

THURSDAY 27TH NOVEMBER 2008

The Speaker, Rt Hon. Sir Peter Kenilorea took the Chair at 9.30am.

Prayers.

ATTENDANCE

At prayers all were present with the exception of the Ministers for Rural Livelihood and Indigenous, Culture & Tourism, Mines, Energy & Electrification, Environment & Conservation, Lands & Survey and Members for West Guadalcanal, Central Makira, North Guadalcanal, South Vella La Vella, East Malaita and Malaita Outer Island.

QUESTIONS AND ANSWERS

Health – Water Supply Systems

2. **Hon SOGAVARE** to the Minister for Health & Medical Services: Would the Minister advise Parliament on the progress of the proposed national survey by the Rural Water Supply and Sanitation (RWSS) of the status of all water supply systems in the country to identify areas needing new water supply?

Hon. KOLI: Mr Speaker, I rise to briefly thank the Leader of Opposition and MP for East Choiseul for this very important question.

The national survey will take place from January to June 2009 in all the provinces by staff of the Environmental Health Division with the support of the National Rural Water Supply and Sanitation in the main office. The purpose is to establish the following data:

- Villages that have existing safe adequate water supply systems and sanitary facilities that are in a functional state.
- Villages with inadequate unsafe water supply systems, partially function with reasonably good sanitary facilities.
- Villages with non-functional water supply systems with poor sanitary facilities.
- Villages without improved water supply system with no means of sanitary facilities,
- Type of water systems/sanitary facilities,
- Village population - served population and un-served population,
- Locations in the provinces,
- Clinics and schools with adequate safe water supply systems and safe-sanitary disposal facilities.

- Clinics and schools that have neither adequate nor safe water supply systems and no sanitary facilities,
- School clinic locations in the provinces with number of school, teachers/children and clinic staff.

The data established will be used in the planning of future water supply and sanitation programs targeting priority areas (un-served population); develop a rehabilitation program to address the malfunction systems and defunct systems for water and sanitation. Review of program activities to be more cost effective in its service delivery to rural communities. Develop strategic plans for effective implementation of the National Rural Water Supply and Sanitation Program to achieve positive outcomes in the overall state of health in the country. Assess sustainability on systems and technology in use in the water and sanitation program.

1. **Rural Water Supply and Sanitation Program 2008 SIG**

There are 38 projects to be constructed in all the provinces as of January 2009 due to delay in material and supplies not arriving in time. Payment voucher is now with the Ministry of Finance and sooner the payment is made to the overseas supplier the sooner we will receive materials and supplies. It is expected that if there are no further delays by the Treasury, the materials should reach us by December 2008.

The lists of water supply projects for each province for your awareness are as follows: Central Province - 5, Choiseul Province - 1, Guadalcanal Province - 2, Isabel Province - 5, Makira/Ulawa Province - 5, Malaita Province - 8, Renbel Province - 4, Temotu Province - 5 and Western Province - 3

The reason why Choiseul and Western Provinces have low water supply project is because they also received assistance from the tsunami project funding.

Mr Speaker, the Health Sector Support Program staff is working on a number of rural water supplies designs to be submitted for financial support under AusAID through Health Sector Support Program (HSSP). The design and costing work is expected to be completed by Friday 28/11/08. If approved, AusAID will be advised to call for bidders to supply materials and supplies for the projects submitted to them by the Ministry of Health and Medical Services. These water systems will be implemented in addition to the 38 water supply projects that are supported under the SIG, which we have allocated \$5million in the Development Estimates for 2008 but will be implemented in the course of 2009 because of late payment. Thank you.

Hon Sogavare: Thank you, Mr Speaker, for that very elaborate answer by the Minister. All that this question is asking for is the national survey, which is very important to establish where the projects should go. Maybe for the information of the House how do you where the projects should be established, the projects that the Minister has listed out as the number of projects for the provinces.

The point here, Mr Speaker, is that the survey is very, very important to establish where the project is really needed. The project is really in need to implement. How do you establish where the projects that you have listed should go in the absence of a national survey that is not yet taking place because it will happen in 2009?

Hon. Koli: Thank you, Mr Speaker, for the supplementary question. The project locations were established and costing done in line with how the technical people did the costing and survey. If a project is properly documented it would surely be funded. Sometimes when a project is over costed they would think twice about funding it. It has to be technical people that must do the surveying. For example, I received funding from overseas when I was still not a member for my water supply. I did my own costing and I got technical people from Guadalcanal Province to survey my water supply. After that is done, direct funding comes from overseas from the Soroptimist international. That is just an example. Thank you.

Hon. Sogavare: Mr Speaker, so this survey in 2009 will be funded under which allocation in the draft budget that is before us?

Hon. Koli: The breakdown of this \$5million is mainly from SIG funding. AusAID funding will be known on Friday 28th November, which is tomorrow.

Mr Waipora: Supplementary question, Mr Speaker. When this survey took place, did it take stock of those water supply projects that were already completed, and water supply projects in big villages that need maintenance? What is the policy? Is it up to the communities concerned to maintain their water supplies or will it be taken into consideration with the new ones that are being surveyed?

Hon. SIKUA: Mr Speaker, you would be aware that it was only in the 2008 Budget that the government has put in a substantial amount of money for water supply and sanitation under the rural water supply and sanitation project in the Ministry of Health.

Prior to that, Mr Speaker, there has been minimal funding from government. The \$5 million allocation that we put in this year's budget reflects the government's seriousness in building clean pipe water in our communities for safe drinking water for our people, which is part of the government's policy.

Mr Speaker, the initiative that can be taken by Members of Parliament is to approach the Rural Water Supply and Sanitation Division of the Ministry of Health and indicate to them that certain areas within your constituency would need assistance. That move in itself by Members of Parliament can also help influence the decision by the Rural Water Supply and Sanitation Division of the Ministry, to quickly go out to areas that are of greatest need by the technical staff of the Ministry of Health Rural Water Supply Division. I am just making a practical example here, Mr Speaker, like for my own constituency I have done that where I paid for independent people to do valuation of the water supply needs in my constituency and then submit those projects to the

Ministry of Health, Rural Water Supply Division for their consideration of funding under this \$5million. In some cases, Mr Speaker, the staff of the Rural Water Supply Division went to some areas in my constituency to do the assessments. I think that is one of the ways we can fast track the Rural Water Supply and Sanitation assessments in our constituencies rather than relying entirely on work programs of technical staff in the Ministry of Health. As I understand it, Mr Speaker, there are only two people in the Ministry of Health, including the Director himself who is also busy, and so there are only about three people that can do this work in the Ministry of Health.

What I am saying, Mr Speaker, is that perhaps Members of Parliament can help by doing independent assessments themselves in fast tracking this program for clean water supply systems in all our constituencies in the rural areas. Thank you, Mr Speaker.

Hon. Sogavare: Mr Speaker, thank you for the supplementary question. May be I need to correct the Prime Minister.

In 2007 exactly \$9million was for this project, and we actually spent \$9.9m in 2007 for Rural Water Supply. In 2008, the allocation by the CNURA Government was \$5million, and in 2009 it will be \$4million, and not \$5million, unless a new draft will come and change that but the draft as we have right now is only \$4million.

In regards to funding, and may be two questions just to follow up on the explanation on the reply of the Minister, so the funding of this survey, and I am still on the survey, and I think that is the proper of way of doing it.

I feel that if Members of Parliament are bogged down and become project directors in our constituencies then we will not be able to do our work in Parliament that we are paid to do. I insist that the work should really be done by the Ministry.

The two questions are, can the Minister confirm if this survey is going to be funded under this \$4million allocation with some assistance from AUSAID, which is yet to appear in this budget. AUSAID's name was mentioned by the Minister but looking through the 2009 Budget, there is no support by AUSAID for that project. That is the first question. Secondly, if there are only two people in that Unit, and this is a very, very important program, is it possible to recruit some more people to that Unit so that they can do the work, Mr Speaker?

Hon. Koli: Mr Speaker, as I indicated earlier on, from January to June 2009 survey work will proceed. It was held up somewhere along the line because of the joint consultation with donors. We need resources to proceed with the survey. Now that donors are willing to come and assist us, and as I highlighted they will assist us on Friday 28th, the AusAID Government with officials will do finalizing of the funding. Thank you.

