

WEDNESDAY 27TH APRIL 2016

The Speaker, Mr Ajilon Nasiu took the chair at 9.35am.

Prayers.

ATTENDANCE

All were present with the exception of the Ministers for Foreign Affairs & External Trade; Civil Aviation; Peace & Reconciliation and the Members for Fataleka; Shortlands; Rannogga/Simbo and West New Georgia/Vona Vona

PRESENTATION OF PAPERS AND OF REPORTS

- Report on the Valuers (Amendment) Bill 2016
(*National Parliament Paper No.4 of 2016*)

QUESTIONS AND ANSWERS

Question No.32 deferred

BILLS

Bills – Second Reading

The Land and Titles (Amendment) Bill 2016

Hon MOSES GARU (*Minister for Lands, Housing and Survey*): I rise to move that the Land and Titles (Amendment) Bill 2016 be read a second time.

To begin with, when the Democratic Coalition for Change Government (DCCG) came into office, it immediately set about preparing its new government policies and priorities. The Policy Strategy and Translation Paper puts these policies into black and white and the Paper specifically includes an intention to review and amend the Land and Titles Act. That is what we have before Parliament today to consider.

The Land and Titles Act was enacted in 1968 to amend and consolidate the law relating to land tenure, land acquisition, registration of interest on land and related matters

concerning land and title to land. At the time of independence, the Act requires that any foreigners owning freehold or perpetual estates would have their estates automatically converted to fixed term estates on the admirable principle that foreigners should not own land in Solomon Islands but they may instead have shorter term lease of land only. The perpetual estates to these land parcels were passed to the Commissioner of Lands on behalf of the Government of Solomon Islands.

The Act also provides for overriding interests on registered land, including the right of government to resume land for public purposes such as roads, schools or clinics if necessary. The right of resumption requires the government to pay fair compensation to the estate owner for the loss of any improvements to their land. Unfortunately, this right of resumption cannot be exercised when land is automatically converted at the time of independence under section 100 of the Land and Titles Act if there is no grant of the fixed term estate at that time. This was the ruling by the Court of Appeal of Solomon Islands in relation to a recent case where there was an attempt to resume land for a public purpose.

The objective of this Bill is to extend the Commissioner's right of resumption to fixed term estate or part of fixed term estates that were automatically converted from perpetual estate to fixed term estate under section 100 of the Land and Titles Act where there is no actual grant. In doing so, this Bill proposes the same principle of giving notice to the estate owner that the Government intends to resume their land, and this Bill proposes a notice of at least six months to be given. Further, the Bill also replicates the principle of reasonable compensation to be paid to the estate owner, which is a principle that has already existed for resumption of granted fixed term estates.

The wording in the Bill is very short, but it has widespread implications. It will enable the Government to take back registered land anywhere in Solomon Islands for public purposes. It specifically targets fixed term estate automatically converted at the time of independence that were owned by foreign individuals or companies. I should clarify that this Bill does not propose any changes to the right of forfeiture provided for under the Act and those rights would remain unchanged regardless of this Bill.

Further, this Bill will not result in any changes to the right of resumption of the state where a grant exists which clearly provides for the right of resumption already. To put it simply, this Bill would allow for the resumption of fixed term estates that were automatically converted at independence for public purposes, and with reasonable notice and fair compensation to be paid to the estate owners. If this Bill is passed, it will mean the Commissioner of Land will be able to resume such lands and it will eliminate the grounds for appeal that was used in a recent court of appeal case. I commend the Bill to the House and I beg to move.

(The Bill is open for debate)

Mr CONNELLY SANDAKABATU (*North West Choiseul*): I would like to thank the DCC Government for bringing this important Amendment Bill to Parliament. I further extend my appreciation to staffs of the Ministry of Lands, Housing and Survey, the Attorney General's Chamber and all other stakeholders who were involved in the consultations and the eventual drafting of this piece of legislation to service the functions for which it is intended. Lest I forget, I equally commend all those who were invited to the Bills and Legislation Committee hearings that ensued last week enabling the Committee to produce the report that is now before this House. On the same note, I would like to sincerely thank Members of the Bills and Legislation Committee and the Secretariat for an excellent report.

As rightly outlined by the Minister, this Bill's objective is to provide a clear path and the Commissioner's right of resumption to fixed term estates or parts of the fixed term estate that were automatically created under section 100 of the Land and Titles Act.

I support this Bill because it ensures this issue is properly addressed under our laws. Not only that, it will also provide legal certainty on this matter. It also enables the government to continue delivering against its mandate so that services for public purposes and interests are better served.

At this juncture, it must be made clear that to enable such an important law for proper development, the technical requirements to facilitate actions required in the administering of this law must also be robust and effective. The concept of perpetuity in the name of a person or an authority representing public interest as applied to land ownership in Solomon Islands is something new and quite alien to the way land and perpetuity has been practised. This has been practiced since time immemorial in these islands we now called Solomon Islands.

While there is appreciation that Solomon Islands now being a modern state and thus the need for land designated for public purposes. Such must be done with an understanding and appreciation that some people's properties that have been there since the time of their tribal founding fathers must be accorded with compensation taking into consideration that the land is no different to them that own it. It has been there as an entity that provides, nourishes and protector of their lives. I want to raise this point because as I see it, the concept upon which numerical valuations are measured against our land, to me falls short to take these issues into consideration.

As highlighted in the Committee' report, an issue that might bring disruption to the process that is envisaged here is the issue of reasonable compensation to the one who currently owns the land. As we know, in the context of Solomon Islands, compensation to do with land and land matters often than not ended in court and that has often hindered the

development and progress of this country. Therefore, I am of the opinion that such a thing as compensation or what is pursued as reasonable compensation should best be clearly prescribed in law, rather than it being covered under other instruments. I say this on the basis that such controversial issues as compensation in regards to this particular matter must not be allowed to be dragged outside of this law. As doing so may only result in long litigations and undeveloped stagnant nations.

Having said this, I fully support the Bill, especially with the realization that the state ought to have lands so that it continues with its obligation to serve the greater good of its people. This is why this amendment is important as it allows the state to live up to its public purpose for the common good of all citizens.

