



THE REPUBLIC OF UGANDA

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

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OFFICIAL REPORT

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MONDAY, 20TH MARCH 1995

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MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda [Pg 3426]

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Monday, 20th March, 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).*

LAYING OF PAPERS ON THE TABLE.

**THE CHAIRMAN:** There was a variation of the Agenda to include the item of Laying of Papers on the Table which is a formality, that is laying on the Table of Chapter Thirteen - Local Government.

PRESENTATION OF REPORTS OF COMMITTEES.

**THE CHAIRMAN:** I call on the Chairman of the Legal and Drafting Committee please, Hon. Kanyeihamba.

**PROF. GEORGE KANYEIHAMBA (Rubanda East County):** Thank you, Mr. Chairman. I wish to report, Mr. Chairman, that over a period of time the Plenary Session has had occasion to refer a number of items either for refinement or for advice to the Legal and Drafting Committee. Some of these items go back as far as December last year and over the period the Legal and Drafting Committee has met and deliberated over these issues. There are some which are still pending particularly those which came recently but I am glad to say that on at least eight items the Legal and Drafting Committee has the following recommendations and reports to make, Mr. Chairman. These eight items include the home of Chapter Three on the Principles and Objectives of State Policy. That is report number one. Report number two is Widows Rights. The Third is the right of Pressure Groups to influence government. The Fourth Item is the Right of Access to Information in possession of Government and its Agencies. The Fifth Report is on Education for the Constitutional Awareness. The sixth is on the Definition of the unborn child, number Seven deals with Guarantees for institutions Charged with the Responsibility for the Protection and Promotion of Human Rights. Lastly,

Mr. Chairman, there was a matter referred to the committee to see whether any definition of the term 'State' in the Constitution was necessary or possible. Mr. Chairman, it is in that order that I intend to present the various reports and recommendations of the Legal and Drafting Committee Report.

On the first, Mr. Chairman, on Chapter Three, I want to emphasize incidentally that all these matters have been discussed generally by the Plenary Session. It is because we could not make final decisions on these matters for one or more reasons that the issues were referred to the Legal and Drafting Committee. So obviously the Legal and Drafting Committee expects this advice either to be taken one way or the other where there are alternatives but we do not expect there will be full blooded debates on the same issues which have been debated. Having said that, Mr. Chairman, on where Chapter Three which contains the National Objectives and Directive Principles of State Policy, this matter was originally referred to the Technical Committee to advise where the home of Chapter Three should be. The Committee deliberated, did research on the matter and made its recommendation. It is important, Mr. Chairman, to state that at that time the alternatives were either that the contents of this Chapter be reflected in the Preamble or be lifted and placed in the Schedule to the Statute. The other alternative was that in fact the Chapter should stay where it is, that is Chapter Three in which it had been incorporated by the Constitutional Commission. So the Technical Committee giving very valid reasons recommended that the nature of these National Objectives and Directive Principles of State Policy was such that they should not be reflected either in the Preamble or in the Schedule. That even though we had all agreed that they are non justiciable, they should nevertheless, form a Chapter in the body of the Constitution and their view was that its home should be Chapter Four of the now Revised Draft Constitution. However, they brought the matter as a recommendation to the Legal and Drafting Committee which obviously has to deal with the political content of such issues. The Legal and Drafting Committee considered this matter and recommendations of the Technical Committee and having deliberated on a number of days, in fact, weeks, we eventually decided by a majority of thirteen to two that this Chapter should be made the beginning Chapter of the Constitution. That it should be Chapter One of the Constitution

and the reasons were as follows. We agreed with the Technical Committee that it would be impracticable and indeed unwise to put this Chapter in the Preamble because it is very long. Mr. Chairman, you will recall that not only did we amend this Chapter but we added more provisions which do not appear in the original. So it is very lengthy and it would be unwieldy to put it in the Preamble. Secondly, the Committee also concurred with the Technical Committee that this was so important as a guideline to the Interpretation of the Constitution and other Laws of the land to be placed somewhere in the Schedule, where people do not always look. You will recall, Mr. Chairman, that the thrust of the Objectives and Principles of State Policy are that they are to guide the law makers, those who interpret the Constitution and other laws, State Agents and individuals who happen to wish to see this country well governed. So the collective view of the Legal and Drafting Committee was that it would be necessary, therefore, to insert this Chapter at the beginning of the Constitution after the Preamble that we have Chapter One prescribing the National Objectives and Directive Principles of State Policy. So, Mr. Chairman, the committee recommends that the Objectives and Principles of State Policy become Chapter One of the Constitution since they govern the whole Constitution and all institutions, organs and offices created in the Constitution thereafter. And also the interpretation of the same long after the Constitution has been implemented. Mr. Chairman, on Number One, I beg to report.

On Number Two, Mr. Chairman, The Rights of Widows. It may be recalled that this Assembly on different occasions referred this matter to the Legal and Drafting Committee for a final recommendation. An amendment had been proposed to protect widows' inheritance rights. The Committee agreed to recommend that this protection should also be extended to widowers, a matter that had been discussed in the Plenary here and we felt had extensive support. The committee, therefore, recommends or proposes the following provision to become Clause 2 of Article 60 which is the protection of the family. Clause 2 will read as follows, Mr. Chairman: "*That the State shall make appropriate laws for the protection of the rights of widows and widowers to inherit the property of their deceased spouses and to enjoy parental rights over their children.*" Mr. Chairman, I beg to move as a recommendation of the Legal and Drafting Committee.

Mr. Chairman, on Number Three, I think there is a bit of procedural problem - I think some people are saying Aye and Aye but my understanding was that I will give any report on everything and then the Chairman would deal with them one by one...

**THE CHAIRMAN:** You go ahead then we shall debate them one by one.

**PROF. KANYEIHAMBA:** Thank you, Mr. Chairman. On No.3, Mr. Chairman, this was a discussion which was sometimes heated in the Plenary but ultimately the consensus was reached. Nevertheless the plenary in its wisdom referred the matter the Legal and Drafting Committee for refinement. An amendment had been proposed to introduce a new clause to Article 65 to provide for the right to influence government policies through pressure groups. The committee reformulated the proposal and recommends the following new clause: "2. *That every Ugandan has a right to participate in peaceful civic activities to influence the policies of the government through civic organisations.*" Mr. Chairman, that is our recommendation on pressure groups.

Then the next is a right to information. A matter again which was resolved by the plenary but the committee was charged with the responsibility of first finding out whether the amendment as worded was proper in light of other laws and in light of the security of the State. Secondly to find out how best it could be dealt with in future. So, Mr. Chairman, on this matter the committee recommends that we re-cast the recommendation in a new Article to be 68(1) - rather to be 68 with two clauses and clause (1) will read as follows, Mr. Chairman: "*Every citizen shall have the right of access to information in possession of the State or any other organ or agency of the State except to the extent that the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person.*" Clause (2) of that new Article will read as follows, Mr. Chairman. "*Parliament shall make laws prescribing@ the classes of information referred to in Clause (1) of this Article and the procedure for obtaining access to that information.*" Mr. Chairman, on the right of information the committee begs to recommend.

Then, Mr. Chairman, the next item is on the Education and Publicity for Constitutional Awareness. In

the committees and in the Plenary Sessions there was almost unanimity that our new Constitution should not only be publicised throughout the country but it should form the subject of syllabi and other - so that it can be taught in schools and other institutions of learning. The Plenary asked the committee to undertake research into finding a home for introducing this new Education Awareness into the Constitution and to recommend a possible wording. The committee decided that this particular item should be placed in Chapter One as Article 4 to read as follows: "4. *The State shall promote public awareness of this Constitution by (a) translating it into the Ugandan Languages and disseminating it as widely as possible and (b) the provisions of the Constitution being taught in all educational institutions and Armed Forces, Training Institutions and by the regular transmission and publication of programmes through radio, television and the media generally.*" The committee begs to recommend, Mr. Chairman.

The next item was the definition of the unborn child. The committee having considered all possible alternatives and having studied the constitutional provisions of other states, came to the conclusion that there was no agreement the world over as to when a foetus becomes a child. In other words when precisely is the conceived or the creature in a pregnant woman a child? We could not determine it scientifically or even legally and we could not find anywhere else where it is legally determined. So we said that it is not possible and not necessary to define the term "Unborn Child" in the Constitution. So we said that in each case it is a matter of evidence to be determined under the circumstances in the context on which any matter is arisen. We have in our Penal Code the Protection of Children and so forth and it is for the particular case to be brought before court rather than to be the subject of a Constitution definition. We were also very much influenced by the latest developments that science research is continuing and indeed the scientists are themselves very much divided on this matter but sooner or later may be they might come up with some definition. So we cannot, by lack of evidence, scientific or otherwise, define the child in our own Constitution.

The next Article, Mr. Chairman, is the Article that is proposed to guarantee and respect institutions which are charged with the responsibility for protecting and promoting Human Rights. The com-

mittee approved the Article together with a new clause as proposed and that we say it should read as follows: "Article 11(a). *The State shall guarantee and respect institutions which are charged by the State with the responsibility for protecting and promoting Human Rights by providing them with adequate resources to function effectively.*" You will recall, Mr. Chairman, that under the NRM Administration the Commission on Human Rights and the Office of the inspector General of Government were charged with such responsibilities. We have already discussed them in the context of the Constitution and it is the view of this C.A and the Legal and Drafting Committee recommends that facilities should be provided for and they should be respected bearing in mind our history and how some of these organs were disregarded and given disrespect by various successive government agencies.

Then, Mr. Chairman, there was a clause which I did not mention in my introduction but which is dealing with energy. Clause of Article 27 in the Draft Constitution was also referred to this committee - to the Legal and Drafting Committee. The committee advises that the above clause as approved by the Plenary Session as a matter of good drafting - really this is a matter of drafting rather than debate - be amended by substituting the word 'those' for the words 'the needs' so that it reads as follows, Mr. Chairman. "4. *The State shall promote and implement such energy policies as will ensure that the peoples basic needs and those of environmental preservation are met.*" We beg to recommend, Mr. Chairman.

Then lastly, Mr. Chairman, there was a query that the Legal and the Drafting Committee should recommend a definition of the 'State.' Mr. Chairman, again the committee researched into this matter and we could not find anywhere in the world where a domestic constitution under Municipally Law define the 'State' and the reasons are very clear and they are stated in our report. We observed that the term 'State' is a subject of international law and not of Municipal Law. Whether you are a state or not it is not a matter to be governed by your own laws but by the international community applying rules of International Law of Recognition and Understanding. Therefore it would be unwise for any given State to define for itself what it considers to be the word 'State.' So that was one of the major reasons why we felt that we could not recommend

a definition of the 'State.' Secondly, Mr. Chairman, in Domestic Law there are many and indefinite number of definitions of the word 'State' depending on the context in which it is used. There is a host of situations and circumstances in which the word 'State' applies and when some elements are removed from those circumstances then the 'State' does not apply. And, therefore, perhaps we would need a whole volume as big as a dictionary to define the word 'State' itself. Therefore, for these major reasons the committee advises that it is not necessary or desirable or indeed possible to define the word 'State' in the Constitution. Its meaning should rather be left for the interpretation by the courts, International Law and Diplomats. Mr. Chairman, I beg to move. I thank you, Sir.