Mr Waipora: Mr Speaker, supplementary question. I guess that the technical people of the Ministry of Health in consultation with other organizations like the NGOs have gone around building water supply and sanitation, an example is the World Vision. I suppose funding comes from AusAID and is diverted to World Vision so that when

implementing the programs in the various provinces, they do it in consultation with our technical people in the Ministry of Health. So that the Ministry of Health is doing this or World Vision is doing this one, and I am only naming one NGOs. That is what I would like to know. The question is, I suppose it is in consultation with the Ministry that they go ahead doing the programs because some of them are going ahead in Makira at this time.

Hon Koli: My Ministry is not working in isolation of ADRA, World Vision and other NGOs. We are working side by side in regards to providing water supply to our people according to government policy. Thank you.

Hon Sogavare: Mr Speaker, I think the core of the question has been answered and so I thank the Minister for answering the questions.

External Trade – Integrated Framework

46. **Mr OTI** to the Minister for Foreign Affairs and External Trade: Is the Government still committed to the implementation of the Integrated Framework (IF) under the auspices of the World Trade Organization (WTO), and if so what progress has been achieved since the present government took office in December 2007?

Hon HAOMAE: Mr Speaker, I thank the Honorable MP for Temotu Nende for asking this important question. The question is in two parts and I shall respond to them accordingly. For the benefit of Honorable colleagues who are not familiar with the Integrated Framework (IF) as it has just been established about three years, with your indulgence, Mr Speaker, I would also like to provide background information on the Integrated Framework, Mr Speaker.

Mr Speaker, the following information has been formulated to provide an answer to the question by my honorable colleague and friend, the MP for Temotu Nende.

Mr Speaker, the Government is still committed to the implementation of the Integrated Framework (IF) under the auspices of the World Trade Organization (WTO). The progress made to date is that the government has conducted nationwide awareness workshops throughout June 2008. Following on from these workshops, a diagnostic integrated study was conducted until August 2008. A report on the study is now available at my Ministry next month that is December a validation workshop will be convened to assist the Ministry and government for that matter amongst others will also include the private sector to formulate an Action Matrix leading towards a Trade and Productive Sector Growth and Development Strategy as a response to the findings of the study. It is envisaged that this will also include an Implementation Plan to address the policy priorities identified in the Study.

Mr Speaker, as I said earlier, I would like provide some background information on the Integrated Framework because it is a new establishment for the benefit of

Honorable Members who may not be aware of this important establishment within the Ministry of External Trade Division of the Ministry of Foreign Affairs relative to the Ministry of Commerce and Industries.

The Integrated Framework is a process to support Least Development Countries (LDC) and Solomon Islands is a member of the LDC in trade capacity building and mainstreaming trade policy into overall national development strategies. The Integrated Framework Core Agencies will work with LDCs and donors to enable LDCs to use their scarce resources to actively participate and benefit from multilateral trading system. There are six Integrated Framework core agencies, and they are the International Monetary Fund (IMF), the International Trade Centre (ITC), the United Nations Development Program (UNDP), the United Nations Conference of Trade and Development (UNCTD) and the World Bank (WB). These are coordinated locally by the European Union Mr Speaker. All LDC countries can apply for the International Framework Process to the International Framework Secretariat of the WTO.

Mr Speaker, as I mentioned earlier the study has been taken, the Diagnostics Trade Integrated Studies was designed to analyze and assess trade gaps in relation to regional and multilateral trading. The Study commenced in the month of June 2008 and was successfully completed in August 2008. The Study covers ten (10) chapters conducted by 11 international consultants including the team leader and five local persons. The chapter covers a wide range of trade and trade related issues including sectors of special interest to Solomon Islands. They are sustainable forestry and logging, agriculture, agro-processing and livestock, fisheries, fish products and tourism.

Mr Speaker, the next stage is to validate these study reports. The government has already made advance preparation for this validation workshop scheduled to be held on the 11th to 12th December 2008. I invite all honorable members on the other side of the House and the Ministers to attend this important validation workshop. The workshop will be attended by more than 100 senior government officials and representatives from the private sector organizations including representatives from the UNDP, WTO, ITC and donor partners. It is through this workshop the government will be validating the reports and recommendations contained in the Study reports for further implementation. Thank you, Mr Speaker.

Mr. Oti: Mr Speaker, I thank the Minister for his substantive reply to the question. I also want the Minister to clarify the first window of funding, which in essence was about US\$300,000 in phase 1, can the Minister inform Parliament what the government is using, particularly the areas mentioned by the Minister whether or not we used up that first financial window of \$300,000 after the validation workshop and time to implement the recommendations of the DTIS, of course, you can drawdown on the second window of financing through the six agencies to work on the capacity building of the areas that were identified in the DTIS.

It is basically two questions. The first is on the window of \$300,000, and of course that being completed the chances for us to access the second window of funding. Can the Minister explain that to us so that we know how the government is using it

through the mechanism established under the IF? The national steering committee, the focal point, these are the important agents in consultation or working together with the donor partner, which in this instance, I understand is the EU and EU is not part of the core six agencies, but EU has been appointed and has agreed to be the donor coordinator of IF programs in Solomon Islands. Thank you Mr Speaker.

Hon. Haomae: Mr Speaker, thank you for the supplementary question. Yes, the EU is the donor coordinator of the funding. There are two windows, which are window No.1 and window No. 2. The integrated framework and the integrated framework trust fund was created in 2001 with two instruments. Window No. 1, as referred to by the Honorable Member, he is familiar with these things because he was the former Minister for External Trade, window no. 1 and window no. 2. Window 1 funding involves a small amount of funding in the tune of \$300,000 of fund for preparation of the diagnostic trade integrated studies – preparation for that study while window 2 provide bridging money for small assistance or capacity building activities that are part of the diagnostic integrated trade studies action matrix. The majority fund for the action plan must however come from bilateral donors, development partners as part of the overall response to national poverty reduction strategies. That’s how that pattern for window No. 1 for preparation of this study. Mr Speaker, thank you.

Mr Oti: Supplementary question also for the Minister to clarify because this involves a lot of different stakeholders particularly in the formation of the National Steering Committee. Can the Minister kindly tell the House on the composition of the National Steering Committee? How wide is representation in this National Steering Committee?

Hon. Haomae: The National Steering Committee embraces all governmental representatives as well as the private sector, and statutory bodies also in the government, at the moment it is the general manager of one of the statutory authorities of government. It embraces the government, the statutory bodies of the government and the private sector. Thank you.

Hon. Sogavare: Supplementary question. I appreciate that this program is to do with improving the ability of the country to trade effectively. But it would seem to me that in order for us to trade, we should have the capacity to even produce things for trade as well. Mr Speaker, I am wondering whether in regards to this program, the Minister mentioned something about capacity building and so forth, but who does this capacity building applies to. Does it apply to those who actually produce products to enable us trade with the outside world or who?

I am asking this question because unless we have commodities to export to the quality that can be demanded by market overseas, we will forget all these arrangements because they will not apply to us, it will not be effective here.

Hon. Haomae: Mr Speaker, the Leader of Opposition has a good point, and that is the gist of this framework because you have to have something before you export overseas. At the moment it appears that the government needs to organize itself. This study identified the gaps like the producers and those doing the production like manufacturing or the agriculture sector, as I listed down tourism, agriculture, agro-forestry and all those so that the gaps are identified and then establish the strategies, effective and efficient strategies to link all of them to international trade. At the moment there are lots of arguments too, for example, the Ministry of Commerce, some opinions were expressed that CEMA should be under the Ministry of Agriculture rather than the Ministry of Commerce. We need to organize these gaps and say that CEMA is dealing with secondary trade and so it must be under the Ministry of Commerce and not agriculture because agriculture deals with primary products. All these gaps, as rightly identified by the Leader of Opposition is what this study is for. Once the validation conference that happens next month on the 11th or 12th of December and from there it will set the strategies to bridge these gaps and the government will ensure that from the products it produces or manufactures, it comes through the government to international trade and gets to where we export them to. The Study also covers where we export our products to, like fish is exported to Thailand and it appears that they are selling it at a higher price and buying it in low price. So it covers where the product is produced up to where it is sold. Thank you Mr Speaker.

