

It-Tnax-il Legiżlatura

KUMITAT MAGĦŻUL TAL-KAMRA TAD-DEPUTATI

RAPPORT *INTERIM* LILL-KAMRA

It-Tnejn, 16 ta' Diċembru 2013

Mandat

Fis-Seduta 63 tas-16 ta' Ottubru 2013 il-Kamra, b'mod unanimu, adottat risoluzzjoni (Mozzjoni 77, Annessa bhala Dok. 1) mressqa mid-Deputat Prim Ministru u Ministru għall-Affarijiet Ewropej u t-Twettiq tal-Manifest Elettorali, l-Onor. Louis Grech, li biha hatret Kumitat Magħżul sabiex sal-15 ta' Diċembru 2013 iħejji rapport dwar it-twaqqif ta' uffiċċju tal-kummissarju u ta' kumitat permanenti tal-Kamra dwar l-istandards, l-etika u l-imġiba xierqa fil-ħajja pubblika.

Skont il-mozzjoni kif approvata mill-Kamra, il-Kumitat kien presedut mill-iSpeaker tal-Kamra, l-Onor. Anglu Farrugia, u magħmul mill-Ministru għall-Affarijiet Barranin, l-Onor. George Vella, u l-Onor. Justyne Caruana għan-naħa tal-Gvern, u mill-Onor. Francis Zammit Dimech u l-Onor. Ryan Callus għan-naħa tal-Oppożizzjoni.

Il-Mozzjoni 77 tagħmel referenza għal mozzjoni dwar l-istess suġġett, Mozzjoni 69 (Annessa bhala Dok. 2), ippreżentata mill-Kap tal-Oppożizzjoni, l-Onor. Simon Busuttil, fit-30 ta' Settembru 2013.

Laqgħat

Il-Kumitat iltaqa' tliet darbiet kif ġej:

Laqgħa 1 25 ta' Ottubru 2013

Laqgħa 2 5 ta' Novembru 2013

Laqgħa 3 26 ta' Novembru 2013

Dawn it-tliet laqgħat kienu miftuħin għall-pubbliku u kienu wkoll *video-streamed* fuq is-sit tal-Parlament.

Il-Minuti tal-ewwel żewġ laqgħat kif konfermati mill-Kumitat huma annessi bhala Dok. 3 u Dok. 4, filwaqt li l-abbozz tal-Minuti tat-tielet u l-aħħar laqgħa huma annessi bhala Dok. 5.

Materjal ta' informazzjoni

Bi preparazzjoni għal dawn il-laqgħat l-Uffiċċju tal-iSpeaker għabar dokumentazzjoni relatata ma' kif jiġihaddmu strutturi simili f'diversi sistemi parlamentari inklużi dawk tal-House of Commons, tal-Parlament Skoċċiż, tal-Parlament ta' Wales, u dak Kanadiż, liema informazzjoni giet imqassma lill-Membri sabiex isservi ta' materjal ta' riferenza.

Fil-Laqgħa 3 kienet preżenti wkoll id-Deputat Avukat Ġenerali, Dr Donatella Frendo Dimech, li intervjeniet dwar l-implikazzjoniet legali ta' dak li kien qiegħed jiġi propost.

Kontribuzzjonijiet mill-Pubbliku

Il-Kumitat qabel illi l-pubbliku in ġenerali għandu jkollu l-opportunità jesprimi l-fehmiet tiegħu dwar is-sugġett. Għal dan il-għan, sa mill-ewwel laqgħa, nieda proċess ta' konsultazzjoni pubblika billi avża li kien ser ikun qiegħed jilqa' kontribuzzjonijiet bil-miktub, bil-posta jew permezz ta' *email*, sal-15 ta' Novembru 2013. Barra minn hekk, il-Kumitat qabel illi l-Laqgħa numru 3 tiegħu l-forma ta' laqgħa ta' konsultazzjoni fejn il-pubbliku jkun jista' jipparteċipa b'mod dirett sabiex jesprimi l-ideat tiegħu.

Il-Kumitat irċieva tliet kontribuzzjonijiet bil-miktub, li huma annessi bhala Dok. 6, 7 u 8.

Punti Diskussi

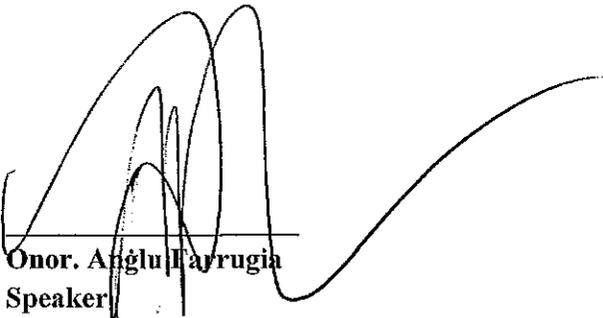
Il-punti ewlenin li fuqhom kienu bbażati d-diskussjonijiet waqt it-tliet laqgħat huma:

- x'għandha tkun id-definizzjoni ta' 'persuni fil-ħajja pubblika' u li allura għandu japplika għalihom il-mekkaniżmu propost;
- x'awtonomija għandu jkollu l-kummissarju dwar l-istandards, l-etika u l-imġiba xierqa fil-ħajja pubblika;
- kif għandu jiġi mahtur il-kummissarju;
- x'għandhom ikunu s-setgħat u r-responsabbiltajiet tal-kummissarju;
- x'relazzjoni għandu jkun hemm bejn il-kummissarju u l-kumitat permanenti dwar l-istandards, l-etika u l-imġiba xierqa fil-ħajja pubblika;
- x'għandhom ikunu s-setgħat u r-responsabbiltajiet tal-kumitat; u
- x'għandha tkun il-kompożizzjoni tal-kumitat permanenti.

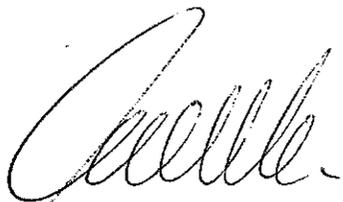
Konklużjonijiet

Il-punti li ntlahaq qbil dwarhom huma elenkati fil-minuti tal-Laqqha numru 3 tal-Kumitat Magħżul annessi bhala Dok 5. Abbażi ta' dawn il-punti l-Uffiċċju tal-Avukat Ġenerali ġie mitlub jipprepara abbozz ta' liġi li jirrifletti dak li ġie miftiehem fil-Kumitat, liema abbozz ġie mgħoddi għall-konsiderazzjoni tal-Membri nhar l-Erbgħa 11 ta' Diċembru 2013 (anness bhala Dok. 9).

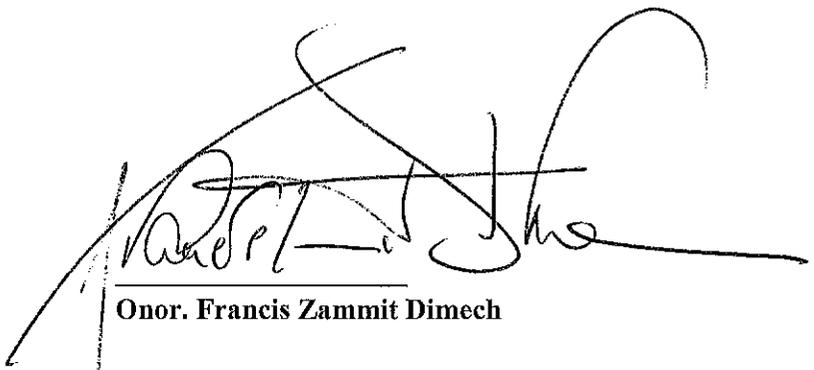
Għaldaqstant dan ir-rapport għandu jitqies bhala wiehed *interim* sakemm dan l-abbozz jiġi kkunsidrat mill-Kumitat Magħżul bil-għan li jkun f'pożizzjoni li jippreżenta verżjoni finali tiegħu hekk kif il-Parlament jerga' jiltaqa' wara r-*recess* tal-Milied. Fil-frattemp il-Kumitat qiegħed jistieden lil kull Membru tal-Kamra u lis-soċjetà ċivili biex jgħaddu r-rimarki tagħhom fuq it-test tal-abbozz ta' liġi anness li jipprovdi għat-twaqqif ta' uffiċċju ta' kummissarju u ta' kumitat permanenti tal-Kamra dwar l-istandards fil-ħajja pubblika



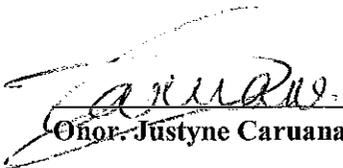
Onor. Anġlu Farrugia
Speaker



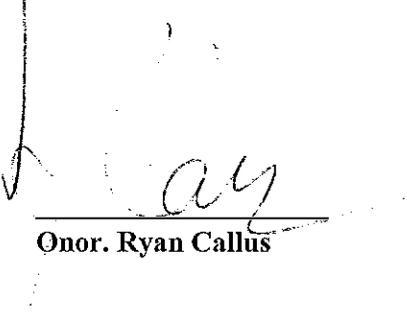
Onor. George Vella
Ministru għall-Affarijiet Barranin



Onor. Francis Zammit Dimech



Onor. Justyne Caruana



Onor. Ryan Callus

Dok 1

77. Id-Deputat Prim Ministru u Ministru għall-Affarijiet Ewropej u t-Twettiq tal-Manifest Elettorali, l-Onor. Louis Grech, jipproponi:

MOZZJONI DWAR HATRA TA' KUMITAT MAGĦŻUL TAL-KAMRA DWAR L-ISTANDARDS, L-ETIKA U L-IMGIEBA XIERQA FIL-HAJJA PUBBLIKA

Din il-Kamra tagħmel referenza għall-programm elettorali tal-Gvern kif ukoll għall-mozzjoni numru 69 ipprezentata mill-Oppożizzjoni dwar mgieba xierqa fil-hajja pubblika;

din il-Kamra taqbel li din hija materja ta' mportanza u nteress nazzjonali u li fejn hu possibbli għandu jintlaħaq kunsens bejn iż-żewġ naħat tal-Kamra;

għaldaqstant din il-Kamra tad-Deputati qieghda tirrizolvi ii tahtar Kumitat Magħżul minn fost il-Membri tagħha bil-għan li dan jagħmel rakkomandazzjonijiet lill-Parlament fuq il-materja msemmija f'din ir-risoluzzjoni sal-15 ta' Diċembru 2013, u dan billi jhejji rapport dwar it- twaqqif tal-Uffiċċju tal-Kummissarju dwar l-standards, l-etika a l-imgieba xierqa fil-hajja pubblika u ta' Kumitat Permanenti tal-Kamra dwar l-standards, l-etika u l-imgieba xierqa fil-hajja pubblika;

dan il-Kumitat Magħżul ikun jista' jirregola l-proċedura tiegħu minkejja kull provvediment fl-Ordinijiet Permanenti tal-Kamra;

dan il-Kumitat Magħżul għandu jkun kompost minn żewġ Membri min-naħa tal-Gvern u żewġ Membri min-naħa tal-Oppożizzjoni;

dan il-Kumitat Magħżul għandu jkun presedut mill-iSpeaker tal-Kamra;

dan il-Kumitat Magħżul għandu jkun kompost minn dawn il-Membri:-

għan-naħa tal-Gvern

L-Onor. George Vella
L-Onor. Justyne Caruana

għan-naħa tal-Oppożizzjoni

L-Onor. Francis Zammit Dimech
L-Onor. Ryan Callus

16.10.13

Dok2

69. Il-Kap tal-Oppożizzjoni, l-Onor Simon Busuttil, jipproponi:

Din il-Kamra:

TAGĦRAF l-obbligu ta' kull Membru ta' din il-Kamra u ta' kull persuna oħra li sservi fil-ħajja pubblika li jgħib ruħu skont l-ogħla livelli ta' mgħieba xierqa u etika;

TIRRIKONOXXI li l-poplu Malti għandu d-dritt li jingħata rendikont tal-imgħieba ta' kull membru ta' din il-Kamra li huwa fada bl-awtorità u r-responsabbiltà fl-amministrazzjoni tal-pajjiż;

TISTQARR li kull Membru ta' din il-Kamra huwa onorevoli daqskemm l-imgħieba tiegħu tkun onorabbli;

TINNOTA li l-Prim Ministru iddikjara li jidhirlu li wasal iż-żmien li l-Kodiċi ta' Etika diġà eżistenti għall-Ministri u s-Segretarji Parlamentari jiġi rivedut, mingħajr indikazzjoni ċara tar-raġunijiet u l-oqsma li jidhirlu għandhom jiġu riveduti;

TINNOTA li seħħew każijiet fejn Ministri u Segretarji Parلمانetari ġew eżentati mill-Prim Ministru milli josservaw b'mod sħiħ il-Kodiċi ta' Etika applikabbli għalihom;

TINNOTA d-dubbi mqajjma fil-pubbliku dwar dikjarazzjonijiet magħmula mill-Ministri u s-Segretarji Parlamentari skont il-Kodiċi ta' Etika; U

TINNOTA wkoll id-dubbi mqajjma fil-pubbliku dwar l-ingaġġ ta' familjari ta' Ministri mal-Gvern.

GĦALHEKK din il-Kamra tirrisolvi li:

JINHATAR Kummissarju għall-Imgħieba Xierqa fil-Ħajja Pubblika, bhala uffiċjal tal-Parlament, bl-inkarigu li b'mod awtonomu u indipendenti, fost l-oħrajn:

- isaħħah u jippromwovi l-imgħieba xierqa, msejsa fuq l-integrità, l-onestà, il-kontabbiltà, l-objettività, it-trasparenza, ir-responsabbiltà u tfittxija disinteressata tal-interess komuni, mill-Membri ta' din il-Kamra u minn kull min iservi fil-ħajja pubblika;

- jaġġorna, fejn meħtieġ, il-Kodiċi ta' Etika għar-rigward ta' persuni li jservu fil-ħajja pubblika, inkluż iżda mhux biss dawk għall-Membri tal-Kamra tad-Deputati, Ministri u Segretarji Parlamentari, Kunsilliera Lokali, impjegati fis-Settur Pubbliku u Diretturi ta' Bordijiet fis-Settur Pubbliku;

- isegwi u jirraporta lill-Parlament dwar l-osservanza ta' dawn il-Kodiċi;

- jagħmel rakkomandazzjonijiet u jagħti pariri lill-Kamra dwar l-imgħieba ta' persuni fil-ħajja pubblika; u

- jieħu kull pass xieraq favur imgħieba tal-ogħla livell minn kull persuna li sservi fil-ħajja pubblika.

JITWAQQAF, wara diskussjonijiet bejn iż-żewġ naħat tal-Kamra, Kumitat Permanenti tal- Kamra għall-Imġieba Xierqa fil-Hajja Pubblika, li jkun presedut mill-Ispeaker u b'rappreżentanza ugwali miż-żewġ naħat tal-Kamra, sabiex jassisti lill-Kummissarju għall-Imġieba Xierqa fil-Hajja Pubblika, mingħajr ma jxekkel l-awtonomija u l-indipendenza tiegħu, u jippromwovi l-imġieba xierqa mill-Membri ta' din il-Kamra;

JINHATAR Kumitat li jkun presedut mill-Ispeaker li jkun jinkludi żewġ persuni nominati minn naħa tal-Gvern u żewġ persuni oħra nominati minn naħa tal-Oppożizzjoni, sabiex sal-15 ta' Diċembru 2013 ihejji rapport dwar it-twaqqif tal-uffiċċju tal-Kummissarju għall-Imġieba Xierqa fil-Hajja Pubblika u tal-Kumitat Permanenti tal-Kamra għall-Imġieba Xierqa fil-Hajja Pubblika.

30.09.13

Dok 3

MINUTI

KUMITAT MAGHŻUL TAL-KAMRA TAD-DEPUTATI

SEDUTA NRU. 1

Il-Ġimgħa, 25 ta' Ottubru 2013

Il-Kumitat iltaqa' fil-Kamra tal-Kumitati fil-Palazz il-Belt Valletta fil-5.07 p.m.

Mr Speaker, l-Onor Anglu Farrugia, ippreseda.

PREŻENTI

Il-Ministru għall-Affarjiet Barranin l-Onor George Vella, l-Onor Francis Zammit Dimech u l-Onor Ryan Callus.

Kien preżenti wkoll l-Onor Camelo Abela bħala sostitut tal-Onor Justyne Caruana.

PERMESS LILL-MEDIA

L-iSpeaker informa lill-Kumitat li huwa kien irċieva talba mill-media sabiex jiffilmjaw u jiehdu ritratti għall-ewwel ftit minuti tal-laqgħa tal-Kumitat.

Il-permess ingħata.

XOGHOL TAL-KUMITAT

Dan il-Kumitat Magħżul kien qiegħed jiltaqa' bis-saħħa ta' Mozzjoni Nru 77 li għaddiet b'mod unanimu mill-Kamra fis-Seduta 63 tas-16 ta' Ottubru 2013, bil-mandat li sal-15 ta' Diċembru 2013 jagħmel rakkomandazzjonijiet lill-Parlament u dan billi jhejji rapport dwar it-twaqqif ta' Uffiċċju ta' Kummissarju kif ukoll ta' Kumitat Permanenti dwar l-*standards*, l-etika u l-imġiba xierqa fil-*hajja* pubblika.

L-iSpeaker Anglu Farrugia ipprezenta memorandum li kien jikkontjeni numru ta' proposti dwar kif dan il-Kumitat jista' jaħdem u ċioe' li:

1. Il-Membri tal-Kumitat jiġu pprovduti b'informazzjoni rilevanti partikolarment dwar dak li sar f'dan il-qasam f'parlamenti nazzjonali oħra kif ukoll kull dokumentazzjoni oħra li tista' tiġi mitluba mill-Membri;
2. Jittella' sit elettroniku fejn kemm il-Membri tal-Kumitat kif ukoll il-pubbliku jkollu aċċess għad-dokumentazzjoni hawn fuq imsemmija kif ukoll għall-proċeduri tal-Kumitat;
3. Jiġi kkreat indirizz elettroniku sabiex il-pubbliku jkun jista' jikkomunika l-ideat tiegħu lill-kumitat;
4. Il-Kumitat jista' jzomm konsultazzjoni pubblika biex jisma' direttament lill-pubbliku u rappreżentanti ta' gruppi u għaqdiet mis-soċjetà ċivili;
5. Il-Kumitat jista' jidentifika xi persuni jew gruppi li jkunu diġà wettqu xi xogħol konness mal-materja in kwestjoni u jgħajtilhom biex jiġu jindirizzaw lill-Kumitat;

6. L-Uffiċċju tal-iSpeaker jipprepara abbozz ta' rapport abbażi tad-diskussjoni li tkun qed tiżvolgi fi hdan il-Kumitat bil-ghan li dan iservi ta' bażi għar-rapport li jrid jiġi mhejji mill-Kumitat flimkien mar-rakkomandazzjonijiet li jridu jiġu pprezentati lill-Kamra sal-15 ta' Diċembru 2013; u
7. Bħala proċedura, il-Kumitat għandu jimxi mal-Ordnijiet Permanenti tal-Kamra f'dak li jirrigwarda t-tmexxija ta' kumitati magħzula però, kif tghid il-Mozzjoni 77, għandu wkoll il-fakultà li jekk jinħass il-bżonn jirregola l-proċedura tiegħu.