**THE CHAIRMAN:** Thank you Hon. Kanyeihamba and your committee for the work you have done in producing the report in response to the matters that were referred to the committee. We should now proceed to take one by one. We shall start with the home of Chapter Three and then go on to the Widows Rights and so on and so forth. It is recommended that the home for Chapter Three be Chapter One.

**MR. ATWOMA TIBERIO (Chua County):** Thank you, Mr. Chairman. Mr. Chairman, I am rising on a point of seeking clarification from the Chairman of the Legal and Drafting Committee. Because if I do remember sometime back in September when we were discussing this Human Rights I suggested also about the prisoners and detainees rights and I was told that it will be considered probably together with a report that now has been submitted and I have seen that they are not included.

**THE CHAIRMAN:** Okay, that sounds like any other matters since the report has been fully read but when we finish what we have then the chairman should be able to respond to you.

**MR. ATWOMA TIBERIO:** Okay, thank you.

**MR. OBUA OTOA (Erute County North):** Thank you very much, Mr. Chairman. Mr. Chairman, I seem to recollect that when the matter of finding a home for Chapter Three was referred to the Legal and Drafting Committee most of the arguments were that the provisions of Chapter Three were not justiciable. And that in fact most of the provisions of that Chapter could be absorbed in other Chapters

rather than that Chapter Three should stand on its own. Now, the Legal and Drafting Committee are coming not only with the recommendation that Chapter should stand on its own but that in fact it should be the very first Chapter of the proposed new Constitution. Mr. Chairman, I find that rather departs from the mission that was given to the Legal and Drafting Committee. I personally feel that most of the provisions of Chapter Three actually should not be in the body of the Constitution. For that very reason that it is non-justiciable and that whatever provisions have been put in Chapter Three should actually - those which are justiciable should actually be absorbed in other Chapters of the Constitution. And I think that was the intention of referring this matter to the Legal and Drafting Committee not that it should - In fact, what they are saying now, Mr. Chairman, is that not only should it stand on its own. They are even saying that the provisions of the Chapter on Directive Principles of State Policy and so on actually governs the rest of the Constitution. I find that a bit of an over statement, Mr. Chairman and I do find that the Legal and Drafting Committee might have exceeded their mandate in making this kind of recommendation. Mr. Chairman, I still think that the argument to say that this Chapter is not justiciable, I want to emphasize it should be abided by and that the report should actually have absorbed this Chapter, scattered it wherever else it should properly belong. So I am not satisfied with the recommendation that we should make it Chapter One because I think our Chapter One begins very appropriately by saying all power belongs to the people and so on and so forth. I do not see why any other consideration should be brought before that one. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Information Hon. Kanyeihamba or you want to collect all these points and then ....

**PROF. KANYEIHAMBA:** Correct, Mr. Chairman. Because, Mr. Chairman, I hope that the Hon. Member who has just left the Floor remembers that in fact this matter had been referred to the Legal and Drafting Committee on two occasions. The first occasion was to do precisely what he has suggested. First of all, to see which parts of these principles and objectives were justiciable and which were not. If you recall, Mr. Chairman, we presented our report into three categories. Those that were justiciable we recommend should be transferred to the rel-

evant Chapters which this Plenary did. Then after we had determined all those and we also- there was a move that we should state in the Constitution that these principles and objectives were non-justiciable. But in its wisdom this Plenary Session on argument did not accept that argument. And, therefore, we say that although we accept them as non-justiciable that is taken for granted because they are simply guidelines. But we should not write it in the Constitution which tends to undermine their efficacy. So that was also addressed by the Plenary Session. And the only issue that was remaining was that we should find the home for it. Now my query is, if you ask the Legal and Drafting Committee to find a home surely the home must be within this Constitution otherwise where do we find it. So that is what we have recommended. One can disagree with it but I think we did the job which was entrusted to us. I thank you, Mr. Chairman.

**THE CHAIRMAN:** Hon. Obua Otoa does your memory not recollect that? I think it is true that we did go through a process of dropping some, accepting some to be part of the main Constitution. And then what remained were to be found a home. And, in fact, we transferred something last week from the Chapter on the Executive to this Chapter Three so that the argument really is narrow. It is no longer going back as to whether they are justiciable or not to whether they should be in the Constitution or not. Those which should not be there we removed them. Those which should be there were separated between those which are justiciable and those which were justiciable. And what is now left is to find a home for them in the Constitution. I think now we should then narrow down the issue so that we do not begin then re-opening debate on matters on which we took a long time the other time.

**MR. MALINGA IGNATIUS (Usuk County):** Mr. Chairman I am on record as having proposed that Article Two in the Constitution should have been the opening Article of the Constitution. Mr. Chairman, I am still of the same view that we should open our Constitution with a provision to the effect that this Constitution is the supreme law of the land. And I think with that I would stick to the fact that the present Chapter One should remain Chapter One of the Constitution and Chapter Two also should remain. If this Chapter has to be found a home which as you say we have already decided, let us find a home for it, it should come after Chapter Two. So to me I am of the opinion that - *(Interruption)*

**THE CHAIRMAN:** So it should be Chapter Three?

**MR. MALINGA:** Yes. Because let us first of all declare the position of this document that we have before we have the other guidelines which govern the exercise of powers which are entrusted by this Constitution. Let us declare the document that this is the supreme law of the country and I think that is what Chapter One does and does admirably. We should start with this Chapter One, I think it is an admirable Chapter. We have already gone through it we have passed it and I really would like to appeal to the Delegates that let us keep Chapter One of this Constitution as in the Draft and as we have already passed. I am really not convinced by the arguments given by the Chairman of the Legal and Drafting Committee as to their decision to arrive by a majority of 13 to 2 to move it to Chapter One. I think the deliberations which the Constitutional Commission went into in suggesting that this should be the very first Chapter I think are weighty. And also looking at the method of drafting other Constitutions it is quite clear that you open a constitution by declaring that this is the supreme law of the country and I think we should conform to that method. Otherwise those of us who are lawyers will have to answer to another constituency, that is to our legal profession as to the quality of the document that we produced. That would not stop me from deciding otherwise if I felt that it was right to do as suggested but in this case I think it is neater and better and more professional to start with Chapter One as in the draft. So Hon. Delegate I would appeal that let us keep this Chapter Three. Thank you.

**THE CHAIRMAN:** Hon. Obua Otoa, you had a question.

**MR. OBUA OTOA :** Thank you, Mr. Chairman. You asked me whether my recollection was consistent with yours namely that - you know as you put it to me Mr. Chairman. I am saying that the question of placing this particular Chapter as Chapter One is the matter really I substantially want to raise namely that I do not think it should be Chapter One. I think some of them are matters which are transient and are amenable to change and if we make it really the governing thing of any Constitution, Mr. Chairman, I do not know apart from the argument just advanced by Hon. Malinga. I think this particular provision in Chapter Three should go to either an addendum - I am not saying their provisions are bad. But I am saying it should be an addendum in

a schedule somewhere but definitely I would not like it to be regarded as something governing the entire Constitution because most of its provisions change from time to time. Some government will come and view the objectives and national principles of state policy differently and then we may have to change, amend the Constitution to provide for the new change or for the new attitude of the new government. Mr. Chairman, I really do not think it should be Chapter One. Thank you, Sir.

**THE CHAIRMAN:** Okay, I think you have made your point because you have already spoken - you had spoken before. Let us hear Hon. Mulenga.

**MR. MULENGA JOSEPH (Democratic Party):** Thank you, Mr. Chairman. Mr. Chairman, the point that Hon. Obua Otoa is pressing is not new. We had lengthy arguments as to where it should be, whether it should be there and we reached a point of saying that let us ask our legal committee. Our legal committee has advised and it is made of lawyers so that when Hon. Malinga says lawyers will have to answer to another constituency I do not understand. I too I am a lawyer, I have no difficulty in accepting the advice of the legal committee. Let me just add one point that if it is correct as it was stressed by Hon. Obua Otoa and it is correct that the contents of this Chapter are non-justiciable the rest are. How more appropriate can you arrange than to put those which are non-justiciable first and then you follow with those which are justiciable? Mr. Chairman, the other point is that the opening of that Chapter says its purpose. As Hon. Kanyeihamba stressed, the purpose is to guide Parliament, the Executive, the Judiciary, all organs of state, all citizens all readers before they tackle the other Chapters as to how to interpret. I do not see why really people should feel strongly that it will be objectionable to accept the advice. Mr. Chairman, I commend that we accept the advice and leave it there.

**MRS. ZZIWA MARGARET (Women - Kampala):** Thank you very much, Mr. Chairman. Mr. Chairman, I honour and respect the submission by the chairman of the Legal and Drafting Committee and in my own layman's analysis Mr. Chairman, I wanted to say - (*interjection*) - I want to look at this issue in a much more chronological way. The way we have come out to look at Constitutions. The Chairman said that he has had - they took time and looked at several Constitutions. And I think still

Hon. Mulenga was saying that the unjusticiable could come first and then those which are justiciable. I would say that if we consider that this is a Constitution, I think the definition of it could come first in that order. And in that respect I would go with Hon. Malinga's proposal. We should go with defining the Constitution and then we could go even to the definition of the Constitution of Uganda because it is the one we are dealing with. Later on we can look at the objectives. In fact in many of these lay constitutions we have dealt with say in associations that is normally the order. I would believe it would make more sense to most of us who are lay men, I believe it is always the lawyers to interpret. But if we want to have the chance of understanding this Constitution as really we feel that it is the supreme law of the land and it should be taught to everybody and the people should have the chance to understand it. I think even Justice Odoki that is why he adopted this kind of order, it is really more chronological than when we start - because at one time somebody will say this is justiciable or unjusticiable. It may also change, one will imagine that it is not justiciable today. But maybe after twenty years it may become justiciable and then we shall start saying that let us transfer this back into the text of the Constitution. So, Mr. Chairman, I wish to submit that we maintain the position of Chapter Three where it is. It makes more chronological sense to the layman other than maybe to the lawyers. I wish to submit, Mr. Chairman.

**MR. MWONDHA PATRICK (Bukooli County North):** Thank you very much, Mr. Chairman. I wish to thank the members of the Legal and Drafting Committee for a thorough job done. But I still find it odd, Mr. Chairman, that we start spelling out provisions of the Constitution before we define what it is. If you look at the marginal titles one of them is saying 'Sovereignty of the people.' And I think it is important because we are trying to define how those who hold authority derive it. We are trying to define how organs are formed. It is very important that we should leave Chapter One to still remain in the Constitution. Another provision that then comes after that will be part of the Constitution. Anything which comes before Chapter One really cannot be regarded to be part of the Constitution unless the committee meant that we should treat the contents of Chapter Two now as simply further illustration of what should be found in the Constitution. If it was just another table of contents

that might be acceptable. But if we mean it to be part of the Constitution it must definitely come after we have defined what the Constitution is, where the sovereignty lies, where the supremacy lies and after we have defined what Uganda is. So that leaves us with no other option but leaving it as Chapter Three. I thank you, Mr. Chairman.

