

THURSDAY 24TH APRIL 2014

The Speaker, Sir Allan Kemakeza took the Chair at 10.03 am

Prayer

ATTENDANCE

All Members of Parliament were present with the exception of; the Minister of Provincial Government and Institutional Strengthening and Members for Fataleka; West Kwara'ae; Temotu Pele; North-East Guadalcanal; North Guadalcanal and North Vella La Vella

BILLS

Bills Second Reading

The Constitution (Status of Magistrates) (Amendment) Bill 2014

Mr Speaker: Honourable Members, yesterday Wednesday 23rd April 2014, the honourable prime minister's move the second reading of the adjournment debate of the magistrate amendment bill 2014 to the next sitting day. Members may now speak on the general principal of the bill and in doing so I would like to ask honourable members to comply with the rules of debate.

Debate commences

Mr MANASSEH SOGAVARE (*East Choiseul*): Thank you Mr Speaker, thank you for giving me the opportunity to speak on this bill before the house, the constitution status of magistrate's amendment bill 2014. The prime minister already moved yesterday and as rightly pointed out the amendment is only a small one and quite very significant to the policy which we try to advance it here, amendment to section 116 (3) of the constitution for us to enable magistrates to become constitutional post holders. The committee gives the opportunity to call the ministry of Justice to appear before the committee to explain the idea behind the amendment. The amendment is quite simple but the policy rational behind it is quite elaborate and which tries to address a series of issues which our Magistrates are facing given the kind of responsibilities that we give them.

As you know, when the country collapse in year 2000 all government systems were crumple and the only arm of the government that is still standing and maintaining its integrity is the Judiciary. The do not give in to any pressures that comes during the very difficult times. You and I were leading that Government during that most difficult time due to the support from the Governor of the Central Bank. So, that is the nature of this arm of Government.

If we cannot trust the Judiciary then that is the end of any kind of trust in any country. As Politicians and political governments we ask people to trust us but very often we back out from our words.

During the year 2000 crisis the political Government was totally hopeless in maintaining the integrity of the Government. So, any moves to continue to protect the integrity of the Judiciary is a move in the right direction and Parliament should not have any difficulty in lending its support to such policies that comes before the House.

As I have stated, the amendment is very simple and the intention is very clear. We outline in our report the policy rational which officers from the Judiciary have brought so the House would be able to read it. The first issue that was raised is directly in relation to what the policy is trying advance and that is the shortage of the Magistrates in the country - three in Honiara, one in Gizo one in Lata and the other one Auki.

Although we have shortage of Magistrates and the number of lawyers that were around the Judiciary finds it very difficult to attract lawyers to take up Magistrates responsibility. So, the committee was told that we really need to do something about this. The Prime Minister talks about the separation of powers between the different arms of Government. As I have mentioned in my introduction, the Judiciary stood its ground even during most difficult times and maintain that independency. In order to help the Judiciary to be able to attract qualified people to up interest and carrier as magistrates, we need to improve the conditions.

The move to remove them from the Executive Arm to become independent is a move to elevate them to constitutional post holders. It has to go with the relevant of remunerations. The way the committee was informed was that the salary will be 10percent lower than the other on. In other words, you pull up by this 10percent.

That should be a first move to donate some kind of incentives for people who want to become magistrates to be attracted.

Workload is another issue raised. The committee fully appreciates that. The issue of qualifications of magistrates was also highlighted. The move should discourage corrupt practice in order to continue to maintain the integrity of the Judiciary.

The issue of independence can be argued academically. There are people who argued that making Judiciary too independent can be a risk. I think theoretically, we accept that there is separation of powers between the Executive, Legislature and the Judiciary. In practice, there are serious overlaps and for good reasons. For example, the Executive sits right here in Parliament, minus the backbenchers of course. This is for accountability and transparency. The Executive sits within the Legislature so that Parliament can ask questions. That is an example of the need to check on each other. The danger of a Judiciary that is totally independent for the other two Arms is that we may risk so many other things.

I think the way the reform tries to advance is that Parliament should not have the fear of the Judiciary being totally independent from the other two Arms. We can still be comfort with that although we appreciate the issue of judicial independence in the sense that the Executive should not influence the decisions of the Court. I do think the Judge and

Magistrates would allow themselves to be influence by anyone when it comes to decision makings.

We come up with four recommendations in the report. The committee recommends the passage of the amendment Bill. The committee also recommends that the Ministry of Justice and Legal Affairs provide family support towards this development. By the way we also move down as well and make comments on one of the lay justice issue. And I think one amendment came at the first place and we did raise issue and for us to look at other lower insolence of courts so that we will also improve them. We did make that comment. Any way the third recommendation is that, the Committee recommends the Ministry of Justice and Legal Affairs to assist the Chief Justice in formulating regulations as guidelines for lay Justices to abide by in performing their roles in the lower subordinate courts. That is a direct lesson to the concern that the lower courts will be totally let loose and the kind of decisions that they come with are not consistent. And sometimes they clearly breach the procedures that there are double chief hearings for same land cases. So what we gathered from it was presented to us by those that appear before us is that there needs to be some serious guidelines to guide their work of the lower courts and then this important matter of a code of conduct for the Magistracy and all lower tribunals. That is inconsistent with the importance of continuing to maintain and uphold the integrity of the judiciary and the officers that work in that arm of the government.

Sir, the Committee do not have any problem with this Bill and we recommend that Parliament pass it.

Hon DOUGLAS ETE (*East Honiara*): Thank you Mr Speaker. I want to thank the Minister for Justice and Legal Affairs for bringing this very important constitutional amendment to Parliament. I am really happy that this amendment has come before Parliament for us to look at. As you know, Latimer House Agreement signed in Indonesia between the Head Judicial Ministers in the world including the Commonwealth has laid the framework for the separation of powers for the three branches of government. That is why I am very happy because the Judiciary by virtue of the National Constitution, we have come to amend. I will support this amendment and to put them heavy weight lifters. Heave weight lifters as you know, those constitutional post holders. They are also 24 hours in and out of work just like the public officers, but their status must be higher. I want to thank the government and the Minister for this small reform that you have brought to Parliament to contemplate, consider and approve. I am really happy about this. The only issue that I see here as the previous speaker has said, this is a reform but it is the beginning. And I think this reform should not stop here. I think with this reform, still independency of the Judiciary still blur. It is a policy matter but I would like to urge the government to bring back the Palmer's Report 2011. It is a huge report written by the Chief Justice. It was brought before Cabinet in 2011. That report grants the autonomy of Judiciary.

In most countries in the world, Judiciary as a branch of the government is really independent. Its independency shows in the Constitution. That is not the case with this amendment. We just simply raise the status of magistrates.

I would like to see the Palmer's Report in Parliament. How do you discipline Judges? How would you organize the remuneration of Judges? Currently it is done by pure negotiations. Every salary in this country is done purely by negotiations. There is no framework as yet by successive governments in 32 years. We do not have a wage commission or a higher salary commission in this country.

I have read through the Palmer's Report. It is a huge report. If the government is serious with its policy to drive this thing forward, please bring the Palmer's Report to Parliament. How do you deal with the scheme of service and benefits for Judges? How do you hire and discipline Judges? That policy rationale depends on the government of the day to drive forward.

At this point, I would like to thank the Prime Minister and Cabinet for seeing it fit that Judges be put at par with other magistrates.

I would like to see the Palmer's Report if government is serious about reform. Condition of service is meaningless without the autonomy of the Judiciary. They will be just public officers. They can still go on strikes. You cannot close what is called a close shop. They can still go into a strike and disable the economy stability of the country. If we give the autonomy as spelt out in the Palmer's Report, the government is on the right track.

With that and that only, I will support this Constitutional amendment 116(3a). Thank you.

Hon GORDON DARCY LILO (*Prime Minister*): Thank you Mr Speaker. I would like to thank those who have spoken in support of this very importance Bill, in particular the Chairman of the Bills and Legislation Committee and also the Chairman of the Public Accounts Committee.

I would like to thank them for raising very important and valid observation that we all oath to take note of in this whole process of reforming the Judiciary of our country as we work towards its total independence. As the Chairman of the Bills and Legislation Committee alluded to, I am quite impressed with the observation and the assessment that the Bills and Legislation Committee have made of the Bill itself. As you will note, this would be the first report that was given a total tick and support when it enters this House and I think that is right to do so, because of the thing that I mentioned yesterday. That, despite the separation of power the Judiciary does require the support of the legislature and the Executive and this is because the exercise of power can only be debated by these two arms; the Executive and the Legislature.

In that regard, it requires this Legislature to have a complete and total bipartition support behind any matter or issue that comes out of the Judiciary. Hence, I really want to thank the opposite side of the House for giving their support behind this Bill. Furthermore, I

think we need one or two observations and the first one is, how do we work towards a complete independence of the Judiciary and for that I think we can only do that in a progress kind of way. I am sure that the Chairman of Bills and Legislation Committee can remember that in year 2007, we started off by creating a separate Head for its budget which was called the National Judiciary and now we realised a matter that was perhaps delayed for some time in terms of the overall reform of the public sector is onset again and that is how we would consider the terms and conditions of the magistracy.

Historically we had started off with only one Public sector and due to some oversight on the reforms that we did in the Public Sector in the past, we did not quickly pick up this particular issue. But this is the time and I think it is the right time for this Parliament to make that happen and as we will note in this Bill, it requires an amendment to section 116 (3) of the Constitution to enable the inclusion of the status of the magistrates to be included a constitutional officers. I think the point that the Member for East Honiara stated is very true and from here we need to guarantee them that independency for them and how do we do that? Well, one suggestion that we are currently working on is, maybe we should consider a separate body to determine the entitlement of the constitutional officers observation that we all oath to take note off in this whole process of reforming the Judiciary of our country as we work towards its total independence. As the Chairman of the Bills and Legislation Committee alluded to, I am quite impressed with the observation and the assessment that the Bills and Legislation Committee have made of the Bill itself. As you will note, this would be the first report that was given a total tick and support when it enters this House and I think that is right to do so, because of the thing that I mentioned yesterday. That, despite the separation of power the Judiciary does require the support of the legislature and the Executive and this is because the exercise of power can only be debated by these two arms; the Executive and the Legislature.

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and from here we need to guarantee them that independency for them and how do we do that? Well, one suggestion that we are currently working on is, maybe we should consider a separate body to determine the entitlement of the constitutional officers. Perhaps we could call it as a constitutional offices entitlements commission just like the parliamentarians too. Members of parliament that we have the parliamentary entitlements commission but we need to be very careful that we do not create too many bodies which in the end we ended up creating burden to government finances. I think it could be good to do this so that we can have a complete guarantee of the separation of these three arms of government.

Sir I think everyone would all agree with this, it's a very simple one and once again I would like to thank both sides of the house for their full support. And I just like to remind us that as this is a constitutional amendment it will require two third majority supports and I think it only should be upon all of us. As members of the legislature to give the support to the judiciary in giving that full two third support as required under the constitution for the passage of this bill.

With those remarks I beg to move.

Mr Speaker: Thank you honourable prime minister, as the honourable prime minister has rightly say, this amendment of the constitution requires two third of members to pass this amendment. We have 49 members of parliament currently the members of this legislature. And we need 33 members to pass this amendment in according to Standing Order 41. We will be also going to collect your voice and then will call for division for the clerk to organize to ensure that we get to the required number to pass this constitutional amendment. Honourable Members I will now ask the clerk to ring the bell for the members to come in, before the bearer call the members to come into the chamber. After the bell rings then no members will be allowed into the chamber.

Division taken

Mr Speaker: Honourable Members, the Motion is carried with two-third of the forty-nine Members. The Bill therefore will stand committed to the Committee of the Whole House. The result of the division is:

Ayes – 37

No – 0

Abstain – 0

Absent – 12

Question is agreed to

Bill is committed to the Committee of the Whole House

Parliament is suspended

Bills – Committee Stage

The Constitution Status of the Magistrates (amendment) Bill 2014

Committee of the Whole House commence

Clause 1 & 2 agreed to

Chairman: Honourable Members, that concludes the proceedings of the Bill of this Committee.

Committee is dissolved

Parliament resumes.