Dwar il-punt nru. 4 l-iSpeaker Farrugia issuġġerixxa li tiġi ffissata l-ġurnata tal-15 ta' Novembru 2013 bħala d-data sa meta jibqgħu jintlaqgħu kontribuzzjonijiet mill-pubbliku dwar il-materja trattata minn dan il-Kumitat Magħżul.

Il-Kumitat qabel mal-proposti mressqa mill-iSpeaker u qabel ukoll li l-laqgħa ta' konsultazzjoni pubblika għandha ssir wara l-15 ta' Novembru.

L-iSpeaker Farrugia ipprezenta lill-Membri dan il-materjal ta' informazzjoni:

1. Mozzjonijiet
 - a. Mozzjoni Nru 77 ipprezentata mid-Deputat Prim Ministru u Ministru għall-Affarijiet Ewropej u t-Twettiq tal-Manifest Elettorali
 - b. Mozzjoni Nru 69 ipprezentata mill-Kap tal-Oppożizzjoni.
2. Kap. 113 – Ordinanza dwar il-Privileġġi u s-Setgħat tal-Kamra u l-iskeda - Kodiċi ta' Etika tal-Membri Parlamentari
3. Artikolu 54 tal-Kostituzzjoni ta' Malta – Skwalifiki ta' membru tal-Kamra tad-Deputati.
4. Estratt mill-manifest elettorali tal-Partit Laburista għall-elezzjoni 2013 fejn jitkellem dwar "Membri Parlamentari aktar Kontabbli lejn il-Poplu" f'paġna 160.
5. *White Paper dwar il-Parlament Malti: Iktar awtonomija, iktar responsabbiltà*, datata 15 ta' Settembru 2012 ippubblikata mill-Gvern Nazzjonalista matul il-11-il Leġiżlatura, b'referenza partikolari għat-taqsimu II dwar il-hatra ta' Kummissarju Parlamentari għall-Istandards.
6. *The code of conduct together with the guide to the rules relating to the conduct of members* ippubblikat mill-Parlament Ingliż fis-16 ta' April 2012.
7. Informazzjoni dwar il-Parliamentary Commissioner for Standards tal-Parlament Ingliż.
8. Ordnijiet Permanenti tal-Parlament Ingliż
 - a. Ordni Permanenti 149 – Committee on Standards.
 - b. Ordni permanenti 149A – Lay members of the Committee on Standards
 - c. Ordni permanenti 150 – Commissioner for Standards.
9. Informazzjoni dwar regolamentazzjoni konnessa ma' kwestjoni ta' etika u interessi ta' membri fil-parlamenti nazzjonali tal-Istati Membri tal-Unjoni Ewropea miġbura mill-Parlament Irlandiż f'Jannar 2008 permezz tal-European Centre for Parliamentary Research and Documentation (ECPRD).
10. *Working paper* ippubblikata mill-Parlament Ewropew f'Mejju 2000 intitolata: *Ethics Committees – Bodies to regulate and monitor ethical standards in public life.*

11. Informazzjoni dwar “A Citizen’s Right of Reply” li giet mghoddija lill-iSpeaker waqt żjara uffiċjali fil-Parlament ta’ New South Wales. Din it-tema kienet waħda mis-sugġetti li ġew diskussi fil-laqgħat li nżammu matul din iż-żjara.

Il-Ministru għall-Affarijiet Barranin l-Onor George Vella ssuġġerixxa li għandhom jitqassmu wkoll dawn iż-żewġ dokumenti:

1. Rapport intitolat “Mġiba Politika Korretta – Rapport tal-Kummissjoni mahtura mill-Kap tal-Oppożizzjoni – Awwissu 1993” liema kummissjoni kienet ippreseduta minn Dr Daniel Micallef; u
2. Rapport intitolat “Rapport Finali tal-Kummissjoni mahtura mill-Kap tal-Oppożizzjoni dwar it-taris ta’ standards xierqa ta’ imġiba u ta’ kontabbilità pubblika – Diċembru 2002” liema kummissjoni kienet ippreseduta mill-Perit Wenzu Mintoff.

Il-Kumitat qabel fuq stqarrija għall-istampa dwar il-laqgħa li nżammet, liema stqarrija kellha tiġi komunikata lill-*media*.

Fil-5.44 p.m. il-Kumitat aġġorna għal nhar it-Tlieta, 5 ta’ Novembru 2013, fl-4.00 p.m.

**RAYMOND SCICLUNA
SKRIVAN TAL-KAMRA**

KONFERMATI

**ANĠLU FARRUGIA
SPEAKER**

Dok 4

MINUTI

KUMITAT MAGĦŻUL TAL-KAMRA TAD-DEPUTATI

SEDUTA NRU. 2

It-Tlieta, 5 ta' Novembru 2013

Il-Kumitat iltaqa' fil-Kamra tal-Kumitati fil-Palazz il-Belt Valletta fl-4.10 p.m.

Mr Speaker, l-Onor. Anġlu Farrugia, ippresjeda.

PREŻENTI

Il-Ministru għall-Affarjiet Barranin l-Onor. George Vella, l-Onor. Justyne Caruana, l-Onor. Ryan Callus u l-Onor. Francis Zammit Dimech.

MINUTI

Il-Minuti tal-laqgħa numru 1 li saret nhar il-Ġimgħa 25 ta' Ottubru 2013 kienu konfermati.

XOGHOL TAL-KUMITAT

L-Ispeaker Farrugia pprezenta lill-Membri tal-Kumitat Magħżul informazzjoni dwar il-*Committee on Standards* tal-House of Commons Ingliża u dwar il-*Commissioner for Standards* tal-Iskozja.

Il-Kumitat Magħżul iddiskuta x'għandha tkun id-definizzjoni ta' "persuna fil-hajja pubblika". Wara li l-Ministru George Vella ppropona li l-aċċenn għandu jkun fuq il-Membri Parlamentari, il-Kumitat iddiskuta dwar jekk minbarra lill-Membri Parlamentari - inkluż il-Prim Ministru, il-Ministri u s-Segretarji Parlamentari - din id-definizzjoni għandhiex tkopri wkoll lil kull min għandu *position of trust* bħalma huma persuni ingaġġati f'segretarjat ta' ministeru u persuni appuntati fuq bordijiet ta' xi korporazzjoni partikolarment meta dawn il-persuni jkunu appuntati direttament u mhux wara sejha u proċess ta' għażla. Ġie diskuss ukoll jekk għandhomx jiġu inklużi dawk il-persuni li jkunu eletti f'kariga pubblika bħalma huma l-kunsilliera lokali.

Dwar l-irwol tal-kummissarju, il-Kumitat Magħżul iddiskuta dwar jekk għandux jadotta l-proċedura tal-Kumitat dwar il-Kontijiet Pubbliċi fejn l-Awditur Ġenerali jagħmel rapport u l-kumitat permanenti jagħmel l-investigazzjoni, jew jekk għandux ikun il-kummissarju li jagħmel l-investigazzjoni u jekk jara li jkun hemm *prima facie* każ, jirreferi l-materja lill-kumitat permanenti. Ġie sugġerit ukoll li l-kummissarju għandu jkollu s-setgħa li mingħajr ma jxandar ismijiet, jipprovdi gwida u direzzjoni privatament lill-persuni konċernati bil-għan li jippromwovi standards għolja ta' kodotta.

Il-Kumitat Magħżul iddiskuta jekk il-kummissarju għandux ikollu d-dritt li jirreferi każijiet direttament lill-Kummissarju tal-Pulizija u lill-Kummissjoni kontra l-Korruzzjoni. Ġie diskuss ukoll jekk il-kumitat għandux ikollu poteri eżekuttivi li jimponi penali jew jekk għandux ikollu biss il-fakultà li jagħmel rakkomandazzjonijiet għall-approvazzjoni tal-Kamra tad-Deputati.

Il-Kumitat qabel illi sal-laqgħa li jmiss għandhom jiġu elenkati dawk il-punti li dwarhom jidher li jista' jintlaħaq qbil, halli l-Kumitat ikompli jibni fuqhom fil-laqgħat ta' wara.

L-iSpeaker Farrugia ssuġġerixxa li l-Kumitat Magħżul jiltaqa' nhar it-Tlieta, 26 ta' Novembru 2013, sabiex tinzamm sessjoni ta' konsultazzjoni pubblika. L-iSpeaker Farrugia għadda lill-Membri kopja ta' korrispondenza li kien irċieva dwar il-materja minn Dr Nazzareno Azzopardi.

Fil-5.12 p.m. il-Kumitat agġorna għal nhar it-Tlieta, 26 ta' Novembru 2013, fl-4.30 p.m.