**MR. RWABIITA DEO (Ibanda South):** Thank you very much, Mr. Chairman. Mr. Chairman, the import of Chapter Three is to give us guidelines and as a matter of fact if it were possible it could have been in the Preamble but it will be too long. So that is why we are trying to look for a place for it so that it guides the people of Uganda as to what is expected of a Constitution. Now, I do agree with the former speakers that chapter One must talk about the Constitution. I think that one is very important so that we define what a Constitution is. Then from Chapter One we go to Chapter Two and we put in Chapter this National Objectives and Directive of Principles of State Policy. Why do I suggest that, Mr. Chairman? I suggest that because the provisions in this Chapter cover most of the Chapters in the Constitution. For example, Mr. Chairman, when you talk of - there is something to talk about Human Rights which are definitely found in Chapter Five. We talk of Equitable Distribution of Development. This again is reflected in other Chapters especially when you talk of Decentralisation and what have you. Accountability of Leaders is found both in I.G.G. and the Code of Conduct. These are other Chapters in the Constitution but reflected in this Chapter of Principles and Objectives of State Policy. Mr. Chairman, when we talk about Environment it is both covered in this Chapter and also Chapter Seventeen of Land. Foreign Policy is considered in this chapter and again when we talk about the Executive and Legislature we find there is some also connection with the foreign policy. And when we talk of National Unity and Stability, Mr. Chairman, there is no Constitution that will be useful unless that stresses the importance of unity and stability and peace. The essence of a good Constitution must reflect these ideals, these principles. Therefore Chapter Three now that is called Chapter Two will give us a summary of what the Constitution should be. And the other Chapters which will be justiciable will be reflecting on what the wishes of the people will be for any government to come in future. Therefore, Mr. Chairman, I move that Chapter Three is put as Chapter Two of this Constitution. I beg to move, Mr. Chairman.

**MR. AGGREYAWORI (Samia Bugwe North):** Mr. Chairman, the previous speaker has partly pre-empted what I have been planning to say. Mr. Chairman, initially I would like to seek clarification from the Legal and Drafting Committee why they did not consider this as a preamble to the Constitution and then go on to re-write the whole Chapter to make it a Preamble? Some of the items which have been said to be justiciable are not justiciable. We can bring or compress the non-justiciable ones as part of the Preamble, they always say in the Preamble. "We hold this truth to be or the basis of the foundation of our State," and then justiciable ones we incorporate them where they belong. Mr. Chairman, I would like to move that this Chapter instead of being considered as Chapter One, it should be re-written and become the Preamble to the Constitution.

**THE CHAIRMAN:** It has not been seconded. We have had five speakers with a confusion at some point. Some people saying it should be Chapter Two others say it should be Chapter One as recommended others are saying it should be Chapter Three. Now we hear it should be re-written and put into the Preamble. I think really it is not a matter that either we accept the recommendation or we reject it and then we can consider where else if we reject it. So I would like to put the question. The question is that the recommendation of the Legal and Drafting Committee to make the present Chapter Three, Chapter One be accepted. That is the question before us.

*(Question put and agreed to)*

**THE CHAIRMAN:** Could Hon. Atwoma not force the young lady to stand. We cannot allow you to stand for ever. I think you better resume your seats.

Now, we go on to the next recommendation. Widows Rights. Hon. Delegates, there is a recommendation regarding Womens Rights as read out to be clause (2) of Article 60. I will put the question on that.

*(Question put and agreed to)*

**THE CHAIRMAN:** Recommendation on pressure groups. If you look at page 2, at the top of the third page concerning pressure groups. Every Ugandan has a right to participate in peaceful civic

activities to influence the policies of government through civic organisations. I put the question.

*(Question put and agreed to).*

**THE CHAIRMAN:** We go on to right of access to information.

**LT. COL. SSERWANGA LWANGA (NRA Delegate):** Mr. Chairman, I am seeking a clarification from the committee or from the Movers of this motion. What do they actually intend to give to the press because all the power is left to the government. It is the government to decide which information and what are they actually giving the press?

**THE CHAIRMAN:** I think you could ask that question to the next Parliament because that is how I read the Section anyway.

**LT. COL. SSERWANGA LWANGA:** Mr. Chairman, I think it is air. They are giving the press air in Article 68(1). There is nothing. They are saying the government will be the one to decide which information it wants to release and which it does not want to release. So I am of the view that we should leave that one out, it is as well as not stating it here.

**THE CHAIRMAN:** Don't you trust the future Parliament at all?

**LT. COL. SSERWANGA LWANGA:** There is already a law governing government documents and secrets and those are enough. Then what are we trying to say here?

**LT. MAYOMBO NOBLE (NRA Delegate):** Mr. Chairman, thank you very much. Mr. Chairman, I do not agree with Lt. Col. Sserwanga Lwanga because the Article does give a right to the people to have access to information, but only lists the exceptions to that right. That is to the extent that the release of that information is likely to prejudice the security and the sovereignty of the State or interfere with the rights to the privacy of that person - of any other person. So even though Parliament is going to make regulations as far as declassification of information is concerned, definitely there is a right under Article 68(1). Thank you, Mr. Chairman.

**PROF. KABWEGYERE TARSIS (Igara County West):** Thank, you very much, Mr. Chairman. I think we need the clause. From experience,

Mr. Chairman, in 1969 I wanted access to colonial files leading to Independence and I had difficulty because the Colonial law prescribed that you will not touch files until they are fifty years old or something like that. But, because there were some provisions that the Government could allow a person on consideration of a case by case, I was able to have access to some files which were very useful in my study. So when we have - so long as there is room to separate the issues of sovereignty, the issues of secrecy and privacy, I think having the clause in the Constitution is useful and can help researchers and indeed even Parliament could be more concrete in helping researchers because we are really talking about accessibility to knowledge. As you know, Mr. Chairman, information is knowledge when it is interpreted. And I therefore recommend that we keep it and as my neighbour has just said, information is power. I thank you, Sir.

**MR. AGGREY AWORI:** Mr. Chairman, I am seeking clarification on two points. One, couldn't we have combined (1) and (2) to form one Article? I could read the way it should be or the way I propose it to be. Secondly, I am asking why they left out certain information particularly of scientific research which has been funded by the state or agency of the State? Scientific research which has nothing to do with national security, nothing to do with peoples privacy. I could be doing some research pertaining to foetus at a certain development stage but I do not want to share that information. But I have been funded by the State and yet I could be suspicious that somebody is doing research in a certain area which is prejudicial to this country not necessarily security. Mr. Chairman, I am not speaking out of the blue not long ago in Zimbabwe somebody was convicted for having carried out research on people and he was using State funds and only last week he was locked up. Mr. Chairman, I want to know whether I have the right to intervene to go to a research station funded by the State and say I want to know what is going on in this place.

**THE CHAIRMAN:** But don't you think Hon. Aggrey Awori that you are now debating what Parliament will debate in future? I thought those are exactly the heads of information they will be debating at that time.

**MR. AGGREY AWORI:** I wanted to guide Parliament.

**THE CHAIRMAN:** I think the best thing is to continue your association with the people of Samia and then you continue the argument. The question of drafting I think I was taught that it is better to write short sentences than very long ones. So this break up really to me does not make much difficulty.

**MR. AGGREY AWORI:** But Mr. Chairman you answered my last question, you did not answer my first question.

**THE CHAIRMAN:** Okay, let Hon. Mushemeza answer you.

**MR. MUSHEMEZA ELIJAH (Sheema County South):** Thank you, Mr. Chairman. Perhaps let me begin by clarifying the first issue raised by Hon. Awori that these two clauses could be merged. I think the first clause clearly stipulates the right to have access to information and this is very fundamental. I do not see how you can merge it with Parliament. The first one clarifies your right then the second one parliament will regulate how this right can be exercised so I do not think it is very necessary to merge the two. Secondly, Mr. Chairman, this clause is very important for all of us who could be interested in research in future. This is where I disagree with Hon. Sserwanga Lwanga. Because you could find there is some information which does not risk the security of the State or which does not risk the privacy of any person. But those people who are holding that information or who are the custodians of that information perhaps because of ignorance, because they do not know the usefulness of that information may deter any interested researcher to have that useful information. Therefore you will find it is a disadvantage, it is violating that researcher's right to have that access to the information, the information which could be very useful to the rest of the country. Therefore these provisions are very important, I beg this House to support them without any amendment. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Now, I put the question.

*(Question put and agreed to).*

**THE CHAIRMAN:** We have Promotion of Public Awareness of the Constitution.

**MR. WANENDEYA WILLIAM (Budadiri East):** Thank you very much, Mr. Chairman. Though I agree that this Section should be in the Constitution, Mr. Chairman, but stating it generally by saying that the State shall promote public awareness of this Constitution by, and then having two of those sub sections to me is not enough for these reasons, Mr. Chairman. Mr. Chairman, I would prefer that the clause be amended so that the State sets up the Institute of Constitutional Education. The reason being, Mr. Chairman, that it will be charged by people who would promote the awareness of the Constitution among the population of Uganda but leaving it as it stands. Mr. Chairman, it may just be one of those things to fill the Statute Books and that is the end of it. So I would urge Hon. Members that we amend this Section to say "*The State shall set up the Institute of Constitutional Education in order to promote public awareness of the Constitution. (b) Translate the Constitution into Ugandan languages,*" and then Mr. Chairman to teach it in all educational institutions and armed forces training institutes and the rest as under (b) of this section. Mr. Chairman, I believe that (*Interruption*).

**THE CHAIRMAN:** But you see, Hon. Wanendeya, your Motion has not been seconded so we cannot give you the Floor to speak to it. You have made a good proposition but there has been no seconder.

**MR. WANENDEYA:** Mr. Chairman, if Hon. Members maybe are given a bit of time to contemplate over it they would see the wisdom of this matter of setting up the Institute itself. So that they do not only promote the Constitution but perhaps also, Mr. Chairman, to teach music and culture so that it is charged with that responsibility, Mr. Chairman.

**THE CHAIRMAN:** Hon. Liiga were you seconding him?

**MR. LIIGA ALOYSIUS (Buvuma Islands):** Mr. Chairman, no I am not seconding him.

**THE CHAIRMAN:** I think I will give you the Floor, but first of all, I would also like to get the Chairman to clarify to me what they mean by armed forces in (b). Are you going to teach it only in the Army or? Because you have used the word 'armed forces' elsewhere as a definite body in Uganda.

