

**MONDAY 15<sup>TH</sup> MARCH 2010**

The Speaker, Rt Hon. Sir Peter Kenilorea took the chair at 9.40 am.

**ATTENDANCE**

At prayers all were present with the exception of the Ministers for Finance & Treasury; Planning & Aid Coordination, Foreign Affairs; Culture & Tourism; Agriculture & Livestock Development; Health & Medical Services; Fisheries & Marine Resources; Home Affairs; Environment & Conservation; Justice & Legal Affairs and the Members for East Are Are; West New Georgia/Vona Vona; Lau/Mbaelelea; Central Makira; Ngella; North Guadalcanal; Shortlands; West Honiara; North West Guadalcanal; Malaita Outer Islands & West Makira.

**PRESENTATION OF PAPERS AND OF REPORTS**

- Report of the Special Select Committee on the Political Parties Reform Bills 2009' (*National Parliament Paper No. 2 of 2010*).

**BILLS****Bills – First Reading**

The Tobacco Control Bill 2010

The Extradition Bill 2010

**MOTIONS****Motion No. 1**

That Parliament resolves itself into a Committee of the Whole House to consider National Parliament Paper No. 2 of 2010, 'Report of the Special Select Committee on the Political Parties Reform Bills 2009.

**Hon SIKUA:** On Thursday, the 26<sup>th</sup> day of November 2009, I move a motion which was passed by Parliament to establish a bipartisan special select committee under Standing Order 73. The terms of reference of the Special Select Committee was twofold namely:-

- (a) to consider the various debates by Members of Parliament during the second reading of the Constitution Political Parties (Amendment) Bill 2009, No.24 of

2009 in relation to Clauses 2, 3, 4, 5, 6, 7, 8, 11, and Schedule 2 of the bill, taking into account the Political Parties Registration and Administration Bill 2009; and

- (b) To examine the report on the Constitution Political Parties (Amendment) Bill 2009, No. 24 of 2009, National Parliament Paper No. 41 of 2009 by the Constitution Review Committee.

In that same resolution, the Parliament mandated the Special Select Committee to report to me prior to the conclusion of the second reading debate on the Bill, No. 24 of 2009 before the 2<sup>nd</sup> of February 2010. Due to practical difficulties in constituting the Special Select Committee, the committee did not sit until the 26<sup>th</sup> January 2010 when it had its first meeting. The final report of the Committee was, however, presented to me on the 19<sup>th</sup> February 2010. In spite of the late submission I have gladly accepted the report and wish to congratulate the Chairman and members of the Committee for their great effort in completing their assigned tasks within a very short time.

Since the committee was established under Standing Order 73, the Government is obliged by paragraph 6 of Standing Order 73, to lay with the Committee report its proposal as to the action it proposes to take. The government, having considered the report, has resolved to take the following course of actions:

- 1) I will move a motion for a general debate by Members of Parliament on the report but there will be no subsequent motion seeking Parliament to agree to the recommendations contained in the report.
- 2) The government will then take further time to consider the various debates made in respect of the report and decide on what appropriate actions or measures to be taken.
- 3) If the government accepts that certain amendments are required to be made to the bills, whether short amendments is per the recommendations contained in the report or is the overwhelming wish of the Parliament as is expressed during the debate, the Government will take appropriate amendments and present to the Speaker the necessary amendments as it sees fit.
- 4) After presentation of amendments to the Speaker or if there is no amendment, the government will announce a specific date in its government business the next sitting day for resumption of general date at second reading. Accordingly, the resumption of second reading debate listed for Tuesday, the 16<sup>th</sup> March 2010 will be adjourned to a next sitting day. This date is put on government business because that is the day the debate at second reading was adjourned to, when Parliament adjourned the debate on 26<sup>th</sup> November 2009.
- 5) The Cabinet intends to sit on Wednesday 17<sup>th</sup> March 2010 to consider the parliamentary debate on the report, and the report itself and so seeks the indulgence of the honourable Speaker and the honourable Members of Parliament to conclude debate on the report on Tuesday, which is tomorrow. With these remarks, I thank you and I beg to move.

**Mr Speaker:** Honorable Members, the Honorable Prime Minister has moved a motion and the floor is now open for debate on this particular motion.

**Hon. SOGAVARE:** I just want to raise a point of order which needs the clarification of the government on maybe some rulings from the Chair as well, and that is the report that is placed before Parliament now for debate. And this is strictly on the terms of reference that was given to the Special Select Committee. With your indulgence, Mr Speaker, I will just read the terms of reference and then draw the point. The terms of reference is two as outlined by the Prime Minister: to consider the various debates by Members of Parliament during the second reading of the Constitution Political Parties (Amendment) Bill 2009, because that is the only bill that comes before the House for debate, specifically in relation to clauses 2, 3, 5, 6, 7, 8 and 11 and Schedule 2 of the Bill. For the Political Parties Registration and Administration Bill 2009, the Committee is only to take into account, and not to make a serious analysis as they did as contained in the report that is submitted before Parliament for deliberation. I just want to seek the government's clarification on that, and any rulings from the Chair whether we are deliberating on that report and strictly adhere to the motion passed on the floor of Parliament.

**Mr Speaker:** Thank you honorable Leader of Opposition. As you have rightly stated, the motion was in relation to a particular bill that was already debated on the floor of Parliament, and we will therefore restrict our consideration of this motion to the consideration of the bill that we have already discussed. If we bring in a particular bill that is yet to be discussed we might be jumping the gun here. Hon. Attorney General, do you have a comment on that?

**Attorney General:** The motion is strictly in relation to the report, but as you can see, the report itself refers to the contents of the two bills, and so debate can extend to look at the provisions of the bills, because it would not be logical just to look at the report without making any reference to the two bills. That can be done. I am not sure whether that answers the point the Leader is raising.

**Mr Speaker:** What I was saying and I think the Leader of Opposition was saying is that the other bill has not been touched upon by Parliament as yet. The only bill that has been debated in Parliament so far which resulted in the motion was a constitutional amendment. We would have been delving into almost an unknown area if we were to consider the Party Integrity Bill as well. I suppose the discussion would simply take note of the various references to the Political Integrity Bill but the specific issue that we were to resolve or discuss is the Constitutional Amendment Bill.

**Attorney General:** That is correct. The only bill that has been debated which resulted in making of the reference was the Constitutional Political Parties Amendment Bill but the

terms of reference specifically says that in consideration of that bill, the Committee was to take into account the Political Parties Registration Administration Bill 2009 as well. And so if there are references in the report to provisions of the Political Parties Registration Administration Bill 2009, it would be proper that debates be allowed on those references as well.

**Mr Speaker:** Thank you, and the terms of reference was approved by Parliament.

**Attorney General:** That is correct.

**Mr Speaker:** Okay, we will go down that line.

**Mr. OTI:** Point of order. Whilst the advice by the AG is acceptable in this instance, the point that the Leader of Opposition was trying to make in particular was that should there be situations where the provisions of the Political Parties Registration & Administration Bill 2009, as is currently before Parliament and which is yet to be read the second time, if you are now trying to clarify some provisions or some areas of contention under the Constitutional Political Parties Bill 2009 which bear on the Political Parties Registration & Administration 2009 and the provisions for which, because we have not yet touched it, I think it would be premature to reinforce any argument on this particular bill on a provision that is yet to be amended, and therefore, it is going to be very difficult to try to just cut clean from the way you have made it here, because really in essence perhaps when we do make contributions later on, this Special Select committee, in essence did not adhere to the terms of reference that was before it by delving into and making recommendations on provisions of a legislation, which is yet to be brought down for second reading.

**Mr Speaker:** I think we have covered that particular area in the sense that I think reference can made to the Party Integrity Bill that is yet to be discussed but not necessarily meant to actually amend that particular Bill. We are concentrating essentially on the constitutional amendment bill. Are there any other comments, AG?

**Attorney General:** Mr. Speaker, I think your explanation and my explanation so far seemed to have settled the points in my view.

**Mr. ZAMA:** I am still not comfortable with the advice given by the Attorney General.

We have to be a little bit careful in this instance here because like the Leader has raised and the other colleague MP here has raised, what is the government trying to prove here? This would, in my view, the government trying to hijack the parliamentary processes on a bill that has never been tabled or debated. I just want to caution Parliament not to be pulled into a process on the way our procedures would be hijacked.