**RAYMOND SCICLUNA
SKRIVAN TAL-KAMRA**

KONFERMATI

**ANĠLU FARRUGIA
SPEAKER**

Dok 5

MINUTI

KUMITAT MAGHŻUL TAL-KAMRA TAD-DEPUTATI

SEDUTA NRU. 3

It-Tlieta, 26 ta' Novembru 2013

Il-Kumitat iltaqa' fil-Kamra tal-Kumitati fil-Palazz il-Belt Valletta fl-4.36 p.m.

Mr Speaker, l-Onor. Anġlu Farrugia, ippresjeda.

PREŻENTI

Il-Ministru għall-Affarjiet Barranin l-Onor. George Vella, l-Onor. Justyne Caruana, l-Onor. Ryan Callus u l-Onor. Francis Zammit Dimech.

Il-Kumitat Magħżul qabel li Dr Donatella Frendo Dimech, Deputat Awditur Ġenerali,,għandha tithalla tipparteċipa fid-diskussjoni.

MINUTI

Il-Minuti tal-laqgħa numru 2 li saret nhar it-Tlieta 5 ta' Novembru 2013 kienu konfermati.

PERMESS TAL-KUMITAT

L-iSpeaker informa lill-Kumitat li kellu talba mill-media sabiex jiffilmjaw u jieħdu ritratti għall-ewwel fit minuti tal-laqgħa tal-Kumitat.

Il-permess ingħata.

XOGHOL TAL-KUMITAT

L-Ispeaker Farrugia ppreżenta lill-Membri tal-Kumitat Magħżul:

1. kopja preliminari ta' abbozz ta' ligi li jwaqqaf kummissarju u kumitat permanenti dwar l-istandards, l-etika u l-imġiba xierqa fil-ħajja pubblika;
2. kontribuzzjoni mis-Sur Victor Cauchi L.P. datata 7 ta' Novembru 2013; u
3. dokument li ġie ppreparat fuq proposta tal-Onor George Vella fil-laqgħa numru 2 li jelenka numru ta' punti fejn hemm konverġenza bejn il-Membri dwar x'għandu jġi rakkomandat lill-Kamra fir-rigward tat-twaqqif ta' kummissarju u kumitat permanenti dwar l-istandards, l-etika u l-imġiba xierqa fil-ħajja pubblika; u
4. dokument li jelenka numru ta' punti oħrajn li għad jeħtieġu deċizzjoni tal-Kumitat.

Il-Kumitat ħa nota tad-dokumenti ppreżentati u waqt il-konsiderazzjoni tat-tielet u r-raba' dokument indikat hawn fuq, wasal għall-konkluzjonijiet segwenti.

Il-Kumitat qabel li d-definizzjoni ta' "persuna f'kariga pubblika" ghandha tirreferi ghal:

- a. Membri Parlamentari, inkluż il-Prim Ministru, Ministri u Segretarji Parlamentari; u
- b. Persuni appuntati f' "positions of trust" bhal perezempju f' segretarjati tal-ministeri, segretarjati tas-segretarji parlamentari, l-EU Secretariat, pozizzjonijiet f' korporazzjonijiet, awtoritajiet u entitajiet oħra governattivi li jimtlew minghajr ma tkun saret sejha għall-applikazzjonijiet.

Il-Kumitat Magħżul qabel li f' dan l-istadju, persuni eletti f' karigi pubbliċi bhalma huma l-kunsilliera lokali, ma kellhomx jiġu koperti.

Il-Kumitat Magħżul qabel li l-kummissarju dwar l-istandards, l-etika u l-imġiba xierqa fil-ħajja pubblika għandu jkollu d-dritt li:

- a. jagħmel investigazzjoni wara li jirċievi lment bil-miktub jew fuq inizjattiva tiegħu stess;
- b. jispejzja u fejn hemm bżonn jivverifika d-dikjarazzjonijiet tal-assi tal-Membri Parlamentari;
- c. jiġbed b'mod kunfidenzjali l-attenzjoni għal xi nuqqas, biex il-persuna konċernata jkollha l-opportunità li tirregola l-pozizzjoni tagħha;

F'dan ir-rigward il-kummissarju għandu jkollu wkoll rwol konsultattiv minbarra dak investigattiv, b'tali mod li, perezempju, Membru Parlamentari jkunu jista' jirrikorri lejha għal parir dwar jekk attivitajiet li jkun beħsiebu jagħmel tkunx tikser il-kodiċi ta' etika applikabbli għalih jew dwar jekk tali attivitajiet tkunx tammonta għal nuqqas ta' mġiba xierqa.

- d. jirreferi każijiet direttament lill-Kummissarju tal-Pulizija f'każ ta' suspett ta' reat kriminali;
- e. jirreferi każijiet lill-Kummissjoni Permanenti kontra l-Korruzzjoni jew kull entità oħra li jidhirlu xieraq;
- f. isejjaħ xhieda u jeħtieghom jixhdu u jipproduċu dokumenti li jkunu fil-pussess tagħhom jew taħt il-kustodja tagħhom f'dawk iċ-ċirkostanzi kif quddiem qorti jkunu meħtieġa li jixhdu jew jipproduċu dokumenti.

Fuq punt imqajjem mill-Onor Justyne Caruana dwar id-dritt għal rimedju mill-persuna aggravata f'każ ta' rapport falz, Dr Frendo Dimech issuggeriet li f'dak il-każ ikun japplika l-artikolu 110 tal-Kodiċi Kriminali u li tali provvedimenti jista' jiġi riprodott fl-abbozz li se jiġi propost bħala rakkomandazzjoni lill-Kamra.

Il-Kumitat Magħżul qabel li:

- a. il-kummissarju għandu jirreferi dawk il-każijiet li fl-opinjoni tiegħu jammontaw għal *prima facie* nuqqas ta' mġiba xierqa lill-kumitat permanenti tal-Kamra;
- b. f'dawk il-każijiet fejn il-kummissarju jirreferi każ lill-Kummissarju tal-Pulizija jew lill-Kummissjoni Permanenti kontra l-Korruzzjoni jew xi entità oħra, huwa għandu minnufih jinnotifika b'dan lill-kumitat permanenti;
- c. f'dawk il-każijiet fejn il-kummissarju ma jsib ebda nuqqas ta' mġiba xierqa, huwa għandu jwaqqaf il-każ immedjatement, jinnotifika lil min ressaq l-ilment u lill-kumitat permanenti; u
- d. il-kummissarju għandu jara li tinzamm il-kunfidenzjalità dwar kull ilment riferut lilu għall-investigazzjoni u li din il-kunfidenzjalità tinzamm sa dak il-mument li huwa jiddeċiedi li hemm *prima facie* każ ta' nuqqas ta' mġiba xierqa u jirreferih lill-kumitat permanenti.

Il-Kumitat Magħżul qabel li l-kumitat permanenti dwar l-istandards, l-etika u l-imġiba xierqa fil-hajja pubblika għandu:

- jiċċara xi punti fir-rapport tal-kummissarju b'kull mod li jidhirlu xieraq;
- jkollu d-dritt li jagħmel investigazzjonijiet addizzjonali, meta tinhass il-htiega, b'kull mod li jidhirlu xieraq;
- jkollu d-dritt li jsejjah xhieda u jehtieghom jixhdu u jipproduċu dokumenti li jkunu fil-pussess tagħhom jew taht il-kustodja tagħhom f'dawk iċ-ċirkostanzi kif quddiem qorti jkunu mehtiega li jixhdu jew jipproduċu dokumenti; u
- jagħmel rapport lill-Kamra dwar il-kazijiet riferuti lillu.

Il-Kumitat Magħżul iddiskuta l-punt jekk il-kumitat permanenti għandux ikollu rwol ta' monitoraġġ fuq il-kummissarju. L-Onor Zammit Dimech ippropona li għandu jiġi ċċarat dak li jiġri fil-Parlament Ingliż fid-dawl li dan il-provvediment jeżisti fis-sistema Ingliża. Fuq proposta tad-Deputat Avukat Ġenerali l-Kumitat qabel li fl-abbozz ta' liġi għandu jiddaħhal provvediment bhal ma hemm fil-Kostituzzjoni fir-rigward tal-Avukat Ġenerali li jgħid li fl-eżerċizzju tal-funzjonijiet tiegħu il-kummissarju għandu jkun indipendenti u ma jkun sugġett għall-kontroll ta' ebda persuna jew awtorità. B'hekk ikun jista' jiddaħhal ukoll it-test li jitkellem dwar l-irwol ta' monitoraġġ tal-kumitat permanenti fuq ix-xogħol tal-kummissarju.

Il-Kumitat Magħżul iddiskuta l-punt dwar jekk il-kummissarju u/jew il-kumitat permanenti għandhomx ikollhom terminu li fih iridu jlestu r-rapport tagħhom. Id-Deputat Avukat Ġenerali pproponiet il-mudell tal-artikolu 550 tal-Kodiċi Kriminali li jitkellem dwar meta maġistrat ma jagħlaqx inkjesta fi żmien xahrejn u li allura dan ikun irid jinforma lill-Avukat Ġenerali bir-raġuni għad-dewmien. Il-Kumitat Magħżul qabel li għandha tiġi mistharra l-użanza fis-sistema tal-House of Commons.

Il-Kumitat Magħżul qabel li l-kumitat permanenti m'għandux ikollu d-dritt li jitlob lill-kummissarju jirrevedi l-parir tiegħu iżda li jkollu d-dritt jirrakkomanda lill-Kamra parir differenti minn dak mogħti mill-kummissarju billi jissottometti raġuni motivata.