**PROF. KANYEIHAMBA:** Thank you, Mr. Chairman. At the time that we considered this Amendment, of course, the plenary session had not expressed itself on the name of what is going to be the Uganda Armed Forces. And we anticipated that once that is decided then it would replace what we are putting here. The concern expressed by those who discussed this matter was that it is particularly members of the Armed Forces who in the past have tended to ignore and belittle institutions set up to protect human rights. And indeed even in cases where they were given certain facilities in some areas the armed forces of past regimes took over those resources oblivious to what they were needed for. So, it was particularly pertinent that in saying that the responsibility for protecting human rights should also extend to the - that the Armed Forces should be mentioned specifically. So, that really was the reason.

**MR. LIIGA:** Thank you, Mr. Chairman. Mr. Chairman, I want to support this formulation by the Legal and Drafting Committee in respect to the Constitution being widely publicised and also translated into our local dialects. However, Mr. Chairman, my concern is with the legal language in which a document might be drafted. Here, if Hon. Delegates remember, an NRC Member Hon. Ssendendo attempted to translate the Draft Constitution into Luganda and the document he eventually came up with was almost unreadable, simply because the legal language in a draft is to some extent vague to the layman. Mr. Chairman, a point in question here is a clause which we passed last week in Article 114, this clause concerning the Secretary to the Cabinet. If you read it from a layman's point of view, and attempted to translate this one into any local language you would turn up with something very meaningless. I have tried it with my friends on the left and right to see if they can briefly put in their own languages and each side is shaking their heads. Mr. Chairman, my appeal is that when the final document is being drafted or rather the document that will come before us during the reconsideration state, a technical team should as much as possible ease down on the legal language so that a final product makes sense to the people when being translated into our local terms. Thank you, Mr. Chairman.

**THE CHAIRMAN:** I think we had more or less voted on it. I think that was just guidance to the future implementers of this particular provision.

Now, I will put the question.

*(Question put and agreed to.)*

**THE CHAIRMAN:** Now, there is a report that we should accept not to define unborn child. Yes, Dr. Mugenyi, you have a definition?

**DR. MUGYENYI PONSILANO (Isingiro North):** Point of clarification. Thank you, Mr. Chairman. I am just seeking clarification from the Chairman of the Legal and Drafting Committee. Whereas it may not be easy to define the unborn child, but in this Constitution we were interested in the protection of the rights of the foetus vis-a-vis the rights of the mother who may be carrying the foetus. We are aware that life begins immediately after conception. It may be called the unborn child, it may be called the foetus, it may be called anything but life is there immediately after conception. Secondly, Mr. Chairman, with the fast changing technology there are advances in science where children can be properly brought up, after a certain period, say seven months. And they come and grow into mature human beings without necessarily spending all the nine months in the womb of the mother.

Thirdly, Mr. Chairman, in obstetrics a child who is born after seven months is a child, although we say he is a premature birth. So the Constitution, if at all, it is to answer anything, it should answer the question, Does the foetus before nine months or before birth have any rights independent of the rights of the mother that may be carrying that child? Or independent of any doctor that may be looking after that child? If that child is in vitro, and if we answer that question we may not have to bother into the definition of the unborn child. I think that is a question we have to answer whether the foetus has any rights to life, because a Constitution must guarantee the right to life. Whether the foetus has any right to life or these rights are tied to the person or wishes of the mother that may be carrying that child. I thank you.

**PROF. KANYEIHAMBA:** Mr. Chairman, the task of the Legal and Drafting Committee, of course, was to see whether we could define the unborn child. What Dr. Mugenyi has introduced, which is a very interesting point, is life form. Life form, obviously when is it due? The day when the egg in the mother's womb is fertilised that is a life form. But that is not a child! Our problem was when

is that fertilised egg to be called a child? Really that is the problem that we have, and as I have said, all our searches never discovered anyone who has defined that child except in terms of the context of the circumstances surrounding him. Obviously, that is why we have law about abortion. Abortion laws which are in our Penal Code do protect the kind of life form that Dr. Mugenyi is talking about. But it would be most - I would injudicious to express that in the Constitution.

**MR. ELYAU MIKE (Kalaki County)** Thank you very much, Mr. Chairman. I am really concerned on the issue. When we discussed this thing last year the child to be protected was, why this clause was to be defined for the knowledge of everybody. You see, when children are being killed intentionally, because somebody wants to be young all the time, if it is just pregnancy she goes to the doctor and she removes the poor child who has no say. You see, we are trying to see that there was life which is in danger, and in protecting this life we thought the Constitution should have helped the poor babies who cannot talk for themselves. That was the reason why this thing really gives us more pain as human being. Can you clarify why we think the protection would be there, in case people who are now going in to remove wombs because they do not want to afford bringing a child.

**MR. DIDIAGARD (Moyo West County)**: Thank you, Mr. Chairman. While considering Article 52, Chapter 3, we have already passed that no person shall be deprived of life intentionally, except bra, bra, bra. It is there that the reference to unborn child came. Because we have also said that there will be no abortion until approved by Parliament. So, what was referred to the Legal and Drafting Committee was only the definition of the unborn child. Now, that the committee has decided not to define it, the question raised by the doctor was already discussed and settled by the House. Thank you.

**THE CHAIRMAN**: So, actually, I would say to Hon. Elyau is that you left matters to Parliament so that they can define, for instance, in those provisions of the Penal Code relating to abortion. At what point is it then you describe it as an offence if a fetus of so many months? Could you accept the recommendation?

*(Question put and agreed to)*

**THE CHAIRMAN**: Article 11 in Chapter 3, Fundamental Human Rights and Freedoms. This is a question of affording and facilitating State organs which have responsibilities for protecting human rights and also the position of non-governmental organisations. I put the question.

*(Question put and agreed to.)*

**THE CHAIRMAN**: There is under Clause 4 of Article 27, a question relating to interplay between energy needs and those of the environmental preservation. There is a recommendation there. I now put the question.

*(Question put and agreed to)*

**THE CHAIRMAN**: To definition of State, the committee says there is no need to define in the Constitution it is only a necessary requirement if you looking at it from the point of view of the international law and, therefore, we should not do so. I put the question.

*(Question put and agreed to)*

**THE CHAIRMAN**: That disposes of the matters that came from this report. Hon. Atwoma did raise a query of the Chairman concerning the rights of detainees and prisoners. Could the Chairman comment on that?

**PROF. KANYEIHAMBA**: Thank you, Mr. Chairman, and I thank the Hon. Members for accepting the Legal and Drafting Committee's report so magnanimously. I thank you, Sir, also for leading us. Mr. Chairman, on the issue raised by the Hon. Member, I do not recollect that any such issue relating to the rights of prisoners came to the committee for advice or otherwise. What I recall is that the Hon. Member did propose an Amendment to some of those which we are coming. I believe on human rights, and I cannot recall honestly what befell of that Amendment. Maybe, one or two Members who may recall can remind me. But it was not one of the matters which was referred to the Legal and Drafting Committee by this august Assembly, Mr. Chairman. But obviously he is free to bring it, we still have plenty of time even at the time of reconsideration we can, of course, - if it is brought to us we can give advice on that, Mr. Chairman.

**THE CHAIRMAN:** My recollection was that at the time of considering the relevant provisions Hon. Atwoma attempted to move Amendments which were rejected by the House. But, of course, he is free to mobilise sufficiently during reconsideration to reintroduce the matter. But from recent Press reports it would appear even detainees have some rights at the end of the day in the present courts. I am saying that it was Press reports, I have no specific knowledge of that matter. Hon. Atwoma.

**MR. OKENY TIBERIO :** Mr. Chairman, thank you very much for recalling that even I did approach you in our chamber over this issue. It was not moved formally before the plenary session here. It was by the advice, if I can remember, if the Chairman of the Legal and Drafting Committee has not forgotten, this was in September. So it is a long time and it is likely to be forgotten, but I kept it because it was always in my memory, because I feel it so strongly that the rights of the prisoners and detainees should be provided for in the Constitution as it is reflected in the United Nations resolution of which Uganda is a member State. So, I think it should be reflected in our Constitution.

**THE CHAIRMAN:** Can I suggest that the Chairman of Legal and Drafting Committee in fairness to Hon. Atwoma, that in his committee they investigate the wisdom or otherwise, of reflecting what the Hon. Member has been talking about. Then at some future time reports back to us, together with other matters which may be before the Legal and Drafting Committee so that the matter is clearly handled fairly and in accordance with the wishes of the Member concerned.

**MR. OKENY TIBERIO:** I will be very much obliged, Mr. Chairman.

**THE CHAIRMAN:** I think the Chairman has, by nodding his head, agreed but maybe, he could say so that he is recorded because our recording system does not record nodding of heads.

**PROF. KANYEIHAMBA:** Mr. Chairman, as directed by the Chair, I will certainly study very carefully and analytically what you have directed. The only difficulty I find is what you mean by 'the wisdom or otherwise' Am I also to investigate 'otherwise'?

**THE CHAIRMAN:** No, the controlling word was not investigating wisdom or otherwise, it was in-

vestigating the wisdom or otherwise of reflecting what he has requested in the Constitution. Whether it is wise to reflect it or not wise to reflect it. That was the controlling point. Now, that ends that matter. On our Order Paper we have got a report from Select Committee 1.

**MR. BAGUMA ISOKE (Buyanja County):** I thank you very much, Mr. Chairman. Mr. Chairman I believe all Hon. Delegates have got a report circulated this morning to all the Delegates about matters referred back to Select Committee 1 by the plenary. That is the matter now we are going to consider. Mr. Chairman, about a month ago when the plenary was considering the report from Select Committee 1 on Inspectorate of Government, Chapter 15, on Article 257 which establishes the Inspectorate. The plenary passed a qualification for one to be appointed as Inspector General of Government or Deputy Inspector General, some qualification one of which is high moral character and proven integrity. That, one should possess considerable experience and demonstrated competence and calibre in the conduct of public affairs and that such a person should be or must be a citizen of Uganda. But when we came to consider an additional recommendation from the committee that those who are Members of Parliament or members of a district council or members of the executive of a political organisation should not qualify, we had a very long debate on this recommendation. After the debate the plenary recommended that this matter be reconsidered by Select Committee 1. We took off time and reaffirmed our position that, actually, we had considered very well, with very good reasons why we brought in this additional qualification which now for clarity I invite Hon. Delegates to turn to our report on page 4. But it is as it is reported in this circulated paper dated 28th March and signed by the clerk to our Select Committee 1. The reasons for retaining our position are simple and clear, and they are very good reasons. But even if one resigned on being appointed as one of these three, that mere resignation does not change the character or the bias or the prejudice of this individual in the performance of the function of the IGG or Deputy IGG. Because we very well know that Members of Parliament have a very strong - demonstrate a very strong commitment to the constituencies. Members of the district Council have a very strong commitment to their district government, and members of, especially, those on the executive of political organisations have also a very strong commitment to their organisations and

a bias against other political organisations. These three categories in the wisdom of the committee cannot be seen to perform an unbiased, a fair function of the IGG, and therefore, they should be kept out. Mere resignation as, for example, Hon. Akisofeli Ogola and Hon. Katureebe had suggested when we were debating this matter in the plenary. Requiring them to resign before taking on the new assignment, in itself, does not make them impartial in the eyes of the public. And for the performance of the functions of these offices, Members of Parliament, members of district council and members of executives of political organisations are not qualified. I beg to move, Mr. Chairman.

