

National Parliament of Solomon Islands

Bills and Legislation Committee

Committee Report

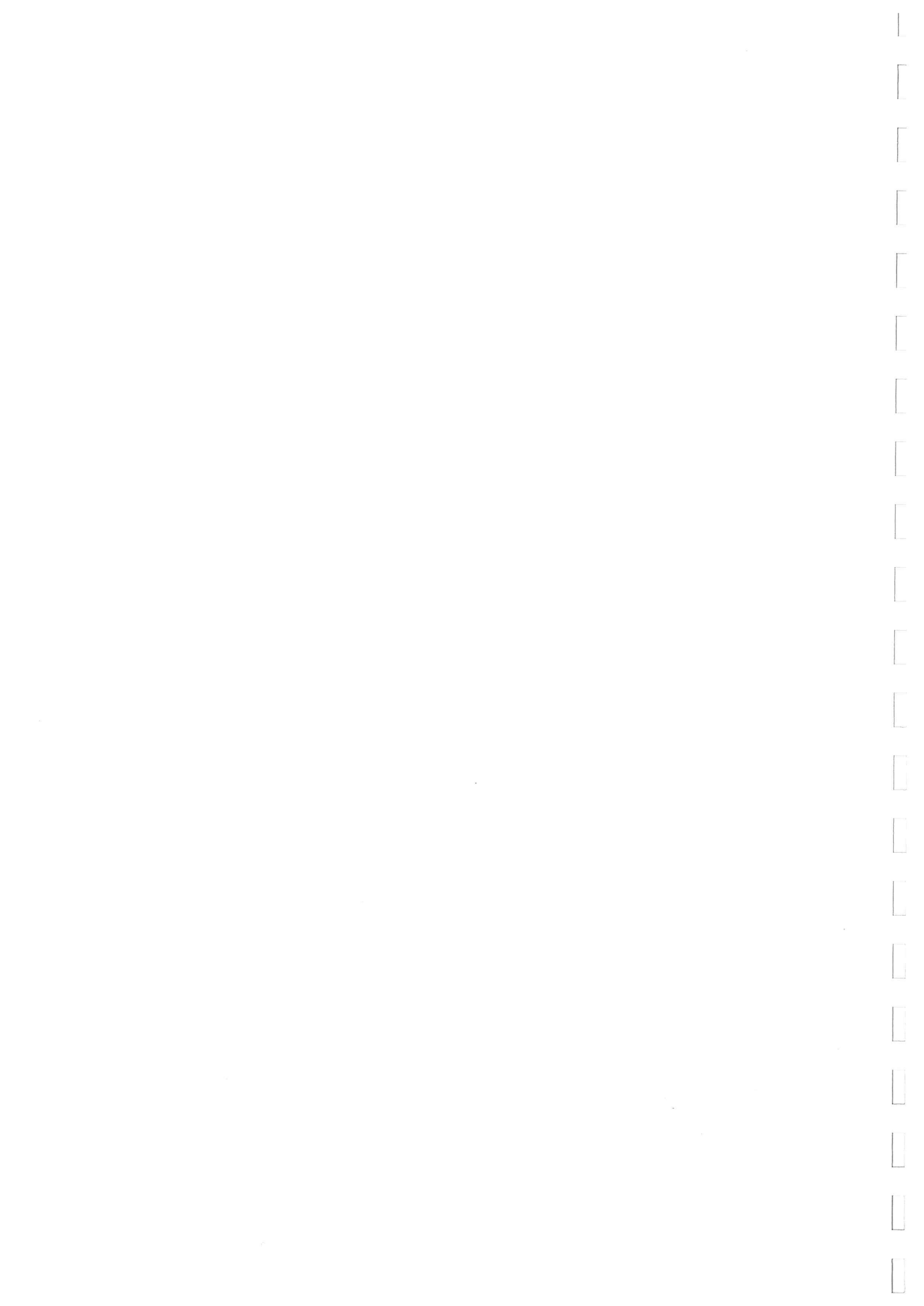
Report on the Constitution (Amendment) (Electoral Reform) Bill 2018 (No.1 of 2018)



NP-Paper No 19 of 2018

Presented on 6th August, 2018

National Parliament Office



COMMITTEE MEMBERS

The current members of the Bills and Legislation Committee (10th Parliament) are:

Hon. Matthew Cooper Wale, MP (Chairman)

Hon. Dr Derek Sikua, MP

Hon. Manasseh Maelanga, MP

Hon. Douglas Ete, MP

Hon. Peter Tom, MP

Hon. Christopher Laore, MP

Hon. Alfred Ghiro

Secretariat:

Wilson Anii

Wilson Orisi

Salome Pilumate

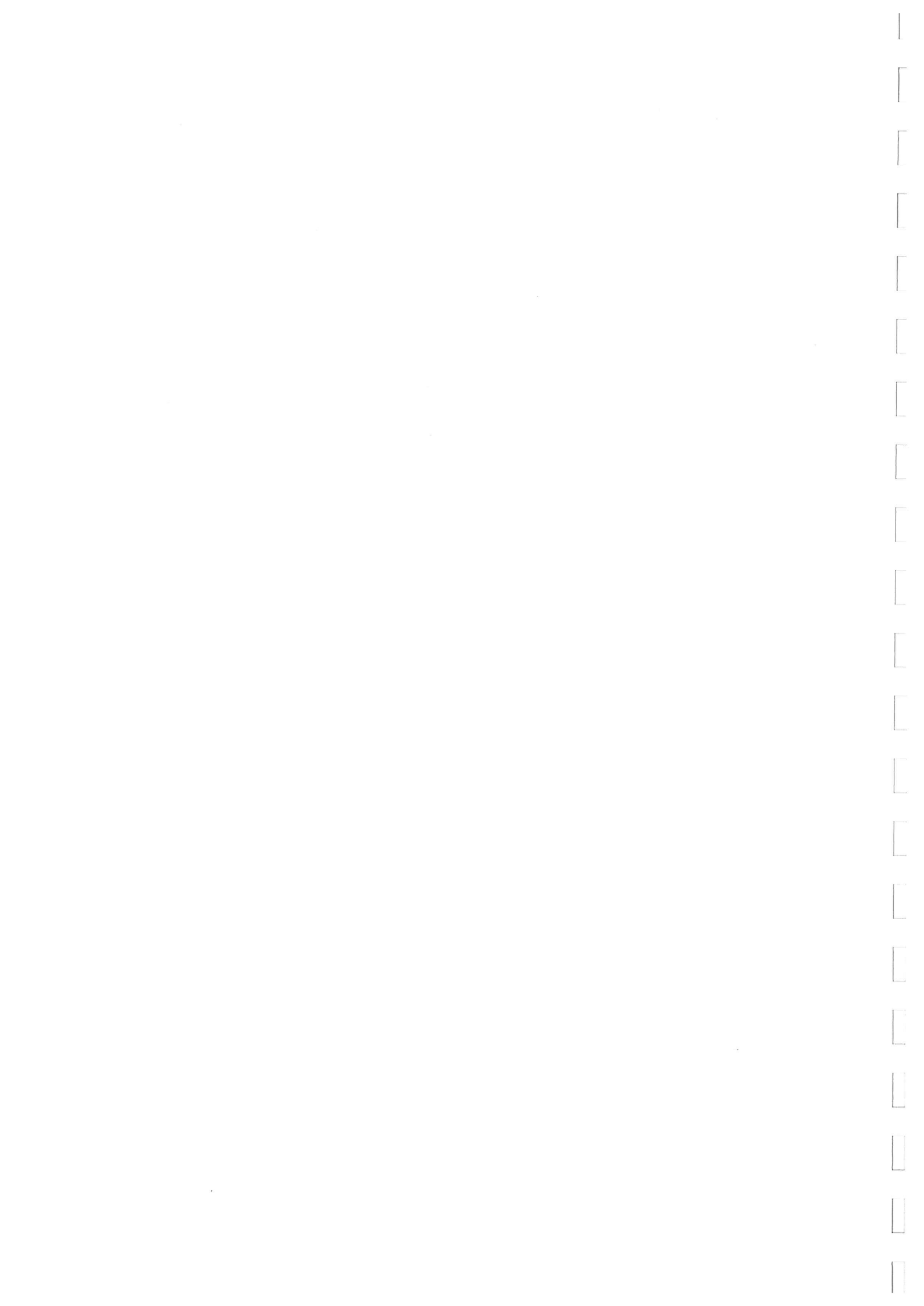
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HONIARA

