHAIRMAN:** Hon. Amanyamushhega. Hon. Ringwegi is complaining that I encroached on his - I thought you had finished? Okay, let him finish then we shall put a concluding note. Let Hon. Amanyamushhega finish, then I will come back to you.

**MR. AMANYA MUSHEGA:** Thank you, Madam Chairman. I was mentioning that we have already empowered Parliament to pass appropriate laws. And at the same time, we are trying to do that job. We seem to think that, corrupt people build houses only. What about a man who used money to pay school fees? What about the one who used the money to pay dowry? What about the man who used the money to go for elections and he wins? What about the one who takes a trip abroad and drinks all the money and comes back? So, we are trying to go into a detail although Hon. Karuhanga says, he did a lot of research. There is more research to be done. The advantage with Parliament is that, we will have the office of the Attorney General, it will have the Hon. Karuhanga's back in private practice. It will be able to do a job defeating the primes of the time. But for us sit here and only mention that you recover money because somebody has built a house, is to think that corruption only involves people who buy houses. But there are many ways people use resources of corruption in a manner that is beyond this and I think we are trying to do a job that we are equipped to do now. Either we give Parliament the power to make the appropriate law or we take that power from parliament, and do it now. Then we shall be able to write a whole code now. So, apart from the principle of double jeopardy, which is now even being contested, I think the amendment brought by Hon. Karuhanga tackles only one angle of the problems and thinks it has solved it. It reminds me of the story of the blind men *-(interruption)*

**MR. KARUHANGA:** Point of order. Madam Chairperson, I am really compelled to make this order, because I felt that either Hon. Amanyamushhega did not understand what my amendment was or if he understood it, he has completely misrepresented it. Because he is saying that, we are seeking for specific crimes. No, we are not! We are putting a general provision for the Penal Code of all encompassing crime aspects. We are not seeking for specific crimes.

**THE DEPUTY CHAIRMAN:** That was a clarification. Hon. Amanyamushhega you can continue.

**MR. AMANYA MUSHEGA:** Thank you. I am taking the amendment from Committee 1, which incorporates the amendment proposed by Hon. Karuhanga, and I am treating the two together. Because they are now, one and complete amendment. The original amendment is better because

penalties - when you say penalty, it may even involve recovery of property, it may involve taking a person to prison. So we should leave the Parliament of the day to look for any appropriate punishment suitable to the crime of the time. Because corruption changes its form depending on time and circumstances. So, I would strongly oppose this amendment from Committee 1, as far damaged by the Karuhanga amendment and leave the original text. Because it talks - provide for penalties. And the word 'penalty' is very, very wide and it can include the recovery of property including dowry. So, the Parliament of the day, will look for an appropriate punishment for the corruption of the time. Because corruption is not just building houses. Thank you.

**THE DEPUTY CHAIRMAN:** Hon. Ringwegi, and that will be the last one.

**MR. RINGWEGI:** I thank you, Madam Chairperson for giving me this Floor. Madam Chairperson, I would like first of all to correct the erroneous impression that has been created by the Hon. Member from Igara. The problem here is that he has completely, misunderstood the amendment moved by Hon. Karuhanga. The amendment by Hon. Karuhanga is not trying to provide for specific penalties, rather it is saving the Parliament in future to try and amend the penal code. It is saying that, without the prejudice, to the existing laws, when you are making laws or you are prescribing penalties for enforcing the Leadership Code of Conduct, we should know that there are already criminal penalties provided under these specific laws. Now, these ones, will be implemented alongside the ones we are going to provide which will bring in more detail. So, Madam Chairperson, *-(interruption)-*

**THE DEPUTY CHAIRMAN:** Information from Hon. Amany Mushega, are you taking it?

**MR. AMANYA MUSHEGA:** I thank the Hon. Member holding the Floor, for conceding it for a while. I think we are flogging the obvious. Currently, we have quoted the case of my friend Rwakatogoro. He paid the money back even without being asked and the criminal law took its course. So, what are we trying to put in place that was really not working? The laws as they are at the moment, they are doing very well, and Parliament will be composed *-(interruption)-* Madam Chairman, I have a lot of respect from ladies, but also they must not take it for granted, it has to be worked for. But I was

mentioning that what Hon. Karuhanga is moving, and I am informing the current Member speaking that, what he is moving is so obvious that, we are stating the obvious. There is no law which says, the current situation is obvious, and me I think we are just burdening the constitution with things that should not be there, and trying to assume the role of Parliament. And as I mentioned long before, we are not the first holy men and the last ones to be elected. The next Parliament even will produce better men and women than ourselves. Why are we trying to do the job for the whole of the future?

**MR. RINGWEGI:** Madam Chairperson, I think I am now well informed. And I thank Hon. Member for Igara - Delegate for Igara East, for the information. But I would like to insist, Madam Chairperson, that the aim of criminal law is to try and reform the person who committed the crime. That is why punishment is provided. So, once we are providing for penalties in the Leadership Code of Conduct, our first aim must also re-enforce the aim of the criminal law which is the reformation of the person who was at wrong, so that he can fit back in society. Now, Madam Chairperson, the amendment here is not as useless as is being portrayed. Rather, we are trying to make it very clear in this constitution that, even if there are other penalties to be prescribed by Parliament, this should not prejudice the already existing penalties prescribed by the existing laws. So, we are saying for clarity's sake, let us use the word, without prejudice to any other penalties that may have been prescribed, those were also prescribed by Parliament. The Penal Code, must have been enacted by a Parliament of the day.

