

## FRIDAY 26<sup>TH</sup> MARCH 2010

The Speaker, Rt Hon. Sir Peter Kenilorea took the Chair at 9.35 a.m.

Prayers.

### ATTENDANCE

At prayers all were present with the exception of the Prime Minister, the Ministers for Planning and Aid Coordination; Lands & Survey; Commerce & Industries; Agriculture & Livestock; Provincial Government & Institutional Strengthening; Women, Youth & Children; Peace & Reconciliation; Communication & Aviation; Home Affairs; Public Service; Environment and Conservation; Forestry, and the Members for East Are Are, Central Guadalcanal, Temotu Pele, North West Choiseul, Lau/Mbaelelea, West New Georgia & Vona Vona, North Malaita, Central Honiara, South Vella La Vella, West Are Are, East Honiara, Central Makira, East Makira, North Guadalcanal, North West Guadalcanal, West Honiara, Malaita Outer Islands, West Makira, South New Georgia/Rendova.

**Mr Speaker:** Honorable House, I understand that the Government is still working on the business for today and therefore I suspend the sitting until 10.30am.

*Sitting suspended for 30 minutes*

### **STATEMENT OF GOVERNMENT BUSINESS**

**Hon. Sogavare:** Point of order. I just want to be clear about Tuesday's business. I thought that the motion on that matter has been debated, and what is left is for the report to be discussed at the committee of the whole house, and not to debate the motion again.

**Hon. Fono:** Yes, that is correct. The debate on it has concluded and we are continuing the committee of the whole House from where we left last year.

**Mr Speaker:** Honorable Members, before we proceed with the Committee Stage of the Extradition Bill 2010, I wish to advise that as there is no private business for today the government made a request to the House Committee yesterday to use today for normal government business and the Committee accepted the request pursuant to Standing

Order 15 (3) (c). As such, today is to be treated as a government sitting day. The House will now resolve into the committee of the whole house.

### Bills - Committee stage

Extradition Bill 2010

*Clauses 23 & 24 agreed to.*

### Clause 25

**Hon. Sogavare:** I should probably raise this under 24 and 25. Part 1 is countries which prima facie evidence scheme is applied, that probably has to be understood because it listed all these countries. Which countries are under Part 1?

**Hon. Chan:** That is yet to be prescribed by the Minister.

*Clause 25 agreed to.*

*Clause 26 agreed to.*

### Clause 27

**Mr. Sogavare:** I want the Minister to confirm this again, I know he has mentioned this already, but the significant feature of Part 5 is the non reference to the application of Part 3 of that particular part. This is for the Minister to explain to us why is that part not applied, Part 3 not applied to Part 5.

**Hon. Chan:** One of the reasons why this evidential requirement for a provisional arrest warrants is not required or is it not as stringent as Part 3 is because of the close proximities that Forum countries have and so we are very much worried about the alleged offender escaping so the need for a lot more quicker handling and preparation of the arrest warrant. Clause 27 is looking at a request and it all needs a sworn statement to actually arrest someone.

**Hon. Sogavare:** That is probably only one reason. The issues are many, of course. Eventually what happens here is that we maybe depriving the rights of a person. Probably that is the concern in whether it is a commonwealth country or a regional country or a comity and so on. The Minister only mentioned one reason and that is

because of proximity so the possibility of the person probably running away. That we appreciate.

What about the need to establish a bit more, I guess, the genuineness of the request by the requesting country, which the provisions under Part 3 is trying to establish for the other commonwealth country thus the need for evidentiary requirement and the appeal processes to be established beyond all shadow of doubt first before the requested country, Solomon Islands in this case, will agree to the request. We go through the pains in other countries, commonwealth countries but here it seems to be very loose and not tight. I just want to express this and maybe the Minister would like to express his views as well.

**Hon. Chan:** There are a few questions the MP is asking. The rights of an individual, I believe, are protected. The magistrate has to be satisfied with the sworn statement and under sworn statement an original warrant is coming. We basically put our trust in the judicial system, the law enforcement system in those Forum countries. It does not mean that we extradite. The second question would be, it does not mean we extradite a person straightaway, but the person is detained and if the authority to proceed is to eventuate, if it goes to court then he has the right in court in the committal hearings.

**Attorney General:** In addition to what the Minister has said, the House needs to take note that what the magistrate issues under Clause 27 is just a provisional warrant for arrest. When it comes to the actual extradition there is still a process to go through and a very vital part of the process is in Clause 35, in particular sub clause 2, which says that the magistrate shall make an extradition order unless, and then you have a list of things there which the magistrate must satisfy himself with. Sub-clause (a) says if the offence is of trivial nature then that is a ground that the magistrate can refuse extradition order. If the offence is one which a person is accused but which he or she has not been convicted and the accusation was not made in good faith and in the interest of justice, the magistrate can decline extradition order. If the period, if a lengthy period has already lapsed since the offence was committed, the magistrate can decline extradition order. If it would be unjust, oppressive and too severe a punishment to extradite a person, the magistrate can decline extradition order. There are conditions there for the magistrate to check and to ensure that the person intended to be extradited will not be mistreated, all his or her rights will not be suppressed in any way.

As I said yesterday, after an extradition order is made there is still a further step, and that is the Minister has to make the extradition decision. So even if the magistrate says 'I am satisfied and so I will issue an extradition order', the next step is for the Minister to issue the extradition decision by executing an extradition warrant. Those are further steps in the process which ensures things are done properly before extradition is carried out.

**Hon Sogavare:** We appreciate those further explanations given by the Minister and the Attorney General that the processes for establishing beyond all shadow of doubt whether the request is genuine is going ahead and subject, of course, to the revision that the Minister will subject the request, as outlined under Section 35. My only concern is that even this provisional warrant has already started to deprive some rights of that person, especially when he is going to be detained; he is arrested and put in custody just because a requesting country requested for the arrest of that person and put in custody waiting for the documents to come later. It is just that when we act on a request when we really do not know yet, then we are starting to deprive the rights of that person already. And if it is proven that it is not true then we could be liable to pay some compensation to that person who has been falsely arrested and detained.

**Hon Chan:** The Opposition Leader is correct on that point. If there is a dodgy warrant or if a person is imprisoned falsely he has the right to compensation.

**Mr Oti:** In my contribution to the debate on this motion, I made reference to the need to strengthen our border administration so that we could avoid some internal costs at the magistrate courts and so on and so forth so much so that if in the Immigration Act, on prohibited immigrants, classes of prohibited immigrants, some of which you could avoid these people coming into the country as expected on subsection (b)(ii), persons named in the original warrant maybe in or on his or her way to Solomon Islands. You apply the Immigration Act, Cap 60 to put them under the class of prohibited immigrant so that this person is turned back at the airport, stopping him from entering the country, it saves you costs.

I am just trying to enquire here as to how this can tie in with other legislations. There are options really, of which one is deportation where the Deportation Act is applied in terms of prohibited immigrant or undesirable persons or you could use the Immigration Act, so that you avoid having to accommodate and spend your resources on the extradition that you are going to be requested.

Can the Minister tell us the legal view regarding the possibility of applying the Immigration Act in this instance, particularly in (b)(2) of Section 27 so that the cost of, as I have said, internal requirements or proceedings in court is avoided.

**Hon Chan:** Obviously, the inter agencies or inter ministry cooperation is very important in this instance. This is an issue of extradition requested by the requesting country for us to deal with the person, to arrest the person, to go through the processes and then extradite that person. But I agree that all ministries, especially those that are concerned with law enforcement should cooperate together to combat crime.