**MR. KAGIMUKIWANUKA (Bukomansimbi):** Thank you, Mr. Chairman. I oppose this Amendment. Mr. Chairman, this is very similar to the others which we have been talking about like the one we discussed one to be eligible to be elected when he is a Member of Parliament to various offices. Mr. Chairman, everybody is political. Man is a political animal. Somebody may suppress it but it does not mean he does not have the political bias or opinion. Mr. Chairman in Chapter 5, Article 50 we passed that no person shall be discriminated against on grounds of sex, race, colour, ethnic origin, tribe, creed or religion or social or economic standing or political opinion. Now, if you discriminate members of parliament, Hon. Members have given reasons that you would be depriving people who would have been even more able. Now, being a Member of Parliament should not be a crime to be disqualified from certain offices. The other time I gave an example of Justice Tsekoko, he was a staunch UPC but they saw he was able and he was a very good Judge, and he was even promoted to the Supreme Court. Remember Hon. Kaijuka when he was giving a contribution, he talked about the late Kiwanuka, he was a DP leader but he has been one of the best Judges a country has ever had, Mr. Chairman. So *-(Interjections)*

**THE CHAIRMAN:** He is entitled to say that.

**MR. KAGIMUKIWANUKA:** Yes, thank you, Mr. Chairman. Hon. Paul Kawanga Ssemogerere is a DP leader but he has been a Foreign Minister and he has served the NRM Government without any bias and he has not in any way frustrated the government. He has contributed more tremendously. So, Mr. Chairman, just because you belong to a political organisation, to a district council or a

Member of Parliament, you will find that people who are elected here are very able people. Now, if you say, for example, that Members of the CA will not be allowed to be elected to various political offices, you will be losing brains. My brother here, Hon. Kaggwa, is potential, he is serving in Uganda Revenue Authority and he is a CA Member, and Mr. Chairman, the man is impartial. You, Mr. Chairman, people were saying that you are NRM, you are going to give NRM more opportunities to speak - but I have seen you have been an independent man. You are giving Floor to people who are believing in multi-partyism on equal basis. Now, does it mean that because one is a sympathiser of NRM, but if tomorrow the DP is in government is he not going to appoint you to a big post? So, Mr. Chairman, we learn a bit from the people, so that people do not fear to become Members of Parliament, to belong to political organisations. Many people have served the NRM government and they were believers in UPC and DP, but they have served. What I want to end with is the example which the President uses. I remember on a certain rally he said that you should not blame anybody that so and so belonged to such and such a party and, therefore, he cannot do a good job. He gave an example that before the missionaries came all people believed in traditional beliefs because they only knew these. So, when these religions came then people moved from the traditional beliefs to these religions, and he gave the example that before the NRM there was UPC, CP, and DP, that is what the people knew; but then NRM came, people switched over and they have served very well in the NRM government. So, Mr. Chairman, I would like to appeal to Members never, ever to have this bias that simply because somebody is belonging to a certain party or what, he cannot serve. He will serve and I have given examples, and many are there. Mr. Chairman, I thank you.

**THE CHAIRMAN:** Hon. Delegates, before I give the Floor to other Members, I would like to recognise the presence with us this afternoon of a very illustrious Ugandan, Mr. Justice Francis Ssekandi, those of you who know him will know him as former Justice of the Supreme Court of Uganda. He is now the Under Secretary General of the UN for legal affairs. So, we are doing very well as Uganda, I think we should clap for him. You are welcome to be with us and to have taken such interest in our work to spare your time. You are most welcome. Thank you. Now, whether or not

people should be considered for appointment if they are Member of Parliament, and so on and so forth. Hon. Kirenga.

**MR. KIRENGA EMMANUEL (Mityana North):** Mr. Chairman, I oppose this Amendment and associate myself with the views given by Hon. Kagimu. In fact, if you look back at the qualification for being eligible to be appointed as a DPP, you will find that the candidate should be a person of high character and proven integrity, and such people are, actually, Members of Parliament and even politicians. If a politician has no moral character, or integrity then he will not be elected. Very rarely will he be elected unless he misleads the people and they do not see that he is misleading them. Mr. Chairman, we have passed provisions regarding qualification for other very high posts. We have not yet come to the chapter on the Judiciary but in our committee we did not impose this type of restriction for being appointed a High Court Judge or a Judge of the Court of Appeal or a Judge of the Supreme Court. For instance, it will be possible for a Member of Parliament who is a lawyer of long standing and ability to be appointed a Judge of the High Court or of a Court of Appeal. I cannot see why the Inspector General should be a special case. We have passed provisions regarding the appointment of the Attorney General, we did not impose this kind of provision *-(Interruption)*.

**MR. ZZIWA GEORGE (Kawempe Division North):** Point of information. Mr. Chairman, I would like to inform the Member on the Floor that I am also a member of the committee he is talking about. And recently we, in fact, the day before yesterday, Friday, we passed a condition when we are considering appointment of a committee for the prerogative of mercy, that these very, very qualifications were disqualifications to be a member on the prerogative of mercy - the Presidential Prerogative of Mercy.

**MR. KARUHANGA ELLY (Nyabushozi County):** Thank you, Mr. Chairman. I also would like to inform Hon. Kirenga in support of his line of argument and Hon. Kagimu, that it will be very difficult for us to find a person with considerable experience and demonstrated competence and calibre in the conduct of public affairs who has not been serving in public affairs. It has to be someone who has been in public affairs that has messed up that we know. And it is people like Members of Parliament,

members of the district councils, members of - who would have the opportunity to serve in public affairs and be proven to have that competence, and even the moral character we have to judge. It is judged when he served in the public office *-(Interruption)*.

**THE CHAIRMAN:** Now, Hon. Karuhanga, you are contributing, it is no longer information.

**MR. KARUHANGA:** Okay, but I just wanted to support Hon. Kirenga's line and inform him that his line of argument should be strengthened and Hon. Kagimu's so that we can reject the committee's recommendation.

**MR. MULENGA:** Mr. Chairman, I wanted to give information to the speaker on the Floor for purposes of disabusing his mind of what Hon. Zziwa said. The reference to the Advisory Committee on the prerogative of mercy. The consideration for disqualifying Members of Parliament and district councilors and so forth and lawyers, was to avoid pressure being put on them because they would continue serving, they would not resign, unlike this where a person would resign and serve as an Inspector General of Government.

**THE CHAIRMAN:** Okay, Hon. Kirenga, are you concluding your remarks?

**MR. KIRENGA:** Thank you very much, Mr. Chairman. I am grateful to the two Members for the information given, so I do not need to repeat. But you will find, Mr. Chairman, that many other posts, for instance, the Chairman of the Judicial Service Commission, the Director of Public Prosecutions, all these are very high posts. The qualifications are the same as those of a Judge or somebody who should be appointed as a Judge. Surely we should not discriminate by providing for instance that if somebody who is so able, who is a very good lawyer, is very honest, has had vast experience, should be disqualified because he served his country as a Member of Parliament. Now, in fact, for that matter we should throw this out immediately without further discussion.

**MR. KITARIKO ROBERT (Democratic Party):** Thank you, Mr. Chairman. I believe the recommendation to be positive they should say, on being appointed he should resign rather than the other way round. Because, Mr. Chairman, for

example, I did not have to resign my position as Secretary General to work as Deputy Chairman of the Public Service Review Commission. And it is a good report, critical, but has been accepted by Government totally. Thank you very much, Mr. Chairman.

**MR. NGOBI MATTHIAS (Presidential Nominee):** Thank you very much, Mr. Chairman. I would like to support the view of the committee. Because I think the operative word is - there are two words at the end of the first two lines. That is, 'If he is a Member of Parliament.' It is not saying that he was a Member of Parliament. I think somebody is a Member of Parliament, he is active in promoting a certain point of view. Policy of his part and other matters like that. So is the same for member of the district council who is there now, not that he was there, but who is there now. I think the proposal here is not excluding those who were in Parliament, but it is excluding those who are in Parliament now. And I think that is important because whilst you are in Parliament on these positions you definitely will have certain amount of bias. Otherwise you cannot just go to Parliament without a point of view, although there are some who may stand as independent. But I think the normal thing is that one would be representing a party either in Parliament or in the district or definitely if he is a member of the executive committee of a political party. At that time definitely he is engaged in drawing up and trying to promote and execute certain policies and point of views. So, therefore, if he is in a position where he is required to be independent absolutely, it is very difficult. Whereas if one was and he has retired or he has is not, actually, actively engaged in these three positions, that one could be considered as one without bias. I think that the committee is right in excluding one who is, even if he resigns now it will not prevent him from having that bias. Therefore, I strongly support the view of the committee and I think it is right that they affirm their position, let us accept it. Thank you, Mr. Chairman.

**MR. ATWOKI AMBROSE (Youth - Northern Region):** Thank you very much, Mr. Chairman. I also want to subscribe to the view which has been expressed by Hon. Ngobi. The import behind this recommendation is, actually, saying according to my understanding that unless you cease to be a Member of Parliament or is Member of district council or a member of the executive of a political organisation, you will not be eligible to be ap-

pointed as an Inspector General of Government. As Hon. Ngobi has said, we should focus our attention of the phrase, 'if he is a Member of Parliament, a member of the district council or a member of the executive of a political organisation.' Mr. Chairman, we also must realise that why the recommendation of the committee - if we try to analyse we must analyse in the relation to what are the functions of the office of the Inspector General of Government. Mr. Chairman, among others you would find that it is to promote strict adherence to the rule of law and principles of natural justice to eliminate and foster elimination of corruption abuse of authority and public office. So, Mr. Chairman, you will find that if you read the function you will get the impression that the office of the Inspector General of Government is sort of a quasi judicial office which would also need a kind of independence which is enjoyed by other judicial offices. So, on that basis, Mr. Chairman, I think the recommendation of the committee must be carried. Thank you.

**MR. OWINY-DOLLO (Agago County):** Thank you, Mr. Chairman. Mr. Chairman, this position was referred, as you rightly said, back to the Select Committee 1. We re-discussed and decided to stand by our earlier recommendation to plenary. Mr. Chairman, before one decides whether or not Members of Parliament should qualify for consideration - Members of Parliament and other groups here mentioned - should qualify for consideration to this high office of IGG. One should know that the office of IGG is a special office, whether the holder will of necessity have to step on so many toes. It is an officer that the public will have to look to just like the courts of law, and in this matter, Mr. Chairman, there are two issues. The first one is that the holder of this office and his deputy must be above reproach. He or they should not be the type of persons where those who would otherwise have to resort to the office of the IGG will say, 'what can I get from this office.' Once people can say, 'what good can come from this person,' then office has failed, and that is the first danger. That means if the IGG is appointed from a Member of Parliament, I am not saying those who go to Parliament are not people who are capable of having got a character or responsible people for that matter. I think they are really honourable people, that is why they are called honourable members of Parliament. But impartiality of fairness has got to faces. The one who holds the office must be fair, that is one aspect. Then the

people whom the elder of the office relates to, the people whom he serves must, and that is even more important, must have confidence. Once the holder of the office cannot win the confidence of the people, whatever good he does would have no effect. The people must have confidence, the people must have faith in the holder of this office so that they can turn to him or her at the time of need. However good he is, if the people do not believe just because he has been a Member of Parliament or he is an executive of a political party, then that office is not performing the function for which it has been set up. And I think, I would urge Hon. Delegates to look into this aspect with this in view. Thank you, Mr. Chairman.