Now, we are not also trying to assume that, we are all knowing or we are all the wiser, and therefore, we can provide for every situation in this constitution. But we are saying that, for the moment, we know that there are penalties which have been prescribed for certain crimes. And these penalties are already existing. We are now empowering the future parliament to provide for penalties under the Leadership Code. But these must not be done in prejudice to the existing ones. What is really obvious about that? And what is so wrong with having just those words in our constitution for clarity's sake?

So, Hon. Delegates, the amendment as moved is not really selfish, it is not looking for anything else, but it is trying to make clear what we all intend to achieve. To make sure that the provisions of the penal laws are not neglected, when we are providing

for penalties in the enforcement of the Leadership Code of Conduct. I thank you, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Okay, now I put the question.

*(Question put and agreed to)*

**MR. BAGUMA ISOKE:** Madam Chairperson, select committee 1, further recommends that sub clause (e) of clause 2 of this article, as it appears in the Draft Constitution be retained to read as follows: "*The Leadership Code of Conduct shall prescribe powers, procedures and practices for ensuring the effective enforcement of the Code.*" Madam Chairperson, further, the committee recommends that sub-clause (f) as it appears in the Draft Constitution be retained to read as follows: "*The Leadership Code of Conduct shall make any other provision as may be necessary for ensuring the promotion and maintenance of honesty, probity, impartiality and integrity in public affairs and the protection of public funds and other public property.*" Madam Chairperson, Select Committee one recommends that sub-clause (g) be added to clause two of this article read: "*The Leadership Code of Conduct shall contain any other provision prescribed by any law enacted by Parliament under clause one of this article.*" The reason for this is that in future, when Parliament makes an elaborate law for the operation and administration of the leadership code, there should be some open ground in determining other aspects but Parliament may find it necessary to include in the code that are not mentioned here in this article. I beg to move.

**DR. KABERUKA WILLIAM (Ndorwa West County):** Thank you Madam Chairperson. I just want to raise a question. I remember that we have deleted clause one.

**MR. BAGUMA ISOKE:** No, clause one reads: "*Parliament shall by law establish a leadership code of conduct for persons holding such offices.*" et cetera, et cetera.

**MR. KANIA OBIGA (Terego County):** Thank you Madam Chairperson. Madam chairperson, I am seeking clarification from the chairman of committee one regarding the difference between this particular proposed new sub-clause and the effect of what is contained in 267(1) which was passed. Because in 267(1) we have said: "*Parliament shall by law establish a leadership code of conduct,*" and

that assumes that at any given time in future, Parliament will establish that leadership code of conduct. Now, does he foresee that we have limited the hands of Parliament in not foreseeing any matter to be included in clause one which necessitates sub-clause (g)?

**MR. BAGUMA ISOKE:** I have said so.

**MR. KANIA:** Because to me, it appears you are saying it may enact a law but Parliament under article one which will still be included and yet that is precisely what we have said in clause one I thought. Thank you.

**DR. BYARUHANGA FABIUS (Kitagwenda County):** Point of clarification. Thank you Madam Chairperson. Can the chairman of committee one clarify to me whether the 2(f) which we have already passed does not take care of what we are trying to bring in (g)?

**MR. BAGUMA ISOKE:** I have already answered that question.

**THE DEPUTY CHAIRMAN:** Can you remind him of your answer?

**MR. BAGUMA ISOKE:** Yes, that this provision will help Parliament of the future in making or including other matters that are not mentioned in 2(a), (b), (c), even (f). Otherwise the constitution would restrict the code to address only these matters but this new inclusion (g) leaves room for situations which we have seen in the committee or the plenary may not point out at this stage to be included in the law in future.

**MR. BIRIMUMAASO MULINDWA (Bukoto West County):** Thank you Madam Chairperson. Madam Chairperson, I am a Member of committee one and I want to retaliate any earlier position. From the assessors' point of view, I look at this (g) as a repetition because when you look at 267 (1), they are giving Parliament to do (a), (b), (c) (d) and even in (f), make any other provision as may be necessary for ensuring a, b, c, d, as regards the leadership code. So, to put there (g) to leave the thing open, I think it is not necessary and it is a repetition and I regard it as redundant and I would move that it should be deleted.

**MR. MEDI KAGGWA:** Thank you very much Madam Chairperson. I just want to seek clarification. I do not know whether the intention of this

proposed motion was to incorporate any other provisions that have a bearing on conduct which are not specifically in this leadership code and if that be so, then there will be no need to restrict it by limiting it to clause one. It should be wide enough to include those other laws that are not necessary in the leadership code but have a bearing on discipline and would want to be incorporated. But I want to be clarified in that way—the intention.

**THE DEPUTY CHAIRMAN:** Hon. Karuhanga, are you clarifying or you have a different issue?

**MR. KARUHANGA:** Just to clarify something.

**THE DEPUTY CHAIRMAN:** Okay.

**MR. KARUHANGA:** Madam Chairperson, it is really not good to oppose the committee when they have thought so hard and they have come up with something which they thought was missing. But in fact when you read what they have said - '*contain any other provision prescribed by any law enacted by Parliament, under clause one of this article.*' and then when you read clause one of the article, it says, '*Parliament shall by law establish a Leadership Code of Conduct for persons holding such offices as maybe specified by Parliament.*' You have given Parliament so much power in Clause one that you need not emphasize it in (g). It is really a duplication, unless the committee really has something which we cannot understand which is just superfluous addition and I think they should be satisfied in saving some of these words from the Constitution. Therefore, I oppose this.