**Mr Oti:** Also the issue of reconciling a person who has been requested for extradition under this provision where also under the Immigration Act is exempted from, if in the service under the Immigration Act those who can enter the country without permit, one of which is those persons that have been in the service of the government. Would this kind of category of persons be subject to the provisions of Section 27, even if they were allowed to enter the country on exemption under the Immigration Act?

We are trying to work out how you are going to reconcile this? Which one will give way, which law will prevail if you allow this person to come in under the immigration requirements and then you charge him later under the Extradition Act? Or would this Act take precedence and prevail over the requirements of entitlement of that person under the Immigration Act?

**Hon Chan:** I would try to answer that question as best as I can and the Attorney General will follow me. Section 27 will also include our citizens as well, and this is about extradition and immigration would be subject ....(*power disruption*)...

**Attorney General:** We need to remember that an important principle in the extradition law is the principle of dual criminality. When a process is initiated under this part, we are looking at the offence a person is alleged to have committed and for which a request is made to us. The offence for which a person is required to be extradited may not be an immigration offence, so if we are dealing with an immigration offence that will be our own matter and not a matter that will have mutual concern with the requesting country, and so we have to deal with that person under our immigration laws, and there are procedures under our Immigration Act to follow. If the person is on a prohibition list then obviously we will deal him or her accordingly. If the person is not yet on our prohibition list then we have to take the right steps; the Minister has to declare that person an undesirable person and enter his or her name on the prohibition list. There are steps to carry out under our own domestic immigration law. It will be different if we try and do what the Member is asking about. As I said, an important and significant principle in the extradition law is dual criminality.

*Clause 27 agreed to.*

*Clause 28 agreed to.*

#### Clause 29

**Mr Chairman:** I was advised this morning that there is an amendment to this clause, which was not picked up until very recently. I have been given sufficient notice and

thus given permission for the honorable Minister to move this amendment now. Could the Honorable Minister move the amendment please before we consider this clause?

**Hon Chan:** I move that Clause 29(2) be amended by inserting 'done' after 'previously' in line 3. The reason for that is that it would not make sense without having that word in.

*The amendment agreed to.*

*Clause 29 as amended agreed to.*

*Clause 30 agreed to.*

### Clause 31

**Hon. Sogavare:** Some amendments need to be done on sub-clause 3(a) which says 'the person is on remand in custody or on bail at the expiry of twenty-eight days'. As it stands there, it does not make sense.

**Attorney General:** The Leader is correct the missing word is "of", at the expiry of 28 days.

**Mr Chairman:** We will take that as a correction under Standing Order 58(2) so that the Minister will report to us this correction before the third reading. At the moment we just note it as a correction.

*Clause 31 agreed to.*

*Clause 32 agreed to.*

### Clause 33

**Hon. Sogavare:** Maybe get the Minister to express his views as well on sub-clause 4, which says, "In the extradition proceedings, the person is not entitled to adduce, and the magistrate is not entitled to receive evidence to contradict an allegation that the person has engaged in conduct that constitutes the offence for which extradition is sought". The wisdom on that or we go through Clauses 33(3)(2) summoning witnesses, and I guess, also witnesses from abroad to come and give evidence in this extradition proceedings.

I take it that this is just contesting why he should and should not be extradited. Why can we not allow the person to put a defense as to why he should not be extradited? In here, it is really restricted; the court cannot entertain that evidence.

**Hon. Chan:** The evidence is for the extradition proceedings. Why he or she should or should not be extradited. The magistrate cannot receive evidence on something that he would be tried on as that is a matter for the courts in the requesting country. Evidence can only be received on why he or she can or cannot be extradited.

**Hon. Sogavare:** That is why Part 3 (*power disruption*)..... Prima facie evidence that is allowed for under Part 3 in the case of commonwealth countries where we need to satisfy beyond all doubt before we agree to extradite a person. In here because of the reasons mentioned earlier by the Minister because we are so close and people might abscond and run away so that is the only power reason that the Minister has given us why we do away with this; the person must be extradited so that he goes to face charges in his country and so the person cannot contest why he should and should not be. Just the wisdom on, a little bit more, I guess leniency on the way we deal with a person to be extradited to a commonwealth country, which is not accorded the same privilege or right to a person that is to be extradited to a Forum country.

**Hon. Chan:** I think the Attorney General will come in with me here. The evidences received in a committal hearing is basically, even in a prima facie situation is whether the person has a case to answer for, and not evidence to suggest whether he is guilty or innocent in a trial.

**Attorney General:** That rule which appears in sub-clause 4 of Clause 33 also appears under Part 3. You can see it in Clause 15(3). It appears under Part 3 and also appears under Part 5. This is to preserve the evidence of the person accused; the golden rule that a person is innocent until proven guilty, so since the actual offence is not yet tried this person should not be subjected to a full inquiry which merely looks at minimal assessment of the evidence for purposes of extradition only. This would test cognizant of that principle of innocence.

*Clause 33 agreed to.*

*Clause 34 agreed to.*

Clause 35

**Mr Chairman:** I understand there is a substantive amendment that is being considered and as you are aware, I have not yet been given notice of such an amendment so that I can advise the House thereof. But I have got the wind of it that there are some amendments being considered to Clause 35. In that situation I was going to suggest that we suspend until the amendment is done and circulated to us.

**Attorney General:** That is correct, and I already have the text of the amendments but I need to clear it first before a notice is given by the Minister.

**Mr Chairman:** Consideration at the Committee of the Whole House on the Extradition Bill is suspended until 2pm.

*Committee suspended at 11.22 am*

*(Committee of the Whole House resumed)*

Committee of the Whole House

Clause 35

**Mr Chairman:** Honorable Members, we will continue with examination of the Extradition Bill 2010 from where we left off this morning. I believe we were at Clause 35 before we suspended.

I wish to advise that the Speaker has received notice of a proposed substantive amendment to this clause. That amendment does not appear in the Notice Paper because the error which necessitates the proposed amendment was only identified earlier today. The Speaker is satisfied that sufficient private notice has been given and has permitted the amendment to be moved this afternoon. I now call on the Honorable Minister to move that amendment.

**Hon. Chan:** I move that Clause 35 be amended by omitting sub clause 3 and inserting instead the following new sub clause 3:

“(3) If the magistrate makes an extradition order, the magistrate shall:

- (a) give a copy to the Minister who shall, after 21 days has expired from the date of the extradition order by an extradition warrant make an extradition decision that the person be extradited to the Forum country;
- (b) by warrant, order that the person be committed to a correctional centre until the person is extradited to the Forum country;
- (c) inform the person of his or her right to review of the extradition order under Section 36 within 15 days;
- (d) record in writing his or her decision and the extradition offence for which the person is to be extradited; and
- (e) give a copy to the person.

The reason why we have amended that clause is basically to make clearer the separation of responsibilities of a minister and a magistrate.

*The amendment agreed to.*

#### Clause 35 as amended

**Hon. Sogavare:** Sub-clause (c) is referring to the review, and the review made reference to Section 36. The review will be done in court, and so what level and probably nature of evidence will the person be required to bring to court for the purpose of this review?

**Hon Chan:** It is a review of the actual extradition order given by the magistrate and the evidence is used during the extradition proceedings in the magistrate court.

**Hon Sogavare:** So we take it that the person cannot bring in any new sort of evidence, but it is a review on the decision taken by the magistrate.