Hon Gordon Darcy Lilo: Thank you Sir. I have the privilege to report that the Constitution (Status of Magistrates) (Amendment) Bill 2014 has passed through the Committee of the Whole House without amendments.

Question agreed to

Bills – Third Reading

The Constitution Status of the Magistrates (amendment) Bill 2014

Mr Prime Minister: I move, that the Constitution (Status of the Magistrates) (amendment) Bill 2014, be read the third time and do pass.

Mr Speaker:

Division taken

Mr Speaker: Honourable Members, the Third Reading vote of the amendment Bill are as follows:

Ayes – 37

Noes – 0

Absent – 12

Question agreed to

Bill is carried

Parliament is suspended

Parliament resume at 2.08pm

BILLS

Bills Second Reading

The Mines and Minerals (Amendment) Bill 2014

Mr MANASSEH SOGAVARE (*East Choiseul*): Thank you, actually the debate has just started and I want to open the debate on this Mines & Minerals (Amendment) Bill 2014.

The Bill came before the Bills and Legislation for scrutiny. Our report has been presented to the House but apart from that we just have one correction needed to be done and that is on page 8, sub-item 4.3 relating to “*tax on gross value of minerals*”. It is supposed to be “*Royalty payment on gross value of minerals*”. That is just a correction with regards to the terms that are used there; instead of tax on gross value of minerals it should be payment of royalty on gross value of minerals.

So we did actually look through the Bill and our report is now before the House. In that report we came up with recommendations which note that the amendment Bill seeks the approval of Parliament to effect the number of amendments to the Principal Act in the following manner:

1. Introduction of a new section 36 (a) to empower the Minister to make it a condition for the issue of mining lease for the company to construct infrastructure for the purpose of the Act and the new mining taxation regime to be known as the approved infrastructure.

So the committee note that as one of the amendments that is needs to come through and secondly Introduction of amendment on section 45 of the Principal Act to incorporate the following policy decisions first to require that royalty on gold, nickel, bauxite shall be at 3 per cent of the gross of value of the minerals remove from the site. Or transferred to another person and at a rate determine by the minister of mines in consultation with the minister of finance in respect of other minerals. When it comes to other minister, others or other minerals they are then are listed there. Then the minister of mines will consult with the minister of finance to come up with the rates at which royalties to be paid.

2. The amendment to section 45 of the principal act which the committee notes in cooperation of a new subsection (4). ‘To require the establishment of a

mining royalty special fund under section 100 of the constitution into which all royalties will be paid in and distributed in the following manner. For gold, silver, copper, bauxite and iron ore, 50 per cent to the Solomon Islands government.

That is 50 per cent of this 3 per cent royalty, 4 per cent to the land owners and 10 per cent to the government under whose jurisdiction the mine existed. And in the case of other minerals, the committee notes 100 per cent of the royalties are to be paid to the landowners of the land from which the minerals are expected.

3. The amendment also defines the term gross value of gold, silver and all other minerals specified in that amendment.

Now the reference to this new taxation regime, the provisions that were under this bill that are directly relate to the new mining taxation regime. Establish under the income tax act that will come in tomorrow is the requirement that in order to qualify for deduction. The minister may make it a condition of the mining lease for the mining company to construct the infrastructure to be known under the new mining taxation regime as approve infrastructure under section 36 (a) the new section that comes in. And reference is made to it under the new taxation regime establish and incorporated in the new income tax amendment bill. It further stipulated that the infrastructure must benefit a community of Solomon Islands. And can be constructed by the mining company holding a mining lease and it does it more efficiently than the government. Is not clear there are others if we just give money for government to do, or other entities to do. It looks like it tires specifically to the mining company to build that infrastructure so there is no flexibility there.

The policy to make the mining companies responsible for the construction of important infrastructure are from the discussions we had with you and private section is generally a good policy. It encourages what happens to be socially responsible and it makes a good common sense in that some of the wealth that we generate from our resources and especially non-renewal resources. It ploughs back directly into the economy by way of infrastructure development; this is one area that public investment from locally generated revenue is currently very low public investments from locally generated revenue is currently very low. We are quite struggled to build those infrastructures when it comes to us resorting to our own resources to do that. So we just make a good common sense that those kind of infrastructures that we will build makes specific reference to communities when talking about small infrastructures. But we would like to see as well some major infrastructures that come within the scope of financing under this kind of arrangement.

Sir, we cannot under estimate the importance of infrastructure development and its roles in advancing economic development. As matter of fact, it is really difficult to see how a modern Solomon Islands would progress in development without prioritising public investment infrastructure development.

As I have mentioned earlier on, with other resources it will be quite difficult because of the demands on the resources that we have to fund anything. Some of the revenues that come from our mining resources appear to be a good policy.

Of course, we need to be strategic. The construction of infrastructure just for the sake of constructing must not be entertained. However, to avoid this we must be guided by a national infrastructure development program that will be affected into a country's long term development program. So that whatever we fund makes sense.

The construction of bus stops for example is a need that the country is basically lagging compared of with growth of the country's population. According to some commentators they said that we should construct an average of one classroom per day. Resources wise we will find it very difficult to cope with such challenges. The same could be said of the accessibility to health care centres and other health facilities.

Sir, the policy seems to be late coming where we miss the opportunity. The forestry sector is generally considered by many commentators as a sun set industry which is very true because this country could have been benefited from kilometres of properly constructed public road system or network of good quality schools and clinics on all the major islands if we had such a policy attached to the development of the forestry sector since 1924. Probably, it is late in incoming but probably better later and I think we started off with the mining industry which is a foot in the right direction.

Under the present arrangement with the forestry sector the provision of infrastructure is left to the negotiating skills of landowners who in all cases are placed in situations of intense pressure in trying to negotiate these deals and sometimes they just give in due to bribery. It is important that our people must be able to demand accountability from those in positions of responsibility, government and company. They must be able to do that and from my understanding of this thing – there is nothing really stopping landowners to have access to documents and agreements. It is often the case in Solomon Islands that mining documents are not readily available for inspection by landowners or only to the so-called trustees. It is also the case that due to lack of proper advice that landowners do not always get the best deal from the operation of the mine. And these are things that I think boils down to the broader policy issue of what sort of benefit that we get out of the presence of mining operations in the country.

Now let us take Gold Ridge Mine for example, I would like to see under this arrangement for the Minister to approve the construction of properly tar sealed and culvert road system to the relocation villages. That should be declared as approved infrastructure. I am saying this because if we do not do that, in 10 years' time you will have to follow bush tracks to reach the settlements. When the mine is completed and they left and they do not attain to the road, you will have follow bush track to reach those village settlements. That is probably one example.

I would also like to see primary schools and clinics in every settlement declared as approved infrastructures. There are no schools there; they have to walk miles to attend school. Running water pipes to the villages must also be declared as approved

infrastructure. Right now the people in those relocation villages had to travel long distance to a clinic near Pitakole School. They have to walk down when they are sick and they children had to travel long distances to attend school every day. So the policy is heading the right direction. It is the right thing to do. You got the provisions there declared as approved infrastructure that the company builds and will get deductions under the new taxation regime. Water supply system, of course, is still being completed. Whether they will complete it or not, but they have already pulled out. So we are not clear what will really happen.

Whilst having this big infrastructure is important as well, we must be careful not to be carried away with them that we forget the impact of mining on people. This is where community engagement must pay close attention to the interest of every woman, the most vulnerable, especially the social impact of mining to vulnerable people like that. We should learn from other countries. Access to land and livelihoods must be guaranteed to avoid people being impoverished and disempowered.

Sir, the issue of royalty payment will probably affect a lot of debate, and the Committee has made some suggestion here for the government to consider. We have made a comparative analysis of other countries and we suggest – what if we increase it to five per cent; that kind of thinking. So I guess the debate will continue on this because it is not in this House but also among the landowners, the mining companies and the shareholders, this issue of certain percentage of gross value of mineral is a sensitive issue.

The broader policy ensuing from the level of royalty proposed under the Bill is that; what level would be considered a proper and fair distribution of wealth generated from the mine. I do not know whether we sit down and really seriously think about this. It is very easy just to jump maybe because of the 3percent of the gross value. If percentage is all we are looking at then why not increase it to 5percent?

Of course the answer varies as to what we should get and at what level. I think the basis upon which the new taxation regime under the Income Tax Act; the way it is structure is the recognition that nature of mining business require mining business require mining companies to incur huge costs during the four phases, namely- reconnaissance, prospecting, mining and rehabilitation phases. There are big capital inputs in these phases by the mining company. That is how the new mining taxation regime is structured. It tries to recognise that fact. Therefore the distribution of wealth generated must take this into account.

There is also the argument that in addition to royalty payment, mining companies pay a lot of taxes to the government. This is also considered as a distribution of wealth generated by the company. This includes cooperate and individual taxation under Income Tax Act, sales tax on the services rendered under the Service Tax Act, taxation under Goods Tax Act, customs and exercise duties under the Custom and Exercise Act, stamp duties under the Stamp Duties Act. They will this as the reason to peg the gross take from the value of minerals at something a bit low.

Because of this, the percentage of royalty normally pitched very low. We have surveyed a number of countries and it shows that the percentage ranged between 2percent and 15percent. Solomon Island is pitched at 3percent of the gross value of minerals removed

from the site of the mine or transferred to another person. This is distributed to the Solomon Islands Government at 1.5percent, which is 50percent of the 3percent, 40percent of the 3percent, which is 1.2percent is transferred to the landowners and 3percent to the Provincial Government.

By the way, there was some reporting in the news that this Bill improves the royalty payment to landowners. It does not do that. It just formalise under the Act. The 0.3percent still stand as the royalty rate paid by mining companies. The distribution remains the same; 1.5percent to the government, 1.2percent to the land owners and 0.3percent to the Provincial Government.

This distribution brings up a number of questions. The mining industry expressed serious concerned over the basis upon which the royalty is calculated. We also feature it in the report on gross value; they argued that net smelter return would be the most appropriate basis for the calculation of the royalty. And of course they probably have a point there. So it is the percentage that will determine the share. If it is to be at net smelter value then you raise the rate to may be five, six or seven percent but if we consider it on the gross then probably it is sensible to put it at three percent. But I don't know maybe that is an issue that probably we will continue to discuss.

There is also the question of fairness and that question can be adequately answered if we fully appreciate the level of mineral deposits and the price it is fetching in the market. Also, take into account the cost of extracting the resources and the cost of converting the ore into marketable products and host of other cost that the mining company took up during the three phases of the mining operations.

Moreover, in terms of the mineral deposits, the private sector that came before us and we picked that up and we recommend that the Ministry of Energy, Mines & Rural Electrification to establish a proper digitise mining database that is kept online. However, we do not know what information that we need to inform ourselves. At one stage I heard that such information was taken to USA and we have to actually hunt that far to find our own data that people took away. So I guess the issue of fairness will be addressed only if we have that information, so that we can argue scientifically because right now we are talking all over the place.

So the cost that will directly affect the profitability of the mining operations and therefore it has implication on the level of Royalty are those incurred during the reconnaissance and mining phases of the mining operations by way of capital deductions and direct expenses. Despite the fact that the royalty is calculated on the gross value of the minerals extracted. And this cost normally run into millions of dollars. Whilst appreciating the huge cost involve in extracting the resources, the question on the fairness of royalty payment remains an issue for debate. I think we need to keep that alive because at the end of the day we will really need to address what is the fair return to the government, to the people and to the company. Therefore I think the debate must be kept alive.

The obvious question is why should the government get the 1.5percent? Why does the government get 1.5 percent of the gross value mineral extracted when it also benefits

from the various taxes paid by the company? Of course, the answer lies on who has the rights to the mineral resources in the Solomon Islands and the debate will continue. The other obvious answer is the need to equitably distribute the wealth generated from the mining industry, which would not be possible if most of the royalty is paid to the landowners and the Provincial government. And this is the ideal way of distributing wealth under a government system that based on democracy?

On that question, the Mines & Minerals Act is quite clear; the right to the mineral resources found under 6feet of soil in the Solomon Islands belongs to the state. I think this is an area that needs to be probably considered in future reforms because people are talking and as we say, although the mineral rights belongs to the government but laws still recognize the land owners, you must go through them before you reach your six feet. You need to go and excavate or take out their six feet before you get your minerals. If the landowners says no; even how many rights you have to minerals we will probably move nowhere when it comes to development of our mineral resources in our country.