**Attorney General:** If the Parliament itself made and passed the terms of reference, and the terms of reference says that the Committee could take into account the Political Parties Registration and Administration Bill 2009, I do not know how that kind of statement can stand in the face of a parliamentary resolution. Because of that kind of terms of reference you will see on page 20 of the report which contains the recommendations of the committee, the recommendations are into two parts. The first part is in relation to the Constitution Political Parties Amendment Bill, that is the first set of recommendations, and the next set of recommendations is in respect of the Political Parties Registration and Administration Bill No. 25 of 2009. That is what I was alluding to when I said that if the report makes reference to the Political Parties Bill, the Parliament is at liberty to refer to those provisions. Thank you.

**Mr. Waipora:** I will be debating on this, and the first one is the report and the other one is the Constitution. And today we are going to talk about this, and when we are talking about this we will be talking too like we have already debated this Bill, and so I am going to be confused, because when I am going to talk on this book, are you not going to allow me to contribute to this book? I do not know why it is so special to keep on repeating that we bring this one. Why do you not just withdraw it last year? I think this is going to confuse us and so do not restrict me that when I debate this book I will also be debating this book at the same time.

**Mr Zama:** I used the word, hijacking the parliamentary processes' because looking at page 20 of the report, rightly the Political Parties Registration Amendment Bill has never been put to the second reading on the floor of Parliament. The fact that reference is made to that Bill on page 20 of this report is like putting the cart before the horse. And therefore, in my view, that is a process of hijacking. How else can you define that? I just cannot accept this and honestly I do not agree with the Attorney General's advice on the matter. I am not confident with that advice. Thank you.

**Hon Sikua:** The motion I moved is for a general debate by Members of Parliament on this report, and further to that I did say that there will be no subsequent motion seeking Parliament to agree to the recommendations contained in the report, and therefore, Parliament will not vote on it. What we are trying to do is to get Members of Parliament's reactions to the report, which will then give time for government to make any further amendments after this debate, before we can bring back the Bill at a later time. That is what we are saying.

Essentially, there should be no reason for anybody to be confused as the motion I moved is just for a general debate on this particular report. Thank you.

**Mr. Speaker:** Thank you honorable Prime Minister. The procedural question is that Standing Order requires that a motion be moved after consideration of a report. It may not be moved forthwith but it can be moved at some later day. What the government is

saying is that they will move that question of acceptance later on, on the report. I understand it will not be done forthwith.

**Hon Sogavare:** I think views have been tendered and you have already heard them, and so can we have some rulings from the Chair on this before so that we can proceed.

**Mr Speaker:** Yes, we do have a confused situation in the sense that the terms of reference does provide for us to make comments or we could make reference to the Political Integrity Bill, although we have not actually discussed it on the floor of Parliament. The problem procedurally I can see is that since the report has been made and recommendations have been made on those reports, I suppose one other recommendation will not be considered, and that is that which deals with the Political Party Integrity Bill. Otherwise the concern of the Leader of Opposition is real in that we will be making recommendation on a bill or accepting recommendation on a bill that is yet to be debated. When it comes to the motion under paragraph 3 of Standing Order 18, we will simply be looking at the first one, the first recommendation.

**Mr Oti:** Thank you, I think that is the way forward in this regard. The only point of contention, perhaps for whatever reasons but I think it is understandable also is the fact that for me stepping outside of the terms of reference that Parliament has mandated this task force to the extent that it has taken the onus on itself to make recommendations on, as I said, a bill that is yet to come. The report, if it is going to be adopted, the recommendations must only stop on recommendations 6(2) to 6(6), and every other recommendations from 6(7) onwards are irrelevant to our purpose. If it is like that then it will be right.

**Mr. Speaker:** I think that is the way to go forward on this.

**Hon Sikua:** Thank you. We agree to proceed along those lines.

**Mr Speaker:** Any speakers to the general motion, please?

**Hon Sogavare:** Let us start the debate now. Thank you for your ruling on the floor and thank you Prime Minister for allowing us to move forward.

This Bill here has been haunting us for quite sometimes now and the Parliament has resolved last time to put it to a special committee and the report is now before us. When I looked at the proposed actions that the Prime Minister has outlined for the Committee to take onboard, of course, we are not going to take any vote and agree to any specific directions that the Special select Committee has recommended to us. I thought this is just basically defeating the whole purpose as to why Parliament referred the Bills to the Special Committee to look at and advise the Parliament on the way forward. Actually it is just a waste of Parliament's time if at the end of this debate do not agree on some directions for us to move forward. Because if the Bill comes back in

its same structure and content, then that is the very same bill that this House is on the verge of throwing out, but it was referred to the Special Select Committee before the vote is taken. It is this Parliament that is uncomfortable with it, and I thought it is this Parliament that should give some directions on how to proceed with this constitutional amendment. Right now, the way the government is putting it to us here, we will only debate it as long as we like and when we finish then that is it, and the government will only take note of the things we say in here, may be it will refer to the Hansard reports and then they will make the decision themselves in Cabinet or somewhere. That is the first concern I want to raise because it was this Parliament that was uncomfortable, it is this Parliament that should be satisfied with the direction to move and Parliament should be comfortable with it. But if it comes back in the same form then the government will, of course, face the risk of the Bill being defeated.

Also, the other thing I want to raise before I raise one or two points here, because we are restricting the consideration to the constitution amendment bill, this is the dying stage of the Parliament and of course the government too and so how are we going to take up this big, big amendment and get it implemented this year. How it is going to affect the next house is something that I am quite uncomfortable with as well. Maybe the government will comfort us when the Ministers participate in the debate of this report. As I said that this is the dying stage of the house, this house will be dissolved on the 24<sup>th</sup> of April, and we all will be struggling to come back. And so how the government is going to implement this is a concern.

In saying that, and based on the ruling and the understanding that we already have in that we will confine our debate on the constitutional amendment bill, and that is actually what I am going to do, I think the ball is really in the government's court now as to how it would want to push this thing forward, but as for the Opposition side we have actually made some submissions to the government and we still maintained that position.

When it comes to section 11, 12, 13 and 15, of course, section 11 and 15 was not part of the original bill that comes, I think it must be No. 3. Bill No.3 and Bill No. 16 deal with the same thing. Bill 24, of course, accommodates all the various amendments that are incorporated in Bill No. 3 and No. 16. The original Bill 11 and 15 are not there, it was added on later and it is incorporated in Bill No. 24 and so we did not make any comments to that. I was saying that we did not make any comments on the proposed amendment to section 11 and 15. Section 11, of course, is to do with the protection of conscience and the other one is section 15. We did not make any comments on those. But in making our comment on section 12 and 13 we did say, and it is based on the comfort, some kind of comfort that Professor Don Patteson made when he came and held a workshop with us here, and we went through these bills. After listening to him we took the position that the exception to the fundamental rights is still in keeping with the areas restricted in the Constitution, and that is on the proper organization of government. That is our comment on section 12. On Section 13, we took the same position as well. The exception to the fundament rights is still in keeping with the areas restricted, and as I have stated already it is for the proper organization of government.

But we put across for the notice of the government, however, that Parliament can make any exceptions to the rules. We are concerned that the amendment could open up a whole new area of Parliament's legislative competency. We just make the caution that way, as long as we continue to keep it within the traditional area of restrictions then we will be comfortable.

The Committee has made some recommendations here in relation to clauses 2 to 5 dealing with fundamental rights. It recommends that we delete any references to parliamentary proceedings in clauses 11, 12, 13 and 15. That is the amendment the Committee thinks we should make when reading our various debates. The Committee also stated that reference to the conduct of Members in the second paragraph should be shifted to the first paragraph. The second paragraph should only refer to the conduct of elections because all the amendments to the clauses have the same wordings as 11, 12, 13 and 15. What it effectively says there, the only amendment it suggests only deals with how we debate issues in Parliament, and that is we are free to express our thinking even if this person is part of the government or a government backbencher can still express his views. This restriction does not apply in parliamentary proceedings.

There is only one problem there and this is because debates in Parliament do not decide on matters that are placed before Parliament. What decides on matters that are placed before Parliament is the number of the government. So if they have established their position outside and then come inside here, all the debates in here will be just a yes, and there will be no meeting. That is where the restriction applies where you do not have the freedom of conscience there, outside of parliament. We come in here just for a show by going ahead to talk and talk, we can talk openly and whatever but at the end of the day whatever we are saying is not taken seriously at the end of the day to influence votes and decision making. We just want to flag that concern. But when we made our submission we made the point that these restrictions are still in keeping with the areas that are traditionally restricted.