**MR. ABUMAYANJA (Busujju County):** Thank you, Mr. Chairman. I hope I follow, but I am not quite sure that I am following very well. The normal situation is that people who are holding political office cannot hold positions like this simultaneously. In other words, you cannot have like the present situation whereby we have an Inspector General of Government who is in Parliament, if this were Parliament. But I do not see for the life of me why a person who has been a Member of Parliament is appointed to the Inspectorate of Government, as Inspector General of Government, and he resigns from Parliament or he resigns from the district council. This is the normal situation. There are so many people in my profession, Attorney Generals, who go to the High Court bench of the Supreme Court. Now, as Attorney General, they have of course been members of particular political parties. They have been promoting a particular political point of view, although, of course, as trained lawyers they know how to act professionally and otherwise. But when they are appointed Judges of the High Court there cannot be any objection, because they are no longer members of the government. They are no longer members of the district councils. There might be a little difficulty about serving in a political organisation, because I do not know if one, sort of cuts of his relationship with it, but one does and can cut himself off Parliament. I am now a Member of Parliament, for the equivalent of Parliament, but if it pray the powers to appoint me say a Judge of the High Court or whatever, then I would not be the representative of Busujju area. And there could be no possible objection to my being servicing. Therefore, Mr. Chairman, if the reading of this has been written in slightly a normal - a person is not qualified I read it

to mean, a person is not qualified to be Inspector General of Government whilst remaining a Member of Parliament. That is okay, and we should go there. But if it is meant to mean that a person - that because today he is a Member of Parliament, therefore, although he will resign upon appointment, but he cannot be considered at all, then it is not right. That will be my submission. Let people, Members of Parliament, members of district council be appointed, but when they are appointed they must resign from those positions.

**THE CHAIRMAN:** Okay, now, I will listen to two speakers, one for the proposition as reported from the committee, namely that a person is not qualified for the appointment as long as you are holding any of those positions. And those who say to the contrary. So, I will hear those who support the proposition. I will hear Hon. Kavuma Steven.

**MR. KAVUMA STEVEN (Kyadondo South):** Thank you very much, Mr. Chairman. Mr. Chairman, I look at the office of the IGG as an office that is at the rank of a High Court Judge. And I think, it will be unwise for an office of that status in the country to be occupied by a person who hold office in these other organisations. I want the impartiality of the IGG to be protected. So that when he comes out with a decision you do not have any loophole that will lead to question of his impartiality on grounds that he might have victimised this person because, maybe, they do not share the same political view. If he was a member of the executive of a political party, or he did not thoroughly investigate the work which involves fellow Members of Parliament - I do not even remember, we might have said somewhere, I may be corrected, that eventually the IGG would report to Parliament! And if he does, how impartial is he going to be if he is - and how impartially are his colleagues, Members of Parliament, going to look at the report? I think in the eyes of the public his impartiality may be put to question. I think, Mr. Chairman, we should protect this office so that its impartiality is seen and conceived by everybody. There should not be any room where there can arise a likelihood of bias by nature of his previous or current appointments or engagements in these other fields. Mr. Chairman, when it comes to Parliament and DRCS, I agree with Hon. Mayanja, these are really political organs at different level, and I think the IGG should have no role in any of those organs, which are principally carrying on political work. So, Mr. Chairman I think I would

support the position of the committee. There are many other Ugandans who can come to fill this one office without having had to be members of these other organs for the sake of protecting the independence and impartiality of the office. I, therefore, beg to move, Sir, that we adopt the report of the committee.

**THE CHAIRMAN:** Now, those who are arguing to the contrary.

**MR. SSEMOGERERE PAUL (Busiro County South):** Mr. Chairman, thank you. I want to make a contribution, but I would like a clarification first on the interpretation of this recommendation from the committee. It appears from the contributions so far made that there are two concepts which are bothering Members. One, which is comfortable as far as I am concerned, that you may not hold the office of a political party, you will not be a Member of Parliament or district council, at the same time when you are IGG or deputy IGG. Which would require you to resign were you to be appointed. The other one is that you do not qualify to be examined, to be considered, to be commended! The way it is phrased here gives concepts equal chance, and I would like clarification on that one. Does the committee say when you are a sitting Member of Parliament your name may not be floated? May not be recommended to be considered for appointment as IGG or deputy IGG? If that was the case I would be opposed to that one. And I want that clarification to be made, then I can continue.

**THE CHAIRMAN:** Can we get a member of the committee to clarify that? Are you a member of committee Hon. Kirenga - (Interjection) - okay, Hon. Kirenga you would like to clarify him from your other tools.

**MR. KIRENGA:** Point of clarification. Yes, Mr. Chairman, although am not a member of that committee, but I want to give it a legal interpretation. The legal interpretation is that, if you say that a person is not qualified for appointment if he or she is one of those things, it means that he or she cannot be considered! Even if he was to resign, he cannot be a candidate for that post, that is what it means in law as it is now.

**THE CHAIRMAN:** But supposing someone tips a person and say, Hon. Kutesa for whatever constituency it will be, that we might want to

consider you for this position. And he resigns today, and the appointment is to be made on Friday, of what benefit has it been in terms of this provision? Could Hon. Kutesa, for instance, discuss that hypothetical proposition?

**MR. KUTESA:** Mr. Chairman, if anybody was tipped and cease to be a Member of Parliament, for example, one week before the post comes up, he would qualify. But certainly he would go along with his biases if he had any. It is like if, in fact - according to this provision, if you were a Member of Parliament in the last parliamentary five year term and you did not turn for another election you would qualify. Now, equally if you are a former member of an executive of an organisation and there is a delegates conference and you cease to be, then you would qualify. What I am not so sure about, Mr. Chairman, is whether by having relinquished that post in the past, the fear that is being brought up by this committee would be erased that you would not have the same bias. If you would have the same bias then really the man who is a Member of Parliament, provided he resigns he should also be eligible for standing and being considered as long as his integrity is high. We expect that people can change from - because what is a member of a political organisation? A member who is an executive of RC I which I think Hon. Ruzindana was in Luzira village, has not affected his performance as an IGG! So, I think as long as the person resigns he should be considered.

**THE CHAIRMAN:** But you see, you are now taking the same line as Hon. Ssemogerere, but I was raising the question, the mischief was described by the presenter, by Hon. Owiny-Dollo and others in support of this. But I said how does that mischief, how do you prevent that if someone resigned, even today and you are announced tomorrow to the appointment, because you will not be a Member of Parliament. Maybe, Hon. Owiny-Dolo who argued that case could -

**MR. OWINY-DOLLO:** Thank you, Mr. Chairman. I listened to Hon. Kutesa's interpretation of qualification, I would like to use your own theory, Mr. Chairman. And where you say the appointment is on Friday and somebody is tipped before the appointment. This provision is not saying a person shall not be appointed as an Inspector General of Government, it is in qualification. One can argue, and I am arguing in that sense, that the qualification

is not on Friday, it is the appointment. You qualify for consideration before. So, if you look at the word qualification more carefully, even if you resign today you will not qualify, because the key word is not appointment it is the qualification. When does one qualify for the appointment? When the person who is appointing is considering you? Appointment is the end results of that qualification. So, you cannot, actually, resign three days and get appointed a week after and say you have qualified, it can be challenged.

**THE CHAIRMAN:** I think your interpretation is causing a lot of anguish on the Floor, I can see - Hon. Kaggwa you share that view? Okay, let us hear. You see we are trying to find whether really this is not going to cause us more problems that it cures.

**MR. KAGGWA MEDI (Kawempe Division South):** Thank you, Mr. Chairman. I totally disagree with Hon. Owiny-Dollo because the issue here is qualification. And how does it come about? You are not an incumbent or you are not a sitting MP, you are not a district member and the rest. Now, if I resign today as RC III Chairman of Kawempe Division, I will cease to be a member of the district council. So, when the appointment comes tomorrow I will not be a member of the district council and it is a fact, so I will qualify. It is another matter to start with, as we say in law, lift in the veil looking at other factors. That what was the man before? But at that material time I will not be a sitting member of the district council! So, let us consider whether we are lifting the veil and looking at other factors beyond what is factual.

**THE CHAIRMAN:** But I think what is more significant is what was said by Hon. Kawanga Ssemogerere, he interpreted it twice, he said he thought it was capable of both meaning. Now, if we are already finding that even before we taste it in courts, even assessors are able to arrive at a position that this is capable of two interpretations, then I think it requires a lot more work to be done to it. It is not fair to throw it out, I think, what is fair is to say - either we send it back and say panel bit it, because it is not good practice to begin drafting substantive provisions on the Floor. Hon. Abu Mayanja what have you to say?

**MR. ABU MAYANJA:** Mr. Chairman, I thought that if we could re-draft it to read something like this: "*If a person holding any of these positions, i.e.*

*as an MP or sitting member of the district council, a member of the executive of a political organisation, is appointed to the office of the Inspector General of Government he shall forthwith resign from those offices.*" - (Applause).

**THE CHAIRMAN:** Okay, let us formulate it first. Are you moving it as an Amendment? And it has been seconded by a substantial number of people. Okay, let us first of all formulate it properly, because we must first of all agree on what is before us. He is suggesting that it be written that if a person is holding any of the offices specified here under - the rest is drafting really - is appointed to the office of the Inspector General of Government or Deputy Inspector General of Government, that person shall forthwith resign from that office or position. The arguments, actually, have already been given on those, but they did not come out in those terms because the Motion was not before us. But in all fairness, there maybe people who would like to oppose this formulation. Of course the Chairman and his Committee.