Before I take my seat, maybe it is time as a country to properly conceptualize the doctrine of public purpose and come up with some concrete and substantive ways of capturing what this doctrine is in the context of our country. Enact laws to properly define and demarcate such doctrines in the context of Solomon Islands is something that might be helpful. I believe what we very much need in this country is clarity and certainty in our laws so that it allows less room for endless court litigations.

I say this with the understanding that we may never arrive at an ideal situation, but I believe there is indeed room for improvement so that laws are made to provide clear and precise answers. This maybe an issue for another time but I thought I raise this so that this House is given the opportunity to think about. With those few remarks I support the Bill and resume my seat.

Hon JEREMIAH MANELE (*Leader of the Opposition*: On behalf of my good people of the Kia/Hograno/Havulei Constituency and also on behalf of the Parliamentary Opposition Group in Parliament.

I would also like to join the Chairman of the Bills and Legislation Committee in thanking the Minister for Lands & Survey and his staff for bring this important piece of legislation to Parliament and, of course, the Chairman and the Bills Committee itself for their work in scrutinizing this piece of legislation. At the outset, this side of the House welcomes and supports this Bill. The Minister has clearly outlined the objective of Bill, what the Bill is about and what it is not about.

As he has outlined, the objective of this bill is to correct irregularities that hinder the government and its agent the commissioner of lands, and the land board from properly managing and administering land that falls under section 100 of the Lands and Titles Act.

As we all know, this Bill came as a result of a high court judgement that found the Commissioner of Lands and the Land Board not having powers to resume land for public purpose under section 100 of the Act. I believe this is a long overdue legal issue this House

has not been able to rectify since we got our independence from the United Kingdom more than 30 years ago. So while appreciating the work of the courts, especially the Court of Appeal on this matter, this should also give this House a reflection that we have not been able to quickly make or unmake laws to allow this country to progress in its development and service delivery. This is a good way to remind us that we ought to take progressive approaches in the way we govern our nation, and in this case in ensuring that our laws are progressive as we venture into modernity.

While the court has played an important part in this matter, this House must not be seen to wait for the courts to find abnormalities in our laws before taking appropriate action. As the supreme lawmaking body of the land, it is incumbent on us to ensure that we continually challenge our lawmaking frontiers and continue to make laws for the peace and progress of this country and not to unnecessarily wait to be told what to do. This, I guess, is a wakeup call to correct the wrongs in our laws so as to provide clear pathways in the way we go about addressing issues including land in this nation.

Land and land related matters is an issue that all Solomon Islanders are familiar with and in most instances it is the negative aspects of land and land related issues that are often seen and felt in our happy isles. Sadly, land matter issues from ownership to leadership are not lessening or reducing, in fact, land disputes as we all know are on the rise. That is a common knowledge in our courts which are clogged with land dispute cases and other related land issues. It is something of an irony, in my view, that while this nation continues to progress into modernity with new acquired knowledge through education, the downside is that it seems we are creating more ills to the society than solving them. Most especially on matters like land that is crucial to the development and prosperity of our country.

Sadly, no place in our society do we see this more visible and intense than in land and land related issues. The new acquired knowledge gain through formal education has somehow proven to be quite elusive, if I may use the term, when matters of land are at stake.

Today this bill that is now before the House, as I have already said, is to enable proper management and administration of land that fall under section 100 of the act. Whilst, we all agree to this amendment, I would like to say that actually what we are doing is that we continue to use our acquired foreign concept of land ownership, management, and administration to further protect land that in the beginning may have been acquired legally or in a matter that does not fall well within our customary ways of dealing with land. I understand this will be the subject of further reforms, policies and legislations the government will later bring to Parliament.

I believe if we trace out the lands that are affected under section 100 of the Act, there are all the possibilities that they may have been acquired by foreigners from individual

tribesman in most cases. What I am saying here is that if we intuitively look into this matter, it is not difficult to say that we might be creating a law that continues to protect the past legitimate actions.

We are the Parliament, the elected body that represents the interest of this country. The question that we need to ask ourselves is are we transacting these actions as actions that are wholly agreed to by the people we represent. If the answer to this question is in the affirmative, then that is good. But if the answer is in the negative, then we are not legitimately representing the interest of this nation as we are supposed to be.

In this case, in terms of this amendment, I believe it is timely that the Government through the Ministry of Lands has brought to Parliament this very important amendment Bill. I say this believing that if there should be ways to correct the wrongs in our past, as far as land dealings are concerned, Parliament as the body that is responsible for correcting bad laws and policies that were created for circumstances of the past, must correct them as appropriate.

When you look back into history, the laws that have been promulgated, adopted and used to manage and administer land in this country in principle, may have no resemblance to that of Solomon Islands customs and norms. Unfortunately, since independence, the country have not given itself the opportunity and the learning space to formulate and modernise its laws to fit in with the principles and norms of customary landownership in Solomon Islands. As I have just alluded to earlier, I believe this is a big area in terms of land reforms that the government mentioned earlier it will look into and we look forward to those pieces of reforms and legislations in terms of customary ownership to come to this floor of Parliament.

The Chairman of the Bills and Legislation Committee and the Member for North West Choiseul has alluded to in his statement the issue of reasonable compensation. I think this is an issue that has the potential to create some difficulties in the practical implementation of this law. We know that the parameters whereby reasonable compensation is considered are covered under the clauses of this amendment Bill but it, as stated by the Chairman, can have the potential to delay developments on lands that the government is intending to resume as there were a number of cases that involved compensation that ended up in the courts and the time that it takes the court to deal with can delay genuine developments. That is the concern here.

In terms of resuming land for public purpose, Honiara is one of the most unplanned cities in the Pacific or even the whole world. Our whole coastline and areas where walkways should have been built are occupied with warehouses starting from Ranadi to Rove. These, for example, could be areas the government should consider resuming so that they can be used for public purpose by creating walkways for our people to walk on and do some

physical exercise to keep fit and healthy. But I know this will involve a lot of compensation issues and expenses. But I thought I am just making that point.