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CHAIR'S FOREWORD



Hon. Matthew Cooper Wale, MP, Chairman

REPORT OF THE BILLS AND LEGISLATION COMMITTEE

Mr. Speaker,

Pursuant to Standing Orders No. 71 (g) of the National Parliament of Solomon Islands, it is an honour and pleasure for me Sir, to present the Report of the Bills and Legislation Committee on the Inquiry into the **Constitution (Amendment) (Electoral Reform) Bill 2018** for laying before Parliament.

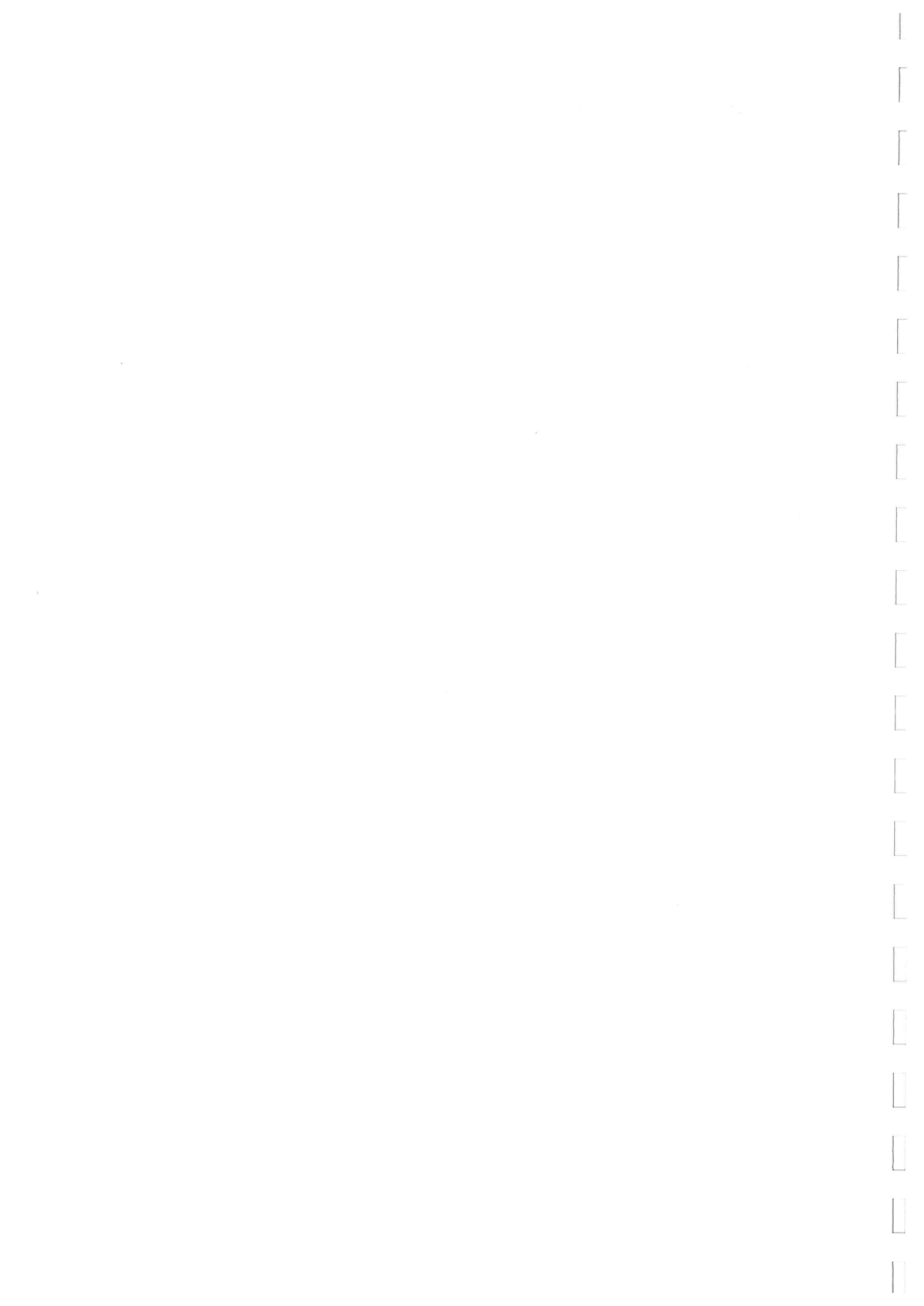
A handwritten signature in black ink, appearing to be 'M. Cooper Wale', written in a cursive style with a long horizontal stroke extending to the right.