**MR. MALINGA IGNATIUS (Usuk County):** Thank you Madam Chairperson. I think it is not necessary to include (g). Clause one of article 267 clearly gives Parliament a free hand as to what to put into the penal code and the effect of article 299 will make it possible for the existing penal code of conduct to be implemented immediately after coming into force of this constitution. So I think that what you want in really, is to say that Parliament will make other provisions for the better implementation of the code. And I think this has already been incorporated into the Statute. So I would really beg the Chairman that let us not press this point. It is not necessary. It is bad in drafting— Even clause two - I am sorry I was not here when you started with clause two - 'the leadership code of conduct shall contain' I think that was a little bit - it should have just said, 'it should

have included' because in (1) we have already said that Parliament will enact a code of conduct for leaders. We should have said in the opening phrase of clause two: '*The leadership code of conduct shall among other things include,*' but I am sorry I came late.

**THE DEPUTY CHAIRMAN:** But you will have time during the reconsideration. No, we would not work backwards. If it is a matter of drafting, that will be looked at. So now I want to put the question on the amendment.

*(Question put and negatived).*

**THE DEPUTY CHAIRMAN:** So now I want to put the question on Article 267.

*(Question on Article 267 as amended put and agreed to).*

**MR. BAGUMA ISOKE:** Madam chairperson, we move to Article 268 providing for the enforcement of the leadership code of conduct. The committee recommends that clause one to this article as it appears in the draft constitution be retained in the constitution to read as follows: '*The leadership code of conduct shall be enforced by the Inspectorate of Government or such other authority as Parliament may by law prescribe.*' Madam Chairperson, the committee recommends that clause two to this article as it appears in the draft constitution be retained to read: '*The authority empowered by law to enforce the code of conduct shall, in relation to the enforcement have the same powers as the High Court for enforcing its orders.*'

**MR. KANIA:** Thank you Madam Chairperson. Madam Chairperson, in view of - sorry, Madam Chairperson, in view of what we passed yesterday regarding the judiciary powers of the Inspectorate of Government. I am seeking clarification from the chairman of the committee whether he still insists that this body should have powers as of the High Court in enforcing its orders or he would wish that to be dropped.

**MR. BAGUMA ISOKE:** Madam Chairperson, unless I am informed and the committee is informed, the difference - the opinion of the plenary yesterday as to how the IGG will enforce his orders and directions and how the High Court also enforces its own, I will not be persuaded to drop this proposal.

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

**MR. KOMAKEC LEANDER (Aruu County):** Thank you Madam Chairperson. I would like to move a slight amendment which I think will satisfy the authority that will be executing the code of conduct. I think some of the actions that the code of conduct will be conducting may be quite minor to be performed by any court of law. So instead of saying by the High Court, it says that the enforcement shall have the same power as that of court of law in enforcing its orders. Because the matter may be quite minor, it need not be that of the High Court but that also some of the matter could be performed by the magistrate's court. So any court of law I think could suffice. So I would like to ask the chairman of the committee if they could drop the word 'High Court' and just say court of law.

**THE DEPUTY CHAIRMAN:** Hon. Kania, would that make any difference to your interjection?

**MR. KANIA:** Madam Chairperson, actually my question was directed to seek assistance from some legal minds in the Assembly so that they could guide us whether when we say as the High Court, whether that has a judiciary effect or not.

**MR. BIRIMUMAASO:** Thank you Madam Chairperson. Madam Chairperson, yesterday when we were considering special powers of the Inspectorate of Government, our chairman of committee one dropped clause two, he dropped clause three. These clauses were giving the Inspector of Government powers similar to those of the High Court. Now when we come to this clause two, actually you first read clause one which reads as follows: "*The Leadership Code of Conduct shall be enforced by the Inspectorate of Government or such other authority...*" Now in two, they are talking about this authority and they are saying that it will be having the same powers which yesterday, clause two was equating to those of high court giving to Inspector of Government and which were dropped by the chairman. I think it would be logical and consequential that this authority, which is being equated to that of the Inspectorate of Government should not have the power as of the High Court.

**THE DEPUTY CHAIRMAN:** The chairman earlier had said that he can consent to dropping 268 (2).

**DR. BYARUHANGA:** Thank you Madam Chairperson. I am not a lawyer but what I understood of what transpired yesterday as far as the IGG's office was concerned is that the IGG's office lost the powers to hear cases and judge them. That is how I understood it yesterday. But in today's leadership code, we are already saying that this leadership code in 2 (b) and (c) we are already saying that the leadership code will spell out some bad tendencies that a public servant should not indulge in. And we go further in (d) and say the leadership code will prescribe penalties for those who commit those misdemeanors or whatever. They will have been spelt out in the leadership code. Then in 268(1), we are giving the powers of enforcing this leadership code to the Inspector General of Government or whatever other office that will have been appointed by Parliament. Now if in 268(2) we went further and said that this Inspector General of Government whom we have given powers to enforce this leadership code does not have the powers of enforcing the orders that he will have given out in the course of enforcing the leadership code, then we are doing away with the leadership code.