Fair benefits, that is discussed in the committee amongst ourselves but in the solution, it may not necessary be the transfer of rights to the landowners. I don't know it is the subject to our debates and discussions may not be in that, rise to the landowners in the interest of fair distribution of wealth but rather the broader issue of great participation by land owners. And the committee comes up with one recommendation to that, the committee recommends the government to develop legislative change. That will allow landowners to upgrade the participation in mining companies or operating on their land. Those of us who have privilege to travel overseas, am really impressed by the indigenous landowners in New Caledonia, the Koniambo Nickel Mine. The indigenous landowners owned 51 per cent of that company. So they actively participate by way of shareholdings, not royalty, they participate actively to the company.

In saying that sir, I do not see any reason why our laws could not require that land owner should involve as shareholders. In the mining companies using a designated value of mineral deposit as their capital input their share in the company. I'm raising these concerns because we will probably although mining boom is happening now; we will probably have difficulty accessing the areas. People are talking, people are saying we need to look at the whole mineral policy; we need to design that first before we start to talk about how to develop those resources and of course what I've said earlier probably requires amendment to the minerals and mines. The act that we are dealing with now to deal with the question of mineral rights because only the party that has legal right to the mineral deposit can deal with it in any way it likes. So government can decide to give you 1.2 per cent or I give you .3 per cent, government legally has that power to do that because he owns those mineral rights.

What I am saying is the question of mineral rights will become an issue when we dealt deeper into the issue of great participation of landowners. Is that question that we cannot just by pass, you still have to address the question of the rights to minerals. There is the other question whether Solomon Islands can still generate the same level of wealth

without resorting to mining. What if we just leave out the mining's and do not touch them? That is another extreme view that is coming out, we just leave them and this question is reflecting on the questions raised by environmental groups who are against the mass, the disturbance of soil and eco-system. Resorting from mining operations I believe probably they have a valid argument.

There are areas that I believe we should not allow to be mined because the country can benefit from other forms of development on the land and adjacent sea areas. A case in point which I've already raised earlier, in Choiseul this is like Wagina and I thank the government for listening and talk with the people at Mt. Maitabe in Choiseul. Almost all the tribes in Choiseul owns that mountain almost all the tribes in Choiseul owns that mountain. It is unique because you would not see something you find there elsewhere. The vulnerability of the ecosystem to destruction in these areas is quite high. There is a potential tourism attraction area that we should disallow mining companies to enter them – not even explorations. In the case of Wagina it supports a thriving seaweed industry that is vulnerable to destruction if mining were to be allowed on that island.

Of course, our laws also recognise the rights of landowners on whether to allow or refuse explorations on their land. I believe that the Government has a duty to assist landowners in making these decisions and not leaving them in the dark when landowners confront big multi-national companies in negotiations.

It is very often in the case that the government in the interest of mining places people in a very vulnerable positions when dealing with mining interests. If the areas are suitable for other forms of sustainable development like tourism we should have the guts to say, 'no,' to mining companies. I believe tourism have huge benefits for a very long time compared to mining.

Our report is a short one. Our last recommendation was that the Committee recommends that Ministry of Mines, Energy and Rural Electrification to carryout awareness programs about mining in the country to enable people to better understand operations of the mining industry. For some of the rumours I think all it needs is probably to go down and clarify doubts of people on what the Government is doing. With that the Committee recommend the pass of the Bill and we do not have any problem to support it.

Mr PETER SHANEL AGOVAKA (*Central Guadalcanal*): I would like to thank the Minister of Mines, Energy and Rural Electrification for bringing this amendment to the House.

Sir, the Bill is simple because there were only two only sections for amendments – section 36(a), a new inclusion and amendment of section 45.

Sir, allow me to start by saying that the new section 36(a) is a very important section in the mining industry. I say so with lots of experience at the mining sector and seeing prospecting companies and mining companies come and go.

Sir, the new amendment makes it conditional of a mining lease that a company to which the mining lease is issue constructs infrastructure. The approved infrastructure in Section 36(a)

will rely on a prescribed regulation to this Act, which the Minister has the power to do so Sir.

Although Sir, we are not privy to the regulation at this moment and I hope the Minister can bring that to Parliament as well of the approved infrastructure; it falls short of prescribing the infrastructures, the approved infrastructures. But Sir, in my view and from my experience and growing up in the mining sector, this particular Section will be welcomed by the landowners and community in which a mining company will operate.

As you know Sir, once the land is leased to a mining company, people living within the vicinity of that lease will have to be relocated to a safer site, outside the mining lease, and hence infrastructures have to be constructed. From experience Sir, when I took the helm of the landowner's council in 1996 we negotiated a number of infrastructures. And Ross Mining when it started; the first ever mining in our country, we negotiated infrastructure that was better in my view, then people had at that time.

People have relocation houses built by the company and the company built Primary schools for the landowners children and their communities, they also built clinic for the health of people, they built a large church for their spiritual wellbeing, they also built a women's centre to allow women to participate in social and economic development within the community and they also built a community hall. On top of those infrastructures Sir, they also built boreholes for water supply for the people.

And this forms the basis of infrastructures that we discussed and negotiated with the company. The company was obligated to relocate people and hence they were obligated to build infrastructures. Mr Speaker, I would like the Minister to take note of some of these infrastructures so that he form part of the approved infrastructures.

Approved infrastructures Sir, should form part of a community development by any large investor coming into country. Not only in the mining sector, but also in the logging sector, the fisheries sector, the agriculture sector—and I am pleased that GPPOL has made a community development program that built houses and a lot of other infrastructures for their workers and the landowners.

Sir, Section 36(a) would be most welcomed by the people, the landowners and the community in that particular vicinity where the activities taking place. So I support that particular amendment Sir, and I will wait and see what the approved infrastructure in the regulation will be like.

On the second part Sir, regarding the minerals and Royalty distribution, the amendments is in order Sir, to give effect to the introduction of the new mining tax regime in the Income Tax Act. When I was a little boy growing up at Gold Ridge, I never contemplate that there were regulations and laws that govern the minerals. It was never an issue to me. It is not until I led the Landowners Council that I realised that there is a Mines and Minerals Act and it plays an important part in how we dealt with the mining agreement that we negotiated between the landowners and the mining company, and also between the landowners and the government for that matter. For example, as a member of the land owning tribe of Gold Ridge, I thought that the land and whatever is on and under it belongs

to the tribe. I never realised that the law states that the State owns anything that is below six feet. We the landowners only own the surface. Anything that is below six feet belongs to the State, and that is the law. So no matter how we argue that we own the land, it will be hard because the law already states that we only own the surface. And that goes to the river as well, the State owns that river. So even if we try to stop them from taking water, it will still be difficult for us because the State owns the river.

Sir, the landowners are at the mercy of the government because it owns the minerals. The State owns everything that is six feet and below the surface. So we the landowners only have surface right. And when we went to this negotiation table, we were really at the mercy of the government. But I was pleased that the late Solomon Mamaloni in his wisdom called me and said – look son, the government owns the royalty, landowners owns nothing. But we will make an MOU so that we will half this. He was true to his words when we went to the negotiation table the next day, the government team said that we will share the royalty of three per cent – you get 1.5 per cent and the government get another 1.5 per cent. Today the percentage still remains the same, except one small amendment to that agreement where the government said that the landowner will give a little bit of the share to the province government – 0.3 per cent was taken out of the landowners' share. So we actually had 1.2 per cent share.

Listening to my colleague Member for East Choiseul, what he said is very true. They squeeze us the landowners. The small percentage that we take is further squeezed down. The point that I want to raise here is this, I do not see any logic and wisdom in this. Why should the landowners share or portion of the royalty be divided further with the Guadalcanal Provincial Government for this matter? I was of the view that the provincial government is the arm of the national government, and hence, it is an agent of the national government. And as an agent, the national government should give a share to the Guadalcanal Province or any provincial government for this matter. Instead we further squeeze the landowners and that is very sad. So by the time the royalties are distributed to the tribes, there are 16 tribes in Gold Ridge, it will be less. I am giving example of Gold Ridge because it the first mining industry in our country. And Gold Ridge will set a yard stick for many mining operations to come. And I have seen some very good prospecting reports from the Western Province. If we do not set Gold Ridge right, there will be problems in Western Province as well. Landowners will still be angry with the 1.2percent.

There are some good reports from the Shortlands and Choiseul. Those reports are available with the prospecting companies. At that time when the Late Solomon Mamaloni made his good will gesture, it was not by Act of Parliament, It was not by law; it was just an agreement and MOU between the landowners, government and the company. Now we formalise it as an Act of Parliament. 1.5percent will go to the Solomon Islands Government, 1.2percent to the landowners and 0.3percent to the Provincial Government. We are now making it a law. We used to do it on an MOU basis in the past. Now we legalise what has been an MOU between the landowners and the government.

I am very disappointed. When I look at the Bills and Legislation Committee report, the table on page ... contains a list of royalty rates by other countries such as Australia, Papua New Guinea, Indonesia, Ghana, Peru, Philippines and United States of America. They have a range of royalty rates that are better than the rate that Solomon Islands has. I think we should amend this to reflect the wish of the people of our country on how we own land, relate to land and how we relate to resources. People will not be happy if this is not changed because the royalty is too low. They will not benefit out of it. We should increase the royalty to 10 per cent or even 7 per cent or 8 per cent before legalising the 1.5percent, 1.2percent and 0.3percent. 10 per cent is a better rate so that we have bigger proportions.

I think the Minister should bring an amendment on the 3percent in order to reflect the wishes of the landowners. If you look at the Federal Constitution and State Constitutions, ownership of land and minerals is factored in. It is the people that own resources and not the state.

This is like a catch 22, where the state needs funds to run the country in terms of goods and services, hospital medical care, education, infrastructures like airport, wharf and road and so they will also need money and I agree with that. But we need to re-look at this one, we need to make re-calculation and look at ways that will help the landowners. So that when we increase the royalty rate we take that from them so that we can help the landowners in other goods and services that they need.

This Amendment Bill as I said is only a short one and we will have two amendments that are here, one is a new one and the other one is just to legalise the royalty proposition to the government, landowners and the Provincial Government. I hope the Minister takes note of the things that I stated in terms of the community development and as well royalty rate and that is to increase them in order to fulfil the wish of the landowners as the rightful owners of the resources that we have in our country. So with these few remarks, I support the Bill.

Mr Speaker: Just a reminder to the members who wish to speak to observe the rules of debate.

Hon GORDON DARCY LILO (*Prime Minister*): Thank you for making that very important reminder for us. Well, Sir I would like to contribute briefly to the debate of this bill and I would like to thank the Minister of Energy, Mines & Minerals and the Minister of Finance and Treasury who have been part of the whole reform exercise that has been carried out to find a way for us to make improvement in the management of the benefits and developments that come out from this extractive industry, the mining industry that we have in the country.

Of course we do have the potentials but the one we are currently having now is at Gold Ridge and as you will find in this Bill, the reform is there basically to find a way to improve the management of the royalty earned from the industry.

Secondly to feature the various amendments to the Income Tax Act as it relates to the benefits that derive out from the Mining industry. But I think it is the first one that is more important for us because it does touch on our people especially that social responsibility that we expect out of the mining companies that given the licenses to engage in the extraction of our mineral resources. But in doing that, we need to understand the resource itself and how do we come to own it and this because, minerals as we all know are our lands as blessings from our God. Scientists said that it is by geological accident that we somehow find minerals in the certain parts of lands and under the seabed

When it comes to the whole argument of how do we centre the control and the discussion and making the right legislation and policy as to how we manage these resources, In the centre of it is we have to look at this jurisdiction in this country, and where the state will play a role in coordinating all other stake holders, so that we develop these resources. Most of the time we ended up trying to divide us with these arguments, divide the stake holders and make them to stand alone and see their rights more important than the others. I will just give you an example, if you take the state out of this whole equation, how will you see people managing the development of that resource. It would have been in a very chaotic situation; we will end up in a stateless society and then what will happen?