Mr. Oti: A final supplementary question. On donors, in particular the EU is a reliable and committed donor and has its presence here domestically. Can the Minister also inform the house whether the role of donor coordination is also to mainstream the other donors both multilateral and bilateral in the future to address issues, particularly some of which were mentioned by the Leader of Opposition. I just want confirmation that the role of the donor coordinator is to ensure that all the donors, bilateral and multilateral, when this is finalized in their program in Solomon Islands, not only to help trade but in the development of agriculture, development in agro-forestry that they would be guided by this particular outcome of the validation of the DTIS.

Hon. Haomae: Thank you. The immediate role under the EU is under the purview of the Ministry of Aid Coordination. It is under the portfolio purview of my colleague Minister for Aid Coordination, but the outcome when it comes, it is our expectation that they will support it. Thank you.

Mr. Oti: Mr Speaker, I would like to thank the Minister for his reply to the question and subsequent supplementary questions.

Mr Speaker: Would the Honorable Member for South Choiseul like to ask his question? Although the Minister for lands is unavailable the Prime Minister will answer the question.

Housing - sale of government housing policy

78. **Mr BOSETO** to the Minister for Lands, Housing & Survey: Can the Minister inform Parliament whether the “Sale of Government Housing Policy” has been finalized? If so, could the Minister brief Parliament of the main emphasis, objectives and requirements of that policy?

Hon. SIKUA: Mr Speaker, thank you for this opportunity to respond to the question. As you know we have 109 questions and if we postpone questions we would not be able to get over the 109 questions at the end of our sitting. Mr Speaker, I would like to thank my good friend, the Member for South Choiseul for his question.

Mr Speaker, in response to the question the government policy on the sale of government houses has been endorsed by the Government Housing Task Force and a Cabinet Paper has been prepared and is expected to be considered by Cabinet by late November or early December 2008. The Minister for Lands, Housing and Survey will then be in a position to explain the policy to all of us in terms of the main emphasis, the objectives and requirements of that policy after Cabinet has made a decision on it. Thank you.

Mr. Boseto: Mr Speaker, I am not able to take all of that. If it has not materialized although the policy has been endorsed by Cabinet, what would be the emphasis of that policy? I would like the substantive Minister to properly answer my question but since the Prime Minister wants to answer it, I just want to throw in one supplementary question. Is this policy going to accommodate the three categories of people in Solomon Islands if they apply to buy the houses? The first category are the indigenous people of Solomon Islands, the second are naturalized citizens of Solomon Islands, and thirdly foreigners, those outside of Solomon Islands.

Hon. Sikua: Mr Speaker, I thank the Member for South Choiseul for his supplementary question. Mr Speaker, what I have said is that the sale of government houses has been endorsed by the Government Housing Task Force and not by Cabinet and therefore I do not want to preempt Cabinet decision on the emphasis, objectives and requirements of that policy to respond to the supplementary question by the Honorable Member for South Choiseul Mr Speaker. Thank you.

Mr. Oti: Mr Speaker, although not to preempt what Cabinet would decide on and also not within the scope of what the task force did, I just want to ask that in the end if the policy is adopted, would the requirements of the Financial Instructions for tendering of properties. I am sure it is not part of the recommendations because it is something the government and the system must do that the properties of government are tendered. We want to know whether that is going to be complied with so that everybody knows that they will be tendered. Otherwise we think the houses will be tendered but they were already sold.

Mr Speaker, I just want to raise that concern for the Prime Minister to respond to that we will ensure the tender process is complied with should Cabinet endorse the proposed policy of selling government properties. Thank you, Mr Speaker.

Hon. Sikua: Mr Speaker, the Member for Temotu Nende has raised a very important point and we will take note of it. Thank you Mr Speaker.

Hon. Sogavare: Mr Speaker, thank you. We appreciate that we should not intrude into areas that Cabinet has not yet approved, but I think it is just safe for the Prime Minister to inform Parliament of the terms of reference of that particular task force that is looking into this particular policy?

Hon. Sikua: Mr Speaker, I thank the Member for East Choiseul and the Honorable Leader of Opposition for his supplementary question. I do not have the terms of reference available with me right now, but I will endeavor to make them available to Members of Parliament after this meeting. Thank you, Mr Speaker.

Mr Boseto: Mr Speaker, I think my two questions should be deferred because there is another question coming, unless the Minister is overseas. Is he overseas?

Mr Speaker: Point of order, I think the question we are currently dealing must be concluded with because it has already been asked and answered. If you want to defer question 79 you can do so.

Mr Boseto: The substantive Minister is not here and I would like a proper answer to my question and therefore can it be deferred.

Mr Speaker: Maybe the next question, Question 79 can be deferred, but I think Question No. 78 can be concluded with.

Mr Boseto: Mr Speaker, Question 79 on the national projects be deferred until the Minister of Lands, Housing & Survey comes up with the answer.

Hon Sikua: Point of order. Mr Speaker, the responses to the questions have already been prepared by the Ministry and I can answer question 79 as well.

Mr Speaker, as I have said if we defer questions to the fact that we have a 109 questions I do not think we can get over those questions during this sitting. I am happy if the MP for South Choiseul can ask Question No. 79, Mr Speaker.

Mr Speaker: But with the explanation that the Minister has given his answers to Question No. 79 as raised by the Prime Minister, I think you can ask Question 79 and the Prime Minister can answer according to the answers given by the Minister.

Lands – National Projects on Malaita

79. **Mr BOSETO** to the Minister for Lands, Housing & Survey: Can the Minister inform Parliament on the status of land acquisition on the following national projects on Malaita:-?

- (a) Auluta Basin Palm Oil Project
- (b) Bina Harbour Industrial Development
- (c) Suava Bay Fisheries Project
- (d) Wairokai Industrial Development; and
- (e) Waisisi Oil Palm Project

Hon SIKUA: Mr Speaker, once again I would like to thank my good friend, the MP for South Choiseul for his question. To answer the question on the Auluta Oil Palm Project, land mobilization exercise of 28 tribal lands have already been completed with 23 having preliminary lease agreements now with the Commissioner of Lands and the remaining five (5) in progress out of the 28. With that, Mr Speaker, the project is basically into the surveying stage.

Survey work is being outsourced and three (3) tribal lands in the East Fataleka area have been completed. Work currently is on the East Kwara'ae side where there are 16 tribal lands and the tribal groups have decided that disagreements between tribal groups or group members are internal matters for them to deal with according to their customary land dispute settlement mechanisms thereby permitting the survey work to continue without hindrance.

Surveying of a further four (4) tribal lands representing 1,600 hectares have just been completed with a further four (4) on schedule for completion by December 2008. By February 2009, Mr Speaker, the remaining six (6) tribal lands for the East Kwara'ae area will be completed.

The Commissioner of Lands Office is working on registration of the tribal lands that surveying work on them is completed and submitted by the Surveyor General's Office. That is the progress in relation to the Auluta Basin Oil Palm Project, Mr Speaker.

Mr Speaker, on the Bina Harbor Industrial Development Project, because of the number of claims made by various parties, the government has opted to compulsory acquire the land so that the Commissioner of Lands holds the PE. This should allow development to commence as soon as possible. The Commissioner of Lands will transfer the PE to the original or real landowners as soon as they are identified through the customary land mobilization exercise. In the meantime, Mr Speaker, a MOU signed between the SIG and the tribal groups will pave the way for that to happen. The Attorney General's Chamber is currently working on the MOU as well as a fallback option. Significant networking partner government agencies in this exercise are the Ministry of Rural Development and the Ministry of Commerce, Employment and Industries.

On the Suava Bay Fisheries Project, the Suava Bay Fisheries project landowning groups next to the registered area have expressed interest to have their lands included in

the development and the process of appointing an acquisition officer is in progress for the Suava Bay Fisheries Project.

On the Wairokai Industrial Development, the appointment of acquisition officers for the Wairokai Industrial Development and the Waisisi Oil Palm Project are now done and we will soon embark on the mobilization exercise and acquisition work in both Wairokai and Waisisi.