**Hon Chan:** That is correct.

**Hon Sogavare:** The Attorney General has just bring to our notice that the letter (a) is missing between 'to' and 'review' and so I think the Minister will take the appropriate action to rectify it. The letter (a) is missing between 'to' and 'review'.

**Attorney Chairman:** In paragraph (c) there is the letter (a) in between 'to' and 'review' and Minister has read that today as well.

*Clause 35 as amended agreed to.*

#### Clause 36

**Hon. Sogavare:** Maybe the Attorney General and the Minister to clarify to us in terms of referencing of those sections. Section 36 says, "The person who is subject to extradition order may apply to the High Court under section 18 for a review of the order. Section 18 is in Part 3 of this Act and if you look at section 6, Part 5 cannot use the provisions of Part 3. Only Part 4, Part 6 and Part 7 as are clear in section 6. It is only the referencing, which one takes precedence here in section 6 which states it excludes Part 5, we take it as the application of the entire section, the provisions that are in Part 3 or Section 36 which states that Section 18 can be used for the purpose of this review. I want the Attorney General and the Minister to clarify this to us.

**Attorney General:** Clause 6 of Part 3 says that that part will apply to a commonwealth country in accordance with Part 4, a treaty country in accordance with Part 6 and a comity country in accordance with Part 7. That is the specific application rule. Clause 6, however, does not stop cross referencing, but it states Part 3 apply to those countries I have mentioned, namely a commonwealth country, a treaty country and a comity country. Whilst saying that, Part 3 does not have automatic application to Part 5 because Part 3 is not listed under Clause 6 and so it does not have automatic application. However, when we come to Part 5 and there is a clause in Part 5 like Clause 36 which specifically refers to a clause in Part 3 then that is permissible, and that is what Clause 36 is doing, bearing in mind that Clause 36 does not prohibit that kind of cross referencing. This is the clause that allows that although Part 3 does not apply to Part 5, Clause 36 allows that cross referencing.

Clause 18, to understand Clause 36, it is important to understand Clause 18 as well. For example, earlier today the Leader was asking what kind of evidence the High Court would consider. If you look at Clause 18, sub clause 4 clearly spells out that the High Court shall have regard only to the material that was before the magistrate. Thank you.

*Clause 36 agreed to.*

*Clauses 37, 38, 39 & 40 agreed to.*

#### Clause 41

**Hon. Sogavare:** This is for the Attorney General and the Minister to clarify to us. Does this also include countries under Parts 4, 5 & 6? If we look at the general interpretation of a comity of nation it states 'the friendly recognition accorded by one nation to the laws and usages of another'. That should generally apply to countries listed under

Parts 4, 5 & 6. For the Attorney General and the Minister to clarify doubts in our minds, with that kind of definition does this also apply to countries listed under Parts 4, 5 & 6?

**Hon. Chan:** I can try to define a comity country as a country that is not a Forum country, it is not a commonwealth country that is listed at the schedule at the back, as well as not a country that we have treaties with. So it would be all the other countries that fall outside those three are defined as a comity country.

*Clause 41 agreed to.*

#### Clause 42

**Hon. Sogavare:** Sub clause 3 (a) and also (c) made reference to public interest. I think that is probably defined, I do not where it is defined in this Bill, but the concern here is that the public interest can be anything at all actually. How are we going to pin down this one? The concern here is that it is a bit too loose. The deciding factor is whether Solomon Islands has reasonable grounds to believe that that person really commits an extradition offence and so public interest in Solomon Islands can be anything. How are we going to define that?

**Hon. Chan:** A comity country is put into context in terms of their political environment and their judicial system because they are not commonwealth countries or forum countries or treaty countries as we know, because we have relationship with these countries. We do not really know their political and judicial make up, and so the first concern the Minister will have to be take into account is our interest in that country or what is the public interest in this country and this is the reason why we have it here because we do not fully know these countries so we have to take our interest first at heart to make any extradition.

**Attorney General:** We should understand that sub clause 3 of Clause 42 is not a clause where the Minister is required to make a decision on an extradition decision. It is not. The Minister is not required yet to make a decision on extradition decision or to make a decision on whether to issue authority to proceed. Sub clause 3 is a clause to guide the Minister in determining whether a country should be treated as an extradition country, a comity country should be treated as an extradition country, because in an earlier sub-clause, the Minister is required by regulations prescribe a comity country. The Minister will prescribe a comity country as an extradition country. It is in sub clause 1(a). In future the Minister will decide on that. The Minister by regulation will prescribe a comity country as an extradition country. It is in that determination, when he makes that determination for making that regulation, which country to put on that list in the

regulation. It is that kind of determination that sub clause 3 is dealing with. When the Minister decides or determines whether a comity country is to be an extradition country is when the Minister is required to consider the public interest of Solomon Islands and to consider the public interest of the requesting country before the Minister may prescribe that comity country as an extradition country and puts it in the regulation. So it is for that process.

*Clause 42 agreed to.*

*Clause 43 agreed to.*

#### Clause 44

**Hon. Sogavare:** In reference to 'may also modify Part 3'. When the Minister prescribes or certifies a comity country as an extradition country, the Minister may also modify Part 3. How is the Minister going to do this in practice, the processes the Minister will follow to modify it?

**Attorney General:** Normally, it is done in a norman culture just the change of names like that to appropriately fit a comity country. It is not a substantive amendment because if it is a substantive amendment it must come to Parliament to be amended. Substantive amendments cannot be done by the Minister because that is the prerogative of Parliament, but modifications that are necessary to change like perhaps the name of the Commonwealth country or PIF and something like that. Any name that does not apply properly to a comity country can be changed just to suit the application, but not a substantive amendment otherwise the Minister will be performing the role of the Parliament.

**Hon. Sogavare:** Just the checks and balances there; the Minister seems to have a free hand here. Who else does he have around him when making all these decisions?

**Attorney General:** What the Minister is required to do there is to prescribe or certify a comity country as an extradition country, and it is in that process that he can modify the application of Part 3. The checks and balances would be, perhaps the collective responsibility of the Cabinet, the Minister has to take such prescription or certification to the Cabinet. In terms of regulations, the Interpretation and General Provisions Act require all subsidiary legislations to be tabled in Parliament.

**Mr Oti:** Again from the questions raised by the Leader of Opposition on the modification of Part 3 and Part 3 starts from Section 6 to Section 22. Can the Minister or

the Attorney General be more explicit in this regard? It is really up to the Minister now to look for which Section of Part 3 of the Act when it ultimately comes into force. I am just wondering for purposes of clarity so that we are clear which part it is when the Minister may modify Part 3, which Sections would be applicable in this instance?

**Hon. Chan:** I will be trying to answer that question, which section in Part 3 would the Minister be able to modify. I think if we do not know their judicial system, we do not know their political system, we do not really know very much about their country, the Minister maybe able to ask that country about some assurances under Section 19. And this is invoked in a section where the Minister can issue an authority to proceed if he has considered Section 19. I mean in an ideal practice, we should be looking at negotiating a treaty between these two countries and those are conditions that we want to set out and if they want these conditions we can negotiate it and then it would clarify the problems we have now, in terms of these countries that we do not know how they will handle a person who has been extradited.

**Mr Oti:** Perhaps, we do not know by what authority, apart from Section 44, just by mention of the Minister's powers to modify Part 3 which requires, perhaps some legal backing of the law, here how would he modify certain parts of this? Is it administratively, since Section 61, which we are still to get to, where the Minister may make regulations, why do we not see it necessary where the Minister by making regulation can exercise that power for Section 44 to modify Part 3? The Minister may, by regulation protects the Minister, unless it is an administrative decision.

