

THURSDAY 31ST JULY 2008

The Speaker, the Rt. Hon. Sir Peter. Kenilorea took the Chair at 9:45 a.m.

Prayers.

ATTENDANCE

At prayers, all were present with the exception of the Ministers for Culture & Tourism, Environment, Commerce, Industries & Employment, Fisheries and Marine Resources, Conservation and Meteorology, and the Members for West New Georgia/Vona Vona, Ngella, North Guadalcanal and Malaita Outer Islands.

PRESENTATION OF PAPERS AND OF REPORTS

Report of the Bills and Legislation Committee on its Examination of 'The Correctional Services (Amendment) Bill 2008/(*National Parliament Paper No. 9 of 2008*).

Mr Speaker: Before we go on to the Bill Honourable Members, I have granted permission for the Honourable Minister of Public Service to make a Statement under Standing Order 24.

MINISTERIAL STATEMENT ON THE PUBLIC SERVICE IMPROVEMENT PROGRAM

Hon TOZAKA: Mr Speaker, thank you for giving me the floor to give a Statement on a milestone development which my Ministry, the Ministry of Public Service has done and which will continue within the next ten years. The purpose of my statement therefore is:

- (1) To inform Parliament of the commencement of the Public Service Improvement Program with the appointment of a Program Manager,
- (2) To outline the role and scope of the program and the management arrangement of it.

Mr Speaker, the Public Service Improvement Program (PSIP) has commenced as of Monday 21st July 2008 last week with the appointment of the Program Manager, Mr David Nudd. After a long search, the Selection Committee comprising the Chairman of the Public Service Commission, the Permanent Secretary of the Ministry of Public

Service, and the Director of RAMSI Machinery of Government Program chose, Mr Nudd to be the right person with the best experience.

Mr Nudd has spent many years leading teams in the United Kingdom of Great Britain to improve their public service and more recently in other developing countries where he has proven his ability to work in partnership with ministers, ministries, donors and the public to achieve benefits for their respective countries.

Mr Speaker, the long term goal of the Public Service Improvement Program is to contribute to an improved capacity of government agencies to deliver services across our country, Solomon Islands. Its purpose is to assist the Public Service Commission, the Ministry of Public Service and all other government agencies to strengthen their human resources management and so improve the delivery of government services. This is a ten year program with the RAMSI Machinery of Government program providing funding of the approximately SBD\$90million or AUD\$13.47 million for the first five years.

Mr Speaker, as you know improving the Public Service is an issue not only in Solomon Islands but across the region. The genesis of this program came from a regional meeting of Public Service Commissioners in Fiji in July 2005, three years ago. After the conference, the Solomon Islands delegation began discussing with the RAMSI Machinery of Government (MOG) program on assistance for the development of their agenda to improve public administration, which was dominated by raft of actions for strengthening human resources management.

Mr Speaker, the design of the program was split over two phases. The first phase focuses on a comprehensive assessment of the environment for Public Service Reform and involves consultation with a wide range of government and non-government stakeholders. The second phase involves several workshops.

Mr Speaker the program focuses on human resources management acknowledging that managing people and the process of managing people are a fundamental underpinning of public service improvements strategies. Human resources management is about getting the right people with the right skills, in the right job at the right time. During the design consultation, an initial emphasis on support for human resources management was articulated by stakeholders as essential to Public Service reform. A design is therefore focused on the improvement of human resources.

Mr Speaker, the program will be based in Honiara and is also accommodated in my Ministry, the Ministry of Public Service and will provide support at the outset to the Public Service Commission and the Ministry of the Public Service. It will later move out into selected line ministries and provincial administrations to our provincial governments.

The rebuilding of a robust and professional public service will take many years and this program has been designed with the expectation that it would run over ten (10) years. The program design outlines the program for its first five years. An independent review of progress is scheduled for the end of the second year and a further review in the fourth year to pave the way for posting and donor support for the program.

Mr Speaker, I would like now to delve on the program components. The program comprises of six components. Component 1 involves activities to consider changing the management framework by principles and policies processes, for example, delegation of powers and authorities to ministries and provinces.

The objective of this component is to support the implementation of SIG strategic Human Resources Management Improvement program by assisting the development of an effective change management framework. We anticipate Component 1 will result in the articulation of comprehensive vision for the Public Service.

The component supports promotion of ethical service leadership, impartial decision making, maintenance of public respectability and the promotion of persons of integrity and discipline in the Public Service, which is a very big concern to all Members of Parliament. It will also provide support in efforts to maintain a cost effective public service structure, able to implement government policies and deliver quality services.

Component 2 is to strengthen the capacity of central agencies. Its objective is to assist the SIG to improve human resources management by reviewing the structure and functions of the Public Service Commission and the Ministry of Public Service, and strengthens central agency legislation policies and processes.

Component 2 will involve analysis of relevant employment legislation and instruction. It will also involve workforce planning, for instance how many doctors, lawyers and engineers to be recruited given the increase of population and the intensity of disease in respect of doctors to align the workforce with organizational priorities, budgets and to inform workforce development.

It also supports appropriate targeted skills training for Public Service in s arrange of topics, such as Public Service Procedures including general orders, financial instructions and administration.

Mr Speaker, Component No. 3 is to strengthen the capacity of line ministries. The objective here is to assist the SIG strengthen human resources practices in line ministries, for example, recruiting the right people, promote discipline, ethical work practices. It is anticipated that Component 3 will strengthen human resources management capacity of line agencies through the participation of selected agencies in human resources management improvement program.

Component No. 4 is to strengthen the human resources management function in provinces. Component No. 4 is for the provinces, and the objective of this component is to assist the SIG and provincial administration to jointly develop and implement improvement strategies for human resources management functions in the provinces with the view of improving the delivery of government services to the rural populace.

Support will be rendered for improved service delivery at the provincial level through documenting the roles and responsibility of different levels of government for human resources management functions recommending amendments to legislation and policy reviews where appropriate and development of tailored human resources management improvement activities for provincial administration.

Component No.5 of the program deals with the emerging priorities of the SIG, for example, the federal system of government. Through this program we will able to

establish options on how public services of the federations will be administered. We are a little bit proactive here in preparing for changes if there is going to be any change to our constitution. It is also to build their capacities. The objective here is to facilitate SIG response to emerging priorities in public service improvement.

Finally, Mr Speaker, Component No.6 involves program management. The objective includes program management and implementation including effective contracting of long and short-term advisors, financial activity and output management, communication and coordination with other donors.

Under Component 6, initial activities are proposed to focus on assisting SIG to develop appropriate change management machinery and structures as well as guiding principles for change and criteria for assessing change proposals. There are a number of guiding principles that will govern the management of the assistance package.

- For example, work planning and review processes will seek both to ensure that SIG priority needs are addressed as they emerge and demonstrate a process of continuous review, priority setting and incremental improvement.

Mr Speaker, there are some important points to note about the way the program would be managed. Management of the assistance package will include:

- flexibility and responsive to changing SIG needs and priorities;
- engage counterparts in all aspects of the assistance packages including reviews of progress and the development of new program elements and program work plans.

On consultation, Mr Speaker, during the program start up the Program Manager in partnership with the staff of the Ministry of Public Service will hold consultation with key SIG personnel particularly permanent secretaries, under secretaries, human resource managers, chief administration officers and senior public servants. From this consultation the sequencing of program activities will be decided upon and prioritized.

How does this program align with the CNURA Government? The program design is aligned with the CNURA Government for public sector management policy goals, which are articulated in Part 1 of the Translation and Implementation Framework and the CNURA Government Policy Statement which sets out the principles and the national objective the CNURA Government has adopted.

The relevant principles includes:

- Transparency, accountability, responsibility and respect for the rule of law and traditional values as foundations for good governance;
- leadership that upholds honesty in public dealings and principled in every conduct.