Before resuming my seat, the issues that I have highlighted are issues that we as leaders must continue to look into. This amendment Bill is very straightforward. It is a simple amendment Bill with its objectives very clear, as the Minister has already outlined as well as the issues this Bill is trying to address have also been outlined.

Once again, I would like to thank the Government for bringing this important amendment Bill to Parliament. The incremental changes this Bill is trying to address, I believe will go a long way to improve the way issues are addressed, and in this case, assuming land for public purpose. With these few remarks, I support the Bill and resume my seat.

Mr DEREK SIKUA (*Leader of the Independent Group*): Thank you for giving me the opportunity to speak on this very important amendment bill, the Land and Titles (Amendment) Bill 2016, on behalf of my people of North East Guadalcanal Constituency and in my capacity as Leader of the Independent Group.

I also want to thank the Government and the Minister and his Permanent Secretary, the Commissioner of Lands, Chief Technical Advisor and staffs in the Ministry of Lands, Housing and Survey for the hard work they have put in ensuring this bill finds its way to the floor of this Parliament. I also want to thank the crown counsel and the legal drafts people from the office of the Attorney General, not forgetting the hard working chairperson of the Bills and Legislation Committee and his committee members for fulfilling their role in the last couple of weeks, a committee established under Standing Order 71 pursuant to section 62 of our National Constitution.

As already mentioned by the three speakers before me, the Land and Titles Act was enacted in 1968 to amend and consolidate the law relating to land tenure, land acquisition, the registration of interests in land and related matters concerning land and titles to land. Section 100 of the Act provides that any perpetual estate or freehold interest on land held beneficially by non-Solomon Islanders will automatically convert to fixed term estate with effect of 31st of December 1977, basically less than a year before we got our independence, and the perpetual estate for such land would be held by the Commissioner of Lands on behalf of the Government.

This is an aside, but looking back on hindsight, the problems we have been experiencing with alienated land almost 39 years ago, if this section had read differently we might be having the opposite and less problems if section 100 or somewhere in the Constitution says that on the 31st December 1977 or maybe at 12 midnight on the 7th of July 1978 all land held beneficially by non-Solomon Islanders which are perpetual estate

automatically returns to the original landowners. If it had read like that, what will happen? This is just a reflection where rather than it going to the Commissioner of Lands on behalf of the Government, then I think some of the lands we are having disputes over at this time and trying our best to give it back to the original landowners would have been sorted out right from the beginning. The Republic of Vanuatu has such a provision in its constitution, anyway that has already gone pass so let it be, we will sort out our problems as time goes on.

The Land and Titles Act provides the overarching interest in registered land, including the right of resumption. The prescribed form for grant of fixed term estate also includes a standard clause permitting the grantor; the Commissioner of Lands with one month notice the right to resume land for the roads or other public purposes and to compensate the grantee for actual loss sustained in respect of any improved land. The proposed amendments will be a great improvement to this particular provision in the existing Act. And I will be talking about this later on about my experiences of acquiring land for secondary schools when I used to work at the Ministry of Education.

The object of the Bill is very clear as it extends the Commissioner's right of resumption to fixed term estates or a parts of fixed term estates that were automatically created under section 100 of the Land and Titles Act 1986 where there was no grant. And I will give examples later on, on lands that were given to Land Purchase Cooperative Societies (LPCS), when the LPCS was established sometimes back in the late 70s and early 80s.

I have no problem with the details of the proposed amendments as set out in the explanatory memorandum of the Bill which gives the owner of fixed term estates six months notice for resumption and then very important paying the fixed term owner a reasonable compensation in resumption in consideration of the conditions. The report of the Committee explored the conditions of the land, the value of any improvement to the land under the remaining period of the FTE.

Furthermore, I have no problem with the Bill, however, in the course of inquiring into this Bill, some of my people must have got the wrong the message and were getting very worried that it may also deal with customary Land. And so I want to assure my people clearly that this amendment has nothing to do with customary land ownership. Customary land is dealt differently under the existing principal act. I wanted to clarify that to my people.

I agree and support the amendments proposed in the Bill. It is a step in the right direction and is a good practice in improving our land administration system by granting power to the Commissioner of Lands or the Lands Board to resume land for government interests. I want to believe that the government's interest for development goes beyond roads, clinics and schools.

The Government must start to think seriously about resettlement of our people due to over population, effects of natural disasters, climate change and sea level rise. These things have already happened to us. Or we may have watched the news and every day there are people displaced from their places and countries due to conflicts and the ravages of war and one day we might have a boat load of refugees maybe from South East Asia or the Middle East that accidentally turn up on our shores and we have to deal with those people. So I think it does go beyond just looking at schools and clinics. We need to be proactive in addressing issues because according to our history we have had to resettle some of our people from Tikopia to some parts of Makira and the Russell Islands. We have had to resettle people from the Weather Coast of Guadalcanal to Aruligo and the northern part of Guadalcanal after the 1977 earthquake. Also in recent times in the 2014 April rains we have had to resettle our people that live along the Mataniko River up to the April Hill. I think it is this Bill that will create the opportunity to allow the Commissioner to deal with issues that go beyond just roads, schools and clinics.

I hope public purpose here goes for resettlement of our people as well. This issue is very real for our people in Temotu Pele who live in low lying islands and coral atolls. These people need to be resettled because the experiences of sea level rise are real to them. And not only that but maybe parts of Malaita, especially the Malaita Outer Islands of Ontong Java and Sikaiana, and Langalanga too. I think we really need to go beyond just roads, clinics and schools and encompass the whole issue about acquiring land, using provisions we have here to resettle our people to safe places due to the effects of climate change and sea level rise, droughts and natural disasters.

The country will also bid for the Pacific Games and I am seeing that we might have to resort to the proposed amendments to quickly get land to build sports facilities we will need to host the games here in Honiara. I think this proposed amendment will be quite useful for this purpose as well. If I am hearing the Prime Minister correctly, he will be leaving with this group next week to go and bid for the Games. I only hope that you will not use this amendment in acquiring the Golf Club to build the sports stadium. I think you should leave that aside.