**Hon. Chan:** I think this is dealing with countries we do not know anything about where their political and judicial systems could vary very much and you will be making regulations for each and every one of them, and so we would take each one on a case by case as it comes.

*Clause 44 agreed to.*

*Clauses 45, 46 & 47 agreed to.*

#### Clause 48

**Mr Chairman:** Clause 48, I understand that there is an amendment in respect of this clause and so I call on the Minister to move the amendment before we consider this clause.

**Hon. Chan:** I move that Clause 48 be amended by omitting sub clause 3. The reason why it is amended by omitting sub-clause 3 is because there is already an existing law on for penalty for offenders who escape from custody. The reason for this is for the persons own protection as well as our law enforcement that there should be penalties for people who escape in custody.

**Hon. Sogavare:** This term 'offence' is used in its general usage and not referred to this extradition offence.

**Hon Chan:** Clause 3 means if someone escapes from custody he/she is breaking our penal code.

*The amendment agreed to.*

*Clause 48 as amended agreed to.*

*Clauses 49, 50, 51 & 52 agreed to.*

#### Clause 53

**Mr Agovaka:** Clause 53, if a person is extradited to Solomon Islands, he is held in custody, a custodial sentence in another country, an extraditing country and is sent over to Solomon Islands to be tried. Having been tried in Solomon Islands he is found guilty.

Here, if we go down to sub-clause 1(cc), it says, "after the person has been tried, shall be returned to the extraditing country". I would like to ask the Minister and the Attorney General that even if the person is found guilty and is convicted for crimes committed here in the country, will he still be returned to the extraditing country after being tried and convicted?

**Hon. Chan:** I assume the question is that he is being extradited to our country tried here but still serving custodial sentence overseas. He would be in a situation where if he was tried here, found guilty and sentenced here, he would have to be sent back so that he can complete his custodial sentence and then he would be extradited back here to serve his sentence here after he has completed the original sentence.

*Clause 53 agreed to.*

#### Clause 54

**Hon. Sogavare:** This is for the Minister to clarify. What is the policy rationale behind sub clause 3, 'person in relation to whom the evidence is being taken is not entitled to be represented while the evidence is being taken'. So he would not be assisted by any legal representation here.

**Attorney General:** If we look at Clause 54(1), we need to understand the purpose of sub clause 1, which says "if the Minister intends to seek a person's extradition to Solomon Islands, then the Minister after consulting the DPP authorize in writing the taking of evidence under subsection (2) for use in extradition proceedings for the extradition of the person to Solomon Islands".

We are dealing with the situation where the person is required to be extradited over to Solomon Islands. Probably the law in the other country may require some evidences to be taken and probably a witness needs to be interviewed or examined locally here, and that is why you have sub clause 2 which says "a magistrate may take the evidence of each witness on oath and shall cause the evidence to be recorded in writing and then certify it and cause the evidence and the certificate to be sent to the Minister". Then sub clause 3 we see the person in relation to whom the evidence is taken is not entitled to be represented. This is a process where, again we go back to the explanations we gave earlier, a minimal assessment of evidence. The magistrate is asked by the Minister only to take evidence for use of the extradition of the person to come to Solomon Islands. The evidence that the magistrate will take here will be sent over to the country overseas so that the country overseas will use that evidence for purposes of extraditing that person over to Solomon Islands. When that person arrives in Solomon Islands that is when full inquiry, full trial takes place and that is when witnesses or persons can be represented because that is the full inquiry, the full trial.

The first stage only requires the Minister to collect evidence enough for the overseas country to assess according to law so that the person is extradited. It is upon his arrival here that a full trial is done and that is when right of representation comes in.

**Hon. Sogavare:** The issue really here is extradition. The interest of that person is to fight against extradition actually; he does not want to be extradited to Solomon Islands. That is really the issue.

The Attorney General said that it is for the purpose of preliminary assessment because it is when he comes here that we will seriously look at. But the issue in this person's interest is that he does not want to be extradited to Solomon Islands and so he must prove to the authorities that he should not be extradited. The point here is that he needs legal presentation or a legal person to help him fight the case.

**Attorney General:** We must understand that the person we want to extradite to Solomon Islands is not in the country as yet, but is still overseas. The taking of evidence

by the magistrate will not be taken by the person to be extradited to Solomon Islands because he or she is not in the country otherwise there is no need for a request of extradition because the person is overseas. If he or she wants to challenge the extradition process, it has to be challenged according to the laws of that country overseas. What Clause 54 is saying is for us to supply preliminary evidence to assist whichever authority is doing the assessment, enough information for them to send that person over here. The persons that are interviewed here are the witnesses. We collect evidence from witnesses and send overseas and then authorities overseas assess the evidence that we sent over to them. The person to be extradited is not here otherwise the application of this law is not meaningful here.

**Hon. Sogavare:** This is the modern era we are living in. In fact, if the person is really serious about this whole thing, he can send a whole team of lawyers to come and actually represent him here to have some serious discussions with the authorities. It is not impossible for that to happen. It is just the policy reason as to why we do not allow legal representation that is the issue here.

**Attorney General:** I can only repeat that we are dealing with witnesses only here. The evidences of witnesses that are taken will be tested later during trial when they will be given the opportunity and that is when witnesses, if they want representation will get it if they want. Otherwise they are only witnesses but the person to be extradited is overseas. If he wants to protect his right then he utilizes whatever legal lawyers are available overseas and challenges it according to the laws of that overseas country. Here we are dealing with the taking of evidences from witnesses just enough to be sent overseas.

**Mr. Oti:** The clarification by the Attorney General, perhaps needs to go further than the intention of wording in sub clause 3 of Clause 54 because as he said, sub-clause 2, if the magistrate is here and is taking evidence on that case on a person that is yet to be extradited, so obviously sub-clause 3, not being entitled to be represented is why the evidences are being taken under sub clause 2, which means that person is still outside.

I am just wondering, it would appear by the wording of this that we are compelling another jurisdiction that that person is not allowed to be represented while we are investigating or gathering evidence here. I see it as very impractical for us to dictate to another jurisdiction not to, for the person that the evidence for which is being taken, because the present wording says when evidence is being taken in sub clause 2, which means the person is still outside.

I am reading as if we are dictating to another jurisdiction for that person not to be entitled for representation while the evidence is being taken, he is still in another

place, but you do not allow that person to be represented. That is what we are saying in sub clause 3. If not then tell me that my reading of this is wrong.

**Attorney General:** I think I understand the point the Honorable Member for Temotu is asking. Probably that is also the line of question the Leader was trying to get at today.

Let us put it practically. Probably the question is whether that person overseas wants his lawyers to appear during the interview of witnesses. Is that what you are asking? What sub clause 3 is saying is that that person is not entitled to be represented. Coming back to the point we said earlier today about presumption of innocence, because once he starts to have representation at this stage, it could jeopardize his case because the full trial is not yet. He must preserve himself first until the full inquiry or the actual inquiry. That is important. He should not be exposed yet or this person should not be subjected as yet because this is just a minimal assessment of evidence where the magistrate interviews the witnesses and sends it over. If that person to be extradited is represented as well, the next thing we will ask is whether he is going to be subjected to cross-examinations. Those kinds of things will come in, because once he wants representation he is subject to cross examinations, rigor cross examinations, and those kinds, and then we will get into a stage where we will be extracting a lot of evidences at that very early stage where it should not be done as yet.