**DR. MAGEZI DAUDI (Jinja Municipality East):** Mr. Chairman, in fact I was going to seek your guidance because we have the Committee Report which we were discussing. The position of Hon. Abu Mayanja and his supporters is a total negation of the Motion before us. Now, I was going to seek your guidance whether we should not really dispose off the Motion before us, then if it is defeated, the ideas of Hon. Abu Mayanja can come up. Notwithstanding that, I will go on to say, Mr. Chairman, that I am a Member of Committee I, and I still stand by the principles before you, Sir. However, from what has been coming up on the Floor, I do realise that the disqualifications are in so far as written here, only aimed at the politicians and I think it is erroneous to believe that any non-politician is necessarily impartial. (Applause) I would wish to see the list in fact, increased to address such persons as religious leaders and even some of the traditional leaders in our country. Since the office IGG is peculiar in that there is only one IGG at a time, you cannot refer if a matter came up of tribal or religious nature. There is no way you can shelf this matter being judged upon by the IGG. This system can work in the High Court where may be a case. I think in the High Court if one Judge is seen to be interested, he can disqualify himself and pass over the case to another Judge of High Court. But here I can see the IGG handling each and every

matter presented to him. Therefore, if the matter has a religious bias. If it is say, pro-Bamwoze against Bamwoze in Busoga Diocese and the IGG is of a certain sect, he can definitely be biased and that would prejudice his judgement. So, I am urging that if we are to do this job properly, we should in fact extend- include more officers outside even the political arena who are also bound to be biased in these matters. Mr. Chairman, and we should really be very clear in our mind. Does the emphasis lie on the impartiality or are we saying impartiality by resigning an office can be attained at this level given the type of work the IGG has to do? For avoidance of doubt, I would continue to advocate that there are very many Ugandans, millions of Ugandans outside the bracket we are talking about who do justice like IGG. Therefore, we should give them a chance by disqualifying ourselves plus a members of our community. I thank you very much, Mr. Chairman.

**THE CHAIRMAN:** The point you raised earlier as the negation. As you can see why I proceeded to see what we can do to this formulation is because it was capable even right from the word go to many from Hon. Owiny Dolo to Hon. Semogerere to Hon. Atwooki and others of two meanings. So that we are not just negating its single meaning. We are in fact proceeding against provision which is capable of creating a lot arguments subsequently. Now there is a formulation on the Floor moved by way of amendment against an ambiguous provision and we are trying to cure that ambiguity actually.

**MRS. NTABGOBA JENINAH (Women-Kisoro):** Mr. Chairman, I want to speak straight away saying that a human being all over the world has got a bias somehow. That is how I look at it and if you are going to list people without biases, we leave nobody to be appointed as an IGG. I strongly support the formulation brought by Hon. Mayanja. I will go on to say that if we want qualitative IGG, we do not delete the inclusion of these people who have excelled to being Members of Parliament. To being Members of District Council, or to being Members of Executive or political organisations because these people are experienced and if we delete them, then whom are we taking? I strongly support the new formulation, Mr. Chairman. Thank you.

**MR. SEMWOGERERE:** I support the Motion as framed by Hon. Abu Mayanja. As it has been

pointed out, it is not possible to be sure that a person has no inclination, no bias in one way or the other absolutely. But what matters is, does he appear to be? And I think the fact that, the IGG and the Deputy IGG are to be appointed, or approved by Parliament, takes care of that fear. They look at the person recommended, and if in the whole opinion, he or she whether a Member of Parliament, or a former permanent secretary, or a former religious leader, or whatsoever, to them, does appear to be a biased person, will not approve the appointment. That is the safeguard, that the people who are going to finally approve will judge the merits and demerits of the candidate. Now, on burying Members of Parliament and politicians and so on, we are making a mistake, as previous speakers pointed out, this would be very responsible persons. A Member of Parliament if he is a good one, will know the laws which Parliament has made, the intention behind them, and the application. He might even have been sitting on some select committees, to know what is going on in the ministries, in the various departments, and the best judge therefore, under the circumstances, on the best of knowledge to be IGG. Because he will know, where the bureaucracy is going wrong, he will also know, where the politicians are also going wrong, and treating the bureaucrats with unfairness. So, I do not think it is right in a constitution to put a bar against such people. I think it is enough to have a mechanism for checking on the candidates who have been appointed. And by the way, IGG is not the one office in the world which requires objectivity, integrity and so on. There are many institutions which call for the highest integrity and the highest impartiality. And we find that, there are no such bars. Only recently a country appointed a commissioner. He has been not only a Member of Parliament, but even a Prime Minister and a Member of a Political Party. But they have appointed him. Jack Shunter of Loksheback, he was a prime minister there, Member of Parliament and a politician, belonging to a political party. But they know that, once appointed, he is going to relinquish all those responsibilities, and they believe in his integrity to serve the whole union all the European countries together. So, I thank you.

**THE CHAIRMAN:** We can have the last one against.

**MR. MUSOBYA GODFREY (Kagoma):** Thank you, Mr. Chairman. Mr. Chairman, I am looking at

a person as a master of environmental adaptation. One given responsibility, that someone is serving, can create his character. Man is opt to change given a certain responsibility, and since the office of the IGG is entrusted with a basic responsibility of trapping corrupt people, politicians can do better because they have been grazing in a den of corruption. A politician can use such tactics to trap any given corrupt person. So, Mr. Chairman, I want to support the amendment moved by Hon. Abu Mayanja. That the bracket, from where they can choose or appoint an IGG should not be reduced or narrowed, given the fact that, someone has been a politician. So, Mr. Chairman, I beg to support.

**THE CHAIRMAN:** You are not fair to the chairman. Okay, the last person against this formulation by Hon. Mayanja.

**MR. OKWAKOL NATHAN (Pallisa County):** Thank you, Mr. Chairman. Mr. Chairman, I would like to support the formulation by Hon. Abu Mayanja. The Motion by Hon. Abu Mayanja, as I see it, is in very simple terms. This Motion seeks to deal with one of the problems that is emerging in our country. Mr. Chairman, there is a problem of greed. There is a tendency of greedy people holding one post and they want to get another. Yet, there are so many Ugandans who would be qualified to do that job. People are not content sometimes with being Members of Parliament, they also want to be IGGs. Mr. Chairman, this cancer is eating into us. People are not content with being Council Members, they also want to be Constituent Assembly Delegates. When will this cancer stop? Are people not satisfied with the small jobs they may have? And if this Motion that has been proposed by Hon. Mayanja is going to send a signal to the people of Uganda to stop being greedy, so let us support it. I support this Motion, Mr. Chairman.

**THE CHAIRMAN:** Okay, Hon. Delegates, I think we might as well decide the fate of this one. Let us vote on Hon. Abu Mayanja's amendment. Hon. Abu Mayanja's formulation would have the effect of requiring that, a person who is a Member of Parliament, or a Member of a District Council or a Member of the Executive of a Political Party, resigns immediately upon being appointed to the Office of the IGG or Deputy IGG. That is the proposition. I will now put the question on the matter.

*(Question put and agreed to)*

**THE CHAIRMAN:** The Ayes have it. Though there was an attempt to rig. That disposes of the matter, and now we go on to the last section of the report.

**MR. BAGUMA ISOKE:** Mr. Chairman, again about a month ago, the plenary considered Chapter 16 - Leadership Code of Conduct. And when we came to Article 268, we said, that the Leadership Code of Conduct shall be enforced by the Inspectorate of Government or such other authority as Parliament may be law prescribes as Clause 1, to this Article 268. And then, the Committee recommended as indeed, the Draft Constitution has it. That Clause 2, be that: "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." When we came to consider this Clause 2, we had a very long and protracted argument based on the principle that, the institution of the IGG which has already been assigned, the duty to enforce the leadership code in Clause 1, is now in Clause 2, being given some power, some function, reminiscent of a court of law and the high court in particular. And this matter, as Hon. Delegates will remember, was defeated when we were discussing the recommendation of our committee. That anything that was giving any provision- that was giving special powers to the Inspectorate of Government bordering on judicial powers was defeated. I remember by a Motion moved by a Lady Delegate, whose name I do not recollect very well. Now, because of that, Mr. Chairman, when the matter was sent back to our committee to reconsider, we sought the advise of the Technical Committee and Legal and Drafting Committee. And we were advised that, since in Chapter 15, Inspectorate of Government, we as a plenary passed Article 259, Clause 1(d) giving a function of supervising the enforcement of the Leadership Code of Conduct to the IGG. And also, since in this same Article 268, the IGG is enforcing the Leadership Code. We found these provisions sufficient. Particularly more so, when in future parliament will make an elaborate law to indicate how the leadership Code of Conduct will be enforced, and how the institution of Inspectorate of Government will function. With that same total consideration, the committee now, is withdrawing its earlier recommendation that, this Clause 2, should be considered. We recommended that, it be deleted. So, that 268 will only have one clause. The one we passed in the plenary.

**MR. BAGENA ANTHONY (Bufumbira East):** Point of clarification. Thank you, Mr. Chairman. I would like to seek clarification from the Chairman, whether the words to supervise and to enforce, mean the same. Because if they mean the same, fine and delete that other provision. But if they do not mean the same, we probably have the question who will enforce?

**THE CHAIRMAN:** Okay.

**MR. BAGEYA GEORGE (Kigulu County North):** Mr. Chairman, I remember quite precisely on the 16th of February, we had various arguments about this sub clause, and towards the end, this House referred the matter to the Technical Committee. I have been waiting intently to hear either from the Chairman of Technical Committee to let us know what they came up with. Now we are supposed to delete - be as it may. Basically, our difficulty is that, the time when we were discussing this particular clause, there was a technicality, as to whether the IGG should have similar powers as the High Court Judge. Now, waiting for that one, and we are coming up with deletion, some of us are left in balance. Can I have that. Thank you.

**MR. KIWAGAMA WILLIAM (Bunya West):** Thank you, very much Mr. Chairman. To delete this provision, actually means that, we have wasted time instituting an IGG, because IGG has existed since the NRM came into power. But people's complaints have been that, the IGG is a toothless bull dog. He has been commissioned to do a very difficult job, very important job, but he has not been given powers. To me, IGG has got a special job, we are commissioning him to do a special job. And the powers we are giving him are for a special job.

**MR. ABUMAYANJA:** Point of information. Mr. Chairman, is the Hon. Member discussing a draft Article 268 (2) which is about the enforcement of the Leadership Code, or is he talking about the enforcement of the orders of the Inspectorate of Government? Is he in order to discuss the matter, which is not before the House?

**THE CHAIRMAN:** But the line is very thin. Because one says, the leadership code of conduct shall be enforced by the Inspectorate of Government or such as thought, as Parliament may prescribe. The other one, then follows logically the authority empowered by law to enforce the code of

conduct. We shall have the same powers as high court to enforce its orders. So that, he saying unless we have this one, then the IGG - because I think changed it from Inspectorate to IGG. He would be toothless in his work. I think that is what he was trying to say. Unless I am far from remark.

**MR. KIWAGAMA:** Thank you very much, for that ruling. Because what I am debating is the authority empowered by law, to enforce the code of conduct, which is on the table here. The committee is suggesting that, it be deleted. But what I am saying to delete it, is making the IGG powerless, and he will be investigating to a certain extent and his work will be just for records. But to give him power equal to the High Court here, will not cause any conflict with judiciary. Because this is a special piece of work. In the same way, as we have the court marshal, who have got the judiciary powers. There is no conflict at all. And therefore, Members' fears is that, this will interfere with the judiciary work, is an founded, Mr. Chairman.