As I said today, from my own previous experience with project planning and implementation in terms of building schools for the Ministry of Education, building schools from donor funds such as the World Bank or from bilateral donors, we have been using section 100 to acquire land to build secondary schools where we used the one month notice and I find this provision to be insufficient and still bringing rise to a lot of disagreements and long running land disputes. An example, I can cite even though there a number of examples I have encountered here on Guadalcanal and on Malaita is the negotiations for land to locate Ruavatu secondary on the existing site in the late 1980's. Armed with this provision in the

Lands and Titles Act 1968, in section 100, we went for initiation consultations for Ruavatu with the Land Purchase Cooperative Society members and the Executive and it was not easy. When we did the first consultations we were chased because the people there did not agree with us. But we were only getting about 36 hectares out of the 600 hectares plus in this areas. Anyway, negotiations dragged on for almost three years before we were able to commence construction of that school. We started negotiations in 1987 and it was about 1990 when construction started. I just want to illustrate the benefit of having an amendment such as this where we can facilitate the development plans of Government in terms of building schools by having this new proposal. I think in regards to education, this amendment would really help in a big way.

The issue of the Ministry of Police, National Security and Correctional Services which already goes before the High Court is also a case in point, where the donor has already given a lot of funds to develop this very important facility for training of our fire fighters, a fire fighting training centre, funds were already expended but in the end the government lost the case and so we lose face before our donors. A lot of money has already been spent on what would have been a state of the art fire fighting training centre for our fire men and women. That would have been a very important facility for our people to update their skills on fire fighting. But because of this land issue and because the government lost the case, I suppose; money was lost and so an important state of the art facility was also lost. What this means is that if our houses catch fire, you just have to standby with buckets of water.

Before I take my seat, I just want to make one point with regards to the Honiara City boundary. This amendment assumes in the event of building a new road. But I see that it can be also used in the expansion of the road, expand the sides of the road because a certain distance from the side of the road is not allowed for building of anything on it. But when we go around our town, we find some retaining walls as well as dwelling houses too being built very close to the main roads. Some people are intentionally building these structures right next to the main road because they know that in future when there is need to widen the roads as we continue to improve our town and have it face lifted to go away from being the most, unplanned, the dustiest and dirtiest city in the region or may be even the world, these people have intentionally built these structures right next to the main road. They obviously have broken the law and they have no right, and so compensating these kinds of things is another issue.

When you want to widen the road to Mbokona, for example, what are you going to do, are you going to pay compensation to the people who have already broken the law by building houses on the road side? Or are you just going to get the build dozer and tell them to move away? Is that what you are going to do?

We must be careful because when people know they are going to be compensated, even though the land is not theirs which is next to the public road, they are going to build something there just to fundraise. Just be careful with that kind of thing Mr Minister when you go to assess those kinds of things.

Even in some residential areas, some people have built houses on access roads because they know they will be compensated before the road can go through. In such cases, we will have to be very careful when we talk about compensation. What are you going to use in such circumstances? Are you going to use the compensation provision under this amendment Bill or use force or the police to go and demolish the buildings?

Those are my contributions to this Bill. As a member of the Bills and Legislation Committee, I support it and subscribe to all the comments and issues raised in the Committee's Report. I support the Bill and I beg to resume my seat.

Mr RICK HOUENIPWELA (*Small Malaita*): I too would like to contribute in the debate of this Bill on behalf of my people, but more so as a member of this Legislature.

First of all, I would like to join the Chairman of the Bills and Legislation Committee, the Leader of Opposition and the Leader of the Independent Group for commending and thanking the Minister for Lands and his officials - the Permanent Secretary, the Commissioner and the team of legal advisors who have provided much support to this Bill, which we have seen during the Bills and Legislation Committee inquiries. And so I would like to commend the Minister and his staff for the good work.

I would also like to commend the Government and the Prime Minister. We are seeing reforms that we wanted to happen. I would like to thank the Prime Minister as the leader of the government that we are now seeing reforms, and in this case land reforms. And so I would like to highly commend the Prime Minister for taking this legislation to Parliament.

As others have said, this amendment is a minor one but is very important because it seeks to address and will redress some very important deficiencies in our current legislation which has over the years tied the hands of the government to proceed, progress and move forward in our development plans, especially in building the necessary infrastructures in our country. This is a very timely and well-intended legislation that we really need to unlock, as it were, land and space that is and will be needed for public purposes.

As you will appreciate, this country is very much in need of infrastructure. Infrastructure is the bloodline of the economy of this country, and I can see the government not moving in a lot of these things because lots of lands have been locked up in problems that we have in current legislations. And so I am very happy with this amendment.

Like the Leader of the Independent Group stated, this amendment will go beyond infrastructure - physical infrastructure and economic infrastructure in terms of issues to address the livelihoods of our people. The Leader of the Independent Group has mentioned natural disaster causes and the consequences of sea level rise, which many of our people including my people, large communities in my constituency many times have suffered from the effects of climate change and so we must look carefully into this. And so I am very happy that this is a step towards addressing issues that have been affecting our country for a very long time.

The issues that I want to talk about have been raised already by previous speakers and so I only want to mention a small issue that concerns me. Whilst this is a very well-intended policy, the implementation and administration of laws is what I am mostly concerned about. I think the report by the Bills and Legislation Committee has flagged the concern that this legislation needs to be supported by good and sound administrative structures and procedures so that we do not repeat the problems we have with current legislations. While we have some deficiencies with some of our legislations including the current Land and Titles Act, a lot of the problems we are facing are to do with administration or should I say maladministration.

The Ministry of Lands, Housing and Survey is one ministry that is not administered properly. This is an admission by the Permanent Secretary when he came before the Bills Committee in 2014 and he made a public appeal. In fact, he warned everyone that one of their stamps has gone walking around in the public. This is because former lands officers continue to register land backdated to 2012. I asked him why do you not tell the police to go and arrest that officer because they know where he lives; they know it. I think this is very wrong. Why do you allow this to happen and continue to allow this to happen? This is very wrong.

I think we could do more with some of the provisions in the Lands and Titles Act. This is why I said while this amendment is very well intended and I fully support it, I would like to urge my hard working minister that you really need to tighten this up because this is where everything can go wrong.