Clause 6 covers section 33, and in the Opposition's submission to the government we suggested a major review of the process of appointing/electing a prime minister as outlined in Schedule 2. Now, we note that the Special Select Committee has made some suggestions and recommendations for Parliament to look at. It says in the recommendation to Schedule 2, 'paragraphs 1 & 3 of Part 1 to that schedule be merged as paragraph 1, and as such the current paragraph 2 will remain as it is but paragraph 4 be renumbered as paragraph 3'. It took up three options, and the first option is if any group comes up with the majority to form the government then the leader of that group automatically becomes the prime minister where his name is submitted to his Excellency and his Excellency appoints him as prime minister. We take it here that the way it is put across here is that there is no need for any election there, no need to refer it to Parliament to excise its power or exercise the right of parliament to cast some votes, even some vote of confidence on the person commanding the majority of elected members, because his party wins the majority of seats. In our submission we expressed some views on that, that even if a person has absolute majority, at least before his name is referred to his Excellency, may be Parliament needs to pass a vote of confidence on



him because he is the prime minister of this country and not the prime minister of the ruling government and so at least his name should be referred to his Excellency by Parliament after discussing his name and passing a vote of confidence on him.

The other problem that we see here, and in fact, we suggested that options 2, and 3 must be removed altogether on that submission to the government. Because it is like this; the Committee suggests that we still retain option 2, and that is the person whose political party gets the next highest numbers, that person will be called upon to try and form the government. There is no guarantee whatsoever that we will end up getting a prime minister there because we still open up or we still allow this thing to move to option number 4, which now becomes option 3. The small parties that win their parties would still hold on. If you put them together and they come to 26, all the different parties, they can hang on and they will not listen to the call of the group that has the next highest majority; they will hang on until may be the time lapse, when the statutory period lapse and then we move to the fourth, and now the third option that is open to Parliament to elect the prime minister and now we will have lobbies, we will have buying of votes, we will have all sorts of things happening because exactly what we wanted to avoid is allowed to happen. I think the main reason why we tried to tidy up things here is that there is some certainty on who should be elected as the prime minister so that it allows very little room for people to sell themselves to the highest bidder which has happened all the time. We have a serious concern there unless, of course, some amendments are added on there and say that the person commanding the next majority becomes the prime minister, and the law expresses it clearly that way so that numbers polarize around him by virtue of the clear expression of the law, rather than allowing him struggle to whip up numbers to form the government. That is the concern we have and we still hold that view. If this is not considered then we are still very uncomfortable because we are just doing what we are trying to avoid in this Bill and we are addressing nothing.

Section 33(4), the Opposition group does not have any problem with this amendment. We put that in our submission to the government. Section 33(5), the Opposition group also does not have any problem with this amendment. Section 34, we did express some views on this and the Committee also expressed some views on it and made some suggestions on it. This new section 34(a), which effectively outlines the new process of removing the prime minister is silent on the removal of the government. In our view, this is unacceptable and we think the whole process needs to be relooked at. The Parliament must still be involved on the removal and election of a prime minister. We also suggested that the review should involve the removal of the new section 34(a) in its entirety and instead improve section 34. The appointment of the prime minister under section 33(1) is what I have already discussed. We note the recommendations made by the special select committee in recommending a total removal of section 34(a), and that is in line with what we suggested, and we accept that. What the Committee suggested here is that we go back to section 34 on how to remove a prime minister using a vote of no confidence. It suggested a grace period of 12 months after the appointment/election. That is appointment/election because the committee obviously

says that if that person commands an absolute majority then appointment straight away, but if he does not command absolute majority then it is through the process of election. I have expressed our views already on that. We feel whether it is absolute majority or not, Parliament still has to exercise some kind of votes on whoever becomes the prime minister on these different scenarios.

Section 37, the Opposition does not have any problem with this amendment and we support it when we made our submissions to the government. Section 39, the Opposition group also does not have any problem with this amendment and we also support it. Section 50(h) and (i), the Opposition supports this policy that an individual who wins an election under a political party must not be allowed to switch allegiance as an individual on pain over losing his seat. We maintained that position because the amendments to section 11, 12, 13 and 15 allow that to happen, strictly on the proper organization of government; it is only in that light.

Section 53 is what the group does not support; it does not the intention of this subsection, and the reason we put forward is that there is no justifiable reason for such a penalty. The member should be allowed to hold positions other than ministerial portfolio. He/she represents people and should not be unnecessarily penalized. If that can be re-looked at so that he/she is relegated to the sideline, at least he/she can be chairman of a board or something like that. But to remain in the cold like that for the four years is not good. He might as well resign and go home.

Section 66, the amendment to that section, the Opposition does not have a problem with this amendment and we support it. Section 69(c), the Opposition has no problem with this amendment. We already stated that we support it. Section 69(d), the Opposition group has no problem with this amendment and we mentioned already that we support it. Section 93, the Opposition group also does not have problem with this and we support it. Section 145 is the same; we have no problem with it. However, Schedule 2 is what we have a big problem with and we have discussed the thinking of the opposition group on that proposal. The consequential amendments and transitional provisions there, the Opposition group has no real problem with the amendments and accordingly supports the amendment.

In keeping with the ruling, I have gone through the entire bill on our side. Of course, if the other members might want to elaborate on some areas and they can do so but I was basing on the submissions that we made to the government and we basically maintained the spirit of the submissions we made to the government. With all the rulings you have made already we have no problem supporting the motion to refer this report, and specifically the constitutional amendment aspect of it to the committee for us to further look into in the committee of the whole house. With that, I support the motion.

**Hon. ABANA:** I would also like to thank the honorable Prime Minister for moving this motion on this special select committee report.

Last year in Parliament we debated this very important bill and it came to a position where Parliament resolved to appoint a select committee and thus the report

that is before Parliament now. I would like to thank members of the committee. It was supposed to be a bipartisan approach but because other members were also busy during that time, which the committee appreciates. We have worked through four weeks in trying to put together this report relating to all the issues that were raised in Parliament during the debate. I believe from the outcome of the report that is before Parliament now entails a comprehensive approach in terms of all the views that have been raised here on the floor of Parliament, and which I believe as it is presented in Parliament now, Members of Parliament will have their say on the outcome of the report as has been the position of the honorable Leader of Opposition from that side of the House.

It is not an easy task, as you would have imagined. It is a piece of legislation that will take the political scenario of this country forward as we see it, but it depends very much on the way forward as honorable leaders of this honorable House would see it. But as far as the Committee is concerned, which is comprised of two Members of Parliament including myself and five prominent lawyers within our legal circle. I believe we have come up with a very comprehensive report as was the motion moved by the honorable Prime Minister.

At this juncture, I would like to take this opportunity to thank my Committee for putting this report to Parliament even though they have to really come forward and spent four weeks up here at Parliament to ensure we have the report. Even though it is late but I believe with the procedures of the Standing Orders we can take it through.

With those few words I thank you and I appreciate hearing the debate, remarks and statements that may be made later that would help to carry this report forward. On that note thank you very much.

**Hon FONO:** Thank you for allowing me to contribute briefly to the debate of this motion moved by the Honorable Prime Minister this morning.

At the outset, I would like to thank the Parliamentary Special Select Committee for its work in coming up with this report based on the motion moved in Parliament at the end of last year.

I noted that it should have been a bipartisan committee consisting of members in the Opposition and Independent. However, those that were appointed, for some other reasons have declined to be part of that Committee. However, we all know that submissions were made by the Opposition group to the Government to be considered in the process of formulating this Bill.

I will be very brief because I will reserve my contribution to the debate on the second reading when the Prime Minister will open the second reading to the debate that was suspended last year. Therefore, I will reserve my debate on the Bill itself. However, I would like to raise a few points based on the questions that were raised earlier by the Opposition group. Some of us also have the same concern when this report came to Cabinet and we considered two options. The first option is for the Government to table this report of the Special Select Committee so that it gives time to those who did not contribute to these Bills would contribute and then the government would take into the consideration the contributions and suggested amendments to the clauses before the

actual debate is done on the bills. Similarly, the other Bill that the government is yet to table, the Political Parties Bill would also be taken into account because some of the recommendations in the report referred to that Bill. And since the Government is yet to table the bill, yet certain suggestions raised in this debate can be considered by the Government and allow for changes to be made to that Bill before it is tabled at this sitting of Parliament.