Mr Speaker, I am further pleased to inform my good friend, the MP for South Choiseul that this will be done according to work plans currently being finalized by the Ministry of Lands, Housing & Survey in collaboration with other implementing government agencies like the Ministry of Agriculture and Livestock and the Ministry of Fisheries and Marine Resources. Thank you, Mr Speaker.

Mr Boseto: Mr Speaker, I thank very much the Prime Minister for those detailed responses and answers. I understand that after the process for acquisition of customary land is completed, the government will transfer back the titles to the original landowner. As I understand it, since some the national projects have been settled, (I would say the original landowners have been identified) the customary lands have been surveyed and registered, what is the time frame of transferring back the titles to the identified original landowners where these national projects are to be developed.

Hon Sikua: Mr Speaker, the Honorable Attorney General is heavily involved in these areas, especially in relation to the Bina Harbour Industrial project. Mr Speaker, I think the supplementary question is in relation to the Bina Harbor and so with your indulgence I would like the honorable Attorney General to answer that supplementary question.

Attorney General: Mr Speaker, in regards to the Bina Harbour project, although it was the desire of the government to compulsory acquire the Bina Harbour land to accelerate acquisition and registration of the land, several meetings that I attended with some government Ministers and officials, the landowners expressed clearly that they did not want compulsory acquisition of the land. Because of that we have referred back to the ordinary land acquisition. Ordinary land acquisition has been done already but they were appeals against determinations made by land acquisition officers. Those appeals are pending before the Malaita Magistrates court up until now. When landowners decide to complete the ordinary land acquisition instead of compulsory land acquisition, I then discussed with the Magistrate responsible to speed up the process and so there are now timeframes set for the landowners to complete their submissions and if things go well the Magistrate should be able to deliver his decision before the end of this year. Following that, we will then decide what to do next whether the landowners would accept the verdict of the Magistrates or whether there would be further appeals. What to do next will depend very much on the outcome of the decision of the Magistrate. Thank you, Mr Speaker.

Mr Boseto: A small supplementary question. I think after this been processed I believe the customary landowners will reach a consensus, not through the courts but they have reached a consensus, and that to me is the security of this development. What do you say about that.

Attorney General: Mr Speaker, in an attempt to speed up the process, we suggested that parties reach some consensus and so a consent order was prepared by me and presented to landowners during those meetings I alluded to earlier. All the landowners that were present at the meetings accepted the consent order as it was the way out. The Magistrate court then was called and it convened and the consent order was presented to the Magistrates Court by and I made a formal application. During that hearing in Auki someone suddenly appeared and objected to the consent order. I then advised the Magistrate not to proceed because it was nearly a consent order application, instead I applied to the Magistrates to make specific directions as to when the parties should complete their submissions and after that the Magistrate would then deliver his decision. That is why earlier on I said that if things go well the Magistrate should deliver his decision by the end of this year.

In regards to the orders made by the court there is still an opportunity for landowners to come and ask me to go back to court with the consent order. That opportunity is still there. If they cannot reach consent then the directions, which I applied to and granted by the court will then have to be complied with. Thank you, Mr Speaker.

Mr Boseto: Mr Speaker, I would like to thank the Prime Minister and the Attorney General for the answers to my questions.

Mr Speaker: Honorable Members we have now completed question time for today. I understand that amendments to the Civil Aviation Bill 2008 are yet to be finalized and circulated to all Members and therefore I will shortly suspend Parliament to allow that work to be completed. As members are aware the Bill is over 190 pages, with 239 clauses to be considered at the Committee. If the third reading is to be reached today, Members should prepare themselves for a very long day. I therefore would like to say that Parliament is now suspended until 2pm this afternoon.

Sitting suspended for lunch break

Parliament resumes

Bills

The Civil Aviation Bill 2008

Mr Chairman: Honorable Members, before we proceed, I wish to inform Members that I have been advised that there are a number of amendments that are proposed for the Civil Aviation Bill 2008. I believe these have been put on the Notice Paper and circulated to all Members. Please be advised that the Speaker has given permission for the Honorable Minister to move these amendments notwithstanding that these do not meet the normal notice requirement. The Speaker gave that permission on the basis that the need for these amendments arose because of errors which occurred during the printing of the Bill. These are substantive amendments that we must dispose of if we are to progress on our consideration of the Bill.

I am also informed that there are a number of clerical errors and oversights which, again, came about during printing. These are printing and typographical errors that may be corrected with the Speaker's permission at Third Reading under *Standing Order* 58 (2). Members should, by now, each have a copy of the list of these errors and proposed corrections.

At this stage, I must express my disappointment in the situation that Parliament always seems to face in every meeting. It is rather unfortunate that the House is forced almost every time a bill is brought to it to move amendments that are in fact printing errors and not errors of the drafters or of the Ministry in charge of the bill. We are of course bound by the *Standing Orders* to correct these errors, no matter how small, through proper procedures, either through amendments at committee stage or as corrections at Third Reading. That however does not obscure the fact that there is a real issue with printing of bills. I certainly hope that the government takes necessary actions in respect of printing so that we avoid unnecessarily lengthy amendment and correction procedures of bills in future meetings".

We will now go through the Bill clause by clause before we deal with the Schedules. When we reach a clause to which an amendment is proposed as in the order and as indicated in the Notice Paper, we will dispose of that particular amendment first before we move to the next clause.

Please note that there are more than two copies of this Bill existing, but for this proceedings, we will use the copy that is labeled "Copy tabled at First Reading", which I believe has been circulated to all Members. If you don't have it, let the Sergeant know so that you can be given one copy.

Clause 1 agreed to

Clause 2:

Mr Tosika: I am raising a concern in regards to definitions used in this Bill in the light of other Acts having the same definition. For example, the Customs Act also has definition for terms like 'aerodrome', 'passengers', 'baggage' and so forth. The Customs Act also has definitions for these terms. Acts like Customs, Immigration, and

Quarantine are frontier organizations which their Acts have given them the right to inspect cargoes and passengers at any time if they were under suspect.

When introducing this Bill into this House, does this Bill take into account those other definitions and whether those definitions are in line with those Acts or are in harmony otherwise there will be conflicting definitions in relation to these various Acts that are in place? Thank you, Mr. Chairman

Hon Lonamei: The Customs, Quarantine and Civil Aviation all have the same interpretation; they should work hand in hand or compliment each other. They should work together for the same purpose. Thank you, Mr. Chairman.

Clause 2 agreed to

Clauses 3 & 4 agreed to

Clause 5

Hon Sogavare: Mr. Chairman, just a clarification on (e), which says “to declare an organization or body to be an approved organization”. What body is this and can the Minister give some examples of this?

Hon Lonamei: Mr. Chairman, an example is the flying training school.

Hon Sogavare: Mr. Chairman, I cannot hear the answer and so can you repeat it?

Hon Lonamei: An example is the flying training school

Clause 5 agreed to

Clause 6 agreed to

Clause 7

Mr. Oti: Mr. Chairman, this clause is for the purposes of the Minister making regulations restricting the use of the vicinity of the airports. If this particular section is applied then sections 6, 7, 8 of this Bill is dealing with land within the proximity or for purposes of aviation development. The intention of this section giving power to the Minister to make regulations can enable the Minister to make regulations even if another authority, like the Commissioner of Lands who is vested with the responsibility of public land or land that is already within the vicinity of the airport, which one of these two will prevail. Will it be the Commissioner of Lands or this particular section of this Civil Aviation Act to be?

Attorney General: Mr. Chairman, the land which has been granted by the Commissioner of Lands is subject to certain conditions. If, in consultation with the

Minister for Land or Commissioner of Lands the Minister of Aviation makes regulations, of course there has to be compensation paid as you will see in sub-clause 2 of clause 7. Yes, for safety reasons the person who holds the grant lose the land or building but there has to be compensation. Thank you, Mr. Chairman.

Hon Sogavare: In relation to compensation and what can be compensated, may be the Attorney General or Minister can clarify clause 7(3)(b) “the maximum amount of compensation payable under this section shall not exceed the amount by which the market value of such land”. Is building included in the definition of land as well? Or is the use of the word ‘land’ include ‘buildings’?