**THE CHAIRMAN:** But I think the real argument is that, as I understood it, was that, we have already dealt with powers of the IGG. And we have given him certain powers. We do not have to go and stretch ourselves, on this other side as well. In this other Chapter. That is how I understood it.

**DR. MAGEZI:** Thank you, very much, Mr. Chairman. Mr. Chairman, I would like to request you to look back on Article 259, (b). In that article we are talking clearly that the, IGG will supervise the enforcement of the Leadership Code. I think that is a matter on which we have already pronounced ourselves. And consequently when we come into 68 (1) and we say, it shall be enforced, we are talking about two different things. Not withstanding what we have already thrown out as chairman of the committee has said. Mr. Chairman, the enforcement of the Leadership Code, is by the authorised person. And this authorised person, is not one person, it depends on who has committed the offence, and in what area he is. What the IGG does is to forward the report of his findings to the authorised person. And therefore, we can clearly supervise the enforcement of the decisions by that authorised persons. Now, in this decision of say, we delete 268(2), it is in order. It is a consequential matter given what we had passed earlier by the amendments moved by - I do not remember the names. But it is a consequential in that, we removed

the High Court powers from the office of the IGG. And having done so, we cannot now, try to re-institute. We shall not be consistent with what we have passed earlier. But I think there will be a contradiction in our procedures. And maybe, it would be necessary that, in reconsideration stage - we have already pronounced ourselves 268(1)- that we try to marry with 259 Article (d). In supporting the deletion, we are definitely being consistent with what we have done earlier in this Chapter on the Leadership Code. But that notwithstanding for months - re-phrase 268 to mean that, the Inspector General of Government will actually supervise the enforcement, but should not be doing the enforcement himself. Because that is done, by the authorised person. I beg to support.

**MR. MULENGA:** Point of information. Mr. Chairman, I wanted to inform the Hon. Member on the Floor, that in Clause (1) of 268, there is two options open to parliament as well. This clause says, the Leadership Code of Conduct shall be enforced by the Inspector General of Government or such other authority. So, until parliament appoints another authority. If it does, it would the Inspector General of Government to enforce the Code of Conduct. We have deprived him of the powers of high court, it would be consistent to go on to reinstate it here. So, the Committee is right to recommend the deletion of Clause 2.

**MR. MULINDWA BIRIMUMAASO (Bukoto West):** Mr. Chairman, in the same line, 268 (2) gives the powers of the High Court to the alternative body that would have been created by Parliament, if it is created. But now, since these powers were removed from the IGG, there is no way you can give them to another body. This body that would be created will have the same powers while enforcing like those powers that were given to the IGG. And those of the High Court were removed. So, it is consequential - actually we need to delete these things. Because it does not introduce any special powers to these other authorities, that would be created by parliament.

**THE CHAIRMAN:** Okay, I think we agree to vote on it first, and then we shall see as Hon. Magezi said that, it is reconsideration should we delete it. Then see whether we need at that stage to harmonize. But otherwise, I do not see the media to debate this-

**PROF. KANYEIHAMBA:** Thank you, Mr. Chairman. I wish to amend the recommendations here

that, instead of deleting, we replace clause 2, with a new formulation as follows: Mr. Chairman. And I explain if you give me opportunity. That we insert a new clause, Clause 2 saying that: "*Parliament shall make laws to give effect to the provisions of Clause 1 of this article.*" And it is not implied, Mr. Chairman. If we look at Clause 1, as it is, the Leadership Code of Conduct shall be enforced by the Inspectorate of Government or such other authority as Parliament may be by law prescribed. It simply says, he will enforce it. He does not tell us how. What powers he has to do so. What procedure he should follow. And I believe at the moment, Mr. Chairman, the Inspectorate of Government Statute does contain provisions of what powers he has and what procedures he is to follow. And I think it would be logical for this article which is giving him the power to enforce the Inspectorate, to empower parliament to make a law giving effect to how that power is to be enforced. That is why I am moving this amendment, Mr. Chairman.

**THE CHAIRMAN:** But I do not see how - you are saying we should merge what has become nugatory with what is required. Because 1 is required. And it has been established that, 2 should fall by the way side. Then why do we merge that which is nugatory with that which is required?

**PROF. KANYEIHAMBA:** But, Mr. Chairman, if 2 falls by the way side, then we are left with the lacuna in the law. Because there is no way that, describes how the Inspector General of Government shall enforce this Leadership Code. Therefore, the deletion of 2, which has been pre-empted by the reference to the powers of the high court. Really, that was the whole point why people object to it. But once you do not have any reference to the High Court, and you provide that, Parliament shall make laws, to give effect to these provisions. And what I have in mind is that, it will describe and authorise the methods by which the Inspector General shall enforce the Leadership Code. Because, I do not see it anyway. Therefore, Mr. Chairman, in my opinion (*interruption*)-

**MR. MULINDWA:** Point of information. Thank you, Mr. Chairman. There is 264 (7) in Chapter 15 concerning the Inspectorate of Government. 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.

**THE CHAIRMAN:** Okay, I think let us decide now. I think we shall just be going round in circles. The recommendation is that, we delete Clause 2 of Article 268. I put the question.

*(Question put and agreed to)*

**THE CHAIRMAN:** Hon. Delegates, that brings us to the end of our business for today, and we resume tomorrow. Hon. Obua Otoa, you want to move a Motion of adjournment?

**MR. OBUA OTOA (Erute County North):** Thank you, Mr. Chairman. I do not want to move a Motion of adjournment. Mr. Chairman, I am seeking the Chair's guidance about the report which was laid before us, before we started the proceedings of today. I note that, it is related to Chapter 13, on Local Government. Mr. Chairman, last week we finished the deliberation on the executive. I was of the view that, perhaps, we are going to consider the legislature, and then the judiciary, so that the work of Committee 2 is completed. I want to seek guidance as to whether, the laying of the table of the report of Select Committee 4, means we are going to discuss it next. If that is the case. Then, Mr. Chairman, I do not know whether it does not go contrary to a decision which was arrived at by the Business Committee, that we should discuss these matters in a certain order. In any case, Mr. Chairman, will it not be better, if we completed the report of Committee 2, mainly consider the executive which we have already done or to the legislature and the judiciary, so that the subjects which are tied up together are discussed at once and disposed off. Rather than to interpolate the discussion on Local government in the middle of Committee 2 report. I am just seeking your guidance, Mr. Chairman.

**THE CHAIRMAN:** I would have liked to follow that sequence you are suggesting. But as it turned out, I was here on Saturday, with the Technical Team and on Friday the Report on Committee 2 on the Legislature and the Judiciary, I stand to be corrected by the Chairman, were not and are not ready. Yes, Chairman of Committee 2.

**MR. MULENGA:** Mr. Chairman, the latest information I have from the Technical Committee because what is remaining is, what they call editing. Is that the report on Legislature should be in the pigeon holes in the morning.

**THE CHAIRMAN:** You see, for me therefore, I took the position that, since I was not assured of any other work, other than that. I think they thought that the executive would take a long time, but it did not. And I think we do not regret that. And they fell back a bit on finalising the draft on the other two Chapters. But this other Chapter had been ready long time back. And it was referred back to the Committee for reconsideration, then it came out and went to the Technical Committee, and it was issued to be laid on the table today. I took the view that, the Assembly cannot sit waiting until Chapters are ready. Whatever Chapter comes by the way, I think we should handle it. *(Interjection)* That is the position I took. And so, as we stand now, the arrangements are that - I mean Chapter 13 is to be on the agenda tomorrow morning. If we do not take it tomorrow morning then, there is no other business.

**MR. KINTU MUSOKE (Kalungu East):** Mr. Chairman, since the Chairman of Committee 2 has said that, the other paper of the Judiciary is also ready, why do we not continue with the same?

**MR. RINGWEGI SAM (Padyere County):** I thank you, Mr. Chairman. Mr. Chairman, I would like to propose that we wait until the report of Committee 2 on Legislature is circulated to the Hon. Delegates. And that, the next business of the plenary, should be to consider that report. Why I am saying so, Mr. Chairman, is because having gone through the three Chapters that were allocated to Committee 2, we have discovered that, most of the articles are interrelated. We have dealt with the executive. And when we go to the legislature, we will find that, for a smoother - for relation of our thought, it would be better if we handled Legislature immediately after the executive. Mr. Chairman, it is important that, Hon. Delegates realise this. Because if we bring in another chapter, which is completely unrelated to the two chapters that the Committee 2 has considered, we are going to have problem when we next table the Chapter on Legislature. Because, Members will have forgotten what - Mr. Chairman, maybe I used a wrong word to say, to forget. But we will find it more difficult in trying to follow the debates. Whereas if these Chapters were to be debated, one after the other, we would find it much easier and our thought would flow easily. So, Mr. Mr. Chairman, since the Chair observed rightly that, the technical committee could have anticipated that, the Chapter on the executive would take a longer time, and indeed we did not take

shorter time. I do not see the Assembly losing more time, if we only sacrificed, the morning of tomorrow and waited for the Committee 2 report on Legislature and we start it tomorrow in the afternoon. So, I would beg to submit that, we delay the discussion on Chapter 13 of Committee 4 and wait until Chapter on legislature is circulated and we begin the next business with that. Thank you, Mr. Chairman.

**DR. KABERUKA WILLIAM (Ndorwa West):** Thank you, Mr. Chairman. I just want to remind the Members that, according to our schedule, we are already 12 days almost 13 days out of schedule. So, the more time you forego, the more days we increase. And I want to remind Members that, the 6 months that we were given, the last 5 weeks are not available for us to debate any issue. There are days, where we are supposed to observe certain procedures. So, if you want to postpone, if you do not want to sit tomorrow morning and you postpone, make sure that we are losing more days. And at the end of the day, we shall have to be asking for extension. That is what I wanted to.

**MR. MULINDWA:** Thank you, Mr. Chairman. Mr. Chairman, in view of what Hon. Kaberuka has just told us, and knowing that, even now, the report of Committee 2 is not in the pigeon hole, Mr.

Chairman, I would propose that we proceed tomorrow. This idea that we would have forgotten, I do not think is correct. We are already behind time, let us proceed. When committee 2 finishes its work, we shall go ahead. But tomorrow spending it, waiting for committee two, I do not think we shall have compensatory days. Hon. Chairman, I urge the Members, let us go with a serious business, and we should not waste people's time.

**THE CHAIRMAN:** I am advised by the Clerk's Office that, Chapter on Legislature will be ready on Wednesday. That being the case, we continue with the business which is before us. And so, tomorrow morning at 9.00 *-(interruption)-*

**MR. KINTU MUSOKE:** Mr. Chairman, I am sorry for bothering you. But before you walk away, I would like to call upon, my Colleagues delegates from Buganda to meet me upstairs after here.

**THE CHAIRMAN:** Okay. Hon. Delegates, tomorrow we start on Chapter 13, at 9.00 O'clock. We stand adjourned. Thank you.

*(The Assembly rose at 5.30 p.m. and adjourned until 21st March 1995, Tuesday at 9.00 O'clock)*