The other option discussed in Cabinet is to allow the report to be considered during the general debate and the Prime Minister to move an amendment to the Standing Orders to allow those of you who have contributed to the debate last year can be allowed to join the debate again taking into consideration the recommendations from the report. When we considered these two options, the option adopted by Cabinet is what we are doing now by putting in the report of the Select Committee report for us to debate with the understanding also that a vote will not be taken on it. Therefore, this opportunity is taken here at Parliament to adopt this option so that it gives Members of Parliament who may not have contributed to changes to this proposed Bill, can do so and the government is very thankful for the responses that have just been highlighted by the Leader of Opposition. I think even at Cabinet level or at Caucus level, some of those concerns were raised.

It is important that we have come this far, and there needs to be some political reform. All of us agree that there needs to be some political reforms to create stability within the government so that a full four year term of Parliament is seen by government coming in to implement its programs. I think that excuse has been done quite a lot where governments come in but are only given two years or even some only one year and so they cannot perform because of the frequent change in leadership. Therefore, based on what we have experienced over the last 32 or so years after independence it is important that this Parliament adopts these political reforms in order to pave the destiny of this nation so that we can see progress.

As I have said, I do not really touch on the amendments because I will do so in my debate on the second reading during the general debate when the opportune time comes. Thank you once again and I thank others who have contributed as it is a way forward the government has seen. With these few comments I support the motion.

**Hon LILO:** Thank you for the opportunity to speak on this motion moved by the Prime Minister. Let me also thank the Prime Minister for laying this report to Parliament and also join others in thanking the Committee that has been established to look at this particular motion the Prime Minister has moved.

Mr Speaker, you would note on that page that my name was also included there. You have actually written to me inviting me to participate in this Committee. I did not respond because I only received that letter in mid January because at the time when the letter was sent to me I think I was in Copenhagen and I did not check my pigeonhole and so I did not respond. I would just like to put right that part of the record that I did not join this particular select committee. But I would like to thank the Committee for

coming out with this particular report, especially the recommendations put in this report.

Just a comment I would like to say here in relation to that particular motion moved by the Prime Minister, that motion in fact intended that there was going to be a bipartisan special committee to be established under Standing Order 73. Obviously, that bipartisan committee was not established given the fact that, I think, there was refusal on the other side of the House to join the committee and so in a sense that part of that particular motion was not satisfied - requiring a bipartisan. So quite unfortunately...

**Hon. Sogavare:** May I clarify that aspect which I forgot to mention it earlier? Yes, we received letters and we discussed it. Our understanding is that maybe later on when the Bill comes before the House we will discuss it, we will raise that point because a good number of our members are already members of the Constitutional Review Committee (CRC) that produced the report which will go to this special select committee and they will look at their report again, and so in our view that is not right. There are not many of us on this side and we are all used up. In our view, eventually and probably that amendment bill once it is amended again, it would have to go back again to that committee, but we will get that clarification tomorrow. So it does not seem right for them to already express their views here and for them to look again at their own recommendation. We feel that maybe it is appropriate for us to stay out altogether and maybe only involved in one committee, and that is the CRC that will eventually look at the outcome of anything that the Special Select Committee does come up with. That is the reason why we did not take part in the special select committee.

**Hon. Lilo:** Thank you. I raised that issue just to contrast the debate of this report. I am not trying to score any points against the other side of the House, but I was just looking at the nature of this report and what was really intended in the motion moved by the Prime Minister requiring a bipartisan special select committee, and so the argument can also be on both sides; it could be that we ourselves have failed ourselves to establish a bipartisan select committee. Therefore, the committee that was intended by Parliament to sit to review a particular issue that was raised during our debate of the Bill at that particular time, in fact, did not sit as well. If you look carefully at it, effectively it did not sit, the bipartisan select committee did not sit; there was no bipartisan in a way. If you strictly look at the meaning and the intent of that particular motion moved by the Prime Minister at that time, it did not sit. And that was the reason why I decided not to even respond to your letter because when I saw that letter it will not give rise to a bipartisan as intended. I was actually encouraging that the other side of the House should accept to be part of the committee. But sadly it was not. I even went personally to ask them myself. I even asked my colleague MP for Temotu Nende to join the committee so that there is a bipartisan meaning to the Committee. But then he told me that they are busy going somewhere, and I asked where and he said somewhere there and so I could not proceed any further. We normally meet at the betel nut stall up there where we always chat. I do not know whether he consciously meant what I was chatting to him about

because I really was trying to press with him that the intent of the motion moved by the Prime Minister was to really have a bipartisan special select committee under Standing Order 73. Obviously, the appointment of the Committee under Standing Order 73 did not constitute a bipartisan as intended by that particular motion. And who failed it? It could be all of us in this House, I do not know. And I do not expect anyone to raise any point of order to clarify why we could not reach a bipartisan composition of that Committee.

**Hon Sogavare** (*interjecting*): *Withdraw this report then!*

**Hon Lilo**: Well, hang on, it is already on the floor of Parliament and we are debating the nature of this report.

And so that leaves me to just talk about why it is important for us to follow the intent of motions moved in this House. We must follow what really is the intent of all motions we move in this House. If we go outside and change the meaning and the intent of those motions then we are ruining it. That is my concern, and I have the right to raise that concern, because the intention of the Prime Minister at that time when he moved the motion was a very genuine one; genuine and a legitimate one requiring a forum that is bipartisan, critic, analyze and put together comments to make up a good recommendation that will see some good changes to the Bill that has been laid before this House.

**Hon Sogavare** (*interjecting*): We already did, and you did not take it up. Nonsense.

**Hon Lilo**: We did not reach that point. And so this is the committee that came, a committee of representatives of all civic society, outside organizations, which is a well organized committee too, but fell short of the requirement of that motion. And at the same time, now we have found out that that report should have fallen short of 6.6 recommendations. So what we should do? What is procedurally right for us to do? I do not know right now because as it goes to the Committee of the whole House, another report will come out and it will only end up on 6.6 and will this one go outside? That is what I am not too sure about as well. Or are we going to save others that we are not going to discuss and then still continue? Where will the process be put right? These are my concerns here.

But I think the points that have been raised by the committee, especially the six points here, we can understand how restrictive they have been to maybe legal write ups, its legal make ups, and maybe time constraints. We would want some kind of a more general analytical report but obviously we are restricting our contribution on the particular debate we have done previously and that is why we ended up this way.

This is a very good report except for the points I raised. The recommendations there like 6.2, 6.3, 6.4, 6.5 and 6.6, in a way I think are trying to liberalize the arguments and the proceedings that we need to go through in interpreting the application of that particular provision of the Bill that came earlier on so that the rights are given to

Members of Parliament to determine it inside here in Parliament. I think that is well expressed by the Committee when it did its deliberation on page 12 onwards and finally its recommendations on page 20.

In that respect, I think I will go along with the Prime Minister in recommending that we go through this report in the committee of the whole House to look at the specifics of the recommendations in relation to the deliberations that have been made also. But my point stands that we have fallen short of that particular motion in establishing a bipartisan committee to consider issues that Members of Parliament raised during the general debate here on that particular bill. Thank you.

**Mr. OTI:** I would like to join the other colleague Members of Parliament in their contribution to the presentation and the motion by the Prime Minister in regards to the report of the Special Select Committee to look at the issues raised during the second reading and debate on the Constitutional Political Parties Amendment Bill, No. 24 of 2009.

At this juncture too, I would like to thank members of the Special Select Committee for the work and the considerations they have given to the issue at hand, particularly in making reference to the issues raised during that debate which they have taken into account by putting together the thinking that is now contained in this report and subsequently appeared in the report in the form of recommendations as is found on page 20 of the report.

As the Leader of Opposition alluded to in his response to the motion, at the outset we can only follow up on what was given to the government earlier in our submission to this particular and important bill.