**MR. KWERONDA RUHEMBA:** Madam Chairperson, the import in this clause is to rank the authority of the Inspectorate of Government. Well it is enforcing an order. Actually what it is saying is that when it gives an order that this House which was built with stolen funds should be sold and funds recovered, what this clause is saying is that order is as binding as a High Court order would be binding. That is what it is saying. But it is not saying that the IGG is High Court. To take care of Hon. Komakec's sentiments, by ranking the strength of that order to that of the High Court, it is also taking care of minor cases. That this IGG or Inspector of Government has got powers ranging from those of RC I court to those of the magistrates' courts to the chief magistrates and all those are embraced by this clause. So I do not know why Hon. Komakec was worried and I don't know why this word is bothering us again because yesterday, we clearly stated *-(Interruption)*

**MR. BYAKIKA KASAJJA:** Point of information. I want to inform Hon. Kweronda Ruhemba that the issue here being talked about in two, is that apart from the Inspector of Government being empowered to enforce the code of conduct, Parliament may authorise another authority. That this authority may have the same powers like those of the Inspector of Government which had included the powers of the

High Court, and yesterday, we removed the powers of the High Court from this body. So I think Hon. Ruhemba is not actually on the point.

**MR. KWERONDA RUHEMBA:** Madam Chairperson, this is just ranking the powers. It is not giving the powers of the High Court but it is ranking these powers to say that what he does, the order he gives is as binding as that one of the High Court. That is all it says.

**DR. HIGIRO SEMAJEJE (Lwemiyaga County):** I wonder whether I have understood Hon. Kweronda Ruhemba well, whether instead of using powers, you could use the word 'effect' so that we say in relation to the enforcement have the same effect. Will that be alright?

**MR. KWERONDA RUHEMBA:** Madam Chairperson, I think that could be much more clearer for those who are worried that the IGG is going to have the same power as the High Court Judge.

**MR. BATEGANYA DICK (Bukooli Central County):** Point of information. Thank you Madam Chairperson. I would like to give this information to the House, maybe to help us to come to a decision. In the Odoki Report page number 610 paragraph 21.138 which I quote: "*If the remedial role of the Inspectorate is to be carried out effectively, the inspectorate will need a wider range of powers than it has now (most of which are designed to facilitate investigations only, and not dealing with substantive matters). We therefore think that it should be vested with powers similar to those of the High Court, to summon witnesses, to enforce its orders and so on.*" So this body will have powers of the High Court in so far as summoning of witnesses is concerned, not all the powers of the High Court. That is what I wanted to provide. Thank you very much Madam Chairperson.

**MR. DARLINGTON SAKWA (Bungokho South County):** Thank you Madam Chairperson. I just seek clarification because I was under the impression that the IGG's main role is to investigate and come up with sufficient evidence to warrant prosecution of a public servant or officer who may have breached the code. But it looks as if we take 268 sub-clause two as it is, we are actually extending authority to the IGG to pass judgement and enforce orders. And to me, this may cause problems because we are going to have more than one jurisdiction

system in the country. I seek clarification from the chairman whether that - whether we do not run into danger of having several systems of judgement in place.

**MR. BAGUMA ISOKE:** Madam Chairperson, yesterday, we removed powers from the IGG that we had as a committee proposed to the plenary where he could determine cases. That one does not now make the IGG a court that we seemed to create. This provision here, 268(2) is only referring to again what we passed yesterday that the IGG will give orders and directions and we took a lot of time explaining what orders in respect of the administration of the leadership code by the IGG is and directives what they are. Now, here we are saying in enforcing, in making sure that the IGG's orders and those of another authority that the future Parliament may assign the administration of the IGG, rather of the leadership code to - that enforcement should have the same weight as the enforcement of an order of or a directive of the High Court. But now it appears that we have got into problems by mentioning high court as high court. Supposing we conceded to a general term of 'court of law' and even better did by writing, by the introduction being the Inspector General of Government and the authority empowered by law because already, we have committed ourselves to the IGG and another authority. Now these two authorities which are enforcing the code be empowered by law to enforce their orders like a court of law enforces its orders. We would not like to lose the force of an order from this institution otherwise it will not bite. It will be toothless.

**MR. OKWAKOL:** Point of information. Thank you Madam Chairperson. I just inform Hon. Baguma Isoke who has just been holding the Floor that really if we can look at Article 264 which we dealt with yesterday, it reads, and I quote: "*The Inspectorate of Government shall have power to hear and determine cases involving corruption, abuse of authority of public office.*"

**AN HON. DELEGATE:** We lost that.

**MR. OKWAKOL:** However, the relevant one is sub-clause two. "*The Inspectorate of Government shall in the exercise of its functions, have the powers of the High Court.*"

**THE DEPUTY CHAIRMAN:** Hon. Okwakol, can you get some clarification from the chairman?

You seemed to have some clarification which you could not give Hon. Okwakol.

**MR. BAGUMA ISOKE:** Madam Chairperson, maybe my brother Nathan Okwakol was away but otherwise contemplating. Yesterday, Hon. Hope Mwesigye representing Kabale came in with a motion that had the effect of removing what Hon. Okwakol is reading as 264 (1), (2), (3) up to (4). So we do not have the ground now to build on that premise.

**MR. NSUBUGA NSAMBU (Makindye Division West):** Thank you very much madam Chairperson. The way I understand this article, it is saving us the problem of referring the matter to Parliament to amend the Judicature Act. Under the Judicature Act, the High Court has no limitation as to its jurisdiction. We have already seen that the Inspector General has no limitation in his investigation or to the value of the property. Similarly for avoiding to amend the judicature Act by adding the Inspector General, it is clearly stated in this article that his powers will be as those spelt out in the Judicature act.