Multi nationals and companies that are involved in the Mineral developments they like that, they like a lesser role by the state, so that they can have more influence on the very vulnerable resource owners or the people who lived in the areas that their interest lies. There are so many literatures around that you can read to make this kind of understanding as to why we need to put the state right in the centre and plays a significant role.

The third point which I want to raise is that we are a new comer in the Mining industry. Most Mining developments are done through certain status that we do not find, like for instance in the US or in Australia. These are companies that are known as public companies, so their accountability, transparency standards are quite high. For us the next thing we should start looking at is to establish a stock market so that we can look into companies where everyone should put some value into it. We invest into it as public companies, may be that is the next thing that we have to do but these are thinking's that we must think seriously about. Unfortunately right now what we have is that we have a company incorporated in Solomon but the shareholding company listed off shore.

There are different arguments and issues that arise when it comes to negotiating the arrangement. And I am sure the MP for Central Guadalcanal would know all of these including the member for North East Choiseul. Who are part of the discussion during those times when we started off with the negotiation of the Mining lease for Gold Ridge? I would like to take us back to what is in the bill.

Sir, one of the very important things in this bill is the requirement where the Minister can actually prescribe it and approve the infrastructure to be constructed by that company in the particular community that this mining lease happened. In the past we do not have that it's a subject of negotiation and then we ended up with a situation where there are claims from the company for tax deductible arrangements, out of all these cost for infrastructure or

other cost then we ended up with this kind of an argument. Have these infrastructure been built to standard or are they benefiting the whole community? Should government construct those instead of the company? If you look at the provision here, it points to that kind of an option it does not give that right to the company and there has to be a question that has to be asked. And in sub clause (b) states that can only happen if the government cannot do or other companies can do to the quality and standard for such an infrastructure to be build.

The other aspect I want to mention here to enlighten what is right in the centre of this whole reform. The media has reported that this Bill will improve the rate of Royalty, but I think that this is misreporting. But, we believe it improve management of royalty. And I think this is the part which the media might take it wrongly. But in the arrangement that we proposed, is that it will lead towards a better improvement in the management of the Royalty so that resource owners were supposed to be beneficiaries of such a royalty are not left out. Otherwise, we might end up with the situation that happened recently that some resource owners came up with schemes and therefore other resources owners were being deprived.

In this Bill you will find that there is a trusteeship concept involved or is featured in a way that, for instance, in section 4(b) and onwards they actually specified the rates to provincial governments and landowners while the government remains a trustee. So that will keep up the standard that anyone who is placed in that responsibility to manage or consider when the distribution is made does not end up like what we recently experienced.

So we are building up the responsibility that those in public positions will be cautious because Government is a trustee and I am placed in that position to be trustee on behalf of the people to ensure that distribution has to be done fairly and equitability to resource owners. We do not have this trustee concept in the existing legislation although there is an implied intention. But we are explicitly stating here that Government is a trustee. So that is another important issue that the Government must exercise that there is trusteeship responsibility in the interest of fairness and equity to avoid unfortunate situations.

So, I want us to take that point very seriously. I was looking for that in the report from the Bills and Legislations Committee but I could not find this. So, I want to point this out that we should pick out this issue and that, now, those in that position must understand that the law is absolutely explicit about that. So, we ask our landowners, please, you get half of the royalty and the government the other half to help other citizens of the country and that is the significance of the state.

When it comes to the other table that is being present there, it needs us to assess the fact that big improve infrastructure with the approved infrastructure obviously the company will be entitled to some tax deductible consideration on some of the costs and therefore, when it comes to the competition of the company income tax for instance or on the dividend of withholding tax and that sort of thing it can be said that it will be fair that that portion has been taken out to the benefit of those community and whatever that is left we take it then we share it with all other citizens of this country that is under the purview of State.

So again what does this mean? Well it shows the unity of this country; the unity of State and the important role the State have to play in uniting everybody together, being fair to everyone, remember in fact that those resources is found by geological accident.

Sometimes when I listen to some of our debates in this Chamber, it reminded me of us in Kolombagara in the past when we did not have that opportunity at all, when the whole of Solomon Islands enjoy the royalty out of the forest there; we took nothing, but that's gone. It now water under bridge.. Now we have a different thing which is reforestation, but that's another part of it. But why I raise this is that, these is an ideal time for us to look at the benefits that come out of this non-renewable resources- the extractive industries and manage it properly.

I think the whole idea or one point where the Member of Parliament for North East Choiseul have said today, regarding the sovereign fund, that's a very good one. And we try to begin with it by looking at having a special fund and then with that special fund you attach this trusteeship concept into it so that we developed good idea out of it, people understand it and then the whole concept of sovereign management of these resources that soon to be gone, if we did not manage it properly then it might happen. But remember we are also the only country in the Oceania that is now a member of extractive industry transparency initiative. Sir, these are new frontier in terms of accountability of extractive industry where other countries that we mention here; Australia is not a member of the extractive industry, they have a different piloting standard.

We are the first, Papua New Guinea has recently announced and they have been accepted as an applicant country now, Britain and France just recently joined, by June or July this year we are hoping that we will be a fully compliant EITI compliant country Sir.

And with that sort of standard and this kind of a reform to the management the taxation regime in our extractive industry, for us to make the company more accountable, it will be easy.

So this legislation will pave the way for the application of EITI standard as well because companies will have to disclose here. Under the EITI Mr Speaker, companies will have to disclose and published what sometimes they would claim for tax deductible for instance which they don't want to disclose, so they need to publish it, and they will go to individual landowners and publish it as well. Those are some of the requirements of this EITI.

There is another accounting standard that some companies really object it but in a recent meeting in Sydney, we all agreed and it's been passed as a new standard where companies have to disclose. So they don't only disclose to the stock market but they also disclose publicly in that country that has an interest in dealing of that particular extractive industry's investment. Those are some of the points that I want to clarify here, and at the same time you will find that for purposes of maximising revenue, you will see there is a division for the most popular minerals- gold and silver. The Royalty rates of other minerals will be done by the order of the Minister through certain marketing networks. There is also a consultative part here where both the Minister and Ministry of Finance will need to be consulted in the

determination of those rates on royalty. But for the most popular minerals of gold and silver, we will go through the market which we obtain such rates and that is from the London Bullion Market Association.

So I just wanted to make those contributions in addition to what the Minister of Mines has mentioned during the presentation of the Second Reading speech, and I hope that we will pass this. But I would like to thank Members of the Bills and Legislation Committee for their consideration and their support in recommending the passage of this Bill. With those remarks, I support the Bill.

Mr MATTHEW WALE (*Aoke/Langalanga*): Thank you Mr Speaker. I will make some contributions because those amendments are important and those of us from Langalanga also want mining in our mangroves for petrol, diesel and gas.

Sir, I was listening to the debate, and the one at Ontong Java Plateau, has a huge gas deposit. That is why the questions are very important. I was listening to the thoughts that came up from the debates, and I think two basic questions will help to clarify our thoughts – policy making generally: certainly when it comes to legislative reform.

The first question is what kind of a Solomon Islands we want to see? This is a fundamental question that we do not really grapple with as yet. At some stage, perhaps for the next government since this House will soon dissolve, there ought to be a clearly articulated vision of a Solomon Islands society we are struggling to build. What are the characteristics of that Solomon Islands society? Colleague members will say I am repeating myself, but those are fundamental questions. And when we think about that society, we really are talking about the composition of that society – the people who make the society. What are the values that those people live by and believe in and are educated and permeated in it? If we as a combined leadership have a clear idea, glimpse, sight and vision of that kind of a Solomon Islands society, then we ask the next fundamental question – what kind of a Solomon Islands State do we want to build that Solomon Islands society with those characteristics that we want; the kind of State which will help to inculcate those values in the people and sustain those over time. And what kind of contributions do all who comprise such a society need to make to that State to maintain, uphold and keep within check and balance so that the State does not enslave the society and the people who make up that society. Therefore do all who comprise such a society need to make to that state to maintain, uphold and keep within check and balance so that the state does not enslave the society and the people, but at the same time the state does not become held to ransom by members of the society.

It is when we see clearly the answers to those two questions; I contend that we then strive to find the balance between the two.

Some have argued and I sympathised with the argument that we have far too much democracy in this beautiful islands, where every man and his dog has a view and with so divided and we cannot come to firm decisions. The tough decisions that are good for this country will never be made because we compromised everything and achieve nothing in the

end. The problem of the numbers game is an example of this thing. This is why it is always fluid on this floor of Parliament and getting tough decisions made is always a tough asked.

It is all part of this. Some have said we need a system of government that produces strong leadership and state, a strong government that can enforce its will. We have court orders where police is unable to enforce. The law is not being enforced. We have laws where ministries are empowered to enforce. They are not enforcing the laws. Do you know what they do? They already know the answer to an issue before they write to the Attorney General. They already know what to do.

We have laws the enforcement of which is not being carried out by the people mandated to enforce them. We can go on. A system of government that can uphold and maintain the kind of state we want. I think this is a very pertinent and relevant question. What we are doing in this Bill, in its own piecemeal way, is a very important step in the right direction. It is codifying the experience we have had. We are learning from the experience we have had.

I am stepping back and asking that we should be struggling with the more fundamental questions. This is so that we do not just reform the small aspects. We have to reforming in this direction, along these lines, pitched at that level because this is how the picture looks. The people will agree with that. Areas that need to be changed will become apparent to everybody and we hope to maintain the support and understanding of our people that the goals and objectives in reforms are just for everybody.

Having asked the two fundamental questions, I am interested on the debate by the Member for East Choiseul and the Member for Central Guadalcanal and the Prime Minister responded. When it comes to such minerals. My personal view is a bit close to the idea that the Prime Minister also stated earlier on and again it goes back to that fundamental question of what kind of society that we want to build. I know that the geological makeup of this planet earth is something that is beyond our control and historical legacy has stated how we end to this place and that gives us the rights and responsibility to look out for each other and everybody else. Hence, as rightfully said, it must be an on-going debate as we struggle to find a balance between the two objectives.

There are countries, for example in the USA, that anyone who hold the land title owns everything from the surface right down below which means that he has an unlimited land title. So there are systems on this planet where landowners owned everything but for us according to the Law, the state is the owner of all things under the six feet downwards. Again, that debate needs to be more robustly informed and we must have it so that we will not jump the gun on any of its objectives. We also know that there are some agitations amongst our people on this point and so it is a matter that we need to handle with great care and maturity so that it will not inflame thoughts of people and so we need to handle it with great responsibility so that it will not excite the emotion of the people. Because as we know the path that drive away the Ethnic Tension was economics and it was related to the use of land and the wealth and income that generated from it and the manner in which it was perceived to be redistributed.

And so that is a relevant question as it is a pertinent issue and so we need to have an informed debate on it but we are not yet that informed and it is our responsibility to be informed on it and I think the government leadership in this matter would be very good for parliament and ultimately very good for our country.

Again, the Chairman of Bills and Legislation Committee did touch on this one earlier on and that is on the exploration phases of mining and in the case of Gold Ridge that exploration phase itself take more than 20 years. So exploration is a long and very expensive process and it is usually carried out by fairly small companies while the big companies wait on and when the findings look promising then they take over the small company and they start the mining. Unless you have a really world class minerals you will not find the big companies there and so typically you have small companies that are doing the exploration. Because you have small companies that do the exploration and typically raise their finance through the equity market, and they have stringent reporting requirement and so forth. So sometimes it is difficult to raise equity to do exploration at the place that you are unsure about.

And so that lead me to the point raised by the private sector witnesses to the committee that the state so take upon itself to do the aerial surveillance, aerial magnetic survey so that government can have the base data on where is prospective for gold, oil and so when the companies look at that. Particularly their interest is on one particular mineral or energy deposit they can then focus on. Right now they will have to do all of that on their own, it is alright because we are unable to fund it but I think there is the possibility that the government could rise funding perhaps with IFI's. May be a consortium of donors to enable us to have that base data; this has been done in many other countries with the kind of prospectively which Solomon Islands has. We are on the cast of taking of Solomon Islands is in the cast, there is just so much interest in the mineralogy in our geology in this country. Both in sea bed and land base so it would be the right thing to do, it would be the most responsible thing to do that we ourselves commission such aerial magnetic survey so that we ourselves determine where prospectively is. And begin because we are better reform begin to say 'there's a big reserve gas at the site so we will do it this way' within the bounds of law of course. I am assuming Mr Speaker of course that more reforms are going to come to the mines and minerals legislation because as minister says; what's contained in these proposals before us are only part of the recommendations that comes out of the review which has happened in the ministry to look into this sector.