**Hon. Sogavare:** If that is the line of reasoning then all the more reason for this person to have legal representation for not giving himself away early. This is all the more reason for a person qualified in law, in extradition law maybe, to help him out.

**Hon. Chan:** Let me perhaps shed a bit of light here. In Section 54, it is our witness, it is government witness, and not hostile witness. We need to use the evidence of these witnesses to extradite the accused back to our country and so he would go through a sworn statement to be used in the extradition, and when he comes in he will be cross examined. These are government witnesses and the whole intention is to bring this accused person back to our country to face trial. This is a friendly witness to the government and not a hostile witness.

**Hon. Sogavare:** That is all the more reason for us to be concerned about this, as it is going to be one sided. We really want to bring this person back and so we are one sided by just bringing the government witnesses, get their evidences and we bring this person back. So justice is really not served here, even at this stage. We understand that the full trial will be later on, but all the issue that anyone who would want to fight at this stage is not to be extradited to Solomon Islands.

**Attorney General:** Once we get into the stage of allowing representation at this plenary stage like this, a case can run for a long time, depending on the complexity of what we are dealing with. And that, in my view, will defeat the very purpose of speeding up extradition.

We have to understand that this clause is designed in a way to favor quick extradition to our country so that we proceed with prosecution under our appropriate laws whether penal code or customs laws or tax laws. The quicker the person is extradited to our country the better for our country so that we could deal with the person under our domestic laws. If we have a preliminary process, which will entail very sophisticated examinations or lengthy examinations, it will take years just for an extradition process alone before we get to the stage of actual trial. That is the other thing we need to bear in mind.

**Mr Waipora:** This is very interesting because if I am in such a situation, surely and certainly I would need representation because I live in another place and so I really need somebody to help me along. But in here how I see it is that for any person to help you as your representative in court is not possible, it is nil representation. That is how I interpret this. If I am in such a situation I would really need somebody to represent me in my case. I might interpret this wrongly but this is my understanding and reading of this law. If it happens to me even if evidences are still gathered but I must earmark someone to represent me in court.

**Attorney General:** Let us look at this in another way. Say, at the moment, leaving aside Clause 54, looking at how Police is taking evidence at the moment. When police gathers information or evidences from witnesses, we called them crown witnesses, at the moment we know that when the police interview crown witnesses, they do not call for the lawyers of the accused to be present. Unless the police interviews the accused himself, the accused can say he wants his lawyer to be present. The process we now know is that when the police interviews crown witnesses, it is only between the police and crown witnesses. Only when the police interviews the accused is when you will find the accused wanting his lawyers to be present. In this case, perhaps the only change is that instead of the police, it is the magistrate that is doing the interview. I think if we understand it this way it will be much clear, and then the evidences the magistrate collects are sent over. I hope this explanation will make it clear for us to follow what this Clause 4 is trying to do here.

**Mr Chairman:** I think all explanations have been exhausted and I think it is understandable now.

*Clause 54 agreed to.*

*Clause 55 agreed to.*

#### Clause 56

**Mr Chairman:** Clause 56, there is an amendment proposed to this clause. Could the honorable Minister move the amendment?

**Hon Chan:** I move that Clause 56(1) be amended by omitting paragraph (b), and inserting instead the following new paragraph (b): “(b) an order for extradition is not made because of any circumstances listed in sub section 2; and”. The reason for that is we do not want to limit the refusal to order for extradition under those circumstances just to the magistrate and judge but also to the Minister.

*The amendment agreed to.*

#### Clause 56 as amended

**Mr Oti:** The amended sub clause 1(b) precludes any consideration for extradition as laid down by subsection 2. In subsection 2(e), ‘the offence for which the extradition has been ordered is punishable by death in the requesting country but not in Solomon Islands’. I find this difficult to understand because in terms of crimes punishable by death in the country that requests it, the requesting country is Solomon Islands. Is this not the case? It is us that is requesting extradition.

**Hon Chan:** No, it is the other way, subsection 1(a). It is the other way in 56(1)(a), “a country requests the extradition of a person because of conduct the person engaged in outside Solomon Islands”.

**Mr Oti:** Section 56, a requesting country requests extradition of a person because of conduct the person engaged in outside Solomon Islands. In this instance, where will that person be?

**Hon Chan:** The person is in this country and there is a request to extradite him overseas.

**Mr .Oti:** So the assumption here is that this crime was committed outside of Solomon Islands and that person is now in Solomon Islands.

**Hon Chan:** Yes.

**Mr Oti:** Okay. Now, we would not be extraditing him under the circumstance that 2(e) spells out, “if the offence for which the extradition has been ordered is punishable by death in the requesting country but not in Solomon Islands, and the requesting country has not given sufficient undertaking that the penalty either will not be imposed or if imposed will not be carried out”.

Obviously, this punishable by death almost runs universally across all jurisdictions. I therefore do not see the relevance of this subsection because it still makes sense because in other parts of the Bill, it is already spelled out that any crime punishable by death, we will not respond to it as much as the other country, if Solomon Islands requests the extradition and penalty for a crime we are seeking extradition of a national of another state or resident of another state, of course, they would not be sending that person over because the penalty for the crime is death, although we do not have death penalty in our country, but for a life sentence would that be sufficient ground for not even wanting to extradite a fugitive.

**Hon Chan:** The whole idea of Clause 56 is that we do not extradite because of the reason shown in subsection 2 because we can basically decide to prosecute and punish them here in Solomon Islands.

**Mr Oti:** There is going to be a little bit of work we are going to do because there are different categories of extraditing countries, especially if it is a comity country then, of course, it is not as simple as it would apply to a Forum country, a treaty country or a Commonwealth country. I just want to say this for us to note.

**Mr Tosika:** I want the Attorney General and the Minister, if possible, to explain, we have gone beyond clause 19 but it is in relation to what Section 19(4), which says, “the Minister shall refuse to extradite a person because the person may be subject to torture or cruelty” and then it goes on there where the United Nations Convention and International Convention was ratified, civil and political rights. I want them to explain why is it in here it says that the Minister will not refuse to extradite a person here, we are trying to protect him not be extradited. I want you to explain the correlation of these two sections.

**Hon Chan:** Section 19 is when a Minister may under his discretion not to extradite and this one as well in Section 56. But this one gives us a leeway that if we do not extradite, we can also punish him here, charge him in our courts and this will do justice in our country.

**Hon. Sogavare:** Sub clause 5, “person may be prosecuted whether the person engaged in the conduct before or after prosecution”. This is for purposes of prosecution and this

principle of retrospective application of the law. Can the Attorney General explain in a case where the person commits the offence before the commencement of this law, is it because that offence maybe offence under any other laws and not necessarily the offence under the extradition law? It is just a principle of retrospective application.

**Attorney General:** Yes, the offence must have been committed under one of our laws before sub clause 5 can be utilized. For example, when we have the penal code, say there is a murder case done overseas and we also have provision for murder in our penal code as well so there is already an offence committed and you can relate that offence to our penal code and so it is already an offence. Even before the passage of this Bill murder is already an offence under the penal code. It is only the extradition process that will be done under this law otherwise it is already an offence under our penal code even before this Bill is passed.

**Mr. Agovaka:** If I understand the Attorney General correctly, is he saying that an offence committed in another country can be tried in our country? Is that what he is saying?

**Attorney General:** If you apply Clause 56 which we are looking at now, because in that amendment which says, "if an order for extradition is not made because of any of the grounds listed in sub clause 2, then prosecution can be done here". You just look at the list in sub clause 2, and if an order for extradition is not made because of one of those grounds then Clause 56 will allow prosecution and punishment in Solomon Islands for the offence.