The relevant national objectives include:

- (i) to pursue public sector reform and shift resources towards the private sector-driven economic growth;
- (ii) address the basic needs of people in the villages and rural areas where the majority of people live and ensure real improvement in their standard of living. This includes villages on islands as well as squatter communities in urban areas;
- (iii) achieve political stability and decentralize decision making.

Mr Speaker, the particular policy translation and implementation references for public sector improvement relevant to this program are as follows:

- Office of the Prime Minister and Cabinet. The policy goals are to provide leadership for and coordination of all government ministries and agents to facilitate the delivery of adequate, appropriate and quality services to the people of Solomon Islands through an efficient and effective system of government.
- In the Ministry of Public Service, a professional and innovative public service that carries national pride, highest level of ethical leadership and pragmatic and adoptive change demands a better and improved service delivery.
- In the Ministry of Finance and Treasury, the policy goal is that the Ministry provides leadership to Solomon Islands in financial matters and delivers high quality professional financial economic services to the Minister of Finance and Treasury, the government, other ministries and the wider community. Its aim is to improve the standard of living of Solomon Islanders through economic and financial reforms that grow the economy in a sustainable way.

Mr Speaker, our Public Service needs to constantly change to stay modern and improve its service delivery to the public. This requires the public service training agency, IPAM (the Institute of Public Administration and Management) to improve its focus and quality of training, for example training in financial reporting, report writing etc. etc;.

Mr Speaker, over the five weeks a joint SIG/RAMSI Machinery of Government Program strategic review of IPAM has been carried out to ascertain its current operational effectiveness, capabilities and any capability gaps. The review was guided by the principle that the role of training is to enable the public service to improve productivity and provide better services. Training is only one element of human resource development, an element that needs to be integrated with broader human resource policy and initiative. The final report provided a comprehensive assessment of IPAM's operational capacity and has made 25 recommendations, which my Ministry has accepted and will now be translated into an IPAM strategic plan.

In conclusion, Mr Speaker, I am happy to inform the Parliament of the commencement of the Public Service Improvement Program this morning, which is focused on human resources management, a major step forward for a stronger, more effective government that works for the people of our country Solomon Islands. It is

vital that we create an effective Public Service that improves the delivery of government services.

The Public Service Improvement Program is consistent with CNURA policy and directly helps to achieve this goal. The commencement of this Program will build on the already good relationship and partnership we have with RAMSI, the machinery of government program. I call upon all Honorable Colleagues, public officers, stakeholders and our people of Solomon Islands to embrace this program and the opportunity it will bring into the Public Service of our country, Solomon Islands.

Finally, Mr Speaker, I wish to assure you that the program is for the betterment of this country, the government and our public service. It will enhance the capacity of ministries and provinces to deliver services more effectively, more efficiently and more productively. I will keep Parliament informed on the progress of this program, its implementation and its achievement.

Mr Speaker, thank you.

Mr Speaker: Under Standing Orders, only short questions may be asked.

Hon Sogavare: Mr Speaker, in fact this side of the House welcomes the initiative. We note that this program will go for 10 years, and that obviously will go beyond the tenure of the CNURA Government. I understand that this program is not tailored specifically to address the specific needs of CNURA Government but for the Public Service of Solomon Islands.

My question, Mr Speaker, is what guarantee is there that this program will continue when other governments come in.

Hon Tozaka: Mr Speaker, I thank the Leader of Opposition for his question. Yes, it is a ten years program, and we would like this program to go as far as that basically because it addresses the issues of the Public Service that successive governments are concerned about.

This is not only a concern for our country Solomon Islands but also other countries in the Pacific as well. This idea of improving the public service came about from this meeting in Suva where other Pacific Islands came together and identified issues that should be collectively addressed, one of which is to address by forming a particular unit in the public service to be assigned the responsibility of addressing short term, medium and long term. Thank you.

Mr Waipora: Mr Speaker, I just want to ask the Honorable Minister, who is funding the program at the moment and who is the head of the program at the moment.

Hon Tozaka: Mr Speaker, I thank the MP for West Makira for that question. As I mentioned in my speech this program is housed inside the Ministry of Public Service, and I as the Minister will be directly responsible for this program. The manager has been appointed and I have formed a committee already in my ministry. In a way it is

intervening in management but I think it is a good way to see the Minister and Permanent Secretary working together as partners in implementing the policies of the government, and that is why the PS and I headed this committee. But I actually chaired this committee in implementing its work.

Mr Wale: I wish to thank the Minister for that important statement and initiative. I would just like a bit of clarification. It would seem to me that what you are aiming at are higher levels of professionalism and a stronger clearer hold of ethics, which are absolutely core to this initiative because mechanisms are there, processes are there but not a very clear grasp for compliance with work ethics and ethical standards generally are the kinds of issues we have been discussing, for instance in the Lands Department looking at particular review reports. Mr Speaker, how is that program going to ensure that ethics is an important component right throughout?

Hon Tozaka: Thank you for that question. We have six components, and one of the important components is consultation. Taking into consideration our culture and the issues and problems we have been facing as far as discipline and ethical leadership is concerned, we would consult ourselves as to how best we are going to address them. I also came out in one of the TV programs last week explaining the same thing that we have achieved. And I am proud to mention that ethical issues led by supportive administration arm of our House of Parliament, I am particularly very proud of the model that has been set out of similar programs is making a change in the public service. In fact, it is leading the programs. We have one particular reference that I would like to make as an example is this parliament. If we have already achieved this then I do not think there would be difficulty in having similar programs in other ministries to address the issues we are talking about.

Mr Agovaka: First of all, I would like to thank the Minister for Public Service for a wonderful program. Sir, the public service arm of the government is only as good as its servants. As you know, there are a number of reports from the Auditor General's Office implicating some officers of the public service of corruption.

Mr Minister, does your program include weeding out some of these corrupt officers in the public service?

Hon Tozaka: Thank you for that question. That is the purpose of this program. It is to address such problems, and that is why it is introduced at this time so that this program can address outstanding issues that all of us know. I am not denying that there are lots of weaknesses in the public service, morale is going down, and this program has just started last week. I am very happy to announce the program this morning as it is going to address issues like what you have raised.

Mr Ne'e: Can the Minister inform the House that since he has an effective training program within the public service at IPAM, could that be extended to the private sectors

since the private sector is part of the government and there are functions within the private sector breaking down? Could this training be extended to the private sector as well?

Hon Tozaka: Thank you for that question. The answer is yes, it can also be extended to the private sector.

Mr Speaker: Could we make this the last short question?

Mr Waipora: Mr Speaker, I would like to tell the Minister that his program would include higher, middle and lower levels. I would like to say that many public officers today in the public service of Solomon Islands have do not understand the general orders, the public service regulations and others. Is your program going to include training officers in those areas to make them understand those orders and regulations?

Hon Tozaka: The answer is yes. That is the purpose of this training program, which is to address weaknesses like that.

Mr Speaker: We will move on.

BILLS

Bills – Second Reading

The Correctional Services (Amendment) Bill 2008

Hon MANETOALI: Mr Speaker, I rise to beg that the Correctional Services (Amendment) Bill 2008 be now put to a second reading.

Sir, the purpose of the proposed Correctional Services (Amendment) Bill 2008 is to amend the Correctional Services Act 2007 to provide clarity and consistency to some of the terms used in the Act. The amendments to Sections 2, 4, 6, 9, 12, 22, 24 and 77 improve the definition of the titles for the staff and facilities and align them more closely to the constitution. This will remove any doubt about the constitutionality of the new legislation. The amendments are to clarify that any reference to the prison service and prison officers in the constitution and any other acts, shall be construed as a reference to the Correctional Services of Solomon Islands or an officer of that service, and that disciplinary procedures and powers are limited to those conferred by the constitution.

Mr Speaker, the additions to Section 10 provide for the effective supervision and control of correctional service officers, and other employees of the Correctional Service of Solomon Islands by the commissioner, commandant and senior officers. The addition to Section 10 is required to clarify that all officers and all employees working in correctional centres who are not officers are subject to the direction and control of the

commissioner, the commandant and their senior officers in the discharge of their lawful powers and duties under the Correctional Services Act and Regulation.