I want to encourage the government as we from Kwara'ae use to say 'we want to *radua* government' to encourage it stronger. It will be good for us, if we leave one mining company to do it but the problem is they might insist they have the first right or first option. And there by tying our hands when it comes to negotiating different aspects of development in this industry. So you have many, many years of exploration, there has been also from the private sector witness. You will see in our report perhaps the complaint because we set five years and then seven years as the maximum threshold which is a bit constraining or too limited. Given the process to negotiate the areas of access agreements to take time and if

everyone agrees and one small nephew disagree it will take time. The land tenure system and the way our people behave or conduct themselves in negotiations tend to take longer to conclude agreements. And when agreements are concluded there is and we are all familiar with this, there is then also the perception that these people steal gold's or minerals, they put them in barrels and are sending them overseas. When they going to carry out test to know whether our rocks or soil have minerals and if it does what grades are these minerals and whether it is economical given that it will cost a lot to mine. So because of those attitudes largely because our people are not well informed it makes the exploration phase or the prospecting phase quite onerous and quiet difficult. Not so much to accede the Industry's views but I think, do a comparative study with other similar prospective countries around the world to see what is a reasonable number of years that ought to be given to exploration. This is especially so, in light of the fact that we do not have aerial magnetic survey data making us more dependent on these exploration companies to produce that preliminary-foundational data, which we do not have about our own geology.

After that is completed (exploration or prospecting), we move into mining. The proposals that we have in a lot of ways, homes in on the mining phase; I suppose that is perhaps most important phase. That is when we expect at some reasonable stage that the company will begin to make profit. Of course, we have the example of Gold Ridge. Of course when we talk about that example we are cognisant of the fact that Gold price is low and is getting lower almost by the week. In fact it goes up a few cents then falls by four or five cents and so forth. So when you add the net change over an extended period of time the trend is very clear, it falls and it continues to fall. So, this raises the other question. And that is a question that is put to the committee and a question raised by the Ministry of Finance and Treasury when they appear before the Bills and Legislation Committee - the possibility that companies may just decide to shut the mine down to cut their losses when the commodity prices are all below their breakeven point. They may say, 'will shut down operations and sit tight and hope that the price will bounce back up, and when it does we will get back up and start mining again.' On the face of it, why wouldn't you do that? If you put your private money in and you are losing money by the day because of the low price and you cannot cut your cost because it is fixed to produce a certain level of ore and certain quality of return or recovery of the mineral, it will be quite difficult to quickly turn around and make it more efficient to reduce your breakeven point. Therefore, on the face of it, it would seem to me that to be a perfect legitimate approach to take – close the mine down.

Then we consider our own side—of course that is not exactly the case with Gold Ridge although there are elements of it—we think about our side of the story and the Minister of Finance and Treasury continues to tell us during the supplementary appropriation debate, there will be a big hole there; \$160million of government revenue for this year as a result of the closure of Gold Ridge. And if it gets back up it will take months perhaps even a year or more. But how are we going to plug that hole inside the government budget of \$160million for this year and perhaps for next year? So, there is this other side to it.

In terms of social responsibility and the role and responsibility placed on Government in redistributing the income and wealth generated from our natural resources. So the mining phase in itself, if you consider it in the context of this bill, regarding the income tax side of the Bill, it is quite complicated. They have the technical people who have gone into preparing a draft have thought about the myriad of issues involved. And we appreciate that because it is not something that ordinary bush lawyers understand. So when they putting it forward and you see how it hands together, it's a good proposal, it's a good step in the right direction but we know that in the mining phase of a project, perhaps that's the most complicated phase. More complicated definitely done the surveillance exploration phase and certainly more complicated than the final phase and that is the environmental rehabilitation phase which they already dig the land. We hope where the environment act requires that they must get the land back and rehabilitate it so that it gets back to its original situation in terms of land use, so that people can use it in their livelihoods productively again.

Again, that one also places the responsibility to the State, the role of the State to ensure that industry is as follows:

- [1] Putting aside the funds
- [2] Putting up the funds so that it put to good use and
- [3] Make sure it put to good use that that money is not just disappear or the money is not achieving what it meant to achieve and that there is accountability for that and that that work is complete and certified to be yes, that its follows the standard.

And this to what I think, it raises the question of regulations under the environment act because again it is a new industry for us and Gold Ridge is the first one we have not had experienced in it. But I think it is a matter Mr Speaker, which we do not need to wait to have experience in it before we draw up regulations in it, we have much experienced from our brother nation Papua New Guinea and I think we would do well Mr Speaker, to learn from their experienced and see contextually how their experienced can apply in us in this matter of environmental rehabilitation. They have had the major disasters Mr Speaker, opted a major disaster on a world scale because opted he was I think the third largest mine of its type yeah in terms of its mineralogy. So when its disaster, environmentally he is also one of the largest environmentally disaster as well.... And Papua New Guinea is dealing with its consequences.

And I think, we would do well to learn from that and the way from what I have gleamed from what the Prime Minister have said the other day when we were discussing the question of abandonment for mine in Gold Ridge, the way that the tailing dam was constructed and engineered and so forth, obviously that aspect of it we have learned from ...?.... and other experiences in Papua New Guinea. But I think the need is a little bit urgent that regulations of environment is extend and it is clearly explain the responsibility of industry and responsibility of government to the rehabilitation of environment and land and by diversity of the locations where mining is occurred.

When we talked about this rehabilitation Mr Speaker, this is also come back to this other more fundamental question we were discussing before, that question of mineral rights where the State hold it or not, where the landowners hold it or whether they are proportionate share in it, all these things need to be seen comprehensively or they need to be seen together. The role of various stakeholders in these projects need to be seen together so that we then we then a portion for different responsibilities that ought to be carried by each of stakeholders.

The refrain where the Chairman of Bills and Legislation had highlighted and the Prime Minister has also repeated the same refrain, is that of course when we dealing with these companies they are typically very large companies, have access to very good lawyers and have access to other experts that we do not have. Certainly landowners do not have access to those things at all. But even with the government, at the national level, we also struggle to have access to the same kind of expertise and capacity. So when we find ourselves in negotiations with these large companies, what do we do? We find ourselves saying yes, yes and yes, and then we go and have lunch together and sign the agreements. But after we have signed those agreements we go outside and complain. This Bill is a good step to avoid the 'yes' in these negotiation situations so that it defines the base minimum. If we want better, we have got to argue for better in any such negotiations.

I think the point that has been raised which is in the recommendation of the Committee is very important. This thing of equity participation – there is nothing standing in the way of Gold Ridge right now being owned perhaps 20/30 percent domestically. That say 30 percent comes to the government. And for this kind of legislation saying 15 percent belongs to the landowners and another 15 percent is for the rest of the country. The shareholding is what I am talking about. There are a number of ways that you can skin that cat. We do not have to put money upfront to buy the shares. That would be part and parcel of the scheme that would support such legislation. This represents a pain in my heart. I think the time is ripe and the time is now.

The abundance of the mine gives us opportunities that we did not have before. So the operator of the mine will come, with us having already pitched the level and saying 30 percent belongs to Solomon Islands Government and that 15 percent of that 30 percent belongs to the landowners.

The way landowner is defined and the various tribes—as mining moves between lands belonging to different tribes—all of that could be then worked out in subsidiary agreements. But on a broad scale, that ought to be done. I was really hoping that this Bill would have done that but it falls a little bit short. Rome was not built in a day so we have time and we can improve on it.

But the mineral will not be there for many days, so we must not leave it too long. Otherwise when we come to it, the minerals would have already been dug out. It will be just like when we try to sort out the forestry sector—but we do not want to sort it out—by the time we want to sort out the forestry sector, those trees have gone.

These are very serious and we need to ponder and make some decisions on them. If the decision is that we do not go down that line, then we explain to the people why we are taking that direction, why we are not taking those steps. It would seem to me no decisions had been taken on that issue of equity participation in mining projects by the government in the first instance, on behalf and for the people, and defining what role landowners would be playing in the proportion of such equity participation. So I think government ought to think more about this so that it makes its mind clearer to itself and to us and the rest of the country, so we become part of this process of discussion of conservation around this issues that have been raised.

That is what I think. Mineral rights should be held by the landowners or government. Surface area access clearly belongs to the landowners, and our customary land tenure is clear on that. All of these issues are issues that help to define the boundary and access to wealth that is generated from those resources. When the government in trust - holds the royalties or takes the royalties because the government owns it, everything that the government holds is in trust for the people. We who occupy government will come and go. The government is owned by the people, the state is owned by the people. Those of us who occupy government and leadership do so in trust, for our people. So everything is in trust. But specifically, when returns from resource of the people are held in trust (royalty) and then allegations of misuse or abuse or misallocation happens, such actions will drive the argument such as; 'there is only one way for me to make those rights over such resources not used'. That is, I hold 100percent of the right exclude the rest of you'. I am expressing an attitude a perception by our people. However, if the government receives those things and do the right thing so that there is fair and equitable access to those resources by the people who rightly are the beneficiaries, I do not think we will have this side of the argument that people will want to have 100 percent control. If that is the case, people will acknowledge that their rights are being recognised and are being fairly and justly dealt with. Of course we have touched on these issues when our discussion was about royalty rate and I shall visit that issue if I may, very briefly.

Perhaps in all natural resources sectors, the landowning groups are the weakest stakeholders. The government is also not really strong on that part. When the Government negotiates with the multinational corporations it finds itself in a situation where it has to accede to it because of our want for jobs, royalty and the revenue to turn the economy around. And because we want all these things, we are prepared to bow down fairly low, to make sure that this economic activity takes place. So the government is also in a fairly weak situation and quite usually, because of the absence of base data or inaccuracy of that data, and the absence of good, qualitative, robust, expert independent advice to government and landowners. This is inefficiency of information (not so level playing field) always puts government and landowners on the weaker side when it comes to these things. But by far, the weakest stakeholder in a project of natural resources extractions is the landowners (tribes). Because they are the weakest they are the ones that legislation must to project them

because of that weakness. In that way, I appreciate what is contained in these proposals. But I join the chorus of registering our protest against the 3percent rate. We protest the 3 percent.

When you look at the table, PNG recently reviewed theirs up to 10percent. We are sitting on the edge of the plate where the Australasia plate meets the Pacific plate. Malaita is on a different plate so it has a different Geology. But the rest of the Solomon's up to the east sits on the pacific plate. There is no doubt about its mineralogy. Whether or not we want to do something about it, mining companies want to do something about it. Some of our problems have been with the lack of ease of doing business in this country; the lack of ease of access to information and the rigmarole of bureaucracy - the process and the lack of transparency. Some big companies have been here – Xstrata and Newmont have been here. These are world class companies and they have all now left for various reasons. There are other aspects to be looked at to make Solomon Islands an attractive destination for mining companies including petroleum and gas in our seabed that we do not have any customary land tenure especially beyond the 12 nautical miles. This matter of three percent is really on the low side. When the committee pose this question to the ministry, the answer was that it is because we have just started and so we want to encourage them otherwise, we might we scare them.

But I am contending that they will not be scared by it. I think that they will be interested to come because they will see that it is reasonable, as other countries like PNG have 10percent and some states in Australia is on 12 percent while other countries are more than that. So why are we pitching it at three percent and shooting ourselves in the foot on a finite resource that once we finished digging it, it is gone for good. Unlike trees that can re-grow. So if we continue to keep this royalty rate at three percent, regardless of how we share it but we will just share that three percent. That is why the committee recommend to increase it to five percent. However that recommended figure is still on the low side and that portion of that five percent should go directly to the landowners.

This is because when this resource is gone I supposed the landowners are the ones whose Opportunity cost will be the greatest compared to everybody else in the country because they will no longer recourse to the livelihoods that are generated out of the resource within their tribal boundaries.