**MR. MASALU MUSENE (Manjia County):** Thank you Madam Chairperson. Madam Chairperson, clause two of 268, if left as it is will bring a lot of confusion and a lot of problems. This is because in the first instance, I have listened to many speakers including Hon. Kweronda who stated that the effect of clause two is to equate the orders of IGG with those of High Court. Now if we leave it at that, that it is a matter of equating only, the issue is - because as far as orders of High Court are concerned, if someone is not happy or is aggrieved with such orders, there is an avenue for appealing. Now if we may ask here, if you are saying that the orders of the IGG are the same as those of the High Court, now supposing someone is not happy or is aggrieved with those orders, what does he do? Where does he appeal? Because you cannot say that he will appeal to the supreme court because there is no relation - the relation of the orders of the IGG are related to the court system. Unless we relate the IGG to the present court system as it stands, therefore it becomes difficult for such orders of IGG to be enforced in the same way as orders of the high court. And it would be dangerous because an aggrieved party with such orders will have no avenue of appealing. Not only that, secondly, a more appropriate remedy would be maybe like the Uganda Human Rights Commission. If Members can refer to Article 78 clause 2(b) which

provides that the Uganda Human Rights Commission can either recommend to appropriate person or authority to take such action as appears necessary to remedy the infringement or may bring proceedings in a court of competent jurisdiction seeking an appropriate remedy. So I think if we move along these lines, it is a better way other than just stating that the IGG's orders are the same as those of High Court. So I propose clause two as it is, it should be deleted and amended along the lines of the powers given to the Uganda Human Rights Commission. I thank you Madam Chairperson.

**MR. MULENGA JOSEPH (Democratic Party):** Thank you Madam Chairperson. Madam Chairperson, it is obvious that some of the Delegates who have contributed were either not here or they did not follow yesterday's very important decision that was made.

The Inspector General of Government is not to be a court. We gave powers of arrest, powers to search, powers to make orders and directions to the Inspector General of Government but did not constitute him a court but specifically said he should not. So if here you say that an authority empowered by law to enforce the code of conduct shall in relation to enforcement have the same powers as the High Court, you can see. It is so confusing that Hon. Nsubuga Nsambu was saying that this saves us from having to go to Parliament to get this authority put in the Judicature Act. Judicature Act is the overall Statute that provides for the powers of courts. Now he is envisaging putting this authority on Inspector General of Government in the Judicature Act because he is still thinking that we are giving judicial powers to Inspector General of Government. That is not correct. So Madam Chairperson, if this authority in clause two, this authority empowered to enforce the code of conduct along with or in lieu of the Inspector General of Government has to have any powers, it is powers similar to those of the Inspector General of Government. Because in clause one, it is being said - and I understood this to be in the alternative, to allow Parliament in future to say, Inspector General of Government can concentrate on corruption and other things. Let us create another authority to superintend or enforce the code of conduct. Now if Parliament should create that body, it should have the same powers as Inspector General of Government rather than High Court. So Madam Chairperson, if I may move an amendment, I would say: "The authority empowered by law to enforce

*the code of conduct shall in relation to enforcement have the same powers as the Inspector General of Government."*

**MR. BIDANDI SSALI (Nakawa Division):** Hon. Chairperson, the more I listen to contributions from the family of the learned friends, the more I get worried about whether it is wise for us or rather for me to say yes or no on this issue because the legal implication is what makes this particular amendment very, very complicated. I was wondering Madam Chairperson, whether our friends- should the Legal and Drafting Committee really with sympathize this and come back and ask the laymen. Because I am really in a very difficult position to say yes or no when the time comes, because every friend of theirs makes an argument and I tend to be following. Another one opposes, then I go with him. I would like to propose in good faith that these Friends go through it from the legal implication's point of view and then recommend to us.

**THE DEPUTY CHAIRMAN:** There is that proposal but let us hear from Hon. Malinga. Sometimes he has his own ideas.

**MR. MALINGA IGNATIUS:** Madam Chairperson, let us read this provision carefully. This provision reads as follows: *"The authority empowered by law to enforce the code of conduct shall in relation to enforcement, have the same powers as the High Court for enforcing its orders."* So what we are to concentrate on is, what authority does High Court have to enforce its orders? So that is the question we have to address ourselves. The High Court can order a number of things if it makes a decision. It can send you to prison, let us assume it is recovery of a debt, suppose somebody is found to have stolen money. Now if it were the High Court, it may have committed you to prison, if it was a criminal charge because they would have then sentenced you. But I think what we are really looking at is the civil recovery. They can commit you to court or they can issue a warrant which will then be enforced by auctioneers and they can then attach your property. Something like that. I think this is what really being Looked at and I will tend to agree with Hon. Bidandi Ssali that maybe we have not done sufficient research on this matter. That we should probably refer it to the legal and drafting committee to work together with the technical committee to review this. The question is, it is that the authority will have all the powers of the High Court,

no. Because the High Court has very many powers. It can order the production of a person who is unlawfully imprisoned or something. But that is not what we are trying to give to give to authority. What we are trying to give it is to enforce its orders which I think we should mean to be recovering okay, two things, to be recovering property which is known to have been stolen from public coffers. Two, order to produce documents or to appear before it. These are basically the three things that we want to have that this Authority must have power to enforce people to appear before it and leaving appeared before them, to give information that is asked of them. So basically we need to spell out what things we want to get out.

**THE DEPUTY CHAIRMAN:** Hon. Delegates, I think we have really discussed and from what we have known from Hon. Bidandi Ssali and Hon. Malinga, we are going round and round and round. So let us differ this - wait, because we are wasting time whether you criticise me, I am not a lawyer and the lawyers also, each one is clarifying differently. So we are saying that the proposal on the Floor be taken to the technical and legal and drafting committee because that is actually the purpose of the existence of the technical committee. So I put the question that we defer this.