Mr Speaker, the Act focuses on rehabilitation and training of prisoners, and this means that there are skilled professionals and trainers working in centres who are not necessarily sworn officers. The section is required to make it clear that those other workers are subject to the management regime of the centre whilst performing their duties.

Mr Speaker, in addition the Act has been amended to allow the transfer of foreign prisoners back to their country of residence or citizenship to serve a sentence imposed by the Solomon Islands Court. The amendment permits the prisoner to apply to the Minister after gaining the consent of the foreign government. The Minister may then enter an agreement with a foreign government to ensure that the prisoner will serve the remainder of the sentence in a correctional facility in the foreign jurisdiction. Once agreement is reached, the Commissioner of Correctional Services applies to the High Court for an order to facilitate the transfer. This will allow all foreign prisoners serving sentences of more than three months to do so in facilities in their countries.

It reflects the purpose and objectives of the Correctional Services Act 2007 by facilitating access by prisoners to effective rehabilitation programs in their own countries. It allows prisoners to be closer to their families, friends and communities and provides a more effective means of reintegrating them back into their communities after release. In most circumstances, it would be desirable and appropriate that the care and control of foreign prisoners, in particular those serving longer sentences be the responsibility of their country of citizenship or residence.

Sir, it is in the best interest of the Correctional Service that these amendments take effect from the time of commencement of the act, and for this reason the proposed commencement date is 1st April 2008.

Sir, I commend this bill to the house and I beg to move.

(The Bill is open for debate)

Hon Sogavare: Mr Speaker, I would like to briefly contribute to this bill before the house, and to speak in support of the amendments that come before the Parliament. The objects and reasons are clear, and that is to bring the Act in consistency with the Constitution.

Sir, we note that the amendment that comes before the house has chosen rather to make reference to the terms used in the constitution rather than amending the constitution because the issue that His Excellency brought before the court is that he contends that the words used in the constitution must be used in the legislation.

I think there must be some reasons for that because the whole Correctional Bill brings up a new concept in prison. It is no longer prison; you do not go there to be punished but you go there to be corrected and rehabilitated. That kind of concept came up in the new Bill, and this side of the house welcomes that because this is a bill that we brought before Parliament when we were still in Government. And so it is a welcomed

approach and concept in thinking about the prison where it is not to punish people but rehabilitate them. I hope that is what actually is happening in the Prison Service at the moment. That is why it brings me to the issue that His Excellency contends that the Constitution, the country's supreme law still carries those words. The term Prison Service is still used in the constitution. We note, however, in this amendment bill that it would still use these terms instead of amending the Constitution. We do not know the intention of the Government but maybe at some point in time, the wordings in the Constitution may need to be brought in line with the terms that are used in the legislation.

Sir, this is not the first bill that comes before Parliament seeking to rectify may be some terms used. But there are other bills that have already come before Parliament as well. We were just wondering, Mr Speaker, and may be it is carried in the report by the Bills Committee that we might need to look at an annual process where the terms used do not change the meanings of the clause so that when applied would mean a different thing altogether and giving rise to contentions in court. Maybe we could leave it until the end of the year before they are tidied up so that it is neat.

Sir, we also note that the Amendment has retrospective operational date that it will come into force on the first of April 2008, which is already passed. We appreciate the explanation and in fact as carried by the report as well that it does not affect the rights of people and so we have no problem with that. Unless the retrospective provisions might affect the rights of any persons, this side of the House will have some serious problems with that. But as we see it does not have that effect and so we do not have any problem in accepting the starting date of this Amendment.

Sir, we appreciate the explanation by the Minister that the new section that was included is not part of the original Act. It was incorporated in this Amendment to be incorporated in the principal act, and that is the repatriation of any prisoners serving more than three months in prison, and that is the new section 74(A). May be during the Committee the Minister will explain in detail the processes that will happen and what guarantee is there that the person will continue to serve his prison term in his country when he actually offends in here. He might be repatriated but if he is a political prisoner, for example, he might be released in his country. Now we would like to see some kind of mechanisms put in place to ensure that the person serves his prison term and we continue to monitor that he continues to serve and completes his sentence in his country. I think the thinking here is that if he commits a crime in here, he should serve it in here and feel what a prison is like in Solomon Islands.

Although we appreciate the explanations given by the officials when they came to explain this Bill that it does not make sense for the Government to continue to carry the expenses of keeping people like that in our prisons when he should go and serve in his own country so that they meet the cost for keeping him there. But the point here is that the crime is committed in here and therefore should serve his sentence in here and people should be satisfied that this person serves his full sentence and justice is fully carried upon him. Maybe during the Committee, the Minister would like to elaborate on the processes and how we will guarantee that the person will serve in the country.

With that, Mr Speaker, this side of the House does not really have a problem with this Bill. May be others would like to speak on some areas but in saying that I support this Bill.

Mr ZAMA: Mr Speaker, I would like to briefly contribute to this Bill. First, I would like to thank the Honorable Minister for bringing this Bill before Parliament.

Mr Speaker, I just want to make a few comments on some of the clauses of this Amendment Bill. I raise this concern simply because Legislature, and especially Members of Parliament need to be given ample time to look at bills more carefully and study. Even at this point in time I am sitting here the report by the Committee was given to me. I only have time to read this bill whilst sitting on this floor of parliament.

Sir, in order for Members of Parliament and the Legislature to be given national justice to look at bills to be well informed because we are making legislations, amendments, national justice must be accorded to Members of Parliament and to this legislature. But that is what is lacking whether it is this Parliament or the last Parliament. And if that has been the process, Mr Speaker, through which and by which bills have been introduced to Parliament then I think it is wrong.

The due process of introducing bills to Parliament has been hijacked. I would like to raise this issue and concern so that the government, the Prime Minister, Ministers and the Cabinet take this seriously and not hijack the process of Parliament. We should not push bills through just because we want to introduce bills on the floor of Parliament. Members of Parliament must be given ample time to read the bills, study them, do a good research on them and so forth.

As is the situation now, what am I going to say about this present Bill, Mr Speaker? I want to read the Report by the Committee but since the Report has just come into Parliament, I do not have time to read it. That is a concern I would like to raise so that we all take note of it. The same concern has always been raised by my Committee, the PAC Committee whereby we always want to try and hijack the process.

Anyway, Mr Speaker, in looking through the amendments, I do not have any difficulties in trying to make these amendments so that there is efficacy in the administration and work of the Police and the Prison Services. But what do we achieve at the end of the day by simply passing this Bill? What do we achieve?

What I simply mean is that our Constitution has three arms, which are the Legislature, the Judiciary and the Executive. And in my view, this amendment was pushed here on the floor of Parliament because there was a court case by the Governor General, challenging the unconstitutionality of certain terms in the Act. When I further read the Report, Mr Speaker, that case was adjourned sine die. These three arms of the Constitution must go full head and finish their own processes.

In my view, Mr Speaker, just simply adjourning the case because there is a fault in the Constitution or whatever, the Courts should have just gone ahead and finish its course. And if that is really proven it comes back to the floor of Parliament and the Legislature does its work of correcting it. That piece of it. I say this because the case was adjourned but we did not know the outcome of the case.

Mr Speaker, in my humble view and opinion we must not try to hijack the process. If the Governor General is wrong then he is wrong and so that amendment or proposal or whatever is brought to Parliament. Can the Minister take note of this? It is not proper to hijack the process of Parliament because that case is not yet finished. The Court has adjourned sine die. You find out the decision of that court case before you come back to Parliament because Parliament must not be dictated by the Executive because it has its own authority under the Constitution.

But I will support this Bill so that the Minister can take this back and make the necessary amendments. It is not a big deal as stated in the objects and reasons of the Bill. I am simply raising those issues of concern, and this is not only this Bill. I will talk again on the next Bill on Monday when it is going to be introduced in its Second Reading. And I expect that to be very fiery, enjoyable and entertaining, and I hope the Member for Savo/Russells makes himself geared up ready for the debate on the proposed Bill.