Attorney General: I did not get the particular part of the clause the Member is asking, but if the building is constructed on land then certainly it should be both land and building that will be affected. But sub clause 2 uses the word ‘land’. The use of the word ‘land’ would also include any improvements already on the land. Thank you Mr. Chairman.

Clause 7 agreed to

Clause 8

Hon. Sogavare: Mr Chairman, I just want to get the Minister and the Attorney General to ease the minds of some of us. The way this clause is worded is very heavy handed. It says “For the purpose of this Act, the Minister may authorize the acquisition of land by agreement or, where agreement is not possible, he may in consultation with the Minister responsible for Lands make a declaration to that effect and that purpose shall be deemed to be a public purpose to which Division 2 of Part five of the Lands & Titles Act shall apply”. Is this section referring to compulsory acquisition? If that is the case then I do not know. Does this section entertains forced alienation of the land and to what point in time will the Minister use that power because as it stands here if the landowners do not argue over it, but what this Act says is that the Minister can move in and compulsory acquire it, if Part 2 refers to compulsory acquisition of the land for building of an airport or whatever?

Attorney General: Mr Chairman, I do not have the Lands & Titles Act with me, but I can recall that Division 1 deals with acquisition of customary land by ordinary process and Division 2 of the Lands and Titles Act deals with compulsory acquisition.

The important words in clause 8 of the Bill are, ‘for a public purpose’. So if the land is for public purpose and because it appears in this Bill, it will be perhaps for aerodrome or civil aviation purposes. The Minister for Aviation will then have to consult the Minister for Lands because the procedure for acquisition is under the Lands and Titles Act. That is why they have to do the consultation before land acquisition is

effected under the Lands and Titles Act. I am not sure whether that answers the question of the Member.

Hon Sogavare: Maybe just from experiences because many of the problems in the country today is to do with land, and so I assume there will be processes in here that all parties to this must agree with it before the Minister moves in to use the power of compulsory acquisition because compulsory acquisition is basically forced alienation of a land. I am just flagging that concern. As a stand that is what it is. If landowners totally refuse, what is this clause is saying is that the government can move in and compulsory acquire the land. This is just a concern to register, Mr Chairman.

Attorney General: Mr Chairman, those two possibilities are available under clause 8. First, the Minister can reach an agreement with owners of the land. And if only an agreement is not possible, the Minister then can resort to compulsory acquisition. But that is a matter for good judgment for the ministries to decide as to when to exercise that power, although it is available under law, we can only hope that good sense and good judgment will prevail. Thank you.

Mr Waipora: I am not comfortable with the sentence, "For the purposes of this Act, the Minister may authorize". The Minister has no land and land, according to our system it is the Commissioner that is the authority holding the land for government. When you go from Honiara to outside it is customary land. But how come the Minister, a man from Buala will authorize somebody to acquire the land. I want us to clear this section. I think my English, and I am a person who does not understand English very well, but this is wrong according to my thinking. Thank you.

Attorney General: Mr Chairman, what authorization means is authorization of the process. After the process has been initiated by authorization and after consultation with the Minister of Lands, a declaration is then made. It is an authorization of a process. It is the actual process under the Lands and Titles Act that will deal with how the acquisition is going to be carried out. Thank you, Mr Chairman.

Clause 8 agreed to

Clause 9

Hon Sogavare: Clause 9(4), which says "The Minister may defer the operation of the Authority until such time as the Authority is able to operate as body corporate" and it goes on. How does this directive, the legal processes followed effecting the Minister to make this decision?

Attorney General: Mr Chairman, the legal process will just be by order.

Hon Sogavare: Mr Chairman, I raise that question because in some of the sections it specifically mentions that Minister will by order make the decisions, but this section is quiet as to how he is going to make it. Maybe the General Interpretations Act probably will apply here. Thank you, Mr Chairman.

Attorney General: Mr Chairman, the word 'the Minister may defer' means that by order he will defer it.

Mr Oti: Mr Chairman, clause 9(2) says "The Director or other employee of the Authority". When you look at Schedule 1, the authority has power to hire its own officers. As it is the application of this, the face value as presented here, I am just trying to envisage who or what part of the Civil Aviation Department will become employees of the Authority and which ones will remain as part of the Ministry of Civil Aviation. This is important because other sections we will come to later, in terms of the appointments, we will see, especially the Director, we will come to that but I am making reference to this because it will have that implication. The Director is actually appointed by the Minister with the consent of the Authority, and so there is no mechanism for invoking of Public Service Commission engagement, is not included.

I am raising this because by definition, who are the employees of that Authority as made reference to in clause 9(2) of the Bill?

Attorney General: Mr Chairman, the question can be answered when we come to clause 2, 3, 9 sub clause 5 which deals with transitional matters. That sub clause says, "Despite the repeal of any written law under this section, the Minister may make regulation to provide for any other transitional matters, including the transfer of public officers from the Civil Aviation Division to the Authority and transfer of government property assets and liability to the Authority". Thank you, Mr Chairman.

Hon. Lonamei: Mr Chairman, under the Civil Aviation Authority is the Director of Civil Aviation, operations, licensing, airworthiness, civil security and airports. All these come under the Authority but they will still remain as part of the aviation.

Clause 9 agreed to

Clauses 10 & 11 agreed to

Clause 12

Mr Chairman: There is an amendment proposed to this clause, and would the honourable Minister for Communication and Aviation move the amendment please?

Hon. Lonamei: Mr Chairman, I move that clause 12(1) line 1 to be amended by deleting the word 'the' which appears after the word 'other'.

Clause 12 as amended agreed to

Clauses 13 & 14, – agreed to

Clause 15

Hon Sogavare: Mr Chairman, the appointment of the Director. “There shall be a Director of Civil Aviation to be appointed by the Minister.” Can the Attorney General explain to the house the status of this person? Is he a political appointee or how is this person selected? The way it is presented here could be open to abuse and the right person not obtained for the job because it is the Minister who will appoint this person. Of course, it says there “On the recommendation of the Authority” and if the Authority is also a politicized body, the process is open to abuse.

There are two questions here. If this person is appointed by the Minister, is he a political appointee and is subject to the normal rules of the Public Service, if not then what is applied to this person, Mr Chairman.

Attorney General: Mr Chairman, it must be noted that the Authority will be a corporate body that stands on its own, and we have already gone through that. It is during the transitional period that he will receive transfer or secondment of officers from the Ministry of Civil Aviation. The Ministry of Civil Aviation remains part of the normal Public Service. The Authority is an authority like the SIWA and SIEA, and that is why the authority itself will make recommendations to the Minister. It can be a public officer or anybody wherever the authority thinks fit for the position. Just think of the authority as an authority like the SIEA or SIWA. Thank you very much, Mr Chairman.

Mr Oti: I thank the Leader of Opposition for that point. Still on the same point raised by the Leader, and with the clarification by the Attorney General, the authority, obviously if it is not appointed under the Public Service processes and mechanism, then of course, whether or not he is a political appointee or not, as the AG said it is a corporate body and therefore that corporate body will meet the remuneration of that Director, Mr Chairman. Is that so? Where are the funds of the authority? Will it be set up? Under this Bill would it have its own financing?

Attorney General: Well, since the authority is a corporate body, the Director has to be remunerated by the Authority. The Authority would have its own funds but since it is also an agency of the government, it depends very much on whether the authority will require funding from the government depending on its needs. Whether it could raise sufficient funds to meet the remuneration of the Director or it needs assistance from the government, it is a question for the Authority and the Civil Aviation Division to decide upon at the right time. Thank you, Mr Chairman

Mr Waipora: Mr Chairman, just on terminologies on the Controller of Posts and Communications, the Controller of Customs and the Controller of Civil Aviation. Today in this Bill the title Controller is changed to Director. I would like to know why the title Controller is changed to Director.

Attorney General: Mr Chairman, I think the answer is simple and it is because the Civil Aviation of the Ministry will now become an authority, a body corporate, and so the change of title comes about because of that reason. Thank you, Mr Chairman.