*(Question put and agreed to).*

**THE DEPUTY CHAIRMAN:** Hon. Magezi, whatever you want to say, go and be party to the legal and drafting committee and the technical committee. You will be a Member of that whole group who are going to synchronize that and you come to a consensus. So, we are not pronouncing ourselves on 268. We stand over it and we request the chairman or the committee to liaise with the technical committee and legal and drafting committee and you come to an agreed formulation and other Members including Hon. Magezi can go and join the group and give them their wisdom.

**MR. BAGUMA ISOKE:** Madam Chairperson, select committee one recommends the retention of Article 269 as it appears in the draft constitution reading: *"Parliament may by law provide that a person who has been dismissed or removed from office by reason of breach of the Code of Conduct, shall be disqualified from holding any other office whether appointive or elective and either generally or for a prescribed period."*

**DR. KABAYO JOHN (Kassanda South County):** Thank you madam Chairperson. I wish to propose a simple or small amendment to add the word 'public' between 'other' and 'office' so that the new clause reads: "*Parliament may by law provide that person who has been dismissed or removed from office by reason of breaching code of conduct, shall be disqualified from holding any other public office.*"

**MR. BAGUMA ISOKE:** It is consistent.

*(Question on the amendment put and agreed to).*

**MR. BAGUMA ISOKE:** Madam Chairperson, early in the life of this Assembly, the plenary recommended and the technical committee also advised that what appears on Page Seven as Article 19, Clauses 1, 2 and 3 become part of this chapter 16. Select committee one accepted that recommendation and now brings up the proposal that what appears in Article 19 (1), (2) and (3) now becomes by numbering Article 270 providing for public offices being held in trust for the people. Clause one reads: "*All public offices shall be held in trust for the people.*" Delegates should not be confused by the writing there. There is a side sub-title, public offices, then in trust etc, is not part of the formulation of the clause. One reads: "*All public offices shall be held in trust for the people.*"

*(Question put and agreed to).*

**MR. BAGUMA ISOKE:** Clause two reads: "*All persons placed in positions of leadership and responsibility shall in their work be answerable to the people.*"

*(Question put and agreed to).*

**MR. BAGUMA ISOKE:** Clause three to read: "*All reasonable and necessary measures shall be taken to expose, combat and eradicate corruption and abuse or misuse of power by those holding political and other public offices.*"

**MR. MULENGA:** Thank you Madam Chairperson. Madam Chairperson, I am a bit concerned about the wording and import of these clauses. It is true when plenary was hitting on objectives, these were cut out and proposed for this leadership code or whatever. But really without being definite that they must be there. Now we should examine whether they

actually fit. The tractor is dealing with specific provisions which are enforceable. These expressions that the offices are held on trust for the people, you ask yourself, how do we enforce that? Secondly, you come up and say that all persons placed in positions of leadership and responsibility shall in their work be answerable to the people. How are you going to make them answerable if you are an administrative officer, if you are an accountant - *(Interruption)*.

**MR. MALINGA:** Point of order. Madam Chairperson, is it in order for the Hon. Member to start discussing issues which have been passed and we have voted on them before reconsideration stage? Is he in order Madam Chairperson?

**THE DEPUTY CHAIRMAN:** I thought he was giving a Preamble to 273.

**MR. MALINGA:** No, because Madam Chairperson, we have discussed (a) and (b), we are only remaining with (c). And we have pronounced ourselves on those two. Is it in order to discuss them again?

**THE DEPUTY CHAIRMAN:** I thought he is going to zero down on 273 otherwise if not, we cannot reverse our decision on one and two.

**MR. MULENGA:** Thank you for your ruling Madam Chairperson. I was not asking that we reverse ourselves. I was only expressing my concern that we were going too fast and I did not catch your eye until we reached three. We talk about three and three is all reasonable and necessary measures shall be taken to expose, combat and eradicate corruption and abuse or misuse of power by those holding political and other public offices. I can pose the question again. How do we enforce this? Who will take these reasonable and necessary measures? Why are we putting it here?

**PROF. KABWEGYERE TARSIS (Igara West County):** Point of information. Thank you Madam Chairperson. I would like to inform Hon. Mulenga that the responsibility of exposing or taking measures and combating and eradicating corruption can be in the hands of the government, it can be in the hands of Judiciary. But I think, in fact this clause refers more to the population. The Press has been doing an excellent job when they have stepped their accusations, they have been taken to court. When

their exposures have been reasonable, many people have read them in the paper with contempt. So when we are talking of measures shall be taken, you are empowering nearly everybody who could be knowledgeable about exposing corruption and this is certainly declaring a war on corruption rather than thinking that there is one person who will do it. It is everybody who can use reasonable measures. I thank you.

**THE DEPUTY CHAIRMAN:** Hon. Delegates, before we proceed, I request the indulgence of the Hon. Delegates that we have had this report for a whole week. So Hon. Mulenga, you should have actually moved a motion circulated that would delete the proposal. You did not do it. So you are complaining, of the speed because if the majority say AYE, honestly we move. So that is why we moved. So I am requesting that if you feel that what is being proposed is not in your favour, just do it in good time so that really we do not waste time because we have your report and can respond to it. But you had not finished. Okay, Hon. Karuhanga wants to clarify to you Hon. Mulenga.