Mr Speaker, with those few comments and remarks, I would like the government to take note of the processes through which Bills are introduced on the floor of Parliament. Please give Members of Parliament enough time to read through bills so that we can do some research in the Library or the internet so that we are well informed. We are making laws, Mr Speaker. Legislations are laws we make for people and not for animals. Laws that we pass in Parliament must have an effect and impact. That is the seriousness and the genuineness on why Members of Parliament must be given ample time to read through bills.

With those comments, Mr Speaker, I support this amendment.

Hon FONO: Thank you, Mr Speaker, for allowing me to contribute briefly to this Bill. At the outset, I thank my colleague Minister for Police and National Security through whom the government sees the importance of bringing this Amendment Bill so as to be inline with the provisions of the Constitution.

Mr Speaker, I will be brief in my contribution, and first to respond to my good Member for Rendova/Tetepare for some of his sentiments and then talk briefly on the basic principles of the Bill.

Mr Speaker, as we know, the Prime Minister made it very clear this week that because of typographical errors beyond our control this bill was late in coming before Parliament. For the information of the nation, the printer needs modern technology in order to do fast processing. At the moment, they have to retype the bill rather than scanning it, as a new technology that is now available.

I have advised the government to give enough time for this bill, and so the first reading was made on the first day to allow time Members to look through the bill and the second day is Second Reading, Committee of Supply and Third Reading. This Bill is not a big Bill that would take my good Member a whole day to research. If he has been doing his work properly and has the ability to research, he could have done it the whole day yesterday because the house adjourned early allowing him time to study the Bill in order to contribute positively.

Mr Speaker, there is ample time for Members to study the bill. I think the process of consultation was also done during the drafting stage of the Bill, which now finds it in this Chamber.

Mr Speaker, I can also see the wisdom why the Court did not nullify the Act that was passed because of its inconsistent provisions to the Constitution because this would only reflect very badly on the previous government, the GCCG. It was the last government that brought the Act, the Correctional Services Act, 2007. It would reflect badly if the Court ruled that Parliament had passed the Bill, which has now become a law but was inconsistent to the provisions of the Constitution.

Mr Speaker, I say this because the due process of consultation and advice by legal people of the previous government was done. And for the Court to nullify and throw away the Act would not be proper. That is why it must stand sine die to allow these amendments to come before the House for us to amend the Act to make it in line with the provisions of the Constitution, especially Sections 123, 124 and 125, which made reference to the Prison Services and not the Correctional Services.

When this Bill was introduced, I was the Leader of Opposition then, and I raised a lot of questions and arguments on the principle of the Bill when it was debated last year. And if Members dare to read the Hansard Reports, some of the questions I raised during the debate as the Leader of Opposition has now become evident that there were weaknesses in the Bill.

Mr Speaker, it is good that the three arms are in the Constitution so that we can straighten bills before they become laws in our country.

Mr Speaker, the general principles of the Bill is straightforward. The provision that allows foreigners who are convicted and serving in prison for more than three months to go back and serve in their own countries is a very good law because it will be a great burden for our government to continue meet the costs of their imprisonment if they remain in the country.

Mr Speaker, the Correctional Services Act implies that our people when they ended up in prison must be corrected. It is the due process of that correction that we must continue to encourage. On that note, I would like to thank our Churches for visiting the prison to pray and talk with the inmates telling them about the love of God through His Son Jesus who can forgive them for their wrong doings.

Mr Speaker, here I must appreciate that some inmates when they came out from prison changed their lives but others did not. Instead when they came out they still continue to do the same things they are involved in only to find themselves going back to prison again. The renaming to Correctional Services from Prison Services implies that when our people end up in prison, they must be corrected.

Some of the provisions in the principal act that we passed, gears towards that, and that is to allow the prisoners to correct their behavior, attitudes and ways. We all know that only the Lord can change lives so that we repent from the wrongs we committed so that we do not go back to prison.

Mr Speaker, the Correctional Services Amendment Bill is straightforward. The government supports it and therefore tables it here. It is important that we pass it so

that the provisions that are inconsistent with the Constitution can be put in line with the Constitution to make the Bill straight otherwise it would be considered null and void.

And as I've said if the Act is considered null and void by the Court then it would be a very bad reflection, not only on the Parliament but the Government that processes the Bill which finds its way to the floor of this Parliament.

With these few comments, Mr Speaker, I support the Bill.

Mr MAELANGA: Mr Speaker, I would like to thank the Minister of Police for bringing this important bill before the house. Sir, I would just like to ask the Minister to explain Section 73 of this Correctional Amendment Bill 2008 which talks about the Parole Board, as this concern inmates living in prison.

I was once in prison and today I am happy to see this Bill called the correctional services replacing the term prison services. When I was there during my time I used to call the prison a place of persecution. But today I thank the Minister responsible for Police and Justice for bringing this Bill before the House.

I want the Minister to work and look more seriously into the parole board because I know the Minister has the power to give license to those serving long periods in prison. If you go to the prison you would see some of the inmates there who are sick. Some have been there for five, six and seven years, and are sick and yet they are still there. Why can't we look into the situation of our people? Please Minister, can the parole board consider those types of people. They have changed already and so they should be considered for release under your powers, my good Minister.

That is what I would like to bring before this House. My good Minister, could you and your parole board look into this and consider some of our people who are now behind the bars.

With these brief remarks, Mr Speaker I support the Bill. Thank you.

Hon KEMAKEZA: Mr Speaker, I too would like to contribute very briefly being mindful of your ruling to us. In fact I did not intend to contribute, Mr Speaker, but the MP for Rendova/Tetepare mentioned the MP for Savo/Russells, and there is no clause in this Bill that mentions the MP for Savo/Russells and therefore I must correct the MP for Rendova/Tetepare.

But before doing so, Mr Speaker, I would like to congratulate the present Minister of Police who is a lawyer by profession, a former Minister for Police and an enforcer by profession.

Sir, I call this Bill an oversight. It is an oversight in the sense that it contravenes Section 2 of the Constitution as read with Sections 1, 2, 3 and 137 of the Constitution. That is what is spelt very clear in this Bill, and it is to make sure it is consistent with the constitution.

Under Section 2 of the Constitution, if I can quote says, "This constitution is the supreme law of Solomon Islands and if any other law is inconsistent with this Constitution, that other law shall, to the extent of the inconsistency, be void". As much as possible we must avoid it. That is all we are putting right in this Bill. And I thank the

Leader of Opposition for seeing this. Therefore, for the MP for Rendova/Tetepare to jump up and down saying this Bill is given to him very late is not right. Mr Speaker, Standing Order 43 to 52 is very clear, and this is cleared by your office.

The Bill was in the pigeonholes of Members on Tuesday and the MP for Rendova/Tetepare has no excuse whatsoever for not properly studying this Bill, let alone the report of the Bills Committee.

The only person who should be blamed for this oversight is none other than the Member of Parliament for Rendova/Tetepare because he was a member of the Cabinet then when this Bill was brought before Cabinet and he should have spotted this oversight. Now he is crying over spilt milk because his mistakes were found out. That is what I would like to correct him on, so that he understands that the hard working former Minister of Police is introducing this bill, let alone an oversight, just like other laws which we have also corrected.

Mr Speaker, only provision 74(A) is a new provision included in this Bill, and that is dealing with a foreign prisoner or foreign inmate.

The Bill is just for us to correct the inconsistencies, and the right person detecting this inconsistency is a lawyer, and with the help of the Attorney General Chambers this Bill is brought before this House for us to correct.

We in Parliament passed the Act, and so we also must correct any anomalies to the Act so that the Member for Rendova/Tetepare understands it because he should be blaming himself.

With these, Mr Speaker, I support the Bill.

Mr TOSIKA: Thank you, Mr Speaker, for giving me the opportunity to speak on this very important Amendment Bill.