And so their share must be reflected in it and it is not too late for the government to amendment this three percent, we can do that during the Committee stage. Maybe increase it to five, six or seven percent. The Minister is laughing and shaking his head that means he agrees with me. If we are going to do that, we are going to make history in this country and initially the people of Gold Ridge will really love the Minister of Energy, Mines & Minerals. I also heard that the Minister's tribal land in West Guadalcanal, has a prospectively that is good or even better than the one at Gold Ridge. And so, if the Minister increases the royalty in fact his tribe will benefit from that percentage in Royalty. Thus, such increase will be good for the Minister, his tribe and all of us. On the other hand I don't think the companies are going to argue about it. But instead they will accept it as fair return to our tribes. So I do not need to labour this point because it has been very well articulated by the member for Central

Guadalcanal and also by the Chairman of Bills and Legislation Committee in discussing that particular recommendation given by the committee.

The other thing is the point raised by the Chairman of the Bills and Legislation committee is about the sovereign fund. This is a matter that I raised in the previous years. Even in the last House and I termed it as the futures fund. So that all the taxes or revenue collected from the extracting industries are ring fenced- So that revenues are not used to travel overseas all the time for expenditures that are consumption in nature which is just a waste of time. We should use it for what will build this country to be stronger for the future so that future generations will benefit out of the revenue and out of the wealth that are generated. We ring fence it with appropriate regulations and governance around it. Of course government must have authority upon. Let us not allow it to become too autonomous so that it will develop a life all of its own and is not accountable to elected governance.

So striking a balance on this is quite important. Again my view is - when we talk about a future fund or a sovereign wealth fund there are three or four sectors that emerge. Firstly, Health. Why out of twelve Pacific island countries our health care system is lagging at the bottom part list of these twelve island countries. Why Mr Speaker? I am not asking that question in an accusative sense. Certainly I hope not in the tone that I am asking. I am asking us together; why it should be so? It should not be so; that is the answer. Well let see to it that it is not so.

So that's one clear area for us to target in order to ring-fenced revenue wealth generated from these sectors to.

There is no reason why that 80percent of all our referral to St. Vincent—and a lot of us have already gone there—could not be dealt with right here at the National referral hospital or even at Kilu'ufi. I mention Kilu'ufi because if tsunami washes away the National referral hospital where will we go, we must go to Kilu'ufi. Let's not waste time because now we experience flooding, earthquakes, and tsunami warnings. We must do something about it. How do we fund that sustainably? That is why we must ring fenced these things.

I am very concerned about this because it's an area where it is easily overlooked. Talking about Health, the Minister for health when we went through the national referral hospital report in the past honestly mentioned that the NRH is underfunded. And it need not be! But that is the situation.

During the flood the number of stethoscopes that were available at the emergency ward can be counted with the fingers of a single hand. Even thermometer's to measure fever is not enough; there is not enough for use during normal situations. But when the disaster happens things got even worst.

There is no reason why that situation should continue to subsist and that is what I contend. Therefore health must come inside one of the expenditure targets for ring-fenced revenue and wealth generated out of extractive industries.

There is no reason Mr Speaker why Solomon Islands cannot have the best Public health care system in all twelve Pacific Island nations. There is no reason why not and we must strive to get it.

The other area for this future fund is education. Our investment in education is a bit lopsided. When we get excited about basic education we pump money into it. When we have a drawdown in our passion for it and go for a University all the funds go there. We do not see an overview of five, six generations - how are we going to educate them five to six generations, how are we going to educate them, and therefore, how are we going to finance education? I believe that is a core aspect of such a fund which is to ensure a comprehensive vision of our education system is developed, and hopefully this review will produce a framework so that it is sustainably financed. This will ensure that we do not run into situations where the budget is blown, forcing the government to cut other spending's and requiring the Minister to reallocate funds with a supplementary. In this sense we will be able to see over a number of generations on how we are building the society that we are talking about and the nation state that the society spawns.

So our education system is an important aspect for this fund. In our country our children education begin at the pre-school, then Kindergarten, class one and then on to form three. But some children are not able to read even at form three. Are we going to be like this? It need not be, but why is it so? This raises the same question we asked regarding our health system. The fact is, it need not be if we adequately fund our education system.

The other things is the plight of our teachers; when we share our sorrow towards our dear brother who use to sit beside me but has now left us, we mention how he has dedicated all his life to the struggle to improve the lives and plight of teachers. Teachers are not adequately funded. Public Servants are entitled for a house to live in town but teachers do not have that same entitlement. Yet, they are the people tasked with inculcating values, building individuals and the characteristics we hope for this future generations to have and to inform them with up to date knowledge and wisdom, going forward, but we do not pay for their houses. When teachers go on holiday we say to them, we are going to pay half and you meet the other half—

Point of order!

Mr Speaker: Can you concentrate on Bill and not unnecessary points?

Mr Matthew Wale: Thank you Mr Speaker. I outline these issues because it is an integral part of this fund. But I respect your ruling on that. So let me come to the Bill.

Sir, when the Prime made his speech today he mentioned the trusteeship role of the Government, and he is right to talk about it because the Bill is framed or premised on that. It assumes trusteeship through it. So this is my view on that; in order for that trusteeship to be conducted in a way that maintains and sustains trust it must be regulated so that the powers are used in a transparent way. Any trusteeship role by the state must be conducted and

discharged openly and transparently so that it can be judged on whether it is in the interest of the common good. This is because of our human weaknesses and the way where we are sometimes inclined on our propensity to abuse positions of trust. So I think some regulations to clarify that would be very good.

Sir, the other issue is on the determined prices; Gold and silver are fair because they use the London price. The other prices that are determined by the Minister of Mines and the Minister Finance in my view is this; that is the situation we have with the 'determined price mechanism' for logs in the forestry sector. And we have had problems with the way this has been conducted. Why are we repeating this weakness in this Sector Mr Speaker? I think this one is little bit serious question. Why can't we do the same as we do for gold and silver or so like putting it direct to the market price and that market price is transparent and published and there is no one can go and argue over it, oh say, this one has been ragged and so forth. So that we keep the ministers beyond reprove, beyond allegation and beyond perceptions that they have been influence by various interests.

So it's a question which I give to the government in terms of the determine price mechanism and how it echoed the same mechanism in forestry sector Sir.

Sir, having said all that I am happy that governments beginning to take steps in this direction, it is the right direction so that it does give much greater certainty and transparency in terms of how this sector will playing its place and its role inside our economy and society. And I think perhaps, there is a place and a time for government to help us and provide leadership to us to ask these basic questions, the more basic questions and to allow robust debate and help inform that debate so that it will help us to further see perhaps hopefully more clearly what other steps we need to take to complement and supplement and strengthen the changes where proposed in this Bill.

With those few remarks Mr Speaker, I support this Bill.

Hon GORDON DARCY LILO (*Prime Minister*): Thank you Sir, I move that Standing Order 10 be suspended in accordance with Standing Order 81 to permit the continuation and conclusion of the business on today's order paper until adjourn by the Speaker, in accordance with standing order 10(5).

Hon GORDON DARCY LILO (*Prime Minister*): Thank you Sir, for that permission so again I move that Standing Order 10 be suspended in accordance with Standing Order 81 to permit the continuation and conclusion of the business on today's order paper until adjourn by the Speaker, in accordance with standing order 10(5).

Mr JOHN MOFFAT FUGUI (*Central Honiara*): Mr Speaker Sir, I rise to contribute

Mr Speaker: I am sorry I am asking any Members of Parliament to speak on the motion moved by the Prime Minister to suspend Standing Order 10(5).

Question agreed to

Mr MOFFAT FUGUI (*Central Honiara*): Thank you Mr Speaker for your indulgence. The afternoon has gone and sometimes the proceeding of Parliament is slow for some of us who are still energetic. But I thank you all the same.

I rise to contribute to this important bill before the House today. This is important because mining is a very important industry for any economy, but especially the impact and effects it has on the country and especially the communities.

The Minister responsible in his Second Reading mentioned in the opening speech that, “The primary objective of this amendment is to provide business confidence and certainty to prospecting investors as they consider the level of investment and business proposal.”

That alone is void of privileging our landowners and resource owners and indigenous people. That is an important point. Such amendments should privilege our landowners and resource owners first instead of giving priority to investors and business interests. The later should be second.

Mining as an industry is an old institution or industry. It is not new. It is as old as colonialism and the best example of this is this archaic common law that states, every resource below six feet belongs to the State. What is new in Solomon Island about mining is what successive governments have not done all these years. And on that point I thank the present government for putting in these amendments.

Our governments have not critically interrogated mining as an institution. Mining is an ideology. In other words, we have accepted mining *prima facie*. In other words, we have accepted mining without questions. Our people have been suspicious about mining, and they should. But successive governments have not critically look at mining and see where it can be improved or reassessed. The present attempt is fine, but it is a piece meal effort. There needs to be whole raft of reforms to the mining institution so that we can claim to have a new mining regime and I hope that comes sooner than later. The issue with mining is not only the need to have a new mining regime. What we need to have is a new legal regime. Allow me to expound a little bit on this.

One of the external factors or reasons that often leads developing country like Solomon Islands to be underdeveloped is the legal regime or the systems of laws imposed through colonialism. This is the problem about laws made for the benefit of other people and not for us. Colonial laws have effectively divested or taken out or taken away indigenous or local peoples of their ownership and property rights in natural resources. As a result the newly independent States—Solomon Islands is included—after independence so that the same operation of these laws is then transferred to the transnational corporations in exchange for license fees and other non-controlling equity. As a result, local ruling elites and foreign capitalists or investors then share the resource wealth—they are the ones usually doing this, not ordinary people—leaving the majority of our people impoverished and countries underdeveloped. I want to further explain it like this; when they are mining there in most times and most conservation or discourses of mining are done between the investors and of course the State in this case, the government. And most times they are ones sharing

this and the ordinary people right down on the ground they do their exchanges right above them even without the knowledge of the ordinary people, and it will cause poverty in the end if we are not careful. In academia, this is often explained under the label of resource-scarce theory. To put this in its old term, it is the development of underdevelopment or the underdevelopment of development.

The solution for resources curse or underdevelopment is for natural resource rich developing countries like us to reform their laws to allow majority ownership and control to our citizens, and adopt policies that now the developed countries have adopted and followed when they were in similar stages of development. In other words, we do exactly what we are doing now but in a wholesale form and not in a piecemeal legislation. So I am hoping that this government or the next will do that. Then we look at the stage where developed countries are at and identify what policies and laws they enacted at that time. Many times we look at times that have passed. We do not use the example to make our arguments that, you guys do exactly the same thing. In doing this we will say, we are going to will help our people in exactly the way you do it in the past. These policies should be heavily regulated. Such policies often rejected by resource scarce theories but such policies are recommended by political autonomists.

The way we see mining also depends on where we stand to see these issues. For instance, resource scarce-theories view from the standpoint of neo-liberalism, see internal factors such as political corruption, rent-seeking, lack of transparency and good governance as causes of 'resource scarce syndrome'. Political economists see external factors such as the volatility of world commodity prices, capital flight, tax evasion, colonialism, imperialism, neo-colonialism and now globalisation as causes of underdevelopment. Those are things we have to deal with in terms of mining and so forth. Solomon Islands should take the halfway approach and say that both external and internal factors contribute to poverty and underdevelopment in the country.

Close to home, as said by the Member for Aoke/Langalanga, we have Papua New Guinea as one of the best example of resource scarce. In 1992 the Papuan New Guinean Minister of Mines and Petroleum described Papua New Guinea as 'a mountain of gold floating on a sea of oil'. It is a very rich country. The reverse is true today. As recent assessment of AusAID of Papua New Guinea in 2004 reveals and I quote, 'Papua New Guinea is in serious social and economic crisis. Overall, living standards are worsening, the population is growing rapidly, the resource base is being depleted, income earning opportunities are decreasing, access to services and transport infrastructure is declining, the infrastructure itself is deteriorating and effective government support is uncommon. The crisis has built up over a long period and the need for effective intervention is now pressing', end of quote. That is an example of a resource rich country. If we are not fair in terms of the distribution, the mining itself and the laws that goes around it, both in terms of the mining and legal regime, we will face the same situation. I am not saying anything new. I am merely saying that we have to be cautious. I think this particular amendment is on the right track. We do it in terms of a wholesale approach instead of a piecemeal.