Indeed, the motion that the Prime Minister moved before we went on adjournment at the end of last year, because we could not agree on certain aspects of the bill and thereby dragged it too long and other Members have different thinking behind the intentions of this bill, it was right and proper that the matter be referred again to a special select committee so as not to cloud what was a good intention by the government but read differently by those of us who are in a position to make contribution to this Bill, in particular those of us who want take this issue and this matter out of context and color it with our political thinking and jealousy may be. I do not think that is the intention of this Bill, and therefore this Special Select Committee is trying to bring together those different and divergent thinking at that point in time; those genuine ones. But if this is not going to go through ultimately, it is not because of the substance, it is not because of the relevance, it is not because of the genuine intentions of Parliament. It would be because of some hidden political suspicions that might lie under the intention of this Bill, which is not the intention as is brought out here.

The fact that the composition of the Committee did not end up as it was intended to be a bipartisan, reasons for which have been explained by the Leader of Opposition and for which some of us took pains to explain to the secretariat of our thinking why our participation would not be proper. In fact, some of us for people to now point a blanket cover that we did not respond, some of us did not get invitations to that. So it is not a

matter of everybody was invited and only a few responded or none responded. That was not the case.

Having said that, the fact that that was probably the intention, there is nowhere under Standing Order 73 requiring the Special Select Committee to be bipartisan, it is nowhere inside, and therefore whatever the outcome of this report should not be seen as not proper just because it was not bipartisan. No, we have fully complied with Standing Order 73, and in essence that is all that is required. Whether it was bipartisan or not is irrelevant, and that should not mar the intention of Parliament the fact that it is not bipartisan. Who says that Order 73 must be bipartisan? You cannot argue and you cannot therefore throw this report out just because it was not bipartisan. No.

The very important requirement of this Standing Order is that, especially those members outside of Parliament who are appointed by you, Mr. Speaker, or recommended by the Prime Minister, are people with special expertise, and we have them in the Special Select Committee. That is all that was required. And I would like to thank your office, Mr. Speaker and the Government for appointing those people who became members of that committee who are not Members of Parliament but because of their specialty in the fields they come from, their input was required more in the work of this Committee than some of us, the amateur ones. In fact, you did not miss anything from us. If we have to offer anything, we can offer it when it comes to where we play our role. And as pointed out in the clarification by the Leader of Opposition it is either directly on the floor of Parliament or through instruments of Parliament like the Constitution Review Committee, which a number of us are members of and which the report this particular committee came out with is also used by the Special Select Committee to look at this as well as using the substance of the debate in the second reading of the Bill.

In essence, I congratulate the government for this report and the Committee for this report, notwithstanding the fact that it was not bipartisan, which perhaps some Members might have nothing else to say and that is why they made such judgments. With those few remarks, I fully support this report. Thank you.

**Hon. Sikua:** First of all, I would like to thank all colleague members of parliament who have contributed to this motion. I thank the honorable Leader of Opposition and the honorable Member for Temotu Nende for their contributions, as well as the Deputy Prime Minister and my two other Ministers.

The motion I moved is yet another opportunity for this Parliament to examine the Constitution Amendment Bill. As you know, the Government has through this Parliament, utilized a statutory mechanism available under Standing Order 73. And I will come to the issue of bipartisanship later on, but at this stage I would like to thank the Member for Temotu Nende for pointing out that Standing Order 73 does not require us to have a bipartisan special select committee. But if you could recall, it was simply my proposal to you, Mr Speaker, that this special committee be a bipartisan one, and so the MP was correct.



The Parliament, as you know, previously utilized another statutory mechanism, the Constitutional Review Committee under Standing Order 71(a), and also, as you would recall, a workshop conducted by a constitutional expert for MPs was also convened in this Chamber.

When the report was presented to Cabinet, the options that were before Cabinet were basically twofold; whether we do what we are doing now or because of the substantial amendments to the Constitution Amendment Bill that we let it serve out another four weeks before we bring it in and then probably suspend Standing Orders for debate to be reopened. I mean those were the two options discussed overall but this is the way government has decided to handle this report, and I thank Parliament and yourself for giving us this opportunity.

The government through Cabinet will sit to consider the report. As I have told you, Mr Speaker, we will meet on Wednesday to do that, but before doing so we wish to seek the view of the Parliament. I have noted the views expressed, especially by our colleagues from the Opposition side and therefore I thank the honorable Leader of Opposition again for pointing out the areas that they support and those that they still have reservations with, as these will be the areas that Cabinet will sit to look at when we consider the report on Wednesday, the 17<sup>th</sup> March. I thank the other side most sincerely for giving us directions as to where their desires and intentions lie in reaction to the report we have before us. The Government will certainly further analyze and discuss the various views that have been expressed.

Your concerns that have raised about the options for appointing or electing the prime minister as proposed in the second schedule have been taken note of. Overall, I thank everyone for contributing to the report, and with those few comments, I beg to move.

*The report was agreed upon to be committed to the committee of the whole house*

### Committee of the Whole House

#### Report of the Special Select Committee on the Political Parties Reform Bills 2009

**Mr Chairman:** It has been drawn to my attention that the report considers only the Constitution (Political Parties Amendment) Bill 2009 but it also considers and makes recommendations in respect of the Political Parties Registration and Administration Bill 2009. As I understand from the advice of the honorable Prime Minister and the Attorney General, the reason why the Special Select Committee responsible for this report took this approach is because it considered both bills as cognate bills. Cognate bills are bills that cannot stand on their own without the other to the effect that discussion of one will inevitably include the discussion of the other. On the same token, any proposed amendment to one cognate bill will ultimately require corresponding amendment to the other bill.

While I fully appreciate the rationale for the approach of the Special Select committee in that regard, I am equally conscious of the rule against anticipation set out in Standing Order 27(3)(h). The gist of that rule is that the motion is out of order if it anticipates an item of business that is already set down for Parliament's consideration in the future. This appears at face value to be the case here. When the Speaker received notice of the honorable Prime Minister's motion in respect of the report now before us, he considered the rule against anticipation in that the report with which the motion is about considers another bill that is before the House but yet to be considered. The Speaker, however, did not consider the motion out of order and allowed it on for today's business because the two bills involved are indeed cognate bills. The Special Select Committee's terms of reference acknowledges that fact and thus mandate the Committee to take into account the second bill although it is yet to be considered by Parliament. On this basis the motion was permitted to be moved this morning.

As Chairman, I am bound to go along with the resolution of Parliament and the House has just passed this committee of the whole house to consider the report despite objections. I understand, however, that there is now consensus among Members, and that in our deliberations this Committee will only go through parts of the report that deals with the Constitution Political Parties Amendment Bill 2009, but simply note for further information the parts dealing with the Political Parties Registration and Administration bill 2009. I will allow this approach since Members are in agreement on it.

As such we will go through the report from page 1 to the top of page 15 and then go straight to page 20 to consider the paragraphs on the first bill. And I suggest that we proceed now, and because of that procedural arrangement when the Honorable Prime Minister reports to Parliament, he should report that the Committee has considered the relevant parts of the report. I suggest that we go along with that suggestion of that agreement.

We shall now turn to page 6.

**Hon LILO:** Mr. Chairman, just to educate myself because I think my other colleagues know this. But it is a new concept to me to report on just relevant parts of the report. I am talking about reports. Are we just to tear up this page and report on it? It is this report that Parliament is going to look at? I mean I do not understand that concept. The concept I understand under the Standing Order is report. Can we be guided properly? I want this report to be accepted, I do not want the pages to be accepted, please Mr Chairman. Because considering aspects of the report simply means just tearing out a certain page and say this is the only page we are going to consider, and that is not right to me; educationally, it is not right I can tell you straightaway, Mr. Chairman. I would like to make this clear. It does not set good intelligence of the way Parliament accepts report. Can we treat this in a proper way that we have a better report to report to this House? Or is there a better process to follow in accepting this report? Let us accept this report on what it is rather than just accepting some of its pages. I do not accept that we

accept only parts of its page. I want the whole report. I do not know whether you colleagues are following me but that is exactly what I am confused about. Thank you.

**Mr Chairman:** Thank you Honorable Minister. I think you must have come in a little bit late because that was the situation we were trying to explain earlier on.

**Mr Oti:** Yes, the colleague Minister was late when we considered this, this morning. But even if that was the case I do not think he would have been convinced with the reasoning that was put because the point he raised was also the point I raised earlier. The fact, if I had it, was that this report does not meet the terms of reference of the original intentions of the motion because it contains recommendations that have nothing to do with the Bill or Standing Order 27(3)(h), which dragged it into it. I think what the Minister was saying is correct. Such report when adopted should be adopted in its entirety. Now, we cannot adopt the whole, but only certain parts of it because some parts of it is not in line with the original intentions of the terms of reference that was passed. So he really has a problem, and his problem is procedural, and now we just have to bend the procedures, I guess, for us to go through this, and that is we only take some parts and adopt it. So what will be the resolution of the House? Is it to adopt the report or report as amended or certain aspects of the report only, as is now required? if those processes are still okay within our practice then my colleague the Minister for Environment may accept your ruling, Mr. Chairman.