Mr Speaker, as you would know, I am the former Minister of Police and National Security and I tabled the Bill in 2007. As you would know as well the operational date of the Act is 1st April 2008 simply because during the time we discussed this Bill in Cabinet, we intentionally left those words as they are on the basis that we want to change the constitution this year. That was the intention because any changes to the constitution would require a two third majority support of Parliament to pass and therefore I do not want to confuse Parliament by presenting a bill and then presenting another amendment to the Constitution at that time.

A majority support of the Bill as I explained to the Prime Minister and the Attorney General's Chamber during the time that it is much better to push the bill through so that an amendment to the constitution would be supported by the whole House.

During our deliberation of this bill at the Bills Committee, I raised a point and concern on paragraph 2 of the report that what I intentionally wanted to do during my time was to simply amend the Constitution, not making new provisions in the Act.

I made this point on the basis that we are specifically changing the Prison Service into the Correctional Services. I therefore do not find any difficulty amending the terms in the Constitution to reflect the terms used in the Act rather than making provisions as

in this Bill. That was our stand during that time. We intended putting a bill to Parliament to amend the Constitution during that time but it was very unfortunate that we were brought down by political turmoil and so we had no opportunity of putting a bill to Parliament. This is just an explanation to the house so that the Government and the Opposition have a common understanding on this. Thank you.

Mr NUAIASI: Thank you, Mr Speaker, for allowing me to briefly contribute to this very important Bill, the Correctional Services (Amendment) Bill 2008. Mr Speaker, I would also like to congratulate the Minister responsible for bringing this Amendment to make it consistent with the Constitution as highlighted by others who have spoken before me.

Mr Speaker, most of our colleagues who have spoken already on this Bill have touched on areas that I would like to speak on. But as Chairman of the Bills and Legislation Committee, Mr Speaker, you can see in our report that we fully agree with the amendments as they are consistent with the Constitution, which should be alright now.

Mr Speaker, as highlighted by the Member for Rendova and Tetepare, which has been a problem, I would like to say that the secretariat of Parliament have done a very good job in writing up the report because this Bill was just considered by the Committee on Tuesday. And after the Committee's consideration of the Bill the secretariat produced the report of the Committee's discussions and deliberations during its sitting. If Members of Parliament would read the report, they would clearly see the discussions my Committee has done on the Bill.

The sentiment of timing on the availability of bills has been raised to relevant authorities and I hope in future this will not happen as has happened. Because of technical problems we have encountered delay in the consideration of bills on time.

Mr Speaker, I once again would like to thank my Committee, my officials and to say that they have done very well in looking through the Bill. This Bill will go through today. I support the Bill. Thank you.

Hon HAOMAE: Mr. Speaker, I shall be very brief and I shall offer some observations in support of the Amendment Bill.

You would notice that the three arms of the Government referred to by the Member for Rendova/Tetepare are at work and are working very well in this country. The Executive Government brought the Bill last year, the Parliament passed it, and the Judiciary is now querying the Bill. It shows that democracy in this country is alive and at work. It is a civil case and not a criminal case. So when it is deemed to be sine die it is consistent with the principles.

The principles of the Bill have already been dealt with. I did not contribute to the Correctional Bill when it was moved last year because I was absent due to matters that you were aware of, Mr. Speaker. But I would like to make some observations on the new addition to the Bill.

Mr Speaker, when somebody is sent to prison, they do not lose their rights. Their rights, their human rights and all the rights are still there. They are merely restricted bound by the sentence. Therefore, if a foreigner commits crime in our country, the Bill gives him the option to write to the Minister under the relevant clause of the Bill. It is an option that can be utilized, and he goes through the process and finally it is decided by a High Court Judge. It is not automatic, Mr. Speaker. That is the point that must be noted here. It must go through the process and the reasons why, whether out of security or things like this. This is consistent with the flow of the correctional services like the Minister stated in moving the second reading this morning.

That is the point I want to emphasise. I think the Minister may elucidate on it further when he winds up the debate, but I want to make it very clear that this provision is only optional and not compulsory. It depends on a prisoner making a written application and through the process whether the Judge of the High Court will give the green light for that process to be concluded so that he goes to serve in his country of origin, citizenship or residence.

Thank you, Mr. Speaker, and I support the Bill.

Mr OTI: Mr Speaker, like those who have spoken I also from the outset support this Bill. And I would like to thank the Minister for Correctional Services for introducing this Amendment Bill, and also thank the former Minister for Police and National Security for the explanation given as to why the Bill appeared as it is and the intentions in 2007 of how to progress of what is going to be an impasse between the Constitution and the new legislation. But I think the most important, and I think has been covered in the last debate on the principal bill, was the change in definition from prison to correctional services. I think that is to be inline with the Human Rights Conventions and the rights of even prisoners perhaps for that matter. I think this is in recognition of the change, of the tide that is now happening and giving prominence to human rights and recognizing the rights of others.

To make it sound perhaps more respectable, we have come from this old tradition of punitive justice to a correctional approach to deviant behaviors. I think that has been, as I said, covered well in the debate of the principal legislation.

But for the purpose of this amendment, Mr Speaker, I think it is clear from what the Minister has explained sections of the principal act which are being affected by this amendment. Apart from those, I think the new one is basically an addition is Section 14, of the draft bill is actually adding a new section to the principal act under Section 74(A).

This is very important and as mentioned briefly by the Minister of Foreign Affairs, the right to transfer under the intent of the prisoner, I think time must be given to look at the period given of three months or more.

Looking at the possibilities of time that can take up in processing this, we should not only be looking at the situation here in Solomon Islands. I think our procedures and processes will be easier. But for you to process this three months sentence here, that kind of request in another jurisdiction might take six months. I think we need to re-look

at this particular section in terms of the time limit of three months and up. That is, on the one hand, the time we need to consider the processes and procedures of another jurisdiction whereby the transfer of the prisoner is going to take place.

Secondly is the definition of country of citizenship and residence because you might be resident in a country that you are not a citizen. And if an inmate is a citizen of another country but he applies to complete his sentence in the country of his residence, which is not his citizenship then you have a problem as to the obligation of the country of his residence as to whether or not it will treat him under its criminal jurisdiction for prison purposes. Those are what we need to re-look at again in terms of the amendment to that particular section of the bill.

Also whether or not there is a need to enter into a state to state agreement that governs it so that you are proactive, you are preempting that, and in fact you are part of our cooperation and if we look at the agreements and treaties that are in place now, there are arrangements within states on the treatment, the exchange, and transfer of people like this - convicted prisoners, and for very good reasons.

We have had, I think, some experiences in Solomon Islands of the rights because this particular amendment tries to give right to the prisoner to apply. But there are also states that need not talk to the prisoner to ask him to request but they have concern. And this is where the residence and citizenship counts. Like I can recall in the last two years the case of a French national who has been imprisoned here, and it is not him but perhaps through their diplomatic channels have tried to take this prisoner to complete his sentence in a French jurisdiction either in Paris, France, New Caledonia or elsewhere that France has its jurisdiction. This particular provision of this amendment will now make it easier for that to take place. But this is a state requesting another state and not the individual prisoner making intervention directly to the Minister or the Commissioner here?

The intentions of this particular section of the amendment perhaps are sound, as it is, but the government and the Minister need to re-look at the operational functionality of this particular provision.

With those few remarks, Mr Speaker, I support the motion.

Mr WALE: Mr Speaker, I too wish to thank the Honorable Minister for bringing these important amendments to the Correctional Services Bill. I will be very brief and I would like to basically make two points only.

First, as a general point in response to my colleague Member for West Honiara, the former Police Minister, it would seem to be that the previous government has made a deliberate choice to introduce a bill before the House that it knew was inconsistent with the Constitution. Not that I am a lawyer but as a layman I think if we begin the habit of deliberately introducing bills into Parliament, passing them into law when we know they are going to be inconsistent with the Constitution, we are creating a deliberate mess for the courts to deal with.