A year earlier, in 2003, the Institute of National Affairs in Port Moresby provided the following assessment—a country that is rich in oil, gold and other things—and I quote, ‘for most of Papua New Guinea (five million people), living conditions have barely improved since independence. Windfall mining revenues and generous levels of aid have subsidised a small political elite at the expense of investment’. We have to be careful of that otherwise we reward ourselves only and the rest of the people are excluded.

Windfall mining revenues and general level of aid have subsidise the small political elite at the expense of investment in roads, education and health as we are financing and government borrowing for unproductive spending have left little money for key states institutions such as the police, legal system and arm forces. Violent crimes rates are showering, law and order are broken down and Papua New Guinea cannot effectively monitor and defend its land and sea borders. That is another quote from another important institute in Papua New Guinea. It said that even if we have the resources and then we are careful in terms of their usage then such things will happen to us.

Conventional wisdom suggests that our natural resources should benefit our people. Yet this is a great paradox and the paradox is seen when the conventional indicators of the economic wealth are compared to those of social wellbeing. The compulsion shows that the economic benefits are accruing from the extraction of its natural resources do not flow to ordinary people. Sir, Economics alone is not enough and not adequate. We must make sure that social indicators also show that economic and as well as the social distribution of resources are together in terms of the flow of resources or benefits for our ordinary people especially when we are talking about mining. This is the paradox of plenty that produces a problem that we to have here in the Solomon Islands and so we must do something about it.

This amendment that we are dealing with today falls short of the noble purpose and aim because they are done in piecemeal nature. We need a wholesale raft of reforms that will put our people, resources, cultures and customs first and then investors and business interests second—notice how I put it; People first and the state second. Our state should think like people otherwise we will have problem and this because in the end when all these non-renewable industries leave us or no profit to rip we will still have a country to govern and our people to look after.

With these few remarks I thank you and I resume my seat.

Mr DOUGLAS ETE (*East Honiara*): I will just do the conclusion, first the objective of this Bill is something to do with the payment of royalties and so I will just dwell on royalty. Personally I am not happy about this Bill and this is because three per cent of royalty has been there for quite a long time. Well in that three per cent 1.5 per cent is for the SIG component (*consolidated fund*), 1.2 per cent is for the land owner and .3 per cent belongs to the province. Also if you read through the Grover’s report of year 1962 and the other one in 1967, he put a profound statement in it and in that statement he stated that all minerals in the ground belong to the people. Well, by the virtue of the National Constitution in the preamble as you know said this, all the resources of this country belong to the People of the

Solomon Islands and the Government which is the state. Hence, I think this three percent is too small it does not set the frame work and criteria to determine the royalty. I am happy with that reform but that reform fell short of a reform per se. I say this because by virtue of Royalty assessment principles, the first thing that a government must do is to make a register. The London price market is a floating price determined value. But it boils down to the determination of the Minister how the Minister sees it.

Now in this bill, in my view clause 3 is ambiguous in the sense that you need a clause that stipulates a declaration of relevant mineral markets so that when you say you peak it at its gross value or net value, you are saying that the market is a declared market; all mineral export market must be declared and it is on top of those declarations that you determine the royalty.

I say it is very small and I was not pleased with it. Land owners would not be benefiting in this kind of arrangements. It is a policy matter and it depends on what government decides to do at the given time and it depends on the government of the day.

I think it is very small if you make comparisons to other countries in the region as was mentioned earlier on; PNG 10 percent.

I have checked through the three stages in Australia, referred mineral products or refined melted ones are already 3.5 percent; minerals concentrates are 5 percent already. Extractive minerals such as sand, gravel stone, shell, clay—is 35 percent for 1 ton. In the region I see 3 percent as the blessing to what has happened for the last 30 years.

So that is the first point; an absence of a declared mineral market register is what will happen. Let's come and work out a master agreement because institutions like central bank may not have declared the exports to that dividend when royalties are been paid to land owners. It causes a problem because I do not see a frame work here and I am not happy about it.

The second recommendation is I want to see the Ministry of Mines and the government as part of the policy to improve the reform in mines. Is to reinstate the laboratory, it's in chaos and it's not workable and we have three people with master's degrees in mines sitting and doing nothing because the laboratory is not working. I am saying this because in the last ten years when Delta Gold came with a \$140 million in this country by the way of foreign direct investment in this country that creates the social developments like creating jobs for people. Delta Gold took over from Ross Mining and I have a paper with me, it's sad because we are just mucking around here. I am holding it in my hand, signed original and I felt sorry for the land owners because when it comes to tax and when the amendments come to Parliament we are going to deal with the tax reform. But the priority is that I want the testing laboratory to be set properly. The reason for saying this is because for the last 10 years Gold that is taken out from this country has been pitched at only 67 percent purity. Actually, if it has gone through a laboratory instituted by the regulator, which is the government itself, you would find that Gold in Solomon Islands is 87 percent. So we are losing 15 percent non-revenue in this country – we are losing money

now and then when doing exports. That is my concern, so what are we doing here as legislators? Let me say this frankly that I am not quite happy with this reform.

I do not want to talk about the economic benefits of mining because all has been said by previous speakers. But I would like to see a digitised data system in this country, and that has been raised by companies. In that they wasted a lot of time coming here and if somebody removes a document that document will go for good. In the past they have to go to England to broker with coming that came here to do mining. A lot of Mining companies that come in and had 49 known tenements in our country - most of them are speculators. I have just gone through the Axiom and I have found that their share is less than one percent and they are also being listed in portfolio companies overseas. Who is going to buy less than one cent as a shareholder in this country? They make good reports here, go to London and sell the report to renowned companies to come and do mining here.

If we want to do better mining and institutions in this country for the betterment of people of this country and the economy we must make good laws now. Most of the mining legislation is from the old Queen and King Order. Just like what the previous speaker mentioned where the six feet legislation was there for the last 34 years and nobody has adjusted it. Who is going to do it? We are going to do it and now is time for us to do it.

I am happy because the Prime Minister mentioned that he is going to bring in a land reform Bill and I agree with it because we could only allow for the lease lands and not for sale. It is debatable and many policy makers have many thoughts about it. But in terms of mining this would be a good direction to go forward with. But I am not happy with the reform by way of royalty. If landowners could be extended the benefits of around five to 10 percent, it would be a big step for a government other than giving the same three percent which we are regularising.

I will stop here so I would like to thank you Mr Speaker for giving me this opportunity to speak.

Mr BODO DETTKE (*North West Guadalcanal*): Thank you Speaker, I would like to bring to attention at least Minister Mines and Finance and maybe Prime Minister that I would like to contribute because everything that we talked about comes to money- Royalty. And I can say to this Honourable House that we are losing millions of dollars.

Why I have said this is because between 1991 and 1994 I was a gold dealer Mr Speaker and I would make it very brief like this. As a gold dealer that exports alluvial gold, government purchase about 15 percent duty on assessment that comes back from Perth Mint or from where we sell the gold. Now we have a company that is melting gold here in the Solomon Islands which did not attract any duty but pays only 3 per cent.

But in the entire thing Mr Speaker, there is no mechanism to check the purity of gold that the company is exporting. I am talking with facts Mr Speaker because one of my colleagues here used to be the Secretary of the FIB and now he is a Member of Parliament, he was also at a meeting that we conducted at Gold Ridge.

In my experience, when we approached the company to try and say, 'could the government buy a gold bar from the company so that we can check the purity?' The answer from the company would be that it is not company policy to buy this gold bar. And then down the track we found that the company only declares 67 percent purity when the alluvial dealer reached the 83 percent in export in terms of purity. Then you are talking about 15 percent under declared already. You don't have to be a degree person to work it out Mr Speaker.

Why does the Gold Ridge Company refuse to sale any gold bar to any businessman in our country or the government? Simply if you pay the gold from them and sale the it then you will find out the real purity of that gold bar.

So I would like to add to that as this is a critical issue because it will come back to money and we are really short on money. And we really want to get the best out of our resources. So I would like the Minister to take that on board or those in the committee but this is a proven fact Mr Speaker, that all gold has been under declared almost to 16 per cent but for sure it is 15 per cent in the past. So we are losing a lot of money and this is a sad thing. So I would like to contribute so that you can hear this, in case some of us know about this but do not inform the House and our plight will go further in the future. So thank you Mr Speaker, for giving me a chance to contribute on that. Thank you.

Hon MOSES GARU (*Minister for Energy, Mines and Minerals*): Mr Speaker, let me first of all thank the Chairman and committee members of the Bills and Legislation Committee for the good work they have done in scrutinizing the Bill as stated in the report which really helped to raise a good number of recommendations which provided data base of our debate on the Bill Sir.

I also do like to thank the colleagues from both sides of the House who have participated and contributed in the debate of the bill.

Sir, let me assure you that I have taking full note of the recommendations and advices are tendered by all members who have contributed and have given very serious consideration to take appropriate steps to effect these issues and matters in our reform and review processes that we are currently undertaking. My Ministry through the Department of Mines is undertaking a review with the intention to overhaul the Mines and Minerals Act. The work is still continuing, although we are really behind schedule.

Sir, over the last two years, my Ministry has hosted two nation-wide consultation workshops here in Honiara and three consecutive meetings out in the provinces on key aspects of the review. Indeed we have very good feedbacks from our provincial leaders and rural landowners on how and what they want to see mandated in the current Mines and Minerals Act.

Sir, the Member of Parliament for East Choiseul and Chairman of the Bills and Legislation Committee has highlighted a lot of issues and as a government we have taken note of these issues. We will use these in the review of the Mines and Minerals Act. We are still to complete this work. We need some more time for consultations and to reach out

more. So the call by the Bills and Legislation Committee to reach out more to our rural people and to help them understand better the laws governing the mineral resources is truly justified.

The Ministry of Mines also under this reform programme is working on establishing a legislative framework to allow for the establishment of a Minerals Development Authority (MDA) to act as an independent statutory authority charge with the administration and management of the mineral sector in Solomon Islands. This institution will be granted great autonomy to sustain itself and therefore expect to have a great capacity to manage and administer the sector us.

Mr Speaker, my Ministry is working very hard in consultation with the Office of the Prime Minister to finalise a mining policy for Solomon Islands. I believe that without a clear mining policy to guide this important sector, we will have no clear direction to guide the development of mining in this country. A lot is yet to be done to reform the mining sector and especially in reviewing the relevant legislations.

Sir, the amendment as sought in this Bill is simple and very clear. It basically reads: To provide business confidence and certainty to mining investors by removing the current process to negotiate deals with mining companies. What we are basically saying is – there will be no more negotiations, as we now have a regulation in place. These are concerns raised on the rate of royalty, which stands at 3percent. I can only say that at this point we cannot compare ourselves with bigger and stronger mining nations in the world. Global mining nations have developed this sector higher than us and have more mines. Comparatively, Solomon Islands only have one small mine. We need to attract more investment in this sector to be able to start considering changing the current rate. Of course we need to raise this, but at an appropriate time and environment. That may not be too far away when all the relevant information is made available to provide certification for such increases.

The other concern raised on prospecting tenure of seven years is also under review. The intention of this government is to increase it to ten years. This will seek further legal amendments after completion of this comprehensive review I alluded to earlier.

The Bills and Legislation Committee also raised the issue of the power of the minister to prescribe rates for other minerals. The principle of firm market value of mineral will be properly determined as provided for in the relevant mining agreements. The minister must be satisfied that the minerals are properly valued. The issue of recovery of minerals content is also taken into account.

On this note I would like to tell this House that my ministry is working hard to ensure that a fully developed and functional laboratory is in place. We assure that this function is actively pursued in the future in determining the content of minerals before export.

I fully agree with the need for greater legislative changes that will allow landowners to own shares in mining companies operating on their land. This must be reflected in our mining policies to replace the royalty rate that we are currently operating on.