Hon. Matthew Cooper Wale, MP

Chairman

Bills and Legislation Committee

6th August, 2018



COMMITTEE FUNCTIONS

The Committee is established under *Standing Order* 71; an Order made pursuant to the *Constitution*¹ and has the functions, together with the necessary powers to discharge such, to:

- (a) examine such matters as may be referred to it by Parliament or the Government;
- (b) review all draft legislation prepared for introduction into Parliament;
- (c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;
- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;
- (f) examine such other matters in relation to legislation that, in the opinion of the Committee require examination; and
- (g) make a written report to each Meeting of Parliament containing the observations and recommendations arising from the Committee's deliberations.

¹Section 62, *Constitution of Solomon Islands* 1978.

01/11/2019

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72. The seventy-second part is a list of intentions.

73. The seventy-third part is a list of desires.

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77. The seventy-seventh part is a list of aspirations.

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EXECUTIVE SUMMARY

The Committee conducted its scrutiny of the Constitution (Amendment) (Electoral Reform) Bill 2018 from the 15 to 17 of May. Nine groups and individuals appeared before the Committee.

The objects of the Bill are to:

- (a) to provide an additional requirement that a candidate for election be a registered elector; and
- (b) to allow an Act to prescribe the term "ordinarily resident; and
- (c) to provide for a 12-month stand-down period for a member of the Electoral Commission or staff involved in the election process if he or she intends to stand as a candidate; and
- (d) to increase the membership of the Electoral Commission to 5 members, and empower the Electoral Commission to also deal with the registration of political parties currently undertaken by the Political Parties Commission under the Political Parties Integrity Act 2014; and
- (e) to establish a new position of Commissioner of Elections as the administrative head of the office responsible for elections, who will also act as the Registrar for Political Parties under the Political Parties Integrity Act 2014.

After scrutinizing the Bill, the committee makes four recommendations:

1. **That the requirement of a stand down period of 12 months on any electoral official seeking to contest elections be extended to candidature of elections for the city council and provincial governments;**
2. **That the title of "Commissioner of Elections" be replaced with "Chief Electoral Officer", as is the current title, to avoid confusion.**
3. **That the number of commissioners on the Electoral Commission remain at three.**
4. **That the Political Parties Commission remain as it is, independent of the Electoral Commission.**

Subject to the above recommendations for amendments, the Committee commends the Bill to the House.



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1.0 INTRODUCTION

This Report presents the findings and recommendations by the Bills and Legislation Committee ('the Committee') after inquiring into the Constitution (Amendment) (Electoral Reform) Bill 2018 ('the Bill') as required under the Standing Orders of the National Parliament of Solomon Islands ('the Standing Orders').

This Bill seeks to enable the Electoral Bill 2018. Therefore, they form a couple, and the Committee conducted its inquiry on both bills together.

Relevant stakeholders² were invited before the Committee to make presentations or provide submissions on the contents, policy matters, and intentions of the Bill.

The hearings into the Bill was held from the 15th to the 17th of May 2018. The List of witnesses that appeared before the Committee and minutes of these proceedings are contained in Appendix 1 and 2.

Written submissions were also received from some of the witnesses that appeared before the Committee. A list of Written Submissions can be found in Appendix 3.

²See Appendix 1

2.0 BACKGROUND INFORMATION

The Constitution (Amendment) (Electoral Reform) Bill 2018 is an important step in the ongoing reform of our electoral system. The Bill enables the reforms contained in the Electoral Bill 2018. Members would, therefore, be well served by reading and understanding the Electoral Bill 2018 to know the significance and effect of the proposals contained in this Bill.

Members are advised to refer to the final pages in the Bill containing the Bill's objects and the explanatory memorandum to understand the structure of the Bill, when read in light of the Table of Provisions page.