**Mr Chairman:** Reports cannot be amended but I thought we have agreed today that recommendations or discussions dealing with the Bill that is being anticipated, which is the Political Parties Bill should be left out because I think if I heard it correctly, that is under another form of recommendation.

**Attorney General:** It is yet to go through the Bills and Legislation Committee.

Whilst I am on the floor may I draw your attention to Standing Order 18(2), the second sentence in that paragraph says, "Debate in committee may extend over the details contained in the paper, which shall be discussed paragraph by paragraphs, unless otherwise decided by the Speaker having regards to the convenience of the Committee". So you have a part in that sentence which says, 'unless otherwise decided by the Speaker having regard to the convenience of the Committee'.

I am merely alluding you to the proviso on that line which says, 'unless otherwise decided by the Speaker having regard to the convenience of the committee. Really, what it says, the intention of that paragraph is that it is for the committee to discuss paragraphs of the paper, but the Speaker can decide otherwise.

**Mr Chairman:** Yes, I think that is why I have decided that since Order 27(3)(h), the rule of anticipation interferes with the idea of going ahead with that report per se, and therefore I suggested that we go ahead with parts of the report that do not anticipate anything but is clearly discussing the Constitutional Amendment Bill.

**Hon Lilo:** But I think the substantive thing that is now before this House is the report. I want your ruling that we are going to discuss the report or just extract pages of the report to be a report. I just want to be satisfied with that as a Member of Parliament. I can understand all the processes the Attorney General has explained, as part of the convenience of flowing debate at committee, but the substantive thing we are discussing now is what I am trying to get at. A report is a report, pages are pages that are unconnected and we have a report here that some areas are able ones and some pages have to be disabled. So we have a half able and a half disabled report, technically speaking in which will require some amendments to the report. I think we need to suggest an amendment to the report.

**Mr Chairman:** This is what I was going to seek the Attorney General's Chambers advice whether leaving out part of the report would be an amendment to the report, which means the Committee is not allowed to do amendments.

**Attorney General:** Under the same Standing Order and same paragraph I referred to today, what is prohibited is a question. It says, 'no question shall be put on nor any amendment proposed', and I understand from the Hon. Prime Minister that he was not proposing any amendment, nor proposed to seek any question for purposes of an amendment.

**Mr. Chairman:** But the suggestion from the chair is that, is that amending the report? That is what I would like to know.

**Attorney General:** No, which perhaps I would regard it as a deferment rather than an amendment. An amendment logically would need a stroke of pen to go through the book.

**Mr Chairman:** Right we will proceed, as has been suggested and ruled by the chair. We will go through the report except for after page 15 to 20, and then pick it up on page 20 for purposes of consideration of this report. If we were to involve from 15 on, it would again be in breach of Order 27(3h) dealing with issues that are yet to be discussed before Parliament.

**Hon. Lilo:** Would it be advisable that we put to the floor to vote that we proceed with this report, half and half not, so that it is the ruling of the committee, rather than the Chairman. It is the Committee that rules that we accept half of it and defer the other half?

**Mr. Kengava:** Point of order. I am of the opinion that you have made a decision on this matter and whether a member of parliament has the power to object to your ruling by asking the floor to overrule your decision.

**Mr Chairman:** The Deputy Speaker is saying that we proceed as suggested by the chair, but I am open to the ruling of the committee.

**Hon. Sikua:** Earlier on when we had agreed to proceed in manner that you have proposed, it was in recognition of the fact that we would be running the risk of talking about something that is yet to be debated in Parliament, and that is in special reference to the Political Parties Registration and Administration Bill No. 25 of 2009 which, as you know is already being tabled in Parliament but has not yet been debated. What Parliament has debated already and we all know about is the Constitution (Political Parties Amendment) Bill No. 24 of 2009. It is in consequence of the first terms of reference requiring the Special Select Committee to take into account the Political Parties Registration & Administration Bill 2009 that the Committee has gone on to write the recommendations it has in this report. I do not think the Special Select Committee has done anything wrong, as it is part of its terms of reference. But Parliament need to be cognizant of the fact that we could be referring to something that has not yet been debated in Parliament if we go through the recommendations that are under the Political Parties Registration and Administration Bill, No. 25 2009. That is why I have agreed for us to proceed in the manner in which you have suggested, and I suppose if that is alright with you then that is the way we proceed.

**Mr. Oti:** Just to reinforce this side of the house, perhaps. I think your application of Standing Order 18(2) as pointed out by the AG is because of the difficulty we encountered in 27(3)(h) and so your cushion is in 18(2) but which your decision as stated by the Deputy Speaker as already been made and so it is quite in order. As far as procedures are concerned we have satisfied it. What happens to the report is another matter because there is no Standing Order 83, it only ends at 82 and so let us continue with that.

**Mr Chairman:** Just for refreshing the memory of Hon. Members, Order 27(3)(h) says that it would be out of order to anticipate a matter already appointed for consideration in Parliament, and that applies to the Political Parties and Integrity Bill that has already been submitted for consideration to Parliament, but is yet to be discussed by Parliament. That is why the relevant parts of the report deals with that, and if we are to deal with it now it would be in breach of Standing Order 27(3)(h) and hence the suggestion I have just made that we proceed through the report except for pages 15 to 19. Let us proceed and let us start on page 9. Are there any comments on page 9 of the report? As I said and as amplified by the Attorney General, it would be comments, not amendments because there would not be any questions put.

I think the approach that the government is taking for this particular report understands that because it is such an important report that they would like to take it away after the committee has made its comments, and they will come back to us again

with it, and hopefully they will then put a question under Standing Order 18(3) to accept the report.

**Hon. Sogavare:** In regards to this side of the House some other colleagues will talk further, but in terms of a formal submission to the government, we have already made that and I had elaborated on them when I debated on the Bill. We welcome the views expressed by the Committee and the amendments suggested except for the areas I raised earlier on. I will basically be repeating myself if we continue, but let us continue because maybe some colleagues would like to elaborate on specific areas that we have already made submissions on.

**Mr. Waipora:** Page 9, point 3.2. I just want to ask the government about the point raised there, which says 'the Review Committee noted that the consultation process was not extensive or broad enough and there was no local legal expert on the Working Committee to scrutinize the Bill and its practical effect'. What is the Government saying here because last time we talked about bipartisan, and I am one of the members of the committee referred to in here as the bipartisan? The Government is complaining about bipartisan because there is no bipartisan in that committee. It was the Opposition that provided politicians and the Government did not provide any politicians. Now when we did not join this Committee it is reporting on now, the Government complained it is not bipartisan. Anyway, that is beside the point but I would like to know what is the answer of the government to the statement 'not extensive or broad enough and no local legal expert.

**Hon. Sikua:** If the Member for West Makira can read, he would realize that that comment is the analysis of the Special Select Committee on the CRC's comment. It is not the comment of the Special Select Committee itself. The Review Committee just noted the comment of the CRC.

**Mr. Waipora:** That is why I am asking the question, how broad was the consultation made by the government. That is why I am asking the question because they said it comes short time and that is why I would like to know the answer. They complained in here that it was not extensive or abroad.

**Hon. Abana:** Just to enlighten the Member for West Makira, we actually noted it because the same thing was also noted by the Constitutional Reform Committee. In actual fact we were not mandated to look at broadening the consultation. The mandate by Parliament is very straightforward in the motion and that is what we are looking at, and is exactly what is there in the report before Parliament. That was actually raised in previous debates last year and that the committee took note of it, and so that was what actually appeared in 3.2. The Review Committee just actually noted it from the previous constitutional reform committee of parliament that noted previously for the analysis of the report before Parliament.

**Hon. Sikua:** That comment was made by the CRC, I think in specific reference to consultations not held in Temotu Province. And since then consultations were undertaken by the Committee that is looking into this Bill in Temotu Province where there was very strong support for this Bill during those consultations. I think just now, we can say wide consultation and extensive consultations on the bill itself through out all the provinces in the country.