Hon Sogavare: Mr Chairman, clause 15(4)(f) says “the enforcement of this Act or any other Act, or of rules or regulations made under this or that other Act”. I just want an example of which other Act is this referring to?

Attorney General: Mr Chairman, first, the enforcement of this Act or any other Act is a drafting style and the reason is that it is important to have a wide embracing phrase so that if at any time there is an Act enacted by Parliament there is already a situation to cater for such new law or if there is already an existing Act which through inadvertence the draftsman didn't take it into account such phrase is to catch that kind of law. Thank you.

Hon Sogavare: Mr Chairman, thank you AG for that explanation. Sub-clause (7) says “If for any reason the Director is unable to perform his functions, powers and duties under this Act, such functions, powers and duties may be exercised and performed by”, and it listed the people. Can the Ministry explain why there is no deputy director here so that when the director is absent there is a deputy director who steps and performs the duty? In here it seems to suggest that this director's post is so special that it must be protected and any person that will take over responsibilities when the director is absent must be appointed according to the way provided in this section. Why not have a deputy director. Is something wrong with that?

Hon Lonamei: Mr Chairman, the Director is appointed, which means no one would assume his duty and so that is why the authority must write the appointment there.

Hon Sogavare: Mr Chairman, it is a concern that this is open to discretion. When it comes to people holding office it is very important that there is permanence on it and less discretion. That is the concern I have that this is open to discretion. It says “Any officer or employee directed in writing by the Authority or any other person appointed by the Authority” and it is subject to the discretion of the Authority. If the Authority is influenced, if there are some serious decisions that needs to be taken, aviation related decisions, you can actually influence that by sending the Director away and appointing somebody to step in and take his place and making decisions that everything is alright. That is the concern here. But if the law also establishes the office of a deputy director

then that is some permanency and we know exactly who is manning the office. That is the concern I have.

Attorney General: Mr Chairman, the Director is the CEO of the Authority and has specific functions, statutory functions. What the clause is saying is that if the director is unable to perform then it must fall back on the Authority to decide on who is to perform that function. Just remember that the director is like the CEO of the Authority and so it has to fall back on the Authority to decide on a fit and proper person to perform that function during the period of absence.

The Member was perhaps speculating on situations that we do not want but it depends very much on the Authority and you can see the composition of the authority as the PS responsible for the Ministry, the Attorney General and a person from overseas who is an expert in the area. But that is the composition of the Authority. Thank you, Mr Chairman.

Hon Sogavare: That is exactly the concern here, Mr Chairman. We are here to make laws and think broadly when we decide on things, which eventually when we pass this bill it becomes law and we would be directly responsible for bringing into force something that probably might backfire on ourselves. That is the concern. Speculating or whatever, Mr Chairman, but we are here to think broadly and wide when it comes to making laws. I appreciate the comment made by the Attorney General.

Mr Tosika: I would like to clarify that clause 15(2) clears the doubt that we refer back to clause 26 that caters for the concern of the Leader of Opposition which talks about delegation of powers under gazette for other employees of the Authority. Maybe that section could clarify certain issues in relation to section 15.

Hon Sogavare: Mr Chairman, that section talks about delegation but when you subject something to delegation or whatever that is subject to discretion. What I am saying here when it comes to important post and office let us fix them. This is just a concern that I am raising but I appreciate the point raised by the MP for West Honiara.

Mr Oti: Mr Chairman, subsection 9 of clause 15 and we have made some observations on subsection 7 with particular reference to, I think, it relates to one of the questions I raised earlier on that what part of the Ministry will be under the Authority and what will become the responsibility. Regulatory and policy are separate decisions but aviation security service, for example, when applied regarding the Director of that Authority giving directive in this particular subsection with particular reference to aviation security service, unless consented to by the Minister. So on the one hand, the Authority is subjected to the direction of the Minister in specific reference to aviation security. So the question I raised today was, which part of the Civil Aviation will be lumped as regulatory and hence coming under the purview of the Authority and sections like aviation security which are no longer regulatory. In this instance sees why

the Minister has authority to consent if the authority is giving appointment or is directing the aviation security of Aviation. The authority under subsection 7 says without the prior approval of the Minister and so the Minister must approve it.

I am just trying to work out here what is so special about aviation security in this instance that the Minister must give his consent to the Authority when making the appointment.

Attorney General: Mr Chairman, the Minister perhaps will give the policy reasons but just to explain that clause. If we refer to clause 10 (c) you will see that the Aviation Security Service is to be established by the Authority, it comes within the Authority and so it is like a department or unit within the Authority. Then if we come to the clause the Member is asking the question about, which is clause 15 says that the Authority shall not give any direction appointment without the prior written approval of the Minister.

Now, the authority is the regulator and the department is the service provider. Both the authority and the service provider are all answerable to the Minister. The Permanent Secretary heads the department for the provision of services, aviation services and the authority is the regulator and both are answerable to the Minister. Security is a very serious aspect in aviation, so although the Aviation Security Service is a unit within the Authority there has to be supervision from above as well because of the seriousness of the security aspects in aviation. Thank you, Mr Chairman.

Hon Lonamei: In addition to that, Mr Chairman, the areas that will remain with the Ministry of Communication and Aviation are the airport, the air traffic management and aviation security; this is their actual workers and the coordinator still remains with the Authority.

Mr Tosika: Whilst we are on section 15 the concern of some of us is that when we come to section 9 which says corporate body.

My view is that when they talk about an incorporate body it is incorporated within the sector and not incorporated outside so that it is a body like the SIEA or SIWA. But it is an incorporate body within the organization, and so when it comes to who should fund it, it is supposed to be the Ministry that should fund it. Because when we look at section 15, which talks about the functions it is a concern because I don't think we will set up another body like the SIEA running separately from the Ministry. I thought the incorporation of those sectors is within the set up of the Civil Aviation Authority.

I would like clarification of this because it poses doubt in here that we talk about a separate entity that can fund itself other than the Ministry funding that incorporate body.

Hon Wale: Mr Chairman, to clarify that point in the transitional period they might need subvention to assist the authority. But given growth in the Aviation Sector they will be receiving fees for the airspace, and this is coming in now, and also fees at the airport and

so forth. I think in the mid to long term, they will be able to raise quite high revenue as well. In the transition period they will still need support from the government. I think what the clause is doing is that it is preparing for that long term eventuality. Thank you, Mr Chairman.

Hon. Lonamei: Aviation security will still remain with the Ministry because it is their service. We are to provide services and the Authority will only give regulatory measures.

Mr Boseto: Just one question. I begin to feel that we need time for this bill. Why should we make this a priority over the security of customary land because not many Solomon Islanders are going to buy? The question is why it is a priority. We need time for this. To adopt an act from overseas and pass it quickly may not be a wise thing to do. Thank you.

Mr Chairman: Point of order. This Bill has been read the first time about three or four months ago in September of this year, and I think it is ample time for us to go through the Bill and it is now here before us and it has passed its second reading and we are now in the committee stage and so we shall proceed. Thank you.

Hon. Manetoali: Mr Chairman, I want to come back to the point made by the Opposition Leader today regarding the Deputy Director of Aviation. Since this is a growing document it is a good idea to have a deputy director but maybe sometimes, later on, we can have a deputy director. We can make amendments to whatever as we go along and as this document grows. Thank you.

Clause 15 agreed to

Clauses 16, 17, 18, 19 agreed to

Clause 20

Hon Sogavare: Clause 19 gives a checking mechanism, I guess, on decisions right up to Section 19. I am just wondering whether any decision is made on Section 21 on the source of an appeal mechanism. We are just human beings and so if a decision is made on some information that is not right where somebody from the bush or somebody from the outer island reported that a pilot is involved in something unfavorable, the Director can take some decisions that might base on information that is not really reliable.

Is there an appeal mechanism in here? I seem to see that anything up to Section 19(8) has an appeal mechanism but what about the decision on Section 21, is there an appeal mechanism for that as well? Mr Chairman?

Attorney General: Mr Chairman, clause 22 falls within the appeal provision in 232 on page 132. You will see in clause 232(2) number 21 there. Yes, appeal can be made on two matters in Clause 21.