*Clause 56 as amended agreed to.*

*Clause 57 agreed to.*

#### Clause 58

**Mr. Agovaka:** Again, going back to the other clause you will notice that in a case where Solomon Islands refuses to extradite a person because of the grounds stated in Clause 56, what happens if we try the person here? We refuse to extradite that person and because the nature of the offence is similar to our country, we are going to try him here. Because that person is going to be tried here, we need evidence and witnesses, are we going to request evidence from witnesses in that other country, and if so who is going to pay the cost of those witnesses and evidence to be sent to our country for trial of that particular offence.

**Attorney General:** Can the Member repeat the question again?

**Mr. Agovaka:** Clause 58 says if Solomon Islands refuses to extradite a person because of the reasons stated therein, because the nature of the offence is similar to offence that is punishable here in Solomon Islands, the person is taken to court, and the court will need evidences and witnesses, but all the witnesses are overseas because the crime is committed in another country, but we cannot extradite him to be punished in that other country because of the reasons stated, that person will be taken to court because of the similarity of the offence in our country.

My question is, if court needs evidence and witnesses from the other country, how is it going to get these? Are we going to request that country and if they refuse who is going to pay the costs getting the witnesses and evidences to come over?

**Hon. Chan:** I am not really sure about the question. I think there is some confusion here. This Section 58 is when we do not allow extradition because a requesting country asks for it because of three reasons but we will allow extradition if the law allows the requesting country to send back that person after being tried and to be extradited here to serve his/her sentence in Solomon Islands. If we allude to the question about cost, yes, we would have to bear the costs here in terms of the correction centres to house the convicted person tried overseas.

**Attorney General:** We need to understand the purposes of clause 58, which says if Solomon Islands refuses to extradite any person, because the person is a citizen of Solomon Islands or because he would be subjected to torture, what the next paragraph on page 52 says is that the magistrate or judge can order extradition of that person to the requesting country, he can be extradited and that is the purpose of this clause. But for the purposes of being tried in the requesting country, the Member was asking about trial here, because their request is for full extradition but we say no, we would not meet that demand and so they might come and say in that case just extradite that person to us just for trial only. Then the magistrate or the judge may order the person to be extradited to the requesting country for purposes of being tried only in the requesting country for the offence. But then we must be satisfied with conditions in (aa), (bb) and (cc) before we even agree to their subsequent request for trial only. So the first request is for full extradition but we say no we would not do that, and so they may say in that case just extradite him for purposes of trial only, then the magistrate or judge can make that kind of order but it must satisfy with the conditions in (aa) (bb) & (cc).

**Mr Agovaka:** This is just to clear my mind. After trial and he is found guilty, what happens then, is he going to come here to be convicted or put in prison?

**Attorney General:** In (bb) you will see it says, "If Solomon Islands is satisfied that if the person is convicted the person will be returned to Solomon Islands to serve the sentence imposed."

*Clause 58 agreed to.*

#### Clause 59

**Hon. Sogavare:** I do not understand 'special circumstances', so maybe the Minister can help Parliament to understand that one.

**Hon. Chan:** I will also ask the Attorney General to come in there. We are talking about people who are our fugitives and we are talking about people who have been convicted of very serious crimes here, and that is the reason why bail can only be granted on special circumstances. Perhaps the Attorney General can elaborate more

**Attorney General:** The consideration as to whether somebody should be given bail is something for the court to decide on.

What Clause 59 is saying is that any person applying for bail under this bill must show special circumstance, and special circumstance is reason or circumstance that is over and above general circumstances in the normal affair of human beings. It is difficult to really list down what a special circumstance is as it is up to each individual case. But I can only reflect on experiences in court rooms, for example, a disability affecting an individual has always been used as a special circumstance.

*Clause 59 agreed to.*

#### Clause 60

**Hon. Sogavare:** This is for the Minister and Attorney General to explain to us the thinking that goes into the formulation of this policy. While we appreciate the High Court as having a very wide jurisdiction and it can entertain originating summons on any matter, in my view would it not be very restrictive and irresponsible for Parliament to restrict all applications interim or interlocutory in nature to the High Court?

Why I said this is because the High Court is a higher court and it should only be entertaining appeals from lower courts on this matter. I say this is because this is about the other side of our duty of, not only protecting this country from criminals but it is also about protecting human rights as well. I think twenty-one days is adequate to accommodate the process. What is the thinking of the Minister and the AG on this?

**Hon. Chan:** I will start off and perhaps the Attorney General will come in as well. I think this section just like other applications which are like interim or interlocutory nature. This is different from the review. It does not restrict anyone going to High Court but it has to be done within twenty-one days from the date of the extradition order.

**Hon. Sogavare:** That is exactly what we are questioning. What about if we leave the High Court for appeal purposes and interim and interlocutory applications can be dealt with by the magistrate? But here we go straight to the High Court, so you have stages of court that deals with it within twenty-one days, of course?

**Attorney General:** If we look at the end of Clause 60 it talks about extradition order. It says, 'from the date of extradition order'. Now, if we remember the preceding clauses that we have dealt with, it is the magistrate that issues the extradition order, and so the magistrate has performed a function up to that date.

In Clauses 18 and 36 we look at the right of review where persons can apply for review by courts. At that stage the matter is before the High Court for review. Since the file is already at the High Court, it is only proper that any interlocutory application; interlocutory is like small applications that if there is need for a small application to be made, it must be properly made because the file is already in the High Court because of the review. Otherwise the file will go between the magistrate and the High Court like a seesaw.

*Clause 60 agreed to.*

*Clause 61 agreed to.*

## Clause 62

**Mr Oti:** With the coming into force of this new legislation, Clause 62 (Cap 59) will be repealed except an extradition treaty to which Solomon Islands was a party or that bounds Solomon Islands remains in force to be an extradition treaty for the purpose of this Act.

I want to know how many treaties are in existence under this Cap 59 for which will continue to apply under the new legislation. How many treaties do we have with how many countries? That is the first question. Secondly, because that question is asked because of Clause 61(1)(c), the Minister may make regulations, one of which is to give effect to a new extradition treaty. And then, of course, by definition there are four categories of countries whereby this new Bill sets out: (1) Forum countries, (2) Commonwealth countries like in the Schedule, and the other ones including comity countries.

Under Cap 59, the AG can correct us on this, although there is legislation enforced there is still a requirement for an extradition treaty to be made between Solomon Islands, entered into Solomon Islands between other countries. Whether or not because by definition of treaty country on the interpretation, is that the one we making reference to in Clause 61(c), and if an existing treaty mentioned in Clause 62(a) falls outside of a treaty country but falls within one of the other categories, what will happen to that treaty? Thirdly, whether all countries, regardless of which category, if we still need to have an extradition treaty between Solomon Islands and those category of countries.

**Hon Chan:** I think I would also need the Attorney General's help on this because I find it a little bit confusing with due respect. What I can get from that question is about how many treaties we have, how many countries have we entered agreements extradition with. We do not have that number as yet but if we do, we find out from Foreign Affairs how many treaties we have entered into, whether it is before 1978 or after 1978, they will be gazetted and that is inside the Bill. But let me make it clear that this Bill has categories as you mentioned rightly, and it is the Commonwealth, Forum, comity and

treaty countries and perhaps that explains some of the confusions. I hope I answer the question.

**Attorney General:** I will try and assist the Minister but I fail to remember the question, and so I would perhaps later ask the Member to repeat the question for me to respond.