What happens if we should introduce deliberately a bill that we know is inconsistent with the Constitution or the Civil Aviation or something else in the hope of

coming sometimes in the future with the numbers to then amend the Constitution to align it with a particular act.

I think as an approach, Mr Speaker, we would have to say that it is simply wrong. If we want to amend the constitution we go to amend the constitution. If it is not politically on numbers' perspective or whatever reason, we are unable to amend the constitution then do not amend the Constitution but bring bills before this House that are consistent with the Constitution. It is useless to pass a law that is not workable and then passing a political burden on the Courts.

With due respect to my Honourable colleague, the Member for Rendova/Tetepare, when a court adjourns sine die it is also part of the court process. It does not mean the court is frustrated. To be consistent or otherwise with the Constitution or bills, I think this is a serious matter that the government or those introducing bills to the House ought to take seriously.

Secondly, I want to note that the shift from prisons to correctional services is a very good one, and I join others in appreciating this, because punishment for offending is important to human dignity. It is recognition that we human beings have the capacity to choose, and so when we choose to offend we get punished for it. This shift also to the term correctional also highlights that without the hope of reform and rehabilitation, punishment on its own would be purposeless. And so in human society punishment is important as it sends the right signals. We know within our Melanesian traditions and cultures that the offender must reintegrate into society and become a meaningful, productive member of society.

With these brief comments, Mr Speaker, I support the Bill.

Mr AGOVAKA: Thank you very much, Mr Speaker, for allowing me to talk briefly on this Correctional Services Amendment Bill 2008. I would like to thank the Minister for bringing the bill to Parliament for our deliberation and endorsement.

My point here is on the new section. I think it is important for us to understand that once we pass this Bill, this new section is a very powerful position. I would rather see a foreigner who is in prison apply in writing to a committee, perhaps a prerogative committee of some sort rather than giving the power to the Minister who may in future have other agendas. It would be more appropriate if we could give this power, not to the Minister but to a committee to look into the matter where a foreign prisoner applies in writing to serve his prison term in his country of residence or citizenship. That is the only point I would like to raise on this one, but apart from that I support the Bill.

Hon TORA: Mr Speaker, I would also like to join other colleagues who have spoken briefly on this Amendment Bill. I would like to briefly make one or two points that I see to be in line with the correctional services term that we will now be using instead of prison services.

Mr Speaker, like other speakers have said, I see it important that the term we now use is the right term - correctional services. All along, Mr Speaker, a lot of our

people, people in the society see those breaking the law must go to serve punishment in a particular place, and that is the prison.

For myself, Mr Speaker, I see these people as very important in the society. Just because they break the laws of the country and that is why they ended up in prison. We human beings are bound to make mistakes but our mistakes can be corrected, and that is why people go to prison.

Whilst I acknowledge and thank the churches for doing pastoral duties with inmates, I would also like to see that to fulfill this term 'correctional services', we must look into the future that apart from pastoral services, let us look at some trainings to be given to prisoners so that when they come out from prison they can look for employment. They can be trained on agriculture. For instance, some in prison might not know how to look after pigs, chicken and things like that. Therefore, agriculture training is a need. For myself, Mr Speaker, this Amendment is timely and I see it as very important.

The second point I would like to raise, Mr Speaker, is about the right we are giving to inmates, especially foreigners, who are jailed from three months and upwards. It is true that inmates do not have freedom, but they still have the right to say something they want. They have the right of transfer from one prison to another. Maybe from the correctional institution here to the correctional services in the provinces. That is the right of prisoners.

In the case of foreigners, Mr Speaker, I think one of the reasons behind this additional provision is because of the increasing population in our country today where many people all over the world come and live with us, some of them operate businesses, some of them come for holidays and happen to break the laws of the country and so are imprisoned. And therefore instead of serving their jail sentences in here, they have the right to apply for permission through legal proceedings to complete their jail terms in their country. I see that as a good provision that foreigners must not serve their punishment here, because I fear that they might have foreign influence over our local citizens also serving their term in the Correctional Services here.

With those few points, Mr Speaker, I support the Bill. Thank you.

Hon MAGGA: Mr Speaker, I want to contribute briefly to this, especially the new Section 74(A) in regards to a foreigner serving a prison term for three months. I already raised this in Cabinet but I would like to raise it again so that we could look at it and perhaps bring an amendment to it later on.

I feel that this section should be free in such a way that a foreign prisoner must serve a total of three months and thereafter before he can be considered for transfer to his country of origin. I say this because most of the time we usually bring amendments to parliament, but in a case where a foreigner commits the crime of murder and just within a short period of time he is transferred back to his country of origin, how would the parents or relatives of the deceased feel about that when somebody is sentenced and all of a sudden transferred back to his country of origin.

I would like us to somehow come back with an amendment that a prisoner must serve a total of three months and thereafter before he can be considered for transfer back to his country, because as I said people who have their daughter or a son murdered would not feel happy if the prisoner is quickly transferred.

Not only that, but the world is changing and there are incidences where if a foreigner commits crime in here through political means, maybe serving more than three months and within those three months goes back to his country he would not go to prison, but set free in that country. This is why I said that a prisoner must serve a total of three months before consideration can be given for transfer to his country of origin. This is an area I have concern about.

The other area is the application of a prisoner to the Minister of Police for transfer to his country. I totally agree with the Leader of Independent that there must be a board where prisoners can apply to for consideration before it goes to the Minister. I would suggest that they apply to the parole board, and the parole board make recommendations to the Minister, and the Minister has the final say or final approval.

These are the comments I would like to raise in this House for us to take note of. I do not want to see people committing crime in our country, serve a short period of time, and taken out to go and serve the rest of the sentence in their country of origin. To me that sort of law is not really right.

With those few remarks, I support the Bill.

Hon Sikua: Thank you, Mr Speaker, for giving me this opportunity to make a few remarks in winding up the Bill.

Mr Speaker, in relation to Section 74A, I think some of the comments made are on issues to do with 74A. One of the factors we also have to consider is the safety of the prisoner in question, and this is pertinent to a case we have at the moment where the safety of a prison if convicted for imprisonment cannot be guaranteed because of the nature of his work. In this case we are talking about RAMSI where the inmates might have some negative feelings about RAMSI or RAMSI officers, and to put, say a RAMSI official in the same compound as people that might have been put in prison because of the activities of RAMSI, puts the safety of that prisoner or that particular person if he is in prison into question. That is one of the factors that brings about the necessity for Section 74A.

Of course, we are also mindful here, of the Rainbow Warrior case in New Zealand where the two people who have been imprisoned in New Zealand were set free as soon as they got to France. But that is one of the factors that the Minister responsible can take into account in the agreement that he is going to make with the receiving state. The timing or the length of time a foreign prisoner is in prison is basically up to the discretion of the Minister. I think that is one of the things we must not forget as well.

Clause 14 which adds Section 74A takes cognizance of the possible delay in securing court order, which is one of the concerns that have just been raised. Clause 14 which adds Section 74A takes into cognizant the possible delay in getting the Court

Order so that subsection 4 of the intended Section 74(A) provides that the Order will be applied for in chamber, not in an open Court. I think that is an important point to take into account. The court does not have to sit but the Order can be taken to a judge sitting in his office.

There is a major difference here where you can apply for the order in chamber and not in an open court. This is to ensure a summary process, hence, the Commissioner of Correctional Services can seek the sanction of the Minister's decision and this can be done within one or two weeks and not months and therefore that is the reason why we have kept the period of three months or more, rather than six months as is the case that has been expressed by some of the previous speakers.

I think with those few clarifications, Mr Speaker, I support the bill.

Hon Manetoali: Mr Speaker, I thank all those who contributed to this debate. Mr Speaker, I would be very brief in my reply, and start off with the Member for Rendova Tetepare on the few points he raised today. He has no difficulty with the Bill. Some of the concerns he raised is not enough time, and that we hijack Parliament.