During the committee inquiry, I asked about forfeiture, as an example, where the Commissioner gives lands to a person or a company and under the current legislation that land is required to be developed within 18 months. Some of the lands have been given for the last 18 years without any development and they are still there. This is not right. And so land is just locked up somewhere because the owner maybe is just planting cassava on the land as his way of developing the land. This is not right. Administration is what I want to put my finger on - it is not up to the mark, the administration of the Lands Act is not up to the mark. Under the provisions of the Act, the Commissioner has all the power to forfeit lands

that are being used for planting of cassava and given to another person who can build a house or something on it.

I have no doubt this amendment will address this problem but I want to add that I have a bit of concern in terms of the implementation and administration of our laws, and one example I want to highlight is the forfeiture of land which the power is there but I do not know why the Commissioner did not take back such lands for reallocation. This is the problem I have with this amendment and also with some of our current legislations. I want the Minister to put a stop to such practices; this practice must not continue because it is holding up land for no purpose at all.

I am saying this because when this amendment is implemented, the Commissioner resumes the land and then he allocates it to another person. Minister, we must put a stop to this action. Do not resume it and give it to another person. No, resume it and hold on to the land.

I want to urge the Government that while this is a very good amendment, I fully support it, but I would like to remind the Minister and his officials that when you administer this Amendment, please do it for the intended purpose. With that, I fully support the Bill and I resume my seat.

Mr NESTOR GIRO (*Central Makira*): This Bill is very important to any government as an institution because a key mandate of government is to deliver services to its citizens, and in our case, our fellow Solomon Islanders. This Bill seeks to allow the Land Board to resume for public purposes all or part of fixed term estate automatically created under the Act. I must commend the Government for this land reform to improve land administration and grant power to the Commissioner of Lands to resume lands for government interest for public purposes.

This is one of the difficult issues that is slowing down the development aspirations and plans of the government to deliver services in the country. There are prime sites that maybe suitable for the country's development and where the government may have interest to use for public purposes. However, if the FTE of that land is already transferred by the Commissioner of Lands to any individual or private company, and that individual or private company has already committed itself and expended so much money for the development of that land, only to realise that the government will get back the land for public purposes is truly discouraging and disheartening. But this is the purpose of this Bill. This is one of the difficulties faced by governments over the years in its quest to provide services to the people. The government may want to build hospitals, roads or market on land where the FTE is already held by an individual, but it cannot do so because under the current Act, the Commissioner does not have the power to resume land for public purposes. However, this

Bill will address this difficulty. The government through this reform will improve the land administration system by granting power to the Commissioner of Lands to resume land for government interest and public purposes.

In light of that, the government's interest to resume land for public purpose must be clearly scrutinised and properly regulated. I feel that it is a free power given to the Commissioner of Lands for any government interest to resume land for government purpose.

We have to be very clear as to what is meant by public purpose in the Bill and we have to be clear as to what interest is driving the government to resume land for public purposes. There could be government political interest behind public purpose sometimes in the future. Who knows when land is resumed for public purpose and when a new government comes in with new interests, the Land Trust Board will realise that it is now owned by Mr Pawpaw or Mr Banana. Therefore, proper regulation is needed to regulate government interest and government purpose for this amendment.

On the same note, I must applaud the government for taking stride on land reform to improve land administration system in the country. I want to thank my good Minister for Lands, Housing and Survey and the Government for an important Bill to strengthen and properly administer the land system for the better development of our country.

Once again thank you for the opportunity to debate the Land and Titles (Amendment) Bill 2016. I resume my seat in support of the motion.

Mr MATTHEW WALE (Aoke/Langalanga): I want to read from Leviticus 25 and my brother the Deputy Prime Minister will not get angry with me this time because these verses talk about land. Leviticus 25:8-17 says: *“And thou shalt number seven sabbaths of years unto thee, seven times seven years; and the space of the seven sabbaths of years shall be unto thee forty and nine years. Then shall thou cause the trumpet of the jubilee to sound on the tenth day of the seventh month, on the Day of Atonement sound the trumpet throughout your land. Consecrate the fiftieth year and proclaim liberty throughout the land to all its inhabitants. It shall be a jubilee for you; each is to return to your family property and to your own clan. The fiftieth year shall be a jubilee for you; do not sow and do not reap what grows of itself or harvest the untended vines. For it is a jubilee and is to be holy for you; eat only what is taken directly from the fields. In this Year of Jubilee everyone is to return to their own property. If you sell land to any of our own people or buy land from them, do not take advantage of each other. You are to buy from your own people on the basis of the number of years since the Jubilee. And they are to sell to you on the basis of the number of years left for harvesting crops. When the years are many, you are to increase the price, and when the years are few, you are to decrease the price, because what is really being sold to you is*

the number of crops. Do not take advantage of each other, but fear your God. I am the Lord your God”.

More on Leviticus 27:24 which says *“In the Year of Jubilee the field will revert to the person from whom it was bought, the one whose land it was.”* Our land tenure system is biblical and resumption of land and so forth. I just want to point that out.

A lot of issues have been raised. What are the big issues of land in our country? Land is important. We are a tribal community and land is tied to our identity as a people so land administration is very important both to customary land, which is not properly administered at the moment – part of land reform and alienated land where titles have been already created.

What are those big issues? I think when we look at it from a bigger picture that we start to see the most strategic changes that we must do and work to prioritize those. This is the first thing I would like to say - we have to have a sense of strategic priority when it comes to issues of land that we must deal with.

Secondly and I suppose as an addendum to that is the urgency with which we must act in these matters. In this particular amendment, the case was decided sometime ago and it has taken a number of years to bring this amendment. We have had compulsory acquisitions of customary land going back some years, I do not know how many years. And lands that have gone through compulsory land acquisition process - customary lands that were acquired for public purpose are taking forever. Bina is a good example of that. Yet no amendment has come to try and make the process leaner, more efficient and so forth. Come with the amendment.

When the court makes the ruling and there is public policy interest at stake, bring to Parliament the amendment so that we fix it so these processes serve the public good and are more efficient with, of course, the natural justice protections that are necessary because land is tied to our identity and tribal community.