Il-Kumitat Magħżul imbagħad għadda biex jiddiskuti r-raba' dokument ipprezentat mill-Ispeaker Farrugia u wasal għal dawn il-konklużjonijiet:

Il-Kumitat Magħżul qabel li l-kumitat permanenti għandu jkollu s-setgħa li jirrakkomanda sanzjonijiet iżda li jkun hemm aktar gradi ta' sanzjonijiet minn dawk stipulati fil-Kap 113. L-Onor Zammit Dimech issuggerixxa li wieħed għandu jara x'jiġri fil-House of Commons.

Dwar persuni li jkunu ingaġġati f'*position of trust* il-Kumitat Magħżul qabel li l-kumitat permanenti għandu jkollu s-saħħa li jordna lis-Segretarju Permanenti Ewlieni jieħu l-passi li l-kumitat permanenti jidhirlu xierqa fil-konfront ta' tali persuni. Il-Kumitat qabel ukoll li f'dan ir-rigward wieħed għandu jieħu in kunsiderazzjoni l-provvedimenti tal-Att dwar Impjiegi u r-Relazzjonijiet Industrijali (EIRA) u l-Att li jirregola l-impjiegi fis-settur pubbliku bil-għan li l-provvediment tal-att propost ikunu jipprevalu fuq dawk il-provvedimenti eżistenti fiż-żewġ atti msemmija li jistgħu jxekklu l-implimentazzjoni tar-rakkomandazzjonijiet tal-kumitat permanenti.

Il-Kumitat Magħżul qabel li l-kummissarju għandu jkun nominat mill-Prim Ministru wara konsultazzjoni mal-Kap tal-Oppożizzjoni u li għandu jinhatar mill-Kamra tad-Deputati b'vot ta' żewġ terzi tal-Membri kollha tal-Kamra.

Dwar il-kompożizzjoni tal-kumitat permanenti, il-Kumitat Magħżul qabel li għandu jkun kompost minn żewġ membri minn kull naħa tal-Kamra u li għandu jkun presedut mill-Ispeaker. Ġie sugġerit li l-Ispeaker ma jkollux vot originali imma jkollu l-*casting vote*.

L-Ispeaker informa lill-Membri preżenti li kien se jkun qed jgħaddilhom kopja ta' abbozz li se jiġi rivedut mill-uffiċċju tal-Avukat Ġenerali għall-konsiderazzjoni tagħhom.

Fil-5.57pm il-Kumitat ikkonkluda.

**RAYMOND SCICLUNA
SKRIVAN TAL-KAMRA**

KONFERMATI

**ANĠLU FARRUGIA
SPEAKER**

Dok 6

From: Dr. Nazare [mailto:drnazare@maltanet.net]

Sent: Saturday, 26 October 2013 05:17

To: Select Committee at Parlament-MT

Subject: one recommendation

Mr Speaker

I fully support this initiative and propose:

To publicize a campaign set to influence the young people of Malta and Gozo to bother about the simple needs of the old and infirm ...starting from their own aged family members by giving them the needed attention

To be prepared to offer them their own seat in a bus

To be aware and patient to wait on their needs ...lack of hearing, difficulty in movement, forgetfulness.....

To offer occasional voluntary work in appropriate institutions that care for the aged

and others....

Thankyou,

Nazzareno Azzopardi MD.

Dok 7

From: Henry G [mailto:henry88malta@yahoo.com]

Sent: Sunday, 27 October 2013 22:49

To: Select Committee at Parliament-MT

Subject:

Dear All, Please suggest to watch the British parliament on how things go there.

Here at home, we hardly know which minister the Speaker has asked to speak. He is not addressed minister of...., but as minister.

Listeners on the radio, we don't enjoy this fun !!!

With to "correct behaviour, again watch the full three hour video of the British parliament, perhaps we might get accastimed after 200 years rule".

It would be nice, that at every setting, the listeners will know the total number of MP's present, otherwise, it will be like a soap opera, or guess work, as who is he/she.

Note: Hope the radio broadcast we get better reception ,with better microphones that does not cause interference, comming "on" and" off" when any member is speaking. With delay system, unwanted wording can be cut off.

If we allow, bulling on both parties, our children, will just copy the good or the worse. On provocation, they all should know how to control, as like to the press.

With respect

H Galea

Dok 8

Individual Contribution made to the Select Committee set up to make recommendations to Parliament on the setting up of a Commissioner's Office and a permanent committee on standards, ethics and correct behaviour in public life.

Victor Cauchi L.P.
84A flat 2
St Francis Street
Balzan
BZN 1424
victorcauchi@gmail.com

7th November 2014

The nature and functions of Members of Parliament

A matter which seriously jars in the local interpretation of the functions entailed in being a Member of Parliament is about the exercise of individual freedom in the performance of political opinion and functions in the House. Full independence seems to be a far cry from what political parties expect their members to follow, and MPs have to necessarily abide by the decisions of the party leadership when voting in the House.

The argument was at times skimmed upon in heated debate during the last Legislature, yet no clear or legislative result was forthcoming. The question is: does an MP actually attend Parliament riding the party bandwagon or should he enjoy full independence in the performance of all his duties?

The 1964 Constitution was drafted in such manner as never to mention the word "party". In fact, according to article 80, the President appoints as Prime Minister "the member of the House of Representatives who, in his judgment, is best able to command the support of a majority of the members of that House". Reference to political parties only started being made with the 1974 amendments and subsequently as may be evinced in articles 52 and 90.

True to say that the General Elections Act, now substituted by Cap. 354, had been in force before 1964, and that the Ordinance always based its systematic approach on the existence of two or more parties for the election of representatives to the House, yet beyond that, once the House convenes, no further reference to political parties acting in the House is made in any other law.

The argument has been expounded during the last Legislature that a government is formed on the basis of a political party winning a general election on the score of its Electoral Manifesto. An elected MP riding on the party bandwagon is bound at all times by party policy and Electoral Manifesto promises during the whole legislature, unless such MP declares he wishes to be considered as an independent MP or joining the opposite side.

This attitude of lumping a party decision and voting according to it, demeans the human, political and constitutional value of our MPs. According to British parliamentary practice, the House of Commons is a constant indicator of the will of the people shown through its representatives. It cannot be that only such issues as are raised in the Electoral Manifesto need be voted on.

The House lives and breathes from day to day, according to the historical circumstances of the time, and decisions on them are left to the people's representatives who enjoy their trust. Should a voter not agree with his representative's decision/s, he is free to outvote him at the next elections.

Based on the latter principle, voting in the Commons is fully transparent although counted but not fully officially recorded by name, yet anyone can see and report how MPs vote while entering through different doors during divisions. In Malta, voting during divisions is recorded and registered in the House Minutes.

Apart from the issue of how binding an Electoral Manifesto is, the above related issue of voting raises further questions. Given the quasi oppressive attitude of parties to impose voting decisions on individual MPs, how valid would the introduction of secret, or anonymous, voting be? In Italy such practice is fully accepted (although the habit of “pianisti” prevails). Would not such a system shed off all-surmounting party influence in Malta once and for all and restore individual political will, as it should be?

Briefly, this contribution has dealt with –

(a) an individual MP’s political will and how it can be morally and freely expressed in the House;

(b) the best system to be used when voting to safeguard an MP’s right to independent expression;

(c) whether any reference is or should be made to political parties in our laws or else they should only be considered as a silent convention in the system;

(d) the importance of the Electoral Manifesto, if parties are accepted within the written corpus of law.

Submitted for the Hon. Select Committee’s scrutiny.

Victor Cauchi

Dok 9

A Bill Entitled

Standards in Public Life Act, 2014

To provide for the appointment of a Commissioner and a Standing Committee with power to investigate breaches of statutory or ethical duties of categories of persons in public life.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

PRELIMINARY

Short title.

1. The short title of this Act is the Standards in Public Life Act, 2014.

Interpretation.

2. (1) In this Act, unless the context otherwise requires –

“Commissioner” means the Commissioner for Standards in Public Life appointed under article 4 and includes any officer or employee of the Commissioner authorised by him in that behalf;

“Committee” means the Standing Committee on Standards in Public Life established under Article 26 of this Act;

Cap. 326.

"corrupt practice" has the meaning assigned to it in article 6 of the Permanent Commission against Corruption Act;

“Minister” means the Minister responsible for Justice;

“position of trust” means any employment in any Ministry, Parliamentary Secretariat or in any department or other entity of the Government wherein the employee has not been engaged according to the procedure established under article 110 of the Constitution.

“revenue acts” means the Income Tax Act, the Income Tax Management Act, the Duty on Documents and Transfers Act, the Monte di Pietà Act, the Goldsmiths and Silversmiths Ordinance, the Immovable Property (Acquisition by Non-Residents) Act, the Value Added Tax Act, the Eco-Contribution Act, the Customs Ordinance, the Import Duties Act, the Excise Duty Act, and any regulations made thereunder;

“statutory body” means any corporation or other body corporate established by law or any partnership or other body in which the Government or such body as aforesaid has a controlling interest, or over which it has effective control.

Scope.

3.(1) This Act applies to:

- (i) Ministers and Parliamentary Secretaries;
- (ii) Members of the House of Representatives;
- (iii) employees in a position of trust and to persons engaged as advisors or consultants to Government or to any statutory body.

(2) This Act shall also apply to any other person or category of persons as the Minister may by regulations, supported by an affirmative resolution of the House of Representatives, prescribe.