3.0 ISSUES DISCUSSED

During the scrutiny of the Bill, the Committee considered the following issues:

3.1 Clause 3 – 12 months stand down period

The CEO of Transparency Solomon Islands (TSI)³, in her evidence, stated that the 12 months stand down period under clause 3 for the resignation of any electoral official seeking to contest the general elections is discriminatory. She argued that it is unrealistic for an electoral officer to be unemployed for 12 months and still sustain their family.

However, the Committee is of the view that the integrity of the Electoral Commission must be protected and therefore this proposal is not an unreasonable requirement. Further, the Committee recognises that an officer may seek administrative transfer away from the Electoral Commission to elsewhere in the public service, as the requirement does not impose automatic resignation on any such official.

3.2 Clause 3 – Exclusion of city council and provincial government elections

The Committee is of the view that the stand down period of 12 months or such other appropriate period be also imposed on officials in the Electoral Commission seeking to contest in elections for the City Council and provincial governments. This would be consistent with the gradual shifting of responsibility for these elections to the Electoral Commission.

3.3 Clauses 5 & 6 – Commissioner of Elections

The CEO of TSI submitted that the administrative head of the Solomon Islands Electoral Commission should not be part of the Electoral Commission and should be independent of the Commission. Being an administrative aide the person should remain as Secretary to the Commission to provide the requisite support to the Commission. Also the wording of the title of Commissioner of Elections may cause confusion as members of the (Electoral) Commission are also technically commissioners. A better title should be used for purposes of clarity. She proposed that the title of the position remain as the current Chief Electoral Officer.

³ Ruth Liloqula, Oral evidence, 17 May 2018

TSI rep when making submission stated that the inclusion of 57 A clarifies the role and duty of the Commissioner of Elections as an established public officer and the administrative head of the office responsible for electoral matters. Being an administrative role, the person should not be part of the Commissioners.

The Committee agrees with the proposal contained in Clause 5 ensuring that the Commissioner of Elections *may* take part in deliberations of the Electoral Commission without voting rights. The Committee recognizes that there may be situations when the Commission may wish to deliberate without the presence of the Commissioner of Elections.

Further, under Clause 6 as administrative head of the “office responsible for electoral matters...” the Commissioner of Elections is expected to provide advice and secretarial support to the Electoral Commission. There is sufficient arm’s length distance between the secretarial function and the decision making function of the Electoral Commission.

With regards to the title of “Commissioner of Elections”, the Committee agrees that there is room for confusion with how members of the Commission may be referred to. This is regrettable and should have been avoided in the choice of words. Other words that could have been considered are Director, Secretary, Clerk, Manager (of Elections). The Committee notes that this position in NZ is called the Chief Electoral Officer who is also a member of the Electoral Commission as envisaged by this bill (albeit without voting rights).

3.4 Clauses 5 & 6 – Number of Commissioners

The Committee is of the considered view that the number of Commissioners remain at three. The Committee notes that both Australia and New Zealand have three Commissioners in their equivalent Electoral Commissions. These are both larger electorates than Solomon Islands. And in view of the amendment to remove the Speaker as Chair, so that a full time person can take on the responsibility, the Committee does not agree that an increase to five Commissioners is justified.

3.5 Merger of Political Parties Commissioner with the Electoral Commission

The fifth object of this bill anticipates the merger of the Political Parties Commission with the Electoral Commission. The Committee heard presentations from the political parties taskforce committee and other stakeholders on this matter.

The Committee sees the need to keep the two commissions independent of each other. Whilst registration and administration of political parties could arguably be done by the Electoral Commission, it would be going too far to require the Electoral Commission to be responsible for the development of Political Parties, as required by the Political Parties Act. The Committee views the development function of the Political Parties Commission as critical in our efforts to build a politically stable Solomon Islands.

Recommendations:

The Committee recommends that:

1. The requirement of a stand down period of 12 months on any electoral official seeking to contest elections be extended to candidature of elections for the city council and provincial governments; and
2. The title of "Commissioner of Elections" be replaced with "Chief Electoral Officer" as is the current title, to avoid confusion.
3. The number of commissioners on the Electoral Commission remain at three.
4. The Political Parties Commission remain as it is, independent of the Electoral Commission.