Yes, on the list of treaties, we were unable to be furnished with a list and that is why we redrafted Clause 40(2) which says “the Minister may, by order in the gazette, publish a list of the names of treaty countries”. As we are unable to obtain the list for completion of the Bill so Clause 40(2) is just put down as “the Minister may, by order in the gazette, publish a list of the names of treaty countries. Perhaps that is the first question, I think.

**Mr Oti:** Probably it is the list of the names of treaty countries, those countries that are defined in the interpretation in this Bill on page 12, which says a treaty country means a country which Solomon Islands has an extradition treaty with. Because of Cap 59, there is no distinction between the categories of countries that are now inside this new bill.

What I am saying is if a treaty country falls within Commonwealth in that category, within Forum, would the treaties still apply although by definition these countries, and this is subject to your clarification that we will only have treaties with treaty countries. Is that the intention of this Bill in the definition of a treaty country? Therefore, if you come to Section 62 to which Solomon Islands was a party to in terms of extradition treaty, that treaty, if it falls within one of the categories other than treaty country what will happen to that treaty. If it falls within a comity country then Section 61 can be invoked to give effect to a new extradition treaty, which is with a treaty country.

What I am saying is, are we going to only have extradition treaties with treaty countries and not the others? That is the first question, and second question is if some of the existing treaties fall within the other categories of countries other than a treaty country, are we still going to maintain the treaty as required by Clause 62?

**Hon Chan:** I think I am getting a better understanding of what he is asking. The answer is yes, the treaty itself will take precedence.

*Clause 62 agreed to.*

Schedule 1

**Mr Waipora:** Because we are talking about schedules, I just want to raise a question. When looking at the schedule extradition, Cap 59 which is now repealed, I can see the various descriptions of extraditable offences there. When looking at this new Bill there are no offences here. My question is, where are we going to find the list of offences? In here, we can only see the schedules of Commonwealth countries. My question is on the schedules of offences, where do they appear under this new law because in the old law the offences are there. I want the Minister or the Attorney General to clarify.

**Attorney General:** I think we have answered that question already. The listing of offences is now out of trend. Instead the kind of formula comes and it is in Clause 4. Rather than listing offences, which is very restrictive because you are stuck to that list, people who are making extradition laws throughout the globe came up with the kind of formula that we are adopting in Clause 4, especially in the region so that you do not have a list, because once you use a list you are going to be stuck with it.

**Mr. Oti:** On Part 2, countries to which the record of case scheme applies and under this schedule are the commonwealth countries. There are two parts to it; Part 1 is countries to which prima facie evidence scheme applies, and Part 2 is countries to which record of the case scheme applies, and Part 2 are the countries lining up here. Where a country has been expelled from the Commonwealth, what is its standing in the extradition arrangement in terms of recognition?

**Hon. Chan:** I really did not have a thought of that kind of question, and so I will ask the Attorney General whether he can shed some light on that.

**Attorney General:** The schedule is listed under Clause 24. If a country is expelled from the Commonwealth countries, technically it is no longer a Commonwealth country although it may appear on our list so in terms of administration of the law, we will not be obliged to treat it as a Commonwealth country although it appears on our list. Perhaps, next time round we will amend and remove its name from the list, but then once it is admitted back into the Commonwealth, do we come back and amend the list again and put it back on the list because that seems to be the case with organizational and commonwealth countries where they remove countries and put them back and so

forth. Perhaps, in its administration is where we will not treat it as a Commonwealth country because it is already expelled, otherwise we will get into the situation of removing it from the list and reinstating it back again, which means amendments have to come all the time to Parliament.

**Hon. Sogavare:** The implications, can it be used as a defense here by any person who is wanted for extradition. This country is no longer a Commonwealth country so there is a specific part here that deals with extradition from a Commonwealth country and so there is no law that applies to me, so how can we deal with a person that should be extradited over or we want him to come here but that country is expelled. Which part of this extradition law are we going to use to deal with that person in such circumstance?

**Attorney General:** If we are confronted with such a situation, perhaps one way out is to issue notice to the Commonwealth country but because of your status in the Commonwealth country we will not treat you as a Commonwealth country under our law, but we are prepared to perhaps consider a treaty. That is something for Foreign Affairs to discuss with the foreign country to see whether a treaty can be entered into.

**Mr. Tosika:** Is it not right to be considered under a comity country if it is expelled from the Commonwealth? Or if it does not have any treaty with us, is it not proper for us to use the system under a comity country to apply in this case?

**Hon. Chan:** Yes, you are quite correct. If a country is expelled from the Commonwealth, you can treat that country as a comity country if you do not have any treaties with them.

**Mr. Oti:** I am still on jurisdiction on extraditable offenses. Perhaps we need to be clear, especially on category 2 - countries to which the record of the case scheme applies, especially the British territories, a number of them here, and I do not know why they are put here whether we can deal directly with them or the mention of UK is sufficient to apply this law in its territories, and there are number of them there, and one of them here is uninhabited, no one is living in it - the British Antarctic territory, British Indian

Ocean Territories, maybe some island are there; Falkland Islands – we are going to dispute with Argentina on this territory; South Georgia and South Sandwich Islands are islands that we are going to have conflicts with other countries, and of course Pitcairn Island is clear. But the others there, perhaps for this exercise it is sufficient, but I think it is not practical as the way it is tried to be portrayed in this Bill.

**Hon. Chan:** These are all countries that will be treated individually as Commonwealth countries.

*Schedule 1 agreed to.*

## Schedule 2

**Hon. Sogavare:** A country or a state like New Caledonia, there are now talks for it to be admitted into the Pacific Islands Forum by the current chair of the Pacific Islands Forum. If it is admitted into the Forum how are we going to treat New Caledonia for the purpose of this Act?

**Hon. Chan:** If any country should decide to be accepted to join the Pacific Islands Forum, the Minister through regulation will prescribe that country into the schedule.

**Hon. Sogavare:** But it is not an independent state, it is not a country, New Caledonia is still not an independent state.

**Attorney General:** The definition of a country includes a colony, territory or protectorate of a country. That is (a), (b) - a territory for the international relations of which a country is responsible, and (c), a ship, aircraft owned by or registered in a country. Yes, when we use the word 'country' in the Bill it can include a colony, territory or protectorate.

*Schedule 2 agreed to.*

*Schedule 3 agreed to.*

**Mr Chairman:** Honorable Members, there being no preamble, this brings us to the conclusion of our deliberation on this particular Bill. This Committee of the Whole House is now dissolved and the honorable Minister will report to Parliament when the House resumes.

*(Parliament resumed)*

**Hon. Chan:** I wish to report that the Extradition Bill 2010 has passed through the Committee of the Whole House with amendments.

## **BILLS**

### **Bills – Third Reading**

The Extradition Bill 2010

**Mr Speaker:** Honorable Members, before we proceed with third reading, I wish to inform the House I have been advised that there are a number of minor errors with the Bill, which could not be moved at committee stage. I have given my permission for these errors to be corrected at third reading pursuant to Standing Order 58(2). I now call on the honorable Minister to formally inform the House of the errors.

**Hon. Chan:** The nature of the errors and how these are to be corrected are set out in the list in a table form, which I believe has been circulated to all Members by now. Sir, I table that list for Parliament's record.

**Mr Speaker:** The errors have been duly noted by this House, and it will be corrected before the final version of the Bill is sent to His Excellency, the Governor General for his assent. I will now put a question on the third reading of this Bill.