Code of Ethics

(3). The Code of Ethics set out in the First Schedule shall apply to persons referred to in subarticle (1) of this article.

(4) The Minister may from time to time, by Order in the Gazette, supported by an affirmative resolution of the House of Representatives, amend or substitute the First Schedule.

(5) It shall be the duty of all persons to whom this Act applies, to comply with the Code of Ethics.

PART I COMMISSIONER FOR STANDARDS IN PUBLIC LIFE

Appointment of Commissioner.

4. There shall be appointed a Commissioner for Standards in Public Life who shall be appointed by the President acting in accordance with a resolution of the House of Representatives supported by the votes of not less than two-thirds of all the members of the House:

Provided that when a person who is not a member of the House of Representatives is elected to be the Speaker of the House of Representatives he shall not be treated as a member of the House for the purpose of establishing the majority required by this article.

Disqualification and incompatibilities.

5. (1) A person shall not be qualified to be appointed to the office of Commissioner if he is a member of the House of Representatives, a member of a local council, or if he is a public officer.

(2) The office of Commissioner shall be incompatible with the exercise of any professional, banking, commercial or trade union activity, or other activity for profit or reward except for such other activity as members of the judiciary are by law allowed to pursue in addition to their judicial duties.

(3) The Commissioner shall not hold any position which is incompatible with the correct performance of his official duties or with his impartiality and independence or with public confidence therein. The Commissioner shall declare to, and seek the approval of, the Speaker of the House of Representatives to any positions, trusts or memberships which the Commissioner considers do not affect impartiality, or independence and public confidence, and which it is desired to retain during the term of office.

Term of office.

6. (1) Except as otherwise provided in this Act, a Commissioner shall hold office for a term of five years, and shall be eligible for reappointment for one consecutive term of five years.

(2) Unless his office sooner becomes vacant, a person appointed as a Commissioner shall hold office until his successor is appointed.

(3) A Commissioner may at any time resign his office by writing addressed to the President.

Removal or suspension from office.

7. (1) A Commissioner may at any time be removed or suspended from his office by the President, upon an address from the House of Representatives supported by the votes of not less than two-thirds of all members of the House, requesting such removal on the ground of proved inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or proved misbehaviour, and the provisions of the proviso to article 3 shall also apply for the purpose of establishing the majority required under this sub-article.

(2) At any time when Parliament is not in session, a Commissioner may be suspended from his office by the President acting in accordance with his own discretion for inability to perform the functions of his office or misbehaviour proved to the satisfaction of the President; but any such suspension shall not continue in force beyond two months after the beginning of the next ensuing session of Parliament.

Filling of vacancy.

8. (1) If a Commissioner dies, or resigns from office, or vacates his office or is removed from office, the vacancy thereby created shall be filled in accordance with this article.

(2) If the vacancy in the office of a Commissioner occurs at any time while Parliament is in session, it shall be filled by the appointment of the Commissioner by the President on the recommendation of the House of Representatives in accordance with article 4:

Provided that if the vacancy occurs less than two months before the close of that session and no such recommendation is made in that session, the provisions of sub-article (3) shall apply as if the vacancy had occurred while Parliament was not in session.

(3) If any such vacancy occurs at any time while Parliament is not in session, the President shall appoint a Commissioner to fill the vacancy, and the person so appointed shall, unless his office sooner becomes vacant, hold office until another Commissioner is appointed in accordance with article 4.

Temporary appointment of Commissioner.

9. (1) The President may -

(a) at any time during the illness or absence of the Commissioner, or

(b) for any other temporary purpose where the Commissioner considers it necessary not to conduct an investigation himself because of such circumstances, that were he a judge of the superior courts, he would abstain, appoint a Commissioner to hold office in accordance with this article, and such a Commissioner shall be paid such salary, not exceeding the amount payable to the Commissioner, as the President thinks fit.

(2) The power conferred by article (1)(b) shall be exercised only on a certificate signed by the Commissioner to the effect that, in his opinion, it is necessary for the due conduct of the business of the Commissioner under this Act that an additional Commissioner should be temporarily appointed.

(3) A Commissioner appointed under this article on account of the illness or absence of the Commissioner shall hold office until the resumption of office of the Commissioner, and every other Commissioner appointed for a temporary purpose shall hold office until he performs the function assigned to him.

(4).(a) A person shall not be qualified to be approved under this article if he is disqualified to be appointed Commissioner under article 5(1).

(b) The provisions of articles 5(2) and (3) shall apply to a person appointed under this article:

Provided that a person appointed under this article may exercise any activity for profit or reward which is not in any way incompatible with the provisions of article 5(3).

Oath of Office.

10. (1) Before entering upon the exercise of the duties of his office a Commissioner shall take an oath that he will faithfully and impartially perform the duties of his office, and that he will not, except in accordance with article 21, divulge any information acquired by him under this Act.

(2) The oath shall be administered by the Speaker of the House of Representatives.

Resources.

11. (1) Subject to the provisions of the Constitution and of any other enactment applicable thereto, and subject to the provisions of this article the Commissioner may appoint such officers and employees as may be necessary for the carrying out of the functions, powers and duties under this Act. This power to appoint includes approval to the numbers of persons that may be appointed under this article whether generally or in respect of any specific duties or classes of duties, their salaries and conditions of appointment.

(2) The Commissioner may in the conduct of an investigation engage, in a consultative capacity, any person whose particular expertise is essential to the effectiveness of the investigation:

Provided that if the consultant required is a public officer the Prime Minister may, at the request of the Commissioner, designate the public officer to assist.

(3) Subject to the provisions of this article the Commissioner shall be responsible for approving the level of capital equipment, furnishings, materials, and administrative activities for the carrying out of the functions, powers and duties under this Act.

(4) The finance required for the Commissioner's salary and allowances, and for the resources described in subarticles (1), (2) and (3) shall not exceed a maximum amount indicated in a financial plan approved by the House of Representatives and shall be a charge on the Consolidated Fund without any further appropriation other than this Act:

Provided that the Commissioner shall present to the House by the 15th day of September of each year, a financial plan which will indicate the ensuing year's activities.

(5) The salary, allowances and expenses payable to the Commissioner shall be at rates equivalent to those applicable to a judge of the superior courts. The salary is not to be diminished during the continuance of the Commissioner's appointment.

(6) The officers and employees appointed in accordance with subarticle (1) shall before entering into the exercise of their office or employment take an oath that they will faithfully and impartially perform the duties of their office or employment, and that they will not, except in accordance with article 21, divulge any information acquired by them under this Act. Such oath shall be administered by the Commissioner.

Audit.

Cap. 174.

12. The accounts of the office of the Commissioner shall be audited by the Auditor General and the Financial Administration and Audit Act shall apply.

FUNCTIONS

13.(1). The Commissioner shall have the following functions:

- (i) To receive, examine and if necessary verify, such declarations relating to income or assets or other interest or benefits of whatever nature of persons to whom this Act applies who are under a duty to file such declarations as may be provided under this or any other law;
- (ii) To investigate on his initiative or on the written allegation of any person any matter alleged to be in breach of any statutory or any ethical duty of any person to whom this Act applies:

Provided that a person making a allegation in terms of this Article shall not be required to show any personal interest in support of his allegation.

Negative Clearance

- (iii) A person to whom this Act applies may request the Commissioner to give a ruling on whether an action or conduct intended by him falls to be prohibited by the Code of Ethics or by any other particular statutory or ethical duty, and no liability shall attach for any breach of the Code of Ethics or any other statutory or ethical duty where a person has acted in conformity with any such ruling.

(2) For purpose of this article 'ethical duty' includes the obligation to observe the Code of Ethics.

(3) The Commissioner shall not proceed to investigate any allegation on the subject-matter of which proceedings are pending in a court or other tribunal, and shall suspend the investigation if any interested person shall file a demand before any court or other tribunal on the subject-matter of the investigation;

Provided that an investigation may be proceeded with if the Commissioner considers that the allegation raises issues of general interest.

(4) In exercise of his functions the Commissioner shall not be subject to the direction or control of any other person or authority.

Time limit for allegations.

14. (1) Nothing in article 13 of this Act shall permit the Commissioner to investigate a allegation on an act which occurred earlier than two years prior to the date on which this Act comes into force.

(2) An allegation shall not be entertained under this Act unless it is made not later than two years from the day on which the complainant first had knowledge of the matters complained about; but the Commissioner may conduct an investigation pursuant to a allegation not made within that period if he considers that there are special circumstances which make it proper to do so.

Rules for Commissioner's guidance.

15. (1) The House of Representatives may by resolution from time to time if it thinks fit, make general rules for the guidance of the Commissioner, in the exercise of his functions under this Act, and may at any time in like manner revoke or vary any such rules.

(2) All rules made under this article shall be made by subsidiary legislation under this Act.

Mode of allegation.

16. Every allegation to the Commissioner shall be made in writing or orally. An allegation made orally shall be put in writing as soon as practical.

Refusal to investigate allegations.

17. (1) If upon an allegation, or in the course of an investigation of an allegation it appears to the Commissioner that, having regard to all the circumstances of the case, any investigation, or further investigation is unnecessary, he may refuse to investigate, or investigate further any such allegation.

(2) Without limiting the generality of the powers conferred on the Commissioner by this Act, the Commissioner may in his discretion decide not to investigate, or, as the case may require, not to investigate further a allegation if in his opinion -

- (a) the subject-matter of the allegation is trivial; or
- (b) the allegation is frivolous or vexatious or is not made in good faith.