We must have a clear policy to guide and maximise benefit to our people and nation. I can only assure this House that the government is working very hard to reform this sector will come before this House for our considerations and scrutiny. On that note, let me once again take this time to thank all you have worked really hard in preparing this Bill, especially for the officers working in the Ministry of Energy, Mines & Minerals that is for the PS and the staff and also the Minister of Finance and Treasury and the Office of the Attorney General. Also I want to thank my colleague members for both sides of the House for the scrutiny of the Bill, especially for your contribution to the debate of this Bill that brings a lot of positive wisdom that will help us to redirect this sector to greater and new heights for the future of children and the country. Lastly but not the least thank you for your patience and understanding throughout this day and with these few remarks I beg to move that the Mines & Minerals (Amendment) Bill 2014 now read the second time.

Bills – Committee Stage

“The Mines and Minerals (Amendment) Bill 2014.”

Clause 1

All agreed to

Clause 2

Mr MATTHEW WALE: Thank you, I just want to ask for clarification on the way this new 36(a) is worded on one which says “Minister may... and so it gives discretion to the Minister and that is good but the way it is worded fairly general and so if the government designate the approved infrastructure and then the Minister make that to be part of the conditions of the mining lease. Then the company is legally bound to then construct but the way it is worded in here, the logical reasoning that it will infrastructure within the vicinity of communities within which the company operates on, but it’s also fairly open. It could be other infrastructure way outside the communities that companies operate at is included. I am just wondering whether there is some room for discussions between minister and the company. Obviously here it rules out so that the use of infrastructure does not become too honourees on the companies, on one side. Especially if it’s outside, the infrastructure that is outside there at the areas of operations for the communities that they work on. Just for clarification.

Hon Moses Garu: Thank you chair, yes I suppose the intension of the word ‘may’ may mean that there will be some process of consultation between the government and the company. And the communities to establish what type of it; such as that would be supported and develop by the company itself.

Mr Matthew Wale: Thank you chairman, if that's the case then I am happy with the answer that the minister gives. Then perhaps regulations will clarify little bit more of that aspect of it, it just that the other side of this are obviously the industry or the companies and they too need standards that are clear to them. I know the minister is a straight forward person but may be the used of approved infrastructure is used as a pretext to place one obstacles in the way of conditions on a license. And given an approved infrastructure that is clearly going to be a result in a breach of the mining lease and then it becomes the basis for perhaps cancellation or revocations of some process either to discipline company or opening the company. So that it's a transparent process is in place where companies can also be judged by the reasonableness of projects that are approved. And when we ask them we know that it is not unreasonable that this particular power does not become vulnerable to abuse. May be the minister to clarify their view on this whether that is something they are thinking about in regulations.

Hon Moses Garu: I think the member would like to look further down in clause 2, 36(2), I think the approval infrastructure that has been designated by government of Solomon Islands by regulation this act. That will benefit the communities in Solomon Islands and can be constructed by the company holding manning this more efficiently the government of Solomon Islands. What I am trying to say here as I alluded to earlier the 5.18 time or the scope of the bill will be involved here is got be determined by processes as I have alluded to earlier. So there will be no room for abuse by the Minister in anyway because there is going to be a committee based approached which they will then take up to the Minister on what they prefer, especially for priorities that comes up from landowning communities to develop their communities.

Mr Mathew Wale: I like the answer given by the Minister but I would like to know where this community base approached is empowered. The way this is worded was that all the powers were from the Minister so he may or may not be consulted. So my question really is trying to say, there ought to be protection. He has described the right process but we want to know that it is based on some laws or regulations so that it is based on all stakeholders.

Hon Moses Garu: This provision has been put in the regulations.

Clause 2 agreed

Clause 3

Mr Manasseh Sogavare: I would like to bring to the attention of the Committee again the matter that a lot of speakers during the debate have raised - and that is the level of royalty.

We note that the Minister in his respond in his wind up speech told the position of the Ministry to him. From the recommendations of the Bills and Legislation Committee we suggested to increase the Royalty to five percent. I would like the Minister for Mines, Energy and Rural Electrification to tell us why we are not able to increase this to five percent.

Hon Moses Garu: Sir, at this point in time the Government and Ministry needs to gather enough evidence and assurance that we could go to a higher rate. However, as I indicated in my closing remarks we are working on this and we have to be fully satisfied before we can make an amendment because this is something we all want to happen but we need evidence that we are doing the right thing for all stakeholders.

Mr Manasseh Sogavare: I would like the Minister to clarify to us again, what sort of evidence the ministry needs to satisfy that we can engage the department now.

Hon Gordon Darcy Lilo: Thank you Sir, this industry is one of the new industries in the country and there are factors that we need to consider. Recently we have taken ourselves we have market information which is now featured in the legislation permanently now that the price for instance for the most popular gold and silver mineral is based on the London bullion market association information.

But there are also other factors that we need to put into the whole negotiation discussion which could also influence the way that we see the benefits that come out from this industry. So as we know that for the first ten years of operation, we thought we got all the information right and then we have the ethnic tension. Then we started off again and then the investor is facing problems at this time.

Now it's good for us to get information from other countries to compare and say, oh look, by comparative analysis this is what we got but I think we need to look at our own context and the situation here, what are the cost of production, what are the factors that is influencing profitability of the company and so forth. I think that's basically what the Minister is saying.

I am not quite too sure on this report where the Member of Parliament for East Honiara have said today about certain price or certain financial analysis been made about the gold investment in Solomon Islands in the past. But one of them as you know the one that we have in the past, what is the name of this company who was promising very high royalty to the landowners and three months later it ran away, not to be heard?

Hon Gordon Darcy Lilo: I don't want us to end up in that situation Mr Chairman, I think the committee ought to know about that but I am not too sure whether that was the report that he was referring to.

And it's not good that it might influence our thinking inside this House but I have read some report like that: very good, it's very good. In fact if we have it our own way, we

could have say, you continue on with Gold Ridge and then after we give them a little bit of incentive then he disappeared.

So this is why the Minister is saying that we need to assemble all relevant information that we need to know, assess it properly and then know exactly what are the informed issues that we need to have- arm ourselves with and then maybe make a better and informed decision on what sort of consideration we can make on the royalty rate. But that is a very good point to bring in the information. Thank you Mr Chairman.

Mr Matthew Wale: I am a little bit worried about Prime Minister's answer. So I mean from what the Prime Minister is implying is that we keep it in three percent because it' has been three percent all along. Because the ministry is still searching for that information, I would have or we would have hoped that this process is a result of all that information having been harnessed so a decision could be taken.

Now it is neither you peg it at three percent to remain at three percent because the information now that's the best advice glean from the information available. But if the ministry is still waiting for more information, are we going to come back to amend it again. Should this be a matter be left to regulation so that only the Cabinet will do this and then laid at a later date to Parliament or each time we have to come to amend. When we put in a substantive legislation, it seems that it going to sit there for a while until we revisit it. So from the answer of the Prime Minister, I am worried that we have left it at three percent because the Ministry still do not have that information. That is what I am worrying about. Maybe I am misunderstanding what the Prime Minister has said.

Hon Gordon Darcy Lilo: No Sir, I think the Committee ought to be informed that there is no intention at all to have it remain static at three percent. But when Gold Ridge had started, there were certain scenario in terms of financial analysis on the profitability of the investment and as well as other economic analysis of the broader economic benefits that it will bring to the country. And in that model that has been run at that time, I think at the three percent, it is just about the right rate. Not to say that is the main determining one, there are also other issues. But in terms of how it would impact on the profitability of the company and as well as the comparison in terms of whether or not it is a fair rate as compared to other countries including Papua New Guineas. As you can see in Papua New Guinea, it is 2 percent. The 10 percent is arguable because it is not a confirm rate. But at that time some 10/15 years it was 2 percent. I remember it very well. We pitched at 3 percent and try to push the company to work their profitability based on that. But interestingly when they started off and sold it to another shareholder, and then we went through the ethnic tension. So this one now started off and then sold it to Saint Barbara. Saint Barbara instead of it being a saint, it fell down. These are the issues that we need to consider. I think we just have to be careful that we do not get ourselves influenced by just comparison of what we may obtain from market information or certain literatures. I think we need to really work on a scenario and model that will really work for us.

Mr Matthew Wale: Thank you Chairman. On this point, I will not ask any further questions. I just want to register my little protest that that information was not furnished to this Committee or the Bills and Legislation Committee to really justify why the government pitch or have it remain at three percent. So we now have to take the word of the Prime Minister for it. I would rather not have to take the Prime Minister's word for it, but we are now in that situation. So I will leave it there. But I want to register my protest on this because it is a significant policy aspect and both Committee of the House and the Bills and Legislation Committee would have been in much better position when we yes to it, we agree that it is reasonable. I just want to register that.

Hon Gordon Darcy Lilo: Chairman, I think the Committee is entitled to their recommendation based on the information that you have over there. One could have asked the other question – why did you come up with the 5 percent rate? But obviously we would want something higher. But then are we able to attract the right size of investor to come? That is quite another question. We all believe that Saint Barbara was going to do a good job Maybe because of the word 'saint' in front of the name that sounds good to us. Now it is no longer a saint.

We have noted the committee's recommendation. I think it is something worth considering. Thank you.

Mr Manasseh Sogavare: Sub clause (b), the incorporation of the new Subsection 4(a) - 'The Minister may from the fund authorise payment'. The inverse of that is that 'he may not'. He can decide not to. Under what circumstances would he refuse to make payments to landowners in terms of Royalties in respect of other minerals other than Gold, Silver, Copper and Nickel?

Hon Gordon Darcy Lilo: I just want to mention the discussion that went through Legal Draftsman that if you say 'shall', I think there is a regulation that spells out how payments would be made to the beneficiaries that have been agreed upon. I think some of the conditions in the regulation are that they have to come up with development projects. This is why the choice of the word is there to give room for consideration. If you say that is outright theirs then we would end up with some situation that there might be some unfairness and things would end up in the wrong hands. There is a regulation that provides the details of how this is done. Thank you.

Mr Matthew Wale: I would like to go back to (b) on the top of page 5, where the rate for other minerals are prescribed by the minister in consultation with the Minister of Finance. In his response, the Minister outlined how the government envisages this process to work. I think this mechanism is ought to be a more regulated. This is to ensure transparency as to what the minister considers and what in that consultation is the information that will be

considered by both ministers, especially the Minister of Mines. The general policy direction is greater certainty because of greater transparency and the legislation sets out the scheme as to how this will work. It would be good if this aspect of it in the regulations clarifies what the minister will consider so that we know the basis of his or her determinations. Can the minister or Prime Minister clarify that? Thank you.

Hon Gordon Darcy Lilo: I think this is a mechanism that is currently being developed. I can give an example that worked out very well with the determined prices currently there is a mechanism that is in place with the Ministry of Finance and Treasury and also in the Ministry of Forestry, this is where the information is gathered, assembled, accessed and the recommendation goes to both the Ministers. This is obviously because of the obligation under the constitution that we have a government system that has collective responsibility and is responsible to inform the cabinet and I believe this transparency. The other thing that I think we need to understand is the issue of efficiency and this is not to replace transparency but all these has to be put together in that process because right in the centre of this, Finance will be involved and we have a unit there which is the Economic Reform Unit and the officers there just basically sit down and look at figures and asses them and look at ways that they can form economic policies and how it relates to the specific issues for each respective ministries. So I think by using that mechanism I am sure that we can show good transparency standard in that way.

Mr Matthew Wale: The more the Prime Minister talk about that, the more my mind is begging the question of why we should have this at all and why we cannot go with the published market just like we do with (a). For the other minerals we go for the London market price and so why can't we have the similar established or recognized publication in the market prices so that it will have total transparent and change as the markets as well. Presumably that information will be considered in this decision but if it is been considered and why cannot we just allow it for those published prices for the other minerals.

Hon Gordon Darcy Lilo: The other minerals for the time being are only those but the most popular mineral that we rely on is gold and silver. Obviously, the market outlet that we have is the London bullion market associations and it has well established information network on gold and silver but for the other minerals may be sometimes in the future then we can look into them.

Mr Matthew Wale: When the Prime Minister talks like that, I just thought about the lack of information to inform this particular policy choice in this because there are prices for all these metals or minerals that are coming out on a daily basis and so if the Ministry does not look at those and then just decide that we are not going to go with those and we only have...