The issue of recognition of customary titles is perhaps the number one strategic priority that we must allocate a disproportionate share of our attention and resources to. This is because it represents perhaps 70 or 80 percent of a liberation of our economy to become much, much more engaged and much, much more productive.

The issue of foreshores in our townships where from the mean high water mark going down is customary land or so it is assumed. This has to be sorted out. I am not sure whether there are any other capital cities in the world or townships in the world where the state holds the land and the foreshore is held by tribes but in law that is the situation here and it needs to be dealt with so that public good in development is protected and advanced.

We complain about Honiara but it is also in Gizo, in Auki and in other places where towns are located. There are no spaces to jog, there are no spaces to walk around where

we do not breathe in dust. There are no places we can take our children to on a Sunday afternoon where they can play, throw and catch their balls with their pets and so forth or where the children can fly their kites; a place where families can go to. Those sea sides are filthy and littered with human wastes, so you do not want to walk there and even buildings block the sea sides and so we cannot go there too.

Of course, the issue of TOL and TOL is not an issue of Honiara alone. It is also in Noro, in Auki, in Gizo and it is wherever there is a township, wherever there is economic opportunity there will be people who will seek land which perhaps is already with the crown for some kind of temporary basis to live on. Of course, there are some justice issues involved for consideration of that issue.

I was thinking that these issues are good on one side as it tidies up land that is already registered or titled whether temporary or FTE, but to tidy up its administration and the big issue is the issue of customary tribal titles, which the government is looking into this time, but it must look into it seriously and give disproportionate resources and attention to it so that it is brought to Parliament to deal with quickly.

The issue of land under section 100 which this amendment seeks to address, as outlined by the Minister and others who have spoken before me, this amendment is trying to bring land under FTE under section 100 to be the same as land under section 132 in terms of resumption. But the resumption is for public purpose. The other aspect of 132 is not yet addressed in this amendment for section 100 to be the same. The other aspect is that land granted by the Commissioner under section 132 should have grant conditions to it where if it is not developed within 18 months, it will be forfeited. This amendment only deals with resumption. I see this amendment falls short on that point. Because a lot of big lands that are unused are lands under section 100, they are unused and those are the ones we are disputing up at Lunga. They are unused and there should be an amendment giving the Commissioner or giving the land board power to not retrospectively but to say from here on you have 18 months to develop it and if you do not develop it, it is similar to land that is granted under 132. If that is what is this Amendment is saying, I think it equates land titles under these two sections and it really advances a big justice issue for our tribes who own those lands and have been crying to us for so many years until now. It provides a perfectly legitimate and legal way to address this long outstanding issue.

Do you think it is just that land allocated under section 100 is unused and is being sold for millions of dollars undeveloped for the last how many years since this section comes in? It is gross injustice; an injustice that is bigger than that which this amendment is trying to address. That is the small point I want to hammer this morning.

Compulsory acquisition is an issue an amendment needs to tidy up. This is with the experience at Bina. With Bina, when the Member for North East Guadalcanal was Prime

Minister in 2010, we went over to Auki with the then Attorney General and consulted with the tribes that have rights and claims to the Bina land. That is when the consent order was signed where title was transferred to. The consent order was signed at that time. At that time, we used the interim trust board that was setup so that all the parties that have interest on the land, regardless of the process that will go ahead to contest the rights and interests, it went ahead without prejudicing that process, but an interim trust board was setup and any money etc was given to that trust board. That process, by use of consent order, came into play because there is no process under the Land and Titles Act to permit that.

It would be perfectly legitimate and legal fulfilling all the elements of natural justice for an amendment to come to create this. Where there is public interest and customary land needs to go under the process of compulsory acquisition, there should be provision in the Lands and Titles Act to establish an interim trust board, until the contestation dispute period is complete, the process is set and it is very clear as to who is the landowner and all the payments can go to them. But this does not hold up the process of acquisition so that the process can be completed and development proceeds. This is to avoid the government spending 15 to 20 years acquiring a piece of land, which takes a lot of time so much so our grandfathers who started talking about it died, and so their children talk about it and they die too and then their grandchildren start talking about it. The acquisition of the Auki harbour was not dealt with by my grandfather and it came to my uncles and I am now talking about it. Rather than doing these processes which span three generations, it could be all done in a year so that we do not hold up development, the advance and growth of the potential of our economy.

Those the things I would like to say. So far as this amendment goes, it is good, but I just want to mention things that are missing and must come too; the aspect of this amendment that should come has to be brought in, maybe next week or the next two weeks. We also need to tidy up these other issues and then of course we wait in great anticipation for the land reform that will deal substantively with tribal titles. With those remarks, I thank you for the opportunity to speak.

Hon DANNY PHILIP (*Minister for Development Planning and Aid Coordination*): As we have already heard, this Bill is part of the reform program of the DCC Government. I would like to thank the Minister for Lands for bringing this Bill to Parliament. I think the land board is starting to realise some of the problems and things that inhibit the progress and the intentions of the state. Basically, it is about enhancing the interest of the state. Some of us have already commented that probably the Bill has even fallen short to look into other aspects of development, the question of ownership, the question on transfers of titles of land

that were not developed, given under a specific period of time. Yes, we do realise that the Bill is not about those things as yet, I am sure.

What I would like to mention here is that the Government from the policy and planning point of view is to basically enhance government's programs on infrastructure developments that it wants to do in our country of Solomon Islands for public purpose, meaning the interest of the state on public purpose is providing space, easement and security of using land that is properly vested in the Commissioner to resume.

Also from the point of view of planning and policy, I also want to take the discussions a little bit further to say that regardless of the intentions of the government to fully utilise crown land that is vested in the Commissioner of Lands, we still have some difficulties. I am going to talk a little bit about what this Bill is not about.

You can rule me, Mr Speaker, if you want to, but this is from the perspective of planning and policy and the long term vision of the DCC Government. As you know, land is very important and the government in its reform policies, namely the fundamental reform policy has engaged the customary land reform program basically to make customary land become more inclusive in the sense that currently customary land is a highly exclusive system that we have but it is also a legal system according to custom. For that reason, the government is trying to get its effort to get into customary land reform vesting it still in the ownership of customary landowners, but at the same time even if you are not part of the tribe that you are able to use customary land, so in that sense it becomes more inclusive and legal.