Mr Speaker, my reply is that the Member for Rendova/Tetepare should just read the rules and regulations of parliamentary proceedings. If there is not ample time, the Clerk or whoever would not have allowed this Bill to come to the floor of this Parliament. I just want to ask the Member of Rendova/Tetepare to read the Standing Orders because this Bill will go through Third Reading where he will have time to contribute to it.

He also talked about the three arms of the Government: Parliament, the Judiciary and the Legislature and said that the High Court adjourned because of this Amendment. Again, I would like to say that the Honorable Member should just read the High Court proceedings and the civil procedure rules to see the reasons why the High Court has to adjourn. It is not that this Bill interferes with the Judiciary. There is no interference with the Judiciary and this Government will not interfere with the work of the Judiciary. The Court adjourns purposely because of the rules that are there to guide the adjournment.

I will now turn to the points raised by the MP for East Malaita on the Parole Board. The Parole Board is there in the Amendment. The Parole Board would be appointed by the Minister and the Minister would be advised by members of the board for release of prisoners on license. The Correctional Services Act caters for the Parole Board.

I will now come to the point raised by the West Honiara MP, the previous Minister of Police who said that last year they passed the Bill first with the intention of amending the Constitution this year. Mr Speaker, if that is the case then it is null and void from the outset. The Act would have been already void last year. It is like putting the cart before the horse.

Anyway we will have to sort this out through this Amendment Bill that comes before this Parliament so that the Correctional Services Act will be in tune with the provisions of the Constitution and not contrary to the provisions of the Constitution or

the spirit of the Constitution. That is the purpose of the Bill that comes before Parliament this morning.

I will now come to the point raised by the Leader of Independent who said not to give too much power to the Minister to release prisoners on license, but give it to a Parole Board. As I have stated earlier on, the Parole Board is there to decide on whether a prisoner would be released on license or not. I can assure the Leader of Independent that the Parole Board is very important in doing this job to assist the Minister on whatever decisions he/she would make on the application for release on license.

In regards to foreign prisoners, those who administer this Act would have to look at the expenses the Government would incur, the safety of prisoners and other conditions before a prisoner is returned overseas. There is a similar provision in the previous Prisons Act where the Minister last year sent away a foreigner from this country to his own country under license. This provision is similar to the provision in the previous Prisons Act.

Mr Speaker, briefly, that is my reply in regards to this Bill. Thank you.

The Bill is passed

BILLS

Bills – Committee Stage

The Correctional Services (Amendment) Bill 2008

Mr Chairman: For information of Members, an explanatory memorandum on the Sections being amended and a copy of the principal act are attached to the Bill. That is for your information. We shall now go through the Bill clause by clause.

Clause 1 – agreed to.

Clause 2

Hon Sogavare: Mr Chairman, I need the Attorney General and Minister to explain Clause 2 to 14, most part of the legislation just wants to bring the new law to be inconsistent with the Constitution. The point I raised during the general debate is on the words used in the Constitution are still there. The law just deems it. What is the plan of the government? Is it that at some later time you are going to bring in words in the Constitution to be consistent with the new legislation or leave it as it is?

Attorney General: Yes, the words are retained except that rather than using the definition part to describe who they are, it refers to actual substantive sections in the Bill. The question as to whether there will be a Constitutional Amendment is a policy matter

the government has to decide first on before the Attorney General's Chambers can act on it. But it is desirable.

Clause 2 agreed to

Clauses 3 to 12 agreed to

Clause 13

Mr Waipora: This is a very simple question and it is to do with the Board. I want the Minister to clarify because I can remember that some years ago, I was appointed to one of the boards called Visiting Justice or something but this one is the Parole Board. I want to know because they are to do with the Prison Service.

Hon Manetoali: Is the question on who are in the Parole Board?

Mr Chairman, the Parole Board would consist of very senior and qualified people appointed for a fixed term. Those people must have specialized professional qualifications, for example, one is that the chairperson must be a judge or someone qualified for appointment as a judge, and the other one is that one member must be a medical practitioner with experience in dealing with mentally ill people. And the other members are others that have specialized knowledge and qualification in the rehabilitation of offenders. Those are the people that the Minister can appoint to be in the Parole Board.

Attorney General: The Parole Board is another body different from the Visiting Committee. If you look at the Principal Act, Section 29 deals with the Visiting Committee.

Clause 13 agreed to

Clause 14 agreed to

Mr Agovaka: Mr Chairman, Clause 74 (A)(1) which says, "if a foreigner is serving a term of imprisonment of three months or more". It seems to me that this Clause is more concerned about the safety of a prisoner rather than the gravity of the crime committed, hence a short term sentence rather than making it much longer to qualify him for transfer.

Hon Manetoali: There would be a lot of factors; there are factors to be taken into account before the Court allows a foreigner to be transferred to the jurisdiction where he/she comes from.

Mr Oti: On the point I raised today, perhaps the Minister could clarify the possibilities of the distinction between a country of citizenship and a country of residence. This is going to be an arrangement on understanding between two states. There are really two

options, two choices for the inmate. If he cannot get it through his country of residence he has a choice to under citizenship but in terms of the jurisdiction of each one, I think citizenship would be more subject to serious concern for the inmate.

I just want to ask a question why we are applying for either citizenship or residence since both are not the same.

Attorney General: The use of the words citizenship or residence is to allow how the foreign countries are structured under their law or political structure and whether they would have citizenship or residence. We do not know which country we will be dealing with in future, and so we have are making provision for two possibilities, either citizenship or residence.

A point to take particular note of here is that the request is to be made by the prisoner himself. That prisoner must obtain the consent of the foreign country. At this stage we do not know whether the country he wishes to seek consent from is a country which he holds citizenship or just mere residence. That is why we have to make provision for those two possibilities.

Mr Oti: I thank the Attorney General for the explanation. Therefore, perhaps as a matter of policy it is to make this provision of the law practical eventually. Secondly on the issue of reciprocal undertaking, as a matter of policy, is the government envisaging pursuing this because to put it to become functional I think it will have to be supported by a policy undertaking, whereby we establish that relationship between us and any other states, a second or third country for that matter.

But policy and reciprocal arrangement is also important because of our own citizenship in future. If their laws are not accommodative of our particular concern then of course it will be a one way traffic. We take care of them but they do not take care of us. It is really a policy matter, Mr Chairman, but it can be strengthened. This particular provision of the law can be strengthened. To make it more practical we need to extend this particular arrangement beyond the legal process. It must be pursued through the normal policy and undertaking with states for that matter.

Hon. Sikua: Mr Speaker, that will certainly be the case. What is not evident here is what is possible under normal diplomatic relations.

Mr Wale: I just want clarification from the Minister. What is there for the Bill to prescribe, perhaps the agreement, the conditions of the incarceration of the transferred convict?

As alluded to by the Prime Minister earlier on in the case of the Rainbow Warrior, they left New Zealand and were basically free people. I am thinking in terms of this modern world state terrorism is common place, not that they would want to come and attack us, we hope not, but if a particular state chooses to sponsor that kind of thing and say for instance, kills somebody on our soil, if they are released to their country obviously they become heroes.

Now there are some mechanisms there where 'if the Minister is satisfied'. What criteria exist to guide the Minister so that we know on what basis is he satisfied or otherwise on a particular application to safeguard the point made by the Minister of Lands earlier on.

Hon Manetoali: The criteria in which the Minister would want to have before a prisoner is sent out is that one would be that he be sent into prison in his own country. An example is the Rainbow Warrior where if he is sent back is he going to be imprisoned in his country or is he going to be released. That is a point for consideration.

Another one is, is he going to be safe in his own country is he returns, and many more, which I think would be by regulation later on.

Hon Sikua: Further to what the Minister has mentioned, this is an area where the government can develop a policy to guide the Minister on how to execute his powers in these kinds of circumstances. The government can develop policy to guide the Minister.

Mr Wale: I am concerned because depending on which side of the bed one gets out of in the morning if these are not objective criteria, we may lend ourselves to a little bit of abuse of that particular power. But I also want to raise another point following on from what the Member for Temotu/Nende raised today that what if a Solomon Islands citizen who is a permanent resident of another country, can he exercise his right of residence in another country on this one or not? I just want clarification.