Clause 21 agreed to

Clause 22 agreed to

Clause 23

Hon. Lonamei: Mr Chairman, I move that clause 23(a) paragraph (c) line 1 be amended by inserting the word 'act' after the word 'this'.

Mr Chairman: Honourable Members unless a Member wish to comment on this amendment, I will put the question.

Mr Tosika: Mr Chairman, the concern here is that this Act seems to take over the responsibilities and functions of other Acts, like the seizure and detention of an aircraft. The same power is also given to the Comptroller of Customs who also has that same power. If this Act comes into existence, which of these two Acts will have more force than the other? I understand that the Customs Act also specifies that the Comptroller of Customs has power to seize aircrafts, vessels and things like that.

Attorney General: Mr Chairman, I am not sure whether that question answers the question that you put to the floor because I thought your question was on the amendment.

Mr Chairman: Yes, that is right. I am asking for any comment on the amendment moved by the Minister.

Mr Tosika: Mr Chairman, I thought I heard you said 'if anyone wants to comment on this before I put an amendment' and that is why I made this comment.

Mr Chairman: It is any comment on the amendment proposed by the Minister.

Mr Tosika: I am sorry, sir.

Clause 23 – as amended agreed to.

Mr Chairman: Before I put the question in respect of Clause 23, does any Member wish to comment on it as amended? Member for West Honiara you may wish to ask your question again.

Mr Tosika: Thank you for giving me the opportunity again. I wonder whether the Minister can answer the question that I asked earlier. I say this because as I understand it both persons will have the same responsibility, they will have the same power to detain the same things like aircrafts and so on. If this Bill comes into force, which of the two will have more force to apply, more power to apply in this case?

Attorney General: Mr Chairman, I think that question is out of order. We are considering a particular clause here and the Committee Stage like this can only look at the details of the clauses. The question seems to be quite general and comparing with other general laws for cross reference. Thank you, Mr Chairman.

Mr Tosika: I am referring to clause 23(c) on the imposition of aircrafts and activities there, which I understand that power is the same with others. That is my concern. Otherwise this Bill is passed and two people will be looking after the same functions.

Attorney General: Mr Chairman, you will see as we go through the Act that Police, for example, has a part to play in the process as well. In this regard, if the authority or director thinks that it needs the assistance of the Police then, yes, the assistance of the Police can be sought. But that is the power that will be used, the power we are dealing with it here. We are not looking at any other laws, but we are looking at the law right before us here. Thank you, Mr Chairman.

Mr Tosika: Mr Chairman, we are talking about practical things here, which at the end of the day we are responsible. Otherwise things like this go to the court and the court decides in relation to both Acts coming into play. If you look critically at it, like 'detain the aircraft or any aircraft', but the Comptroller also has power to detain aircrafts under the Customs Act and so is Civil Aviation. They both have the same power and so at what time should one have power over the other, is my question.

Attorney General: Mr. Chairman it depends on the other Acts the Member is referring to because the purpose of the other Acts is different. Why an officer under another act will exercise power is for a different purpose.

What the clause is saying here is that the Director can apply to a judicial officer or court for warrant but in the case of clause 1(c), which the Member is asking about and that is to prohibit or impose conditions on the operation of any aircrafts, obviously that kind of power will not be seen in Customs, but if it is there then it is for different purposes. Probably the provision in the other Act that the Member is referring to might not have the same privilege that the Director has in here.

Mr Tosika: Mr. Chairman, that is why I asked for definition in the first place. It is to clarify the harmonization of these legislations so that when I talk about aircraft there is a definition in the Customs Act on aircrafts and also definition of passengers, definition of import aircraft, definition of passenger baggage, definition of officers and so on. That is

why I want clarification on the definitions. In sub-clause (c) here which says 'detain any aircrafts, is my worrying part. If you think this is alright then that is okay. But I would rather voice it out before we collide with other assisting laws that we already enforced.

Attorney General: Mr. Chairman, perhaps further clarification. If we look at clause 23(1), the Director can apply for a warrant if he has reasonable grounds that the operation or use of any aircraft or aeronautical products will endanger persons or properties. Such circumstances must first arise before the Director can apply for a warrant. Endangering of persons or property may not appear in other Acts that the Hon. Member has mentioned. But, of course, for purposes of harmonization then that is a matter I believe the Minister will take into account to ensure that all related laws are harmonized; actually almost all related laws in our country need such a harmonization.

Clause 23 agreed to

Clause 24

Hon. Lonamei: Mr. Chairman, I move that clause 24(6) paragraph be amended by omitting the word 'that' which appears at the beginning of the paragraph.

Amendment agreed to

Clause 24 as amended agreed to

Clause 25 agreed to

Clause 26

Hon Lonamei: Mr. Chairman, I move that clause 26(11) line 3 be amended by inserting the word "or" after the words "aviation security service".

Amendment agreed to

Clause 26 as amended agreed to

Clauses 27,28,29 & 30 agreed to

Clause 31

Hon. Lonamei: Mr Chairman, I move that clause 31(2) line one be amended by inserting the word 'are' after the word 'instructions'.

Amendment agreed to

Clause 31 as amended agreed to

Clause 32

Hon Sogavare: Mr. Chairman, I feel that this is, I guess, the most important clause in this new law, and that is the power of the Minister to actually adopt foreign regulations, he has power to do that. Mr. Chairman, can the Minister inform Parliament what process will be adopted here or will be used here to effect this adoption. Mr. Chairman, will the Minister act on his own or are there processes to screen or to advise what is to be adopted, whether the rules or the regulations are good for us.

Mr. Chairman, I want the Minister to just explain the process involved in adopting the foreign rules, Mr. Chairman. Thank you.

Attorney General: As we go along we will see the process through the subsequent clauses. But I can refer the Member, for example, to clause 41 and 42 where it sets out some of the procedures. Thank you, Mr. Chairman.

Hon Sogavare: Mr. Chairman, may be I'll wait until we get there but the section referred to by the Attorney General talks about making rules, or rules we are going to make ourselves here. This is talking about adopting, and in this case, New Zealand regulations. Here, as it stands, the Minister can just go ahead.

I asked this question following concerns raised by operators that the government should ensure here that it is not one-way traffic where they themselves do it. This whole thing is affecting quite a lot of stakeholders like operators and the government. May be a direct question is, are we going to involve stakeholders in the process of adopting the regulations or is it something the Minister can exercise by himself, not consulting stakeholders - people who will be affected by the regulations adopted by the Minister.

Hon Lonamei: Mr. Chairman, yes we are going to consult before there is adopting, and any adoption will go through the normal channel, which is through Cabinet, gazetted and then enforced.

Hon. Sogavare: Mr. Chairman, it looks like that would be an administrative arrangement, and I do not know whether they will be more comfortable if it is not actually stated that we are going to consult stakeholders before the Minister adopts the foreign rules and regulations.

Mr Chairman, what the Minister is saying is that we are going to consult. That is administrative arrangements we are going to do but if the law does not require the Minister to consult, he will continue to do it by himself.

Attorney General: Mr. Chairman, as I said there are several rules in here that will actually answer the question. The question is quite difficult unless we go through the specific clause then it will become much clearer. The process is there.

Clause 32 agreed to

Clause 33

Mr Chairman: There is an amendment proposed in this clause. Will the Honourable Minister move the amendment?

Hon. Lonamei: Mr Chairman, I move that clause 33(5) line one be amended by inserting the word “only” before the word ‘because’.

Amendment agreed to

Clause 33 as amended agreed to.

Clause 34

Mr. Waipora: This is to do with safe carriage of firearms and other dangerous or hazardous goods or substances. I am just thinking about our local people who may come here buy axes and knives, wrap them up properly and carry it with them inside the planes. Will these things not allowed as well under this section? Are things like axes and knives covered under dangerous or hazardous goods?

Attorney General: Mr Chairman, safety whether it is international or domestic is safety, but it is up to the right authorities to determine on the ground whether it is still safe to carry those tools. But referring to the kind of situation the Member is talking about, if that is the way it has been with local flights and it is safer then probably that is the decision of the officers responsible. But safety whether international or domestic, safety issue is safety. Thank you, Mr Chairman.