Secondly, much as we have advocated since the beginning of the independence this country in terms of returning alienated lands to our people, we have not yet still answered the basic question to our own people of what is there for us. In the documents of the DCC Government we have what we called the national land restitution program. The word 'restitution' basically means to restore. For instance, if I steal your shirt or shoe Mr Speaker, I have to replace those things. That is the meaning of the word 'restitution'. And so with land, as far as it is concerned, we cannot tow another big chunk of land somewhere and say to the people of Mamara/Tasifarongo 'here is your land in exchange for what we have taken wrongly before'. No, we cannot do that. But in the minds of our people they are still owners of those lands, and so it brings some impediments, it brings some obstacles, it brings some mindsets as to how the government wants to utilise and develop alienated land up to this stage.

The Member for Aoike/Langalanga rightly mentioned that the Bill falls short of addressing some of the inherent things that have existed in the thinking and mindsets of our people in this country.

I want to encourage the Parliament and the people of this country that there is a policy in the DCC Government called the National Land Restitution Program, not for exchange of big chunks of land but in a way to say sorry on behalf of those who have done wrong to us before and to give benefit in exchange for those lands that have been wrongly taken away from our people whose descendants are living up to this moment in time.

We think that the national land restitution policy is fundamental, is contemporary and applicable and will be good for the people of this country so that rather than giving back another piece of land, we can share the benefits of land deriving from the rentals of those lands. The Government is seriously thinking about making sure that our original landholding groups can be given a share of the land rates the Government is receiving at the moment. In that way, we feel as a government that we will be in total control, we will have total ownership of this country, its resources and its land so that we can progress to together with the people that we profess to help as we progress in these reform programs.

This Bill is basically about fixed term estate (FTE), but in later amendments I am sure the Minister and the Lands Board are thinking about also taking back land titles that were fraudulently issued, even under the Commissioner of Lands at some stage in time. There have been some maladministration; the processes, the end product seems to be legal but if you trace it back it is all fraudulent; the processes were sick. That too, needs to be addressed in future amendments to the Land and Titles Act. And it shall not be limited only to FTEs, but it must go all the way to getting back perpetual estates, because there are a number of perpetual estates issued by former Commissioners of Lands that were not done in proper consultations with the land holding groups, but have been issued to certain individuals in the country.

With that said, it will now bring a very level playing ground, both for the benefit of people, the land holding groups, the Government, the private sectors that will bring economic changes to this country today. Those are the few things I would like to mention, but as it is now, the Bill is basically about the resumption of land for the interest of the state. At some later stage, we will progress into some other reforms that will address a wider scope of development enhancing development, and also to ensure the requisites for development are done, organised and giving land security and a fair share of the benefits, equitable distribution of wealth making it amendable for development in the country.

Without this benefit sharing on alienated lands, it will be difficult to extend the boundaries of urban centers. This is because not until we answer the question of what is there for us before people will be able to give us more space to extend our city and town boundaries.

With those few comments, I fully support the Bill and I thank the Minister for bringing it to Parliament.

Hon STANLEY SOFU (*Minister for Police, National Security & Correctional Services*): Let me first of all acknowledge the Minister for Lands, Housing and Survey for seeing it fit in bringing this Bill to Parliament to be passed. I must also acknowledge those who were called, especially officials from the Ministry of Lands, Housing and Survey to provide evidence before the Bills and Legislation Committee. I also want to thank the Chairman of the Bills and Legislation Committee and its hardworking members who have already spoken.

The report of the Bills and Legislation Committee Report is in support of the Bill and it also makes very good recommendations. This Bill, as one of my colleagues who contributed earlier on today said is long overdue. It is supposed to come before Parliament a long time ago. And so I must thank the Minister for Lands, Housing and Survey on behalf the DCC Government for seeing it fitting to bring this Bill so that service is provided to our public.

I was once a former Minister for Infrastructure Development (MID) and land is very important. I am very grateful that the Leader of the Independent Group and the Member for Aoke/Langalanga who have spoken earlier on also mentioned this earlier. We must have land for infrastructures such as roads, bridges, airstrips, buildings and so forth. Land is also very important for education and medical services.

I want to talk about the experiences of the Ministry of Police, National Security and Correctional Services. This Bill will ensure that the government and our people take full ownership of land in our country. A classic example is the Hells Point. This particular land is at the centre of military activities during the Second World War. In 1945, the Allied Forces withdrew from Guadalcanal and stock piles of ammunitions remained there, which became very dangerous. The land at Hells Point is owned by the Lever Solomons Limited under the freehold estate arrangement for many years prior to 31st December 1977. Solomon Islands gained its independence in 1978 and all freehold estates owned by non-Solomon Islanders were converted to fixed term estates and the Commissioner of Lands became the PE holder.

The Royal Solomon Islands Police Force Explosive Ordinance Disposal Unit has been working very hard to collect and demolish unexploded ordinance in this area since 1980's and May 2011. The Solomon Islands Government entered into an agreement with the Government of the United States of America to develop a framework for the US State Department to assist Solomon Islands build the capacity of the Royal Solomon Islands Police Force Explosive Ordinance Disposal Unit where Hells Point was designated the appropriate area for this to be carried out. Hence, the urgency of acquiring this land is very important.

On 17th January 2011, the Commissioner of Lands has given a one months notice of resumption for this land to enable the Royal Solomon Islands Police Force Explosive Ordinance Department project to commence. But in 2011, the Levers Solomon Islands

Limited lodged Civil Case No. 333 of 2011 in the High Court of Solomon Islands against the Commissioner on action on the resumption of Hells Point land. In same year, the High Court Judge rejected this claim by Levers Solomon Islands Limited and in 2012 Levers Solomon Islands Limited appealed against the High Court's decision, Civil Case No. 24 of 2012 in the Solomon Islands Court of Appeal. On the 8th November 2013, the Solomon Islands Court of Appeal declared that the Commissioner of Lands does not have power to resume the land at Hells Point. The decision by the Solomon Islands Court of Appeal had severe impact on the Solomon Islands Government on its plan to rid the country of unexploded ordinance, remnants of the War.