END OF REPORT

4.0 APPENDICES

Appendix 1: Witnesses

Date	Name	Position & Organisation
Tues 15 th May 2018 1:47pm – 3:48pm	Mr Fred Rohorua	Special Secretary Prime Minister, OPMC
	Mr George Palau	Permanent Secretary- MHA
	Mr Mose Saitala	Chief Electoral Officer, MHA
	Mr Fredrick M. Bosoboe	OPS, SIEC, MHA
	Mr Phil Whelan	Advisor, Office of the Solomon Islands Electoral Commission
	Ms Catriona Steele	Legal Drafts Person - Attorney General Chambers
	Mr Olga Rabade	Advisor, UNDP, UNDP SELSP
Wed 16 th May 2018 10:17am – 12:38pm	Mr Fred Rohorua	Special Secretary Prime Minister, OPMC
	Ms Catriona Steele	Legal Draftsperson, AGC
	Mr Mose Saitala	Chief Electoral Officer, OSIEC
	Mr George Palua	PS, Ministry of Home Affairs
	Mr Phil Whelan	Advisor, OSIEC
	Mr Olga Rabade	Advisor, UNDP, UNDP SELSP
	Mr Fredrick Bosoboe	OPS, OSIEC
	Ms Florence R. Tagini	SCC, AGC
	Ms Ha'a Haurae	SCC, AGC
	2:37pm – 5:20pm	Mr Fred Rohorua
Mr Mose Saitala		Chief Electoral Officer, OSIEC
Mr Fredrick Bosoboe		OPS, OSIEC
Ms Catriona Steele		Legal Draftsperson, AGC
Mr Olga Rabade		Advisor, UNDP, UNDP SELSP
Mr Phil Whelan		Advisor, OSIEC
Ms Florence R. Tagini		SCC, AGC
Ms Ha'a Haurae		SCC, AGC
Thursday 17 th May 2018 09:17am – 9:53am	Mr Fred Rohorua	Special Secretary Prime Minister, OPMC
	Mr Mose Saitala	Chief Electoral Officer, OSIEC
	Mr Fredrick Bosoboe	OPS, OSIEC
	Ms Catriona Steele	Legal Draftsperson, AGC
	Mr Olga Rabade	Advisor, UNDP, UNDP SELSP
	Mr Phil Whelan	Advisor, OSIEC
9:59am – 11:06am	Mr. Francis Billy Hilly	Statesman
	Mr. Casper Fa'asala	General Secretary (Ag), NCW
2:02pm – 3:36pm	Sir Nathaniel Waena	Chairman, Political Parties Commission working group
	Mr. Charles Ashley	Secretary, PPP
	Mr. Fred Fakari	Ombudsman
3:42pm – 4:03pm	Ms. Ruth Liloqula	CEO, TSI
	Ms. Joy M. Abia	Legal Officer, TSI

Appendix 2: Minutes of Proceedings



NATIONAL PARLIAMENT OF SOLOMON ISLANDS

BILLS AND LEGISLATION COMMITTEE

P.O. Box G19,
Honiara.
Tel: 28520/23424.
Fax: 24272

Minutes of Proceeding

Committee Hearing into the Constitution (Amendment) (Electoral Reform) Bill 2018

Day 1/Tuesday 15th May 2018, CR II, Parliament House @ 1:47pm.

1. Members Present

Hon. Matthew Wale, MP (Chairman)
Hon. Manasseh Maelanga, MP
Hon. Douglas Ete, MP
Hon. Dr Derek Sikua, MP
Hon. Christopher Laore, MP

Secretariat and Support Services

Mr Wilson Orisi, Committee Secretary
Ms Salome Pilumate, Committee Administration
Mrs Esther Turangaluvu, Hansard
Mr Philemon Loe, Media

2. Chairman call meeting to order

3. Welcome and Opening Remarks

The Chairman made opening remarks by acknowledging and welcoming the PS of the Ministry of Home Affairs, Electoral Bill 2018 Taskforce ("the Taskforce) and Legal Draftsperson. The witnesses were reminded of the Parliamentary Privileges, recordings of the proceeding, Member of the Committee were introduced. He then invites them to deliver their presentation. The SSPM introduces himself and members of the Taskforce and commenced his presentation.