Pages 11 & 12

**Hon. Sogavare:** The comment by the Special Committee on 5.1.6 is what this side of the House sees as a purpose for amendments to Clauses 2 to 5, and we really had no problem with that. The last part of that clause says, 'the purpose of amendments in Clause 2 to 5 is to insulate any possible constitutional challenge to the Political Parties Registration and Administration Bill 2009 (Bill No. 25, 2009). I just want to make that point. We see that as the rationale behind amending of these fundamental sections on 11, 12, 13, 14, 15, and as I expressed earlier on, we really have no problem with that because it is in keeping with the areas that are normally restricted and that is for the good order of government.

Pages 13, 14

**Mr. Waipora:** The main area this Committee came up with is parliamentary proceedings. Parliamentary proceedings, this word is in the Constitution Political Parties Amendment Bill.

I want to ask the government, and they must have a good reason for it that is why it is put down there. There must be some good reasons for it, but the Constitution Review Committee looked at it and thought it is not proper. Now it comes into Parliament, we debate it, and these words are also pointed out. When this Committee made its recommendations it is also not in favor with this word 'parliamentary proceedings'.

My main purpose of raising this is that I would like the Government to explain to us that it must have a good reason for putting it here, this word 'parliamentary proceedings' and that is why we continue with it until now. But this Committee came up and says it must be left out. I think we must give a chance to the government to explain that there must be a good reason for putting it in the first place.

**Mr Chairman:** What particular page and paragraph are you referring to or are you talking in general?

**Mr. Waipora:** It is on page 12 on 5.1.7, which says the Committee after a lengthy deliberation over two meetings suggested that the phrase 'parliamentary proceedings' be deleted from clause 2 to 5'.

**Mr Chairman:** Back to page 12.

**Hon. Sikua:** The Political Parties Registration & Administration Bill had reasons why that phrase is still there, and so it is the Committee that suggested removing it, and so when dealing with that particular bill we would know the reasons why.

**Mr. Waipora:** I think I am asking a wrong question but I thought that it was because of the government of the day, it is the government's policy and that is why it is put there. When this bill was drafted it went back to Cabinet and the Prime Minister and the others look at it. I have been dealing with bills before too and that is why I am asking this question. And so when these clauses came across my eyes I would ask what are they. I thought it is the government as a whole because a very prominent point is here, the very point affecting parliamentary proceedings. This is a very significant word in Parliament, this is parliamentary language. It so happens the CNURA Government came up with the Political Party Bill here, and one word that is very important in parliamentary terms is parliamentary proceedings, and my question is why you came up with that word. That is my question and it must be clarified. Why are we in conflict over it? It is not about who is raising this question. I am also a member of the Constitutional Review Committee, and I am one of those who raised a question on this, as well as the Leader of Independent. And now this review report also pinpointed that phrase. Surely, there must be a reason for the CNURA Government to come up with this word. Otherwise it is for good reasons but we just want to water it down.

**Mr Chairman:** Maybe the reason for it was the reason why the CRC did not accept it as well. Maybe to leave it inside would be inhibiting the freedom of Members to speak in Parliament proceedings and so it might interfere with the privileges of Members of Parliament during parliament proceedings.

**Hon. Sogavare:** In fact, these recommendations are to delete from the amendments made to Sections 11, 12, 13 & 15, as rightly pointed as freedom of conscience, expression, assembly, association and discrimination on grounds of race, and so I think the Committee feels it should be removed from there. And so we take it that when MPs come here they are free to use their conscience in Parliament, they are free to express themselves in Parliament, and they have the freedom of assembly and association. That means if they need to cross the floor to vote, they are free and are allowed to do that. We take it that, that is what it is. If it is like that then we should be comfortable with it if that is how the government sees this one.

**Mr Chairman:** Thank you very much Leader of Opposition. I think that is my understanding of it as well. They do not want to inhibit the parliamentary privileges for Members of Parliament.



**Hon. Sogavare:** Page 13 clause 6 is the amendment to Section 33, and that is regarding the election of a prime minister, and the discussions later on in their recommendation did make that recommendation on the top of page 20 when they said to merge option 1 and 3, and I did express the thinking of this side of the House on that one.

Option 1 is where the group has absolute majority to question the Leader, his name is referred to His Excellency, and His Excellency makes the appointment, and so there is no election here. Can it be clarified here that there is no election here but it is just an appointment by the Governor General? That is one point.

The other point the government needs to clarify is this concern that we have here that if we have these 1, 2 & 3 options, option 2 where nobody has absolute majority and the next group has the highest number and so their leader is called upon to round up the group to form a government. The concern here is because there is nothing to guarantee that it will end there, and option 3 still remains so people can still hang around to wait until the statutory time lapses and then they go straight to option 3. And so we will have all this horse trading, lobbying, paying members and selling each other. So what are we really trying to achieve here for the government to clarify to us. There is a suggestion that we should stop at 2 and then lock it up there, and the person with the next highest and people polarize around him. It is just a suggestion.

**Attorney General:** The Bill now has the appointment process and the election process. If we look at option 1 and option 3, they are an appointment process which the Committee would like to merge together so that if a party comes up with an absolute majority then that party has the right to form the government.

Option 2 is the option for the highest number; a party does not have absolute majority but it has the highest number, falling short of absolute majority. That option too remains. So now we will only have the option for absolute majority, option for highest number and then the fallback option, which is the current election system. That is basically what it is. If the Committee's recommendation is accepted that is what we will end up with. The option for absolute majority, option for party with highest number and then the option for election of prime minister as is currently done.

**Hon. Sogavare:** Just for clarification. Under what scenario are you going to reach option 3?

**Attorney General:** If option 2 does not work out then we will get to the fallback position.

**Hon. Sogavare:** That is where our concern is, and this is because the leader of the next highest number will struggle to be put together. If the other group does not want to work with him, they will hold on and if the smaller parties have 26 or 28, even 30 will just sit down until time lapses and then they go to option 3 and they put together, whip up something and become government and we will go back to another 30 years of the same thing. This is a just a view expressed.

**Hon. Sikua:** We will take note of that particular concern raised by the Honorable Leader of Opposition and we will try to work along that to look at what we have before us.

**Mr. Agovaka:** I am just concerned about option 2, the highest number. Does it mean the highest number of coalition of political parties or is it the highest number of one political party with independent members inside? Can the Attorney General explain that to us again?

**Mr Chairman:** Originally, the intention is the highest of one political faction. It is one political party and that is why he has the highest number but he does not have enough to actual govern and so he would have to look around to either get support from other small political parties or independent group, and that is where the concern of the Leader of Opposition is, because failing that we would go to now fourth because there is no longer the third one, according to the recommendation here. The third one and the first one are merged now.

Maybe for the information of the public, and since the government has taken onboard the idea, they will have a look at the concern of the Leader of Opposition or the Opposition group, maybe he can explain what he thought the procedure should be. Number 1 he accepts, possibly.

**Hon. Sogavare:** What I am saying is, number one, if a group comes with absolute majority there is no question, because the voters said it loud and clear, and the name of the person is recommended to His Excellency and he makes the appointment. We have problem when it comes to option 2, because other political parties can refuse to join up; they can hold their grounds because there is another option open for Parliament to lobby for somebody to emerge. But now you are going to have two to three people contesting on the floor of Parliament for election and eliminators as we are doing at this time. We go back to the reason why we do this is because we want to avoid the kind of lobbying that we normally do and people are selling themselves, the highest bidder buys them to join this group and so on. If that is what we are going to avoid then lock it up at two. The next group with the highest seat wins it is given the leadership and the law actually protects him there so that people polarize around him. Otherwise if it is opened up then we will go back to the same old thing that we wanted to avoid and that is why we came up with these amendments.

**Hon. Wale:** I think this is a sensible suggestion and making it practical too so that we do not repeat our past ills that we are trying to solve. I think in the earlier discussions in regards to the government's proposals that was certainly one of the options, we just have two. I think one of the practical difficulties that obviously come into the fray, and I am going to put the question back, I mean we are trying to think around what might happen to this; is that if it is locked at number two, neat and tidy, hopefully there will be

polarization. But in the event that there is no polarization around number two, we end up with a minority government which has to still pass a budget and so forth.