My ministry has since then been working with the Office of the Attorney General, Ministry of Lands, Housing and Survey and Levers Solomons Limited to discuss ways for the Hells Point project to continue because it is very important for our safety and the safety of our young people, women and everyone.

As I have alluded to earlier, the decision by the Court of Appeal indicated that even the Commissioner of Lands does not have the power to resume land. I therefore see this Bill as very appropriate to enable the government continue with development in our country for public interest.

If this Bill is not passed, I think we will have to wait for another 35 years and this is going to be of great impact to the security of this nation. That is why I said this bill is timely and I must continue to thank my colleague Minister for Lands for this Bill. Even though it is long overdue but yet he sees it fit to bring the Bill to Parliament for us to pass to give power to the Commissioner of Lands.

The presence of unexploded ordinance which are remnants of war in Solomon Islands, particularly at the Hells Points poses significant threat to lives and properties. This is true because our people need freedom to move around but because of the presence of remnants of unexploded ordinances left in that area, it became dangerous to the lives of our people.

In recent years, people have been entering Hells Point and cut open the unexploded ordinances to get explosive contents and sell them for fish bombers at a very lucrative price. There have been incidences of loss of lives when cutting these explosives. Our young men go there and cut the explosives to be used for fishing. That is not very good as that is very dangerous to their lives. There were experiences of people getting injured from doing that and some even lost their lives.

Explosives extracted from these World War 2 remains and explosive ordinances are destroying our marine resources. This method of fishing is illegal and our country is very concerned and so the Royal Solomon Islands Police Force works together with the local courts and attended to various cases in the past when they get any reports.

Above all, explosives extracted from WWII and unexploded ordinance is posing great threat to the lives of our citizens, including the leaders of this country. Explosives are used by many criminal elements to cause threats against prominent leaders causing injuries that sometimes can result in death. It is very necessary that this bill must be given a chance to pass. I am very happy to hear from the other side during their contributing that they are in support of this Bill.

The Hells Point land is a classic example as to why this Bill is very important. There are many other lands that fall under this category throughout Solomon Islands and are currently undeveloped. I believe this Amendment will pave the way forward for the government to ensure this category of land is developed to contribute to the national economy.

Finally, the Bill is important for the Democratic Coalition for Change Government and the people of this nation. Under our policy statement in relation to national security, it states that we will support the establishment of the explosive ordinance disposal facility to ensure the safe collection and demolition of World War II explosive ordinance and remnants of war to save the lives of our beautiful and beloved nation Solomon Islands.

As the Minister for Police, National Security and Correctional Services, I am looking forward to the passage of this Bill for the public interest and the development of this nation. With these few remarks, I support this Bill and I resume my seat.

Hon Moses Garu: I would like to take this chance to thank Members on both sides of the House who have contributed to a lively debate in support of this Bill - the Land and Titles (Amendment) Bill 2016. I believe that we have all appreciate the importance, the relevance and urgency of this Bill to allow the Lands Board to resume for public purposes all or part of fixed term estate as automatically created under section 100 of the Act. As we all know, this has not been possible in the past.

Other sentiments were raised by Members in the debate of the Bill on the need for more reform and more amendment to the Land and Titles Act. I therefore would like to assure this House that the government has taken note of all those concerns, which will form part of the ongoing review and reform to amend sections and parts of the Land and Titles Act to improve our land management, administrative systems, and most of all to allow access to more land for development.

Nowadays if you go around our country, most of our rural alienated land are held by churches, traders and investors alike and have remained idle, unmanned, ignored with very little or no improvement done at all. These are some of the most economic lands in this country. We must open up these lands for our people for the development of this country.

At this juncture, allow me to sincerely thank the Chairman and members of the Bills and Legislation Committee for complying with the requirements of Standing Orders by conducting inquiries into the Bill. In like manner, I also want to thank all relevant stakeholders that have seriously taken their time to appear before the Committee to make their presentations on the Bill. I am also particularly impressed with the quality of scrutiny of the bill as contained in the Bills and Legislation Committee report, which has clearly established all the intentions and purposes applicable to this Amendment and so allow Members of Parliament to conduct a lively debate to this bill. Again, many thanks to the Chairman and your Committee!

I also want to thank and congratulate my staff of the Ministry of Lands, Housing and Survey, the permanent secretary, the lands board, the advisor, the Attorney General's Chamber and staff for all their hard work in the drafting and preparation of the bill to come before Parliament. I also want to thank the Bills and Legislation Committee secretariat who, I believe, have also worked tirelessly to assist our Bills and Legislative Committee in conducting the number of inquiries and preparation of the Committee's report. Not the least, to the Speaker, for the patience and excellent conduct of business in the debate of this bill, the Land and Titles (Amendment) Bill 2016.

With those remarks, I beg to move that the Land and Titles (Amendment) Bill 2016 be now read a second time.

The Bill agreed to.

Committee of the Whole House

The Land and Titles (Amendment) Bill 2016

Clauses 1 & 2 agreed to.

Clause 3

Hon Jeremiah Manele: Just a general question of interest and I hope it is appropriate. Can the Minister inform the Committee that after the Amendment Bill is gazetted and comes into force, does the Ministry have any plans this year as to how many areas it is going to resume for public purposes during the course of this year and budgeted for?

Hon Moses Garu: I think the first interest of the Government would be the Hells Point land, although we have other interests but the first one for this year is the Hells Point.

Clause 3 agreed to.

Committee is dissolved and Parliament is resumed

Hon Moses Garu: *(Minister for Lands, Housing & Survey):* I wish to report that the Land and Titles (Amendment) Bill 2016 has passed through the Committee of the whole House without amendments.

Bills - Third Reading:

The Land and Titles (Amendment) Bill 2016

Hon Moses Garu *(Minister for Lands, Housing & Survey):* I move that the Land and Titles (Amendment) Bill 2016 be now read the third time and do pass.

(Bill is passed)

The House adjourned at 11.47 am