4. Committee hearing into the 'Constitution (Amendment) (Electoral Reform) Bill 2018'

The Hearing proper commenced and the following witnesses were admitted.

Hearing 1 Witnesses

Mr Fred Rohorua, SSPM, OPMC
Mr George Palau, Permanent Secretary, MHA
Mr Mose Saitala, Chief Electoral Officer, MHA
Mr Fredrick Bosoboe, OPS, OSIEC
Ms Catriona Steele, Legal Drafts Person, Attorney General Chambers
Mr Phil Whelan, Advisor, OSIEC
Mr Olga Rabade, Advisor, UNDP, UNDP SELSP

The Committee questioned the witnesses on their presentation and on the contents of the Bill. The witnesses answered, made clarification and commented on issues raised.

The Chairman thanked the witnesses for their attendance and conclude the proceeding.

Evidence concluded and the Chair thanked the witnesses for their attendance and presentations on the Bill.

5. **Adjournment**

The Committee adjourned hearing at 3:48pm

6. **Tabled Document**

Day 2 /Wednesday 16th May, 2018, CR II, Parliament House @ 10:17am.

1. **Members Present**

Hon. Matthew Wale, MP, Chairman
Hon. Manasseh Maelanga, MP
Hon. Christopher Laore, MP
Hon. Alfred Ghiro, MP
Hon. Dr Derek Sikua, MP
Hon. Douglas Ete, MP

Secretariat

Mr Wilson Orisi, Committee Secretary
Ms Ivory Iruha'a, Committee Secretary
Ms Theresa Nori, Hansard
Mr Philemon Loe, Media

2. **Chair call meeting to order**

3. **Welcome and Opening Remarks**

The Chairman made opening remarks. Welcomed the witness and informed the witness of Parliamentary Privileges employed in this inquiry and the recording of the proceeding. The Chair introduced the Members of the Committee and invite the witness to make his opening presentation.

Committee hearing into the 'Constitution (Amendment) (Electoral Reform) Bill 2018'

The Hearing proper commenced and the following witness was admitted:

Hearing 2 Witness

Mr Fred Rohorua, SSPM, OPMC
Ms Catriona Steele, Legal Draftsperson, AGC
Mr Mose Saitala, Chief Electoral Officer, MHA
Fredrick Bosoboe, PAO/Operations Manager, OSTEC
Mr George Palua, PS, MHA
Mr Phil Whelan, Advisor, OSIEC
Mr Olga Rabade, Advisor, UNDP
Ms Florence R. Tagini, SCC, AGC
Ms Ha'a Hauirae, SCC, AGC

The Committee then go through the general principles of the Bill with the witness. The witness also answered and made clarification on issues raised.

Evidence concluded and the Chair thanked the witness for his attendance and contribution on the Bill.

Evidence concluded at 12: 38pm

Hearing suspended for lunch break.

The Hearing resumed at 2:37pm and the following witnesses were admitted.

Hearing 3 Witnesses

Mr Fred Rohorua, SSPM, OPMC
 Ms Catriona Steele, Legal Draftsperson, AGC
 Mr Mose Saitala, Chief Electoral Officer, MH
 Fredrick Bosoboe, PAO/Operations Manager, OSIEC
 Mr George Palua, PS, MHA
 Mr Phil Whelan, Advisor, OSIEC
 Mr Olga Rabade, Advisor, UNDP
 Ms Florence R. Tagini, SCC, AGC
 Ms Ha'a Haurae, SCC, AGC

The Chairman made opening remarks and invite the witnesses to introduce themselves and make their presentations.

Members of the Committee then question and seek clarification from the witnesses on their presentations and on the clauses of the Bill.

Evidence concluded and the Chair thanked the witnesses for their attendance and presentations on the Bill.

4. Adjournment

The Committee adjourned hearing at 5:20pm

5. Tabled Document

Day 3 /Thursday 17th May, 2018, CR II, Parliament House @ 9:17am.