**Hon. Sogavare:** Point of order. It will be as Extradition Bill 2010 as amended.

**Mr Speaker:** That is correct. It should be with amendments 2010. I shall repeat again for record purposes. I will now put a question on the third reading of this Bill and the question is that that the Extradition Bill 2010 with amendments be now read a third time and do pass.

*The Bill is passed.*

## MOTIONS

**Hon. SIKUA:** I move that an address be presented to His Excellency, President Ma Ying-Jeou of the Republic of China on Taiwan, in reply to His Excellency's address to Parliament, as follows:

*"We, the National Parliament of Solomon Islands here assembled, express our sincere gratitude and appreciation for Your Excellency's visit and address to Parliament on Thursday 25<sup>th</sup> March 2010 and for the assistance the Republic of China on Taiwan continues to provide to the Parliament, the Government and people of Solomon Islands."*

At the outset, I wish on behalf of the Government and people of Solomon Islands to sincerely thank his Excellency, the President of the Republic of China on Taiwan for

his very important address to Parliament yesterday. I also wish to thank him for taking time from his busy schedule to visit our shores. As he travels home from Palau we wish him a safe journey as he returns home.

I also wish to thank your good self and the Parliamentary House Committee for granting the President of the Republic of China on Taiwan the opportunity to address Parliament. The President's address to Parliament confirms the very cordial and close relationship between the Republic of China and Solomon Islands.

My government as has been successive governments of Solomon Islands, value our relations with the Republic of China on Taiwan. Our relations remain as strong as ever. It is a relationship that as the President has alluded to in his address, is built on mutual respect and on common values, which our two countries and people embrace including democracy, good governance and respect for human rights and human dignity.

I also take this opportunity to express the profound gratitude of the Government and people of Solomon Islands for the most important contribution that the Government and people of Republic of China on Taiwan have rendered towards our country's development aspirations and endeavors. Taiwan's support and assistance towards our various sectors including, health, agriculture, education, fisheries and rural development has made and will continue to make a difference in the lives of our people. Its funding and construction of our parliamentary office signifies its support for the development of representative democracy in our country, and we are very grateful for this support.

Taiwan has been and continues to be one of our major bilateral donors whose assistance impact directly on the lives of our people in the remote rural areas. I have noted the President's comments on the ROCs foreign aid policy and their desire to work closely with other donors including those in our region to achieve effective aid coordination on the basis of the principles outlined in the Cain's Compact, which Forum Leaders adopted last year. Further, I believe that as a recipient of Taiwan aid, Solomon Islands must recognize and comply with the three important goals of the Republic of China, Taiwan's foreign aid, which the President outlined in his address. These are the need to have a legal purpose, secondly, the process has to be legitimate and thirdly, implementation has to be effective.

Since coming into office, my government has taken steps to ensure that the Republic of China, Taiwan funding is appropriately expended. In this regard, we have insisted on the need or requirement for acquittals to be submitted before the next set of payments can be released by the Republic of China, Taiwan Government. Above all, the onus is on every Member of Parliament to ensure that the Republic of China,

Taiwan funding assistance is spent for the purpose intended and for the benefit of our people in the rural areas and our country as a whole.

I also wish to salute President Ma Ying-Jeou for his visionary leadership and pragmatic policies. Since assuming the presidency of his great country in May 2008, he has achieved much for his country and people. His foreign policy of flexible diplomacy and cross strait relations among others, have yielded positive results for Taiwan. I understand that more and greater undertakings are still in the pipeline to further improve cross strait economic relations between Taiwan and the Mainland, which no doubt would bring greater benefits including peaceful coexistence across the Taiwan Straits, the Asia Pacific Region and globally as well.

The President, in his address, paid tribute to the ongoing support that Solomon Islands has accorded to Taiwan in her quest for participation and recognition in international organizations. Successive Solomon Islands Governments including the CNRUA Government have been vocal and relentless in our calls for Taiwan's participation and membership in UN agencies. Hence, we were elated by the progress made in May 2009 when Taiwan was invited as an observer at the WHA meeting in Geneva. And as the President said in his address yesterday, his government has been invited again for the second time to participate in the WHA meeting this year. Again, we are delighted to hear that they have been invited. It means that our efforts over the years to fight for the rights of the 23 million people of Taiwan for international recognition and visibility have not been in vain. My government and I am sure future Solomon Islands Governments will continue to seek and support efforts for Taiwan's meaningful participation in regional and international organizations. The rights of the 23million people of Taiwan should and must not be denied.

Further, I wish to thank the President for the important he attached to the issue of climate change and its impacts on countries like Solomon Islands. Climate change, as you know, is the greatest challenge facing mankind today. It is an issue that is dear to our hearts, a matter of life and death of our small island nations and communities in the Pacific including our own country Solomon Islands.

My government is committed to working closely with our development partners including Taiwan on how we can proactively embark on both adaptation and mitigation initiatives to address climate change. The solar power project, which the Government of Taiwan is funding in our various constituencies, is a good initiative to expand on in mitigating the impacts of climate change. I also welcome his government's consideration for the installation of solar power generation equipment in the Parliament office complex building that is being built as well as its intention to establish a regional solar power generation centre in our country, Solomon Islands that will also serve other countries in our region in terms of solar power technology and products.

Above all, my government following the failure of the Copenhagen Climate Change summit last year is keen to work closely with all countries through the UN process towards a legally binding agreement on climate change. Moreover my government will continue to undertake the necessary reforms in order to create a conducive investment environment in Solomon Islands, which should benefit both investor and the domestic economy. I know it is 4.30 pm.

**Mr Speaker:** Yes, it is 4.30 and Parliament is interrupted and you may take the necessary steps to continue with the meeting.

**Hon Sikua:** It is now 4.30 pm and I seek your consent to move suspension of Standing Order 10 in accordance with Standing Order 81.

**Hon Sikua:** I move that Standing Order 10 be suspended in accordance with Standing Order 81 to permit the continuation of the business of the House until adjourned by the Speaker in accordance with Standing Order 10(5).

*Suspension of Standing Orders to enable the continuation of the business of the House after 4.30 pm.*

**Hon Sikua:** I just have two more last paragraphs to go.

Moreover my government will continue to undertake the necessary reforms in order to create a conducive investment environment in Solomon Islands, which should benefit both investor and the domestic economy. My government warmly welcomes more Taiwan businesses to invest in the various sectors, especially in agriculture, fisheries and tourism. I am confident this valuable partnership in the private sector will bring forth growth and long term development benefits to the country.

Finally, Taiwan, I believe, will always be a friend of Solomon Islands. Taiwan has been with us through thick and thin, through our good times and our bad times and Taiwan has indeed been a true friend of Solomon Islands. I am confident that the fundamental principles that underpin our bilateral and diplomatic relations will continue to grant us the resolve and commitment to address the challenges facing our two countries and people.

With these remarks, I once again wish to thank the President of the Republic of China for visiting our shores and for his important address to Parliament yesterday. I also take this opportunity to thank the organizing committee, the members of the Royal

Solomon Islands Police Force, our schoolchildren and members of the general public for their cooperation, as well as the staff of the Republic of China Embassy here in Honiara for a job well done in ensuring that the President's visit to our country is a success. Thank you and I beg to move.

**Mr Speaker:** I understand that the Prime Minister wishes to adjourn debate on this motion until the next sitting and so I call on him to take the necessary steps.

**Hon. Sikua:** There are nods around the chambers and so I move that debate on this motion be adjourned to the next sitting day.

*Debate on the motion adjourned to the next sitting day.*

*The House adjourned at 4.27 pm.*