Clause 34 agreed to

Clauses 35, 36,37,38,39 agreed to

Clause 40

Mr. Tosika: Mr Chairman, just a small concern since we adopted certain standards under international conventions requiring the safety and security traveling passengers. Think of this case scenario. If there is a terrorist onboard an aircraft and the standard required of security personnel in other countries is special training in firearms, equipments and the gears they are going to handle to protect the interest of people inside aircrafts when such a situation arises. In here we are talking about standards of ICAO and so forth. In such a circumstance what can the Minister do or in terms of compliance to the standard of ICAO where the security and safety of people is of paramount importance, are we going to train officers to safeguard the interest of people for those types of circumstances, and if so what kind of training and what type of equipments will be provided for security?

Hon. Lonamei: Mr Chairman, at the moment we do not have specific or special training for such areas, and we still do not have manpower, but the Ministry will consider sending people to be trained keep up to the required standard that ICAO wants.

Clause 40 agreed to

Clause 41 agreed to

Clause 42

Mr Chairman: Would the Honourable Minister move the amendment.

Hon. Lonamei: Thank you. Mr Chairman, I move that clause 42(3) paragraph (a) be amended by omitting the full stop appearing at the end of the paragraph and inserting instead a semicolon.

Mr Chairman: Honourable Members, unless any Member wishes to comment on this amendment, I will put the question.

Amendment agreed to

Mr Chairman: Before I put the question in respect of clause 42, does any Member wishes to comment upon it as amended.

Attorney General: Mr Chairman, this is the question dealing with adoption.

Clause 42 as amended agreed to

Hon. Sogavare: Mr Chairman, thank you for pointing that out Attorney General. This is a central provision. Thank you for highlighting it. The way it is put here is that it is not necessary for us to actually print the rules in this country. They can be updated from there and we will just adopt the provisions here. And the situation here might be different from there.

But just to put our minds at ease can the Attorney General explain to us the meaning of this phrase “according to its purpose and intent to the fullest extent practicable”. That is the phrase used because the way we understand it is that the rules will not be printed here. They did not appear in rules somewhere and we come and pass them in this Parliament so that we can say we will adopt these rules. The rules are updated from there and by virtue of these sections they apply to Solomon Islands. If there are some differences in opinion over how this should happen, it seems to be also suggested here that the court will interpret the way the rules are applied in Solomon Islands.

Can the Attorney General or the Minister can put our minds at ease because it looks like this phrase is the key 'according to its purpose and intent to the fullest extent practicable'. To ease our minds, what does this mean, the way this section is structured?

Attorney General: Mr Chairman, can the Member take me through the particular lines in Section 42.

Hon. Sogavare: Mr Chairman, it is Section 42(5), the last line, the last word in the last line on that paragraph. It goes like this "according to its purpose and intent to the fullest extent practicable". The court will use that principle or guideline to make any ruling if there is a different view or opinion as to how that foreign rule or regulation should apply here in Solomon Islands.

Attorney General: Mr Chairman, sub-clause 5 of clause 42 simply says that once a rule is adopted under the Act, government officials and judicial officers must give effect to the rule. The phrase "according its purpose and intent" simply means applying the full rule that is adopted. We are talking about a rule that has been adopted, but if we go to the prior clauses, that is sub-clause 3 and sub-clause 4, before a rule is adopted, you can see in sub-clause 3 the Minister publishing in the gazette a notice of the making of the rule. If you also look at sub-clause 4, the Minister can also amend or repeal any rule that is adopted. So we still have the right to amend any rules before they are adopted.

The sub-clause that the Member is asking about is the application of a rule that has been adopted. Prior to being adopted, there is a process where the Minister can also amend those rules. But, of course, there will be the deeming intention that rules once published perhaps in the internet, the Minister will deem to say adopt this rule as it is a good rule and that is why it is published in the gazette. Then it may in that same notice, perhaps adopt the full rule or adopt only parts of the rule that is needed. If we go further down and come to Schedule 2, on page 139, you will see the adoption statement and interpretation statement that shows the format that the Minister is going to use for the adoption of statements and interpretation of statement.

If I take us back to clause 41(5) on page 47 says, "The requirements of subsections (1) to (3) shall not apply to the making of ordinary rules by adoption under section 42." It excludes sub clauses (1) to (3) but did not exclude sub clause (4). Sub clause (4) says, "An ordinary rule shall come into force on the 28th day after the date of its publication in the Gazette". Just take a note of that. Ordinary rules shall come into force on the 28th day after the date of its publication in the Gazette. That proviso or that provision does not exclude in respect of adoption. If we go back to 42(3), my interpretation is that once the Minister publishes the rules in the Gazette, they will come into force on the 28th day after the date of publication, and so there is time for everyone to see and to make comments o the rules.

The other important point I mentioned is that it is up to the Minister to adopt what part of that foreign rule, which part is important for us to adopt Thirdly, it is

important to note that the Minister has the power to amend or repeal any rule that is been out of date.

It is only after that process, after the adoption process is completed before sub clause (5) that the Member is asking about comes into play. That is the application part. Thank you.

Hon Sogavare: I think the way I understand this clause, and thank you very much for that explanation.

Reading from the note given to us by the Ministry, even if publication of interpretation statement made by the Minister maybe notwithstanding that there are some differences of opinions and views because we are talking about different stakeholders here, we are talking about adopting a foreign regulation in this country and then it comes to a situation where maybe the application of that rule, some parties or stakeholders in the country do not agree on it and then it ends up in court for interpretation.

The concern is that courts only interpret law as it is worded. There will be terms used for those regulations in New Zealand, for example, terms that we do not know about here. And the way lawyers work is that they look at the terms and they argue over their interpretation and what they mean here in Solomon Islands. That is the problem we are going to face because we are adopting something from New Zealand, use different terms, refer to different things over there and we are trying to make them apply in Solomon Islands.

When that situation arises, it clearly says in here that it is the court and officials that will interpret it. What is going to guide them in their interpretation and that is why I refer to the statement “according to its purpose and intent to the fullest extent practicable”. What does that mean in relation to the scenario I have just painted if we adopted something from outside that do not really fit into any things in here? Maybe over here we use civil aviation and over there different terms are used. That is an example, but how are we going to address that situation, Mr Chairman, because we are not printing these laws in here. We are just bringing them in and to be adopted in here and give an interpretation as they apply in Solomon Islands. We are leaving it entirely to the court’s discretion to decide on how it should be applied to stakeholders.

Mr Chairman: I think the honourable Attorney General has pointed out very clearly that although we might adopt overseas or foreign regulations, the Minister has the power to amend or check it or whatever. On that basis, I see no reason why the courts can make judgment on a foreign regulation that is amended by the Minister. I think the AG’s explanation is accepted. I shall now put the question.

Hon Sogavare: Mr Chairman, I think I must protest. We are here to make laws. I think we need to clear in our minds as to how these things apply.

We are adopting foreign regulation here, lock stock and barrel, Mr Chairman, dumping them in here and say that is going to be applied here. What I am asking here is

that if it comes to a situation where there is a difference of opinion in how these things should apply how are we going to deal with it? That is the question I am making, and I will refer you to the phrase that is used in sub-clause (5) on how that statement relates to the concern that I am raising?

Mr Chairman: Thank you Leader of Opposition. I think my ruling is that the Attorney General has fully explained the situation in which the particular section you are raising can be adopted by the country. We have the powers of the Minister that can either adopt or amend situations like this. I think that is to safeguard this one. The AG has already gone into extent quoting the various sections within this Bill that can accommodate the concern of the Leader of Opposition.

Hon Sogavare: Mr Chairman, I will comply with your ruling.

Clause 42 – as amended agreed to

Hon. Sikua: Mr Chairman, seeing that we will be unable to complete our consideration of the Bill today, I move that the current proceedings of the Committee be adjourned until the next sitting day.

Mr Chairman: It has been moved by the Prime Minister that the committee stage of the Civil Aviation Bill, 2008 be adjourned until the next sitting day.

Committee Stage of the Civil Aviation Bill 2008 adjourned to the next sitting day

Parliament resumes.

Mr Chairman: Under Standing Order 10 (5) I adjourn Parliament until 9.30am tomorrow, Friday 28th November 2008.

The House adjourned at 4.40 pm