1. Members Present

Hon. Matthew, MP, Chairman
 Hon. Manasseh Maelanga, MP
 Hon. Douglas Ete, MP
 Hon. Dr Derek Sikua, MP

Absent

Secretariat

Mr Gregory Fineanganofu, Committee Secretary

Mr Wilson Orisi, Committee Secretary
Mr Lawrence Scott, Media
Ms Theresa Nori, Hansard

2. Chairman call meeting to order

3. Welcome and Opening Remarks

The Chairman made opening remarks. Welcomed the witness and told the witnesses of the Parliamentary Privilege employed in this inquiry and the recording of the proceeding. The Chair introduced the Members of the Committee and invite the witness to make opening presentation.

Committee hearing into the 'Constitution (Amendment) (Electoral Reform) Bill 2018'

The Hearing proper commenced and the following witnesses were admitted:

Hearing 4 Witnesses

Mr Fred Rohorua, SSPM, OPMC
Mr Mose Saitala, Chief Electoral Officer, OSIEC
Mr Fredrick Bosoboe, PAO/Operations Manager, OSIEC
Ms Catriona Steele, Legal Dreftsperson, AGC
Mr Phil Whelan, SIEC Advisor
Mr Olga Rabade, UNDP Advissor

The Chairman made opening remarks and invites the witnesses to introduce themselves and make their presentations.

Members of the Committee then question the witnesses on their presentations.

Evidence concluded and the Chair thanked the witnesses for their attendance and contribution on the Bill.

Evidence concluded at 9:53am.

Hearing resumed at 9:59am and the following witnesses were admitted;

Hearing 5 Witnesses

Sir Francis Billy Hilly, Statesman
Mr Casper Fa'asala, General Secretary, NCW

The Chairman made opening remarks and invites the witnesses to introduce themselves and make their presentations.

Members of the Committee then question the witnesses on their presentations.

Evidence concluded and the Chair thanked the witnesses for their attendance and contribution on the Bill.

Evidence concluded at 11:06am.

Hearing resumed at 2:02pm and the following witnesses were admitted;

Hearing 6 Witnesses

Sir Nathaniel Waena, Chairman, Political Parties Commission Working Group
Mr Charles Ashley, Secretary, PPP
Mr Fred Fakari, Ombudsman

The Chairman made opening remarks and invites the witnesses to introduce themselves and make their presentations.

Members of the Committee then question the witnesses on their presentations.

Evidence concluded and the Chair thanked the witnesses for their attendance and contribution on the Bill.

Evidence concluded at 3:36pm.

Hearing resumed at 3:42pm and the following witnesses were admitted;

Hearing 7 Witnesses

Ms Ruth Liloqula, CEO, TSI
Ms Joy M. Abia, Legal Officer, TSI

The Chairman made opening remarks and invites the witnesses to introduce themselves and make their presentations.

Members of the Committee then question the witnesses on their presentations.

Evidence concluded and the Chair thanked the witnesses for their attendance and contribution on the Bill.

Evidence concluded at 4:03pm.

Hearing into the Bill Concluded.

4. Adjournment

The Committee concluded the hearing proper into the Bill at 4:03pm

5. Tabled Document

Submission on the Draft Electoral Bill 2018, 17th May 2018, time received 2:00pm

Appendix 3: Submissions

No.	Title	Author	Date Received
1	BLC Checklist	Fred R Isom	
2	CONCEPT PAPER AMALGAMATION OF THE POLITICAL PARTIES COMMISSION AND THE ELECTORAL COMMISSION – ISSUES AND RECOMMENDATIONS	PPC SIEC Merger	
3	Consolidated and amended_Consultation Booklet_FINAL version. Feb 2017	Task Force on Electoral Reform	
4	Written Submissions to the Bills and Legislation Committee on the Constitution (Amendment) (Electoral Reform) Bill 2018	Noel Quan	30 th April 2018
5	Task force consultations on "Electoral Issues"- Summary of feedback from Provinces,	Task Force on Electoral Reform	
6	Constitution (Amendment) (Electoral Reform) Bill 2018	Transparency Solomon Islands	
7	Objection to the Merger and other Reform Issues/Constitution (Amendment) (Electoral Reform) Bill 2018.	Solomon Islands Political Parties Commission	
8	Objection to the Merger and other Reform Issues/Constitution (Amendment) (Electoral Reform) Bill 2018.	The Prime Minister	
9	Summary of key issues & Inherent weaknesses in the PPIA and Political Party System during national Consultation, 2015-2016	Office of the Registrar of Political Parties	