**MR. KARUHANGA:** Point of clarification. Thank you Madam Chairperson. You know following on what Hon. Kabwegyere said and what Hon. Mulenga was saying, I would like the Members to realise that when words used like 'all measures,' all reasonable necessary measures to be taken in enforcement of law on public officers who are misusing their power and office, just think of a situation where Hon. Kabwegyere who has just been speaking begging a government vehicle during the election and it is not allowed, then you take all measures, you the public, all measures necessary and reasonable to state the misuse of public property. Imagine how far those measures will go! We must add the word 'legal.' If we do not, then we should take into account the aspects of human rights. It should be consistent with human rights expressly implied in this Constitution. But if you just write all measures necessary and reasonable, you stop Hon. Kabwegyere's campaign. You must do it. So I suggest Madam Chairperson, to Hon. Mulenga who has the Floor that we use the word 'legal measures consistent with human rights in this constitution implied or expressed.'

**MR. MULENGA:** Thank you Madam Chairperson, I am grateful for the information but it has exposed the concern even more. Of course if the

Constitution says, 'all reasonable and necessary measures shall be taken,' that in itself makes whatever step you take to stop Hon. Kabwegyere from abusing his office legal, in fact constitutional. But the question I am raising is this, are we by this then allowing everybody to take all measures and we shall look to everybody, we shall look to Uganda Confidential to expose? Is that what we are authorising in this clause? But will that enable Uganda Confidential not to be taken to court for defamation?

So, in conclusion, Madame Chairperson, without any further information, if I am too late, we can hope to revisit it during reconsideration -

**THE DEPUTY CHAIRMAN:** Okay, let us hear from Hon. Byanyima and I think you are on 270 (3)

**MISS BYANYIMA:** Yes, Madame Chairperson, I refer to 270(3) Madame Chairperson, 270(3) and 2 and I actually read as objectives and as Hon. Mulenga has said, they are not enforceable as the other provisions which we have provided for under the Leadership Code of Conduct. They should go back to their proper place under objectives. In fact, when you go to (2) and look at positions of leadership, a Bishop is in a position of leadership but he is not answerable to the people. Are you saying that he also be answerable to the people? In that case, are you not going into the realm of religion where you should not be interfering? So, Madame Chairperson, I think these three, you should allow us at this stage to move a Motion asking to delete them and then at a later stage we re-introduce them, important as they are, under objectives. Madame Chairperson, if you permit me, I would like to move that we delete Article 270 as proposed by the report. I beg to move Madame Chairperson.

**THE DEPUTY CHAIRMAN:** Hon. Byanyima, the rules do not allow us. What we can do is to say it shall be carried forward to the re-consideration stage because now we are investigating where it should be located. Whether it should be here - the content is not bad - whether it should be here or that it should remain where it is, which is a different issue altogether. So, you can discuss the content, then decide on the location later at reconsideration. Otherwise, we cannot go backwards. Hon. Mugenyi.

**DR. MUGYENYI POSIANO (Isingiro North County):** Thank you Madame Chairperson. I share the concerns of Hon. Mulenga and Hon. Karuhanga

that Clause (3) is so open and very unspecific that it is not giving this responsibility to anybody. Madame Chairperson, if this Clause was already in place in the last CA elections, I think it would have been the most bloody election we have ever had because so many government officials used government vehicles and we would have unleashed every measure onto them and I think Madame Chairperson, the elections may not have been concluded. With this Clause merely suspecting that so and so's house was built by money from corruption, the citizens can easily be mobilised to demolish that house because they will be using necessary measures to expose the corrupt officials and combat - *(Laughter)* - So, Madame Chairperson, if this is left alone, there will no longer be - mob justice will be legalised because merely suspecting that Hon. Karuhanga has embezzled government money. We just get in touch with him and expose him. For that reason, Madame Chairperson, I am formally moving that we delete the following words - 'reasonable and necessary' and replacing them with 'legal' to read as follows: "All lawful measures shall be taken to expose, combat and eradicate corruption and abuse or misuse of power by those holding political and other public offices." I thank you Madame Chairperson.

**THE DEPUTY CHAIRMAN:** Is it seconded? Okay, but I want one clarification. You used two words. You used 'legal,' then 'lawful.' Which is which?

**HON. DELEGATE:** Lawful!

**THE DEPUTY CHAIRMAN:** Okay. I think we have had enough debate on this. But as I said earlier, there is room to revisit this issue at this reconsideration. The advantage is that this is a new proposal, a transfer. So, there is a lot of room at reconsideration to revisit this and it will be a simple matter rather than really going round and eating our own words. So, I have to put the question on this one that - New Article 270 as amended do stand part of this Constitution.

*(Question put and agreed to)*

**MR. BAGUMA ISOKE (Chairman Committee 1):** Madame Chairperson, the Committee recommends that what appears as Article 270 in the Draft Constitution be renumbered to become 271 and be retained to read, it provides for interpreting some term. In this Chapter, unless the context otherwise requires, 'specified officer' means the holder of an

office to which the Leadership Code of Conduct applies.

*(Question put and agreed to)*

**THE DEPUTY CHAIRMAN:** Hon. Delegates, I think we should congratulate ourselves. *(Applause)* This the spirit we should follow so that the tax payer stops agitating that we are wasting a lot of time. So, we - *(Interjections)* - NO, I am not putting the question on the chapter because we do not discuss Article by Article. We stood over Article 268 (2) to the Legal and Drafting. Before the Committee finishes its submission, they should be able to give us the version. But that will not stop us from continuing tomorrow as we have on the Order Paper when we shall be discussing the Public Service Commission and at this juncture I do not have that report. So, I beg that we adjourn and start afresh. Hon. Bageya what is the problem?