(3) In any case where the Commissioner decides not to investigate or make further investigation of an allegation he shall inform the person making the allegation of that decision, and shall state his reasons therefor.

PROCEEDINGS

Proceedings.

18. (1) Before investigating any matter under this Act the Commissioner shall, make known his intention to make the investigation to:

- (a) the Speaker of the House of Representatives when the allegation concerns a Member of the House,
- (b) the Permanent Secretary within the Ministry or Parliamentary Secretariat when the allegation concerns a person engaged with the said Ministry or Parliamentary Secretariat;
- (c) the head of the department or other Government entity or, as the case may require, the chief executive officer of the statutory body, when the allegation concerns a person engaged by the said department, entity or statutory body.

(2) Every investigation by the Commissioner under this Act shall be conducted *in camera*.

(3) The Commissioner may hear or obtain information from such persons as he thinks fit, and may make such enquiries as he thinks fit. It shall not be necessary for the Commissioner to hold any hearing, and no person shall be entitled as of right to be heard by the Commissioner.

(4) The Commissioner shall not make any finding or recommendation that may adversely affect the reputation of any person being investigated without granting such person a right to be heard.

(5) If during or after any investigation, the Commissioner is of the opinion that there is substantial evidence of any significant breach of duty or misconduct on the part of any person to whom this Act applies, he shall refer the matter to the appropriate authority including the Police:

Provided that the Commissioner may continue further with his investigation after having referred the matter as aforesaid.

(6) Any person to whom this Act applies has a duty to cooperate, at all stages, with an investigation under this Act.

(7) Subject to the provisions of this Act and of any rules made thereunder, the Commissioner may regulate his procedure in such manner as he thinks fit

Evidence.

19. (1) Subject to the provisions of this article and of article 20 of this Act, the Commissioner may from time to time require any person who in his opinion is able to give any information relating to any

matter that is being investigated by the Commissioner to furnish to him any such information, and to produce any documents or papers or things which in the Commissioner's opinion relate to any such matter as aforesaid and which may be in the possession or under the control of that person.

(2) The Commissioner shall have power to –

(a) summon witnesses;

(b) administer an oath to any witness and to any person concerned in the investigation, and require them to give evidence and to produce documents in their possession or under their custody in such circumstances as they could be required to give evidence or produce documents before a court of law.

(3) Summonses for attendance of witnesses may be in the form set out in the Second Schedule to this Act or in such other form as may be appropriate to the case, and shall be signed by the Commissioner.

(4) A summons may be served either by hand or by post. Where it is served by hand it shall be sufficient to prove service by evidence that the summons was left with a person over the age of sixteen years at the place of residence or of business of the person summoned; and if served by post it shall be sufficient to prove service by evidence that the summons was properly addressed and posted.

(5) Any person summoned as aforesaid who refuses, or without sufficient cause fails, to attend at the time and place mentioned in the summons, or refuses, without sufficient cause to answer or to answer fully and satisfactorily, to the best of his knowledge and belief all questions put to him by the Commissioner, or refuses or fails, without sufficient cause, to produce any document he was required to produce by the Commissioner shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding two thousand and five hundred euro (2,500) or to imprisonment not exceeding three months, or to both such fine and imprisonment:

Provided that, without prejudice to the generality of the provisions of subarticle (2), no person giving evidence before the Commissioner may be compelled to answer any question which tends to expose him to any criminal prosecution, and every such person shall, in respect of any evidence given by him before the Commissioner, be entitled to the same privileges to which a witness giving evidence before a court of law is entitled

Cap.9.

(6) The following shall *mutatis mutandis* apply to the person to be heard by the Commissioner:

(a) the provisions of article 522 of the Criminal Code, where the person to be heard refuses to testify when required to do so by the Commissioner, for this purpose, the proceedings before the Commissioner shall be deemed to be proceedings taking place before a court;

(b) the provisions of articles 104, 105, 107, 108 and 109 of the Criminal Code, as the case may be, where the person to be heard does not testify to the truth, for this purpose the proceedings before the Commissioner shall be deemed to be proceedings taking place before a court and the person to be heard shall be deemed to be a person testifying in those proceedings. For the purpose of determining the applicable punishment as may be necessary in proceedings for perjury under this subarticle the allegation being inquired into or adjudicated by the Commissioner shall be deemed to be liable to the punishment to which it would have been liable had the same fact taken place before the Maltese Courts.

Exemptions from disclosure.

20. (1) Where the Prime Minister certifies that the giving of any information or the answering of any question or the production of any thing, paper or other document –

(a) affects the security or defence of Malta or relations or dealings between the Government of Malta and any other Government or any international organisation of States or Governments; or

(b) is likely to damage seriously the national economy; or

- (c) involves the disclosure of the deliberations or proceedings of Cabinet or any committee of Cabinet; or
- (d) prejudices the investigation or detection of offences, the Commissioner shall not require the information or answer to be given or, as the case may be, the thing, paper or other document to be produced.

(2) Subject to the provisions of subarticle (1), the rule of law which authorises or requires the withholding of any document, thing, or paper, or the refusal to answer any question, on the ground that the disclosure of the document, thing or paper or the answering of the question would be injurious to the public interest, shall not apply in respect of any investigation by or proceedings before the Commissioner.

Cap. 517.

(3) Without prejudice to the other provisions of this Act, the Commissioner shall have the right to access any documents relating to the revenue acts.

Secrecy of information.

21. (1) Information obtained by the Commissioner and every person holding any office, appointment or designation under the Commissioner, in the course of or for the purpose of an investigation under this Act, shall not be disclosed except for the purposes of the investigation and of any report to be made thereon under this Act, or for the purpose of any proceedings relating to an offence under this Act, and the Commissioner and members of his staff shall not be called upon to give evidence in any proceedings, other than such as aforesaid, of matters coming to their knowledge in the course of an investigation under this Act.

Cap. 9.

(2) Article 133 of the Criminal Code shall apply to and in relation to the Commissioner and his staff as they apply to or in relation to a public officer or servant referred to in article 133 of the Criminal Code.

PROCEDURE AFTER INVESTIGATION

Procedure after investigation.

22. (1) The provisions of this article shall apply in every case where, after making any investigation under this Act, the Commissioner is of opinion that the allegation forming the subject-matter of the investigation -

- (a) appears *prima facie* to have been contrary to law; or
- (b) was *prima facie* in breach of any statutory or any ethical duty as provided under this or any other law.

(2) The provisions of this article shall also apply in any case where the Commissioner is of the opinion that in the conduct constituting the subject -matter of the allegation, a discretionary power has been exercised for an improper purpose.

(3) If in any case to which this article applies the Commissioner is of the opinion -

- (a) that the matter should be referred to the appropriate authority for further consideration; or
- (b) that any practice or conduct is in breach of any statutory or ethical duty or that such practice or conduct should be altered; or
- (c) that any other steps should be taken,

the Commissioner shall report his opinion, and his reasons therefor, to the Committee, and may make such recommendations as he thinks fit.

(4) If within a reasonable time after the report is made no action is taken which seems to the Commissioner to be adequate and appropriate, the Commissioner, in his discretion, may send a copy of the report and recommendations to the Prime Minister, and may thereafter make such report to the House of Representatives on the matter as he thinks fit.

Permission to cure the breach

(5) Where the Commissioner finds that a breach of the Code of Ethics or of any statutory or ethical duty is not of a serious nature, he may grant the person investigated a time limit within which to cure such breach.

(6) Where from the investigation it appears *prima facie* that a criminal offence or a corrupt practice has been committed, the Commissioner shall refer his findings to the Commissioner of Police or the Permanent Commission Against Corruption, as the case may be, and shall immediately inform the Chairman of the Committee.

Proceedings privileged.

23. (1) No proceedings, civil or criminal, shall lie against the Commissioner or against any member of his staff for anything he may do or report or say in the course of the exercise or intended exercise of his functions under this Act unless it is shown that he acted in bad faith.

(2) The Commissioner and such persons as aforesaid, shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions under this Act.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any inquiry by or proceedings before the Commissioner under this Act shall be privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

Conclusion of Investigation.

24.(1) The Commissioner shall conclude his investigation within six months of having received the allegation.

(2). Where the investigation is not concluded within six months of having received the allegation, the Commissioner shall draw up a report stating the reason for the delay, and this report shall be transmitted by the Commissioner to the Chairman of the Committee not later than seven working days from the lapse of the six months.

(3) At the end of every month after the first report shall have been drawn up, the Commissioner shall draw up another report stating again the reason for the delay, and every such subsequent report shall be transmitted by the Commissioner to the Chairman of the Committee not later than seven working days from the lapse of the month.

Reports.

25. The Commissioner shall annually or as frequently as he may deem expedient report to the House of Representatives on the performance of his functions under this Act to the Speaker who shall instruct the Leader of the House to lay a copy on the Table of the House at the first available opportunity.

PART II
COMMITTEE FOR STANDARDS IN PUBLIC LIFE

Composition of the Committee.

26. (1) There shall be a Committee which shall be a Standing Committee of the House of Representatives, which shall consist of:

- i) the Speaker of the House of representatives as Chairman;
- ii) two members nominated by the Prime Minister and two members nominated by the Leader of the Opposition.

(2) In cases of equal votes the Speaker shall have a casting vote but shall not have an original vote.

Powers of the Committee

27. (1) The Commissioner shall send his reports, drawn up under article 22 of this Act, to the Committee.