Hon Manetoali: I will pass that question to the AG to answer as it is a legal matter.

Attorney General: This Parliament cannot legislate what other governments or other countries can or should do. It will be a matter of the application of the law existing in a particular country.

However, the suggestion made by the Member for Temotu/Nende could be the way out as the balancing exercise to ensure that our citizens who are convicted in other jurisdictions can also enjoy the same kind of right that we are legislating for on this side.

Hon. Haomae: Just to add on to what the Attorney General said. The Bill is not for Solomon Islanders but it is for foreigners. If you a Solomon Islander but you are resident overseas you are still a Solomon Islander and not a foreigner.

Mr Wale: Just to clarify my question a bit. I am asking about a Solomon Islander living in Solomon Islands and is convicted in Solomon Islands but is a permanent resident in another jurisdiction and chooses to exercise his/her rights under his/her permanent residency in another jurisdiction. Is it within the realm of possibility that this provision could be abused? That is all I am asking.

Attorney General: I think the word foreigner is a simple ordinary word, and not a technical legal word. In such a situation described by the Member for Aoke/Langa Langa, perhaps we could resort to the Extradition Act rather than this one.

Mr Tosika: If we can talk practical. For instance, if I am a permanent resident of Australia but holding a Solomon Islands citizenship, can I be allowed to serve my sentence in Australia as a resident? I see it as discriminating if Solomon Islanders who are residents of other countries are not allowed and because of their residence the government of the foreign country allows him to become a prisoner because he is a resident of that country. What would happen in such a situation or circumstance?

Attorney General: Yes, you are still a Solomon Islander.

Mr Oti: Mr Chairman, the foreigner provision is imprisoned in here is sentenced here to serve here. On the issue of if a crime is subject to being extradited, how will this law make a distinction on that? If a subject of another country and the crime he commits in here is extraditable under his jurisdiction, and therefore will be limited on application to use the prison sentence or provision to apply to serve in the proper jurisdiction because you are caught up with trying to protect him under our extradition laws. Where is the distinction if these two are in conflict with each other? The Extradition Act conflicts with the provision of Section 74A. I guess this is for the Court to determine but these are the practical realities that can land the practicality of application of these provisions. Leave it to the Courts, Mr Attorney General to make that clarification when the case comes before the Court.

Attorney General: The purposes of the two laws are different - the Extradition Act and the Correctional Services Amendment Bill. I would not see or anticipate any conflict in the application of these two laws.

Normally, under the Extradition Act it is a request coming from a government on the other side. Here, what you have as Section 74A makes provision for the prisoner himself to apply. It is a process requested or initiated by the prisoner himself and then consented to by the foreign government, and so I do not anticipate any conflict between the two laws.

Mr Oti: Just to clear my mind, I was trying to make reference to the scenario that the Member for Aoke/Langa Langa painted that certain transnational crimes will attract this sort of action to take place. Someone is sentenced in our jurisdiction under our own laws, but the gravity of the crime and not the period, it is the gravity of the offence he is sentenced for that would require him to be extradited by another jurisdiction. That is why these two will come into conflict. It his right under this law and our obligation under the Solomon Islands jurisdiction where those conventions are applicable to it.

I believe this can come into direct conflict if the scenario painted by the MP for Aoke/Langa Langa comes in. I am not saying it is going to happen as you said Mr

Attorney General, but perhaps let us brace ourselves against the potential and the possibilities that our intentions, the intentions of Parliament of Solomon Islands, its scope, is it wide enough to cater for all situations as they may arise. Thank you Mr. Chairman.

Mr Maelanga: I want clarification from the Minister on this. What sort of offence is covered? Can those under the offence of stealing or murder apply for this?

Hon Manetoali: It applies to all cases. It applies to life-timers, burglary too like last year where one was sent to his own country.

Attorney General: Rather than reading a category of what kind offences, I think all that you need to know is any offence attracting convictions of up to three months or more come under this. A prisoner can utilize this provision if he is serving a sentence, a term which is three months or more. If a prisoner serves a sentence below three months, that prisoner is not eligible to utilize the provisions of this clause.

Mr Maelanga: Does it mean someone serving lifetime in prison.

Attorney General: Obviously lifetime is above three months

Mr Waipora: This is a very important issue and that is why we are taking time on it. My question is, there are some measures we are going to take where after three months someone is sent out, which means that after he/she is sent out we do not worry about him/her and so he/she can be free in their country. If we are concerned about whether he goes to complete his term in his country, how would we know that a person from Russia or Africa or Ethiopia will continue to serve his prison sentence in his country? How are we going to monitor a person to make sure he completes his prison sentence in his own country?

Are we saying that when he goes out, we are free from him and now it is up to the prison over there to take care of the prisoner? But if we are concerned about that, how are we going to monitor that?

Attorney General: It depends very much on the agreement the Minister will enter into with the governing authority on the other side. Probably what the Member is raising may be one of the factors the Minister should take into account or when the Government develops the policies should take into account.

The enforcement of this kind of agreement whether it will be observed by the foreign government on the other side depends very much on how our Government treats its diplomatic relations with the other government. If we are dealing with a government that we do not have diplomatic relations with, then obviously the government or the Minister has to think seriously about entering into such an agreement. .

Mr Wale: Sorry to bore you on this point but I come back to the definition of foreigner just to be on the safe side. The definition of foreigner excludes permanent resident. Now I suppose my question precipitates more.

In some countries, Mr. Chairman, as you know, permanent residents basically have the rights of a citizen. In New Zealand, if you are a permanent resident you are as good as a citizen because you can vote and so forth. So it would be up to us, our definition of the word foreigner that sets the boundaries on what we feel is permissible or not.

In that instance, for example, and sorry, I am repeating this point but I feel it has not been answered properly, in a New Zealand case, a Solomon Islands citizen with New Zealand permanent residency, which is almost as good as citizenship, exercises under this provision his or her rights under the jurisdiction of New Zealand to apply so that he is repatriated back to New Zealand to serve his term there. That is what I am trying to say.

Do we have control over the definition of the word 'foreigner'? We just assume that foreigner is a non Solomon Islander but there are so many other categories based on this word, and that that is why I am asking for clarification.

Attorney General: In trying to understand the word foreigner, please think of it in the context of Solomon Islands. This law is made for application in Solomon Islands.

How we treat foreigner would obviously be looking at the convict's passport. Obviously if he holds a foreign passport then under the Immigration Act of Solomon Islands could not be a citizen of Solomon Islands, but a foreigner.

If a person holds a resident permit issued by the Department of Immigration, we cannot classify that person a Solomon Islander although he holds a residence permit because under our Immigration Law, he is still a foreigner.

The fact that he holds a residence permit does not qualify him to be a Solomon Islander. And so if he is not a Solomon Islander he is a foreigner.

It is when we try to think of what happens in other countries when we start getting into this kind of confusion. To understand this piece of law simply to see how it is interpreted in our local context. If he doesn't hold a Solomon Islands passport, or if he doesn't hold a citizenship, then he is not a Solomon Islander but a foreigner.

If he holds a residence permit under the Immigration Act that does not qualify him to be a Solomon Islander, he is still a foreigner. Thank you, Mr Chairman.

Mr Wale: Thank you, Mr Chairman, it is much clearer now. It is the passport that will explain it. Thank you.

Clause 14 agreed to

Clauses 15 & 16 agreed to

Parliament resumes

Hon Manetoali: Mr Speaker, I beg to report that the Correctional Services Amendment Bill 2008 has gone through the Committee of the Whole House without amendments.

Bills – Third Reading

Hon Manetoali: Mr Speaker, I move that the Correctional Services (Amendment) Bill 2008 be now read the third time and do pass.

MOTIONS

Hon Sikua: Mr Speaker, I move that the House do now adjourn.

The House adjourned at 12:20pm.