Now, we may lock it up for the first 12 months with no votes of no confidence, but a defeat of the budget is another form of a vote of no confidence too. Therefore, those pragmatics too weigh in on, I suppose, some of it is speculating but some of it is also based on our history. So if we are going to lock it at number two we are going to go back to this question that the Deputy Leader of Opposition has earlier on asked, "What do we mean by parliamentary proceedings?" Therefore, if it is minority government we may have to then go that far again. Those considerations all of a sudden come back on the table for us to consider. Perhaps, it is useful for the Honorable Leader to maybe flash out his opinions a bit more so that if it is option two and we lock it there by law, and then what do we do in terms of the law to ensure that the government becomes effective because we do want stability, consistency and effective executive government that is otherwise get thrown out by a budget or something like that. Thank you.

**Hon Sogavare:** I appreciate that there is a difficulty and the point raised by the Minister of Education. I want to go back to the issue that we are trying to address here, where one is to address political corruption and also the vulnerability of Members of Parliament to be corrupted by people outside too.

This Parliament is not alone, there are interested parties outside there who have connections to Parliament too, probably sponsoring their elections and things like that and so they want something in return too. So we are not alone. It is in that light that I am expressing that concern. Do we want to continue to allow the very thing that we are trying to address here? Or we lock it up somewhere and basically express it by law and say you polarize around there, the law says it. Would that probably be unconstitutional? May be the freedom of movement would be violated if that is done. We are already allowed amendments to sections 11, 12, 13, 15 do not apply when it comes to organizing government, so there is already an allowance under the Constitution to allow that to come up with an organic law to basically order that to happen? It is just a concern to avoid what has been happening that I am expressing that point. Is it constitutionally right for us to order by law that once there is no absolute majority people polarize around the next person, the next group that commands the majority of seats. I know its practically is the issue here.

**Attorney General:** If I understand the concerns raised by the Leader very well, now that option three will move to option one, we leave it there. I think the concern is option two where the opportunity for a party with the highest number is able to form a government.

What the Parliament needs to take note of is that it is a party, one party with the highest number. That privilege is given to a party with the highest number, and not a number of small parties coming together to form a government. That will not qualify under option two as a party with the highest number.

If you read the current option 2, it clearly says that the political party with the highest number will be invited by the Speaker and that political party will then for purposes of making up for the shortfall below absolute majority can then invite other political parties or invite coalition of political parties or even independents. That is the invitation it is allowed to make, it is just for the shortfall. But the privilege to make the invitation belongs to the party with the highest number only, a single party, and it cannot be a collection of small parties. If, however, a collection of small parties wish to play a waiting game they can play a waiting game but they cannot form a government under option two. They will have to play a waiting game until we come to option three, which is back to Parliament for election, and that is where they would be able to play; through the normal process for election. If they want to play a waiting game, they will play a waiting game but wait for option 3, which is election of prime minister on the floor of Parliament. I hope I address this.

**Hon. Sogavare:** I can fully understand how that works in here. The concern here is that during this process of waiting, the things that we are trying to avoid and that is why we came up with this Bill is still going to happen. People are going to wait and wait to pay people to move to parties to form the government. That is what is going to happen. But if you want to take that risk, I can understand the practically in here, there is argument on both sides here, it is the practicality that is a concern. We want to take the risk and allow this process to happen and hope that the law will catch people who allow themselves to be paid and serving themselves for the highest bidder. I understand fully how it works, but it is just that aspect that I am raising.

**Hon. Haomae:** Thank you for giving me the opportunity. If we lock it at option 2, as indicated by the Leader of Opposition then we also have to look at the mandate because option one already gives the mandate on the people from the electorate. Whether option 2, the party, what percentage of it, whether it is 10 seats or 11 seats because if it is only two seats then it is not a very good mandate? Also, after the appointment there could be a provision in the first election of parliament, a resolution of confidence on the government is moved in Parliament or something like that. But the Prime Minister has already indicated that the government has taken note of what the Leader of Opposition has raised, his concern and that it will be considered. That is only one of the thinking around this, if we are going to lock it at option No. 2. It is also my concern that if we go to option No. 3 then we may have the same system that we are running this time.

**Mr. Oti:** While the recommendations in the report, option 1 is a clear cut one; a combination of current 2 and 3 becomes option 2 and current 4 becomes option 3. With the explanation that is now given and perhaps this waiting for option 3, can it be confirmed the possibility for just two options. Because option 2 is not a matter of representation because automatically the other small ones do not have a chance whatsoever under the Constitution, and so they just have to fall in line to satisfy this mandate, and so you have a government with a majority or representing the people of

the party with the highest number with a coalition of those that cannot be given any other opportunity. So you only have two options; an absolute majority or a party with the next highest number which leaves no choice for the others because they must come onboard, and not only come onboard in the second highest option, but if you have an option you ought to form a coalition with the party with the absolute majority. Is it possible for us to have only two options?

**Hon. Sikua:** We will take note of that point.

**Hon. Agovaka:** At the bottom of page 13, the independent, some members going to the election will have difficulty joining some political parties because of the perception their people have, hence they would approach a party to say that they agree to join the party but they will run as an independent member for the duration of the election. In the event where the political party that he wants to join has the majority or the highest number, after winning the election he comes in and joins the party that he already agrees to join, is it allowable under the circumstances where it says here that independent members cannot join a political party during the period of electing or nominating a prime minister. Can the Attorney General give us an indication as to whether this is allowed or not?

**Attorney General:** This question relates to the Political Parties Bill. In Clause 25, the Committee proposed that the opportunity for independent members to join a political party must take place only after the Prime Minister is appointed. I can recall that the rationale is that we do not want independent members to interfere with the process of appointment of Prime Minister in option one. That is when considering and determining what is absolute majority, it must be the real absolute majority of the party, and not an absolute majority camouflaged by independent members at that time. However, when we come to option two, is when we now reach a stage of only having a party with a highest number. For practical reasons you will have to be flexible there and allow the party with the highest number to seek out other parties or to seek out independents. That is the flexibility allowed to independent members to come in there. Otherwise the general concept is to discourage independents from coming in at option one.

**Hon. Sogavare:** Point 5.1.24, the Committee suggested a grace period of 12 months, and I want Cabinet to look at that. That one, of course, assumes and this is what we are moving towards for political parties to prepare or alternative groups prepare. Because right now, how it happens now can take almost that number of months for government to start moving or even begin to move. Maybe you should look into whether this 12 months grace period, if we go down that part as suggested then is that 12 months sufficient as stated. Unless, of course, there are parties that are ready on day one where they takeover and implement their policies right away. That is probably what is

assumed in here. If not, then you need more than that for a government in power to prove itself it is working.

**Hon. Sikua:** We will certainly look at that timing, and we appreciate the views expressed by the Leader of Opposition.

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**Hon. Sogavare:** Maybe the Attorney General to explain to us 6.2, how can we understand it. They were some suggestions made there and reference to parliamentary proceedings, and to delete that, that we already understand. There is reference to conduct of members in the second paragraph will move to the first paragraph, and we take it that this on amendments to 11, 12, 13 and 15, and because only two clauses are for amendments there and so we move those words up there, up to the first paragraph and then they said the second paragraph should only refer to conduct of elections. Can the AG please explain to this committee how we can understand these?

**Attorney General:** If Members can go back to paragraphs 5.1.8 and 5.1.9 on page 12 you would see at the end of paragraph 5.1.8 words in italic. That is an example made to Clause 2 on how (c) would appear as suggested. The last words in that paragraph 5.1.8 says, the proposed (c) in Clause 2 would appear like the words in italics there, and then in 5.1.d, the words in italics at the end of that paragraph also shows how they would appear in (d) in respect of Clause 2. So the example is given in respect of Clause 2, but it will also apply to other similar clauses. Thank you.

**Mr Chairman:** There be no further comment, that concludes Parliament paper that is considered at the committee stage at the moment.

*Parliament resumed*

**Hon. Sikua:** I wish to report that the Committee has considered the relevant parts of National Parliament Paper No. 2 of 2010.

**Mr Speaker:** Honorable Members, the Honourable Prime Minister reports the consideration of the relevant parts of paper 2010. At this stage under Order 18(3), the mover or any other member may forthwith or on a later date move that Parliament agrees to the proposals contained in the paper. We have just heard from the honorable Prime Minister that he will not be moving that motion today as they will further consider the report at Cabinet. Therefore, that particular motion will be moved at a later date. That concludes this business for today.

**Hon Sikua:** I move that Parliament do now adjourn.

*The House adjourned at 12:25 pm*