(2) Without prejudice to the provisions of Article 13(4), the Committee shall oversee and scrutinise the work of the Commissioner, for the purpose of ensuring that the Commissioner is fulfilling his duties and operating efficiently, and shall examine any reports it receives from the Commissioner.

(3) The Committee shall decide whether to adopt the conclusions contained in the said reports and whether to impose a sanction.

(4) Where the Committee deems that it cannot adopt a report of the Commissioner, it may either decide to reject the said report or decide that the allegation needs to be investigated further, in which case it may, with the assistance of the Commissioner, conduct such additional investigations and hear further evidence on the matter of the allegation. For this purpose the Committee shall have the powers granted to the Commissioner under article 19 of this Act.

(5) The Committee may also request the Commissioner to explain any aspect of the report or to carry out further investigations.

(6) If the Committee decides to reject the Commissioner's conclusions, it shall give reasons for its decision.

Sanctions By Committee

28.(1) Where the Committee finds that there has been a breach of the Code of Ethics or of any statutory or ethical duty it may, after granting the person concerned the right to make submissions, impose any one or more of the following sanctions:

(a) admonish the person investigated;

(b) recommend that the matter be reported to the Commissioner of Police or the Permanent Commission Against Corruption, as the case may be, for further investigation;

(c) in the case where the person investigated is an employee, it may direct Government or any entity or statutory body, to take all necessary measures in accordance to the said person's contract of employment, with a view to remedy the breach;

(d) in the case of a Member of the House of Representatives –

(i) that the said House should direct the Member to rectify any breach;

(ii) to demand an apology in writing to be made to the Committee;

(iii) to demand an apology by way of a personal statement on the floor of the House;

(iv) repayment of or payment for resources improperly used;

(e) in any case, it may recommend that the House of Representatives directs the person being investigated to rectify the breach;

- (f) it may recommend that the House of Representatives takes any of the following measures against a Member of the said House -
- (a) suspension from the House entailing loss of remuneration and any pension rights for the period of suspension;
 - (b) loss of salary for a specified period without suspension;
 - (c) expulsion from the House.

Regulations

29. The Minister may make regulations to implement and to give better effect to the provisions of this Act and without prejudice to the generality of the foregoing may, by such regulations, prescribe anything that is to be or which may be prescribed and provide for any matter consequential, incidental to or connected with the provisions of this Act.

FIRST SCHEDULE

CODE OF ETHICS

(Article 3)

A. Principles

1. This Code of Ethics is adopted within a framework of principles which are fundamental to the ethos governing behaviour. These have been identified as public trust; serving the public and the business community; responsibility to the Government of the day; productivity and flexibility; and public employees' rights.
2. The public has a right to expect that public sector organisations and their employees are of the highest integrity and competence and serve all citizens fairly, reasonably, equitably and efficiently.
3. Public employees shall provide impartial and accurate advice to the Government of the day and shall implement its policies promptly, efficiently and effectively.
4. The public and the business community have a right to expect that public employees will seek to meet their legitimate needs promptly and courteously.
5. The nation expects public employees to be committed to a constant quest for innovation, improved productivity, and the simplification of procedures, so as to contribute to national economic growth and competitiveness.
6. Public employees shall make full use of information and communication technology as an essential tool in the improvement of public administration and the delivery of better services, and they shall ensure that they possess the necessary skills to this end.
7. Public employees' rights are all the rights of employees, within the provisions of legislation and regulations.

B. Conflicts of Interest

8. A conflict of interest may be defined as a situation in which a public employee has a private or personal interest sufficient to influence or appear to influence the objective exercise of his or her official duties.
9. Public employees shall avoid any financial or other interest or undertaking that could directly or indirectly compromise the performance of their duties.
10. In many cases only the individual employee will be aware of the potential for conflict. Therefore, the onus is on the employee to disclose to his or her senior if a potential or actual conflict of interest arises.
11. This includes the notification of all relevant personal, financial, business or other interests, in particular:
 - (a) any directorship, partnership, agency or any shareholding;
 - (b) any interest in any activity or business in which or with which the organisation is engaged;
 - (c) any interest in goods or services recommended or supplied to the organisation.
12. Public employees shall notify the head of the organisation in writing within a week whenever any of the above interests arise namely, upon assuming office, change in duties or due to a change in circumstances.

C. Acceptance of Gifts or Benefits

13. No public employee or any member of his household shall accept gifts or services such as might be deemed to create an obligation, real or imagined.

14. A gift can be interpreted as an inducement or a reward simply because of its intrinsic value and therefore only token gifts may be accepted.

D. Personal and Professional Behaviour

15. Public employees shall perform any duties associated with their positions diligently, impartially and conscientiously, to the best of their ability.

16. In the performance of their duties, public employees shall:

(a) keep up to date with advances and changes in their area of expertise;

(b) comply with any relevant legislative or administrative requirements;

(c) treat members of the public and other staff members with courtesy and sensitivity to their rights;

(d) provide all necessary and appropriate assistance to members of the public;

(e) maintain adequate documentation to support any decisions made;

(f) strive to obtain value for public money spent and avoid waste and extravagance in the use of public resources;

(g) not take or seek to take improper advantage of any official information gained in the course of employment;

(h) not wilfully supply incorrect or misleading information;

(i) not indulge in favouritism or nepotism.

17. At all times the behaviour of a public employee shall be in such a way as not to discredit his or her position and not to reflect adversely on the public service.

18. Public employees shall be expected to give full support to the Government of the day regardless of which political party or parties are in office. When implementing Government policy, public employees' own values and beliefs shall not take precedence over those explicit or implicit in Government policy.

19. Public employees shall not harass or discriminate in work practices on the ground of sex, marital status, pregnancy, age, race, colour, nationality, physical or intellectual impairment, sexual preference, or religious, political or other convictions / allegiances when dealing with their colleagues and members of the public.

20. Public employees have a duty to report to a senior employee any unethical behaviour or wrongdoing by any other public employee during the course of his or her duties.

E. Fairness and Equity

21. Issues or cases being considered by public employees shall be dealt with consistently, promptly and fairly. This involves dealing with matters in accordance with approved procedures, without discrimination on any grounds. There is an obligation to treat each issue reasonably and with a view to meeting the principles of natural justice.

22. When using any discretionary powers public employees shall ensure that they take all relevant facts into consideration and have regard to the particular merits of each case.

F. Use of Official Information

23. A public employee shall only disclose official information or documents acquired in the course of his or her employment when required to do so by law, in the course of duty, or when proper authority has been given. In such cases, comments made by public employees shall be confined to factual information and shall not express opinion on official policy or practice.

24. A public employee as defined in article 2 of the Public Administration Act shall not accept employment in the private sector if he will be placed in a position to make use of "insider information" if such information came to his knowledge as a direct result of his public employment.

G. Use of Official Facilities and Equipment

25. It is expected that public employees shall:

- (a) be efficient and economical in the use and management of public resources;
- (b) be scrupulous in their use of public property and services and not permit their abuse by others.

26. Official facilities and equipment shall not be used for private purposes unless prior official permission has been given.

H. Outside Employment and Termination

27. The prior approval of the Permanent Secretary of the Ministry concerned or the Chairperson/Chief Executive Officer is required before public employees may engage in any form of business or employment outside their official duties.

28. In all cases when outside employment is considered, public employees shall give their public sector employment first consideration and avoid situations which could give rise to, or the appearance of, a conflict of interest. In particular, they must consider whether the company or organisation concerned is in, or entering into, a contractual relationship with the Government, whether its primary purpose is to lobby government organisations or members of Parliament, or whether it is in a regulatory relationship with the organisation.

29. Former public employees shall ensure that they do not accept employment or engage in activities which may cast doubts on their own integrity or that of the organisation in which they were previously employed or of the Public Service generally.

I. Political Participation and Comment

30. It is of the greatest importance that public confidence in the impartiality of the public administration shall not be impaired in any way. Public employees need to ensure that their participation in political activities does not bring them into conflict with their primary duty to serve the Government of the day. This is important in order to maintain ministerial and public trust in the impartiality of the advice given, and actions taken, by public employees.

31. Likewise public employees need to ensure that the spirit of paragraph 30 hereof is respected whenever they are asked to make a public comment. Public comment includes public speaking engagements, comments on radio and television and expressing views in letters to the newspapers or in books, journals or notices or where it might be expected that the publication or circulation of the comment will spread to the community at large.

32. Determining what is appropriate in any particular case will depend on the extent of the participation of the individual, the nature of the issue, the position held by the individual and existing regulations within the organisation concerned.

33. If a public employee becomes aware that a potential conflict, whether real or apparent, has arisen or is likely to arise, the public employee shall immediately inform the head of his or her organisation.

34. If a conflict of interest does arise, the public employee may have to stop participating in political activity or withdraw from areas of his or her duties giving rise to the conflict of interest.

J. Sanctions

35. Sanctions may be applied if public employees are involved in breaches of this Code of Ethics.

36. The sanctions applied shall depend on the seriousness and nature of the breaches and may entail formal disciplinary and, or criminal action as applicable.

37. Whenever appropriate, counselling by a supervisor or member of senior staff may also be given.

SECOND SCHEDULE

(Article 19)

Summons to Witnesses

(The Standards in Public Life Act)

To A.B. (name of person summoned and residence)

You are hereby summoned to appear before.....at
(place) on(date and time) and to give evidence respecting
.....
(the matter of the investigation).

Given under my hand this day of 20... .

(Signature of the Commissioner or Committee)