**MR. BAGEYA (Kigulu North County):** Madame Chairperson, before we adjourn, you are talking about something which we do not have any document on as of now. Some of us hate to come down here and be shuffled with papers yet we have to take important decisions on them.

**THE DEPUTY CHAIRMAN:** Hon. Bageya, I have the Order Paper and I follow what the Order Paper gives and if I had mine, we would have proceeded because the Chairman is here and all of us are here but it is because I do not have my copy. But it is in my office, so I presume yours is in your brief case.

**MR. BAGEYA:** No, Madame Chairperson, we have not had a circular to this effect - The Public Service Report has not been issued out.

**THE DEPUTY CHAIRMAN:** Hon. Elyau has some information.

**MR. ELYAU:** Thank you. Madame Chairperson, the thing has been given out. It is called Public Authority. That is why he cannot follow - It is now Public Authority, not Public Service anyway. So, it is there.

**THE DEPUTY CHAIRMAN:** Okay, let us hear from Hon. Sebi. Order! Order! Hon. Members we have not yet adjourned.

**MR. SEBI HAROUN (Koboko County):** Thank you Madame Chairperson. Mine is a proposal. It could be a drafting matter and that is the order of these two chapters - 15 and 16. Madame Chairperson, I would propose that the chapter on the Code of Conduct should come before the chapter on the Inspectorate of Government. I beg to move.

**THE DEPUTY CHAIRMAN:** Hon. Sebi, I think when we have gone through all the articles, the Technical, the Legal and Drafting will take it on to themselves to see whether how we have arranged it, is in legal and proper order. We cannot do it ad hoc here, with due respect. I beg you to concur. Hon. Bageya.

**MR. BAGEYA:** Thank you Madame Chairperson. The issue I was pointing out is quite passionate. We are expected to start tomorrow on Public Service or whatever it is - on Chapter 12. My appeal is that we do not yet have a report from the Select Committee concerned and we do not have any document on it. I, personally prefer to come down here when I already have my papers. So that I have perused through them. So that by the time I come to discuss it, I have something at hand. I do not think that there is any Hon. Member who has this document which we are supposed to discuss tomorrow.

**THE DEPUTY CHAIRMAN:** let us hear from Hon. Baguma.

**MR. BAGUMA ISOKE:** Madame Chair, I am really surprised that our secretariat has not printed and circulated our report. Select Committee I finished deliberations on Chapter 12 on the second day of November, 1994 last year. I am surprised up to now that the report is not circulated! However, as Chairman, I have my report here, compiled and circulated by the Chairman of Technical Committee. So, the problem - I am told also my Colleague, Hon. Birimumaaso - has this report. So, the problem lies somewhere in the Administration.

**THE DEPUTY CHAIRMAN:** Hon. Isoke Baguma - now, I can recall I was given a huge document with so many pages. Then, I was told that it was withdrawn from me - that it had to be taken to be put in a similar version, a summarised version as we have been using. I do not have the summarised version, but I was assuming that perhaps we are going to use the big document. I do not know whether that one can be clarified.

**MR. BAGUMA:** Madame Chair, there is a document, well written out, similar in format to the IGG document we had yesterday and I found it in my pigeon hole. I have been reading and making foot notes. I am surprised that it is not made available but there is a report.

**THE DEPUTY CHAIRMAN:** This one is a report of Select Committee 1. This one is a draft report of Select Committee 1. So, I do not know whether you have been going by draft or a by a confirmed report.

**MR. BAGUMA:** And I have two. One which I will table tomorrow. These reports must be in our pigeon holes, I think.

**THE DEPUTY CHAIRMAN:** Okay, let us do it like this - Let us agree that - usually the Plenary is in the afternoons. By the afternoon, we shall come here, we shall come here, we shall make sure that each one has a copy. Then, it will be introduced. We may not start debating it, it will be introduced when you receive your copy tomorrow. Then, at the weekend you go, we digest it, then we come on Monday, ready to debate. So, it makes no difference. So, I request the *-(Interjection)* So, Hon. Baguma, we take your word *-(Interjections)* - wait, who are you ordering? Hon. Wagira, you are in the wrong place and you are disturbing others. I was asking the Chairman that you come over we relate with the Secretariat to make sure that each Member has the proper copy tomorrow. They read through the whole morning, the Committees which are still continuing. Then, we come here, you introduce it. If we see we are comfortable, we shall debate, if we see we are not comfortable, delegates will be free to air their views. So, I am not saying that we shall not debate tomorrow but the debate will depend upon the circumstances. So, Hon. Kalema, what is the problem?

**MRS. KALEMA RHODA (Kiboga East County):** Madam Chairperson, I just wanted to improve on your proposal if I may be allowed and I thought that it is possible that the report is already in the document centre. So, in case it is there, Madam, I would like to suggest that since it is only 5.30 that the staff go there and get the document, circulate them out to all the Members who are present so that Members can go with the report with effect from this evening instead of tomorrow. And it may be available to a lot of Members who are still around.

**THE DEPUTY CHAIRMAN:** I do not think really you can sit here for 30 minutes or 45 waiting for the papers to be collected, distributed here because we do not know whether they are there or not. So. I give the benefit of doubt to the secretariat so that we do a clean job. Just check in your box, if it is not there, come at 8.00 in the morning you will find it there. You will discuss the whole day in the morning, then in the afternoon, you come over and we transact business. So, we stand adjourned until tomorrow.

*(The Assembly rose and adjourned to Friday 17th, February, 1995 at 2.30 P.M.)*