



**NATIONAL PARLIAMENT OF SOLOMON ISLANDS
CONSTITUTION REVIEW COMMITTEE**

**Report on the Constitution
(Political Parties Amendment)
Bill 2009 (No. 24 of 2009)**

NP-Paper No. 41/2009

Presented on Monday 23 November 2009

National Parliament Office

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1 Introduction

The Constitution Review Committee (“Committee”) has concluded its review and report on the *Constitution (Political Parties Amendment) Bill 2009* (“Bill”), introduced in the House by the Prime Minister. The Bill was submitted to the Speaker through the Clerk to Parliament as required under the *Standing Orders*¹. The Speaker examined the Bill,² endorsed it and the Bill was duly deemed to have been presented to Parliament according to Standing Order 46.

According to government business for the current (10th) meeting of Parliament, the Bill was read the first time on Monday, 16 November 2009. The Prime Minister’s second reading speech was read on Friday 20 November 2009, with the general debate commencing on Monday 23 November 2009. On Monday 16, Wednesday 18 and Thursday 19 November 2009, the Constitution Review Committee considered the Bill and heard evidence from a range of stakeholders. Following its review, the Committee makes this report to Parliament, with recommendations, for the information of Members and for Parliament’s consideration.

Terms of Reference

Pursuant to its mandate under the *Standing Orders* the terms of reference of the Committee in this instance is to examine the Bill and to report its observations and recommendations on the Bill to Parliament.

Functions of the Committee

The Constitution Review Committee is established under *Standing Order 71A*, an Order made pursuant to the *Constitution*³ and has the functions, together with the necessary powers to discharge such, to:

- (a) review the Constitution regularly and advise the government on any changes as the Committee may deem necessary;
- (b) examine any proposed changes to the Constitution and request submissions of views thereon from individuals or groups;
- (c) deal with and advise on any matters relating to the use, abuse or misuse of constitutional powers, rights or responsibilities;
- (d) report to Parliament in accordance with Standing Order 72(11).

¹ *Standing Order 44* (1).

² As required by *Standing Order 45* (1).

³ Section 62, *Constitution of Solomon Islands 1978*.

Membership

The current members of the Constitution Review Committee (8th Parliament) are:

Hon. Peter Shanel Agovaka, MP (Chair)

Hon. Clement Kengava, MP (Member)

Hon. Isaac Inoke Tosika, MP(Member)

Hon. Japhet Waipora, MP(Member)

Hon. Rev. Leslie Boseto, MP(Member)

Hon. Patteson Oti, MP (Member)

Hon. Walter Folotalu, MP (Member)

2 Policy Background

Purpose of the Bill

The objects of this Bill are-

- (a) to facilitate the registration, administration and development of political parties and stability of the Government, including the establishment of the Political Parties Integrity Commission under the Constitution;
- (b) to ensure that the regulation of political parties does not violate the relevant fundamental rights and freedoms of individuals under the Constitution;
- (c) to alter the rule of the election of Prime Minister to appointment by the Governor General;
- (d) to provide for dismissal of Prime Minister when members of his political party or coalition of parties in Parliament have lost confidence in the Prime Minister;
- (e) to abolish the provision for independent group and provide for one opposition side in Parliament;
- (f) to provide for other amendments relating to acting appointments of Ministers and assignment of responsibilities, including appointment of parliamentary secretaries.

Background

All Solomon Islanders would agree that political instability is a problem that Solomon Islands have encountered for the last years. This has prompted the CNURA⁴ government to address this problem. As a result, the CNURA government has brought the white paper on this issue to Parliament in March 2009 which was passed and endorsed. The issue of political instability is a long overdue problem that should have been solved. However, no government has actually taken time to find solutions to such problem. In this regard, CNURA government attempts to solve the problem of political instability through legislation.

When the white paper was brought to Parliament by the CNURA government, Parliament has endorsed two main strategies tailored to solve this problem of political instability. The first Strategy is to enact a law that regulate, manage, administer and develop the political party system in Solomon Islands. For the last 30 years our political party system was very weak. As a result our country has been experiencing instability because of the fact that Members of Parliament has been operating as individuals in decision making. CNURA government believes that to create a political party system that is strong and vibrant would

⁴ Coalition for National Unity and Rural Advancement (CNURA)

result in collective decision on the floor of Parliament on very important issues that affects Solomon Islands, whether it be major policy issues or legislations. As such, the government has put together the *Political parties (Registration and Administration) Bill 2009* aimed to address this problem of political instability. The Bills and Legislation Committee will report on this Bill separately. The second strategy endorsed in the white paper states that governance issues that contribute to political instability must also be addressed. Related governance issues that the government sees as contributing to political instability in this country are; election of the Prime Minister and independent group in Parliament. These two issues are provided for in the Constitution. This Bill, the constitution (Political Parties Amendment) Bill 2009, is therefore the result of the second strategy as endorsed in the white paper.

3 Review

In examining the Bill, the Committee heard from certain key witnesses from the Prime Minister's Office, legal practitioners from various legal firms and a former Governor General.

Public Hearing

On Monday 16, Wednesday 18 and Thursday 19 November 2009, the Committee held public hearings with view to hear from relevant officials and key stakeholders. Witnesses invited to participate in the public hearing, include representatives/officers from the following offices/institutions:

- Working Committee on the Political Parties Bill, Office of the Prime Minister;
- Caucus, Office of the Prime Minister;
- Bridge Lawyers;
- Global Lawyers;
- Solomon Islands Bar Association.

A complete list of the witnesses who appeared at the hearing can be found at **Appendix 2**.

Written Submissions

The Committee received two written submissions, one from Mr. Andrew Nori and the National Council of Women and is found at **Appendix 3**.

4 Issues Arising

The Committee identified issues that emerged from evidence gathered from various witnesses during public hearings conducted. This section focuses on these issues, together with responses from witnesses and, where necessary, recommendations of the Committee on a specific issue.

1. Consultations

The proposal to amend the Constitution enabling the Political Parties (Registration and Administration) Bill 2009 was widely consulted before tangible amendments eventuated. The paramount concern of the Working Committee on the Political Parties Bill is the constitutionality of this whole reform; that is, whether the proposed amendments contained within the Constitution (Political Parties Amendment) Bill 2009 could withstand any constitutional challenge that may arise in the process of implementing the Bill in the future. As such, a constitutional legal expert was consulted according to the Chairman of the Working Committee on the Political Parties Bill. Upon these consultations, a lot of changes and amendments were made to the Bill. As a result, various stakeholders whom the Working Committee on the Political Parties Bill consulted assured the government that this Bill, the Constitution (Political Parties Amendment) Bill 2009 would take care of possible technical legal issues that may arise in the future.

The Committee also noted from witnesses who appeared before the Committee on Wednesday 18 November 2009 that although consultations on the Bill were earlier conducted by the Working Committee on the Political Parties Bill, it was not broad enough. Mr. Nori suggested to the Committee that the composition of the Working Committee on the Political Parties Bill should have local legal experts that can seriously consider and scrutinised practical aspects of the Bill in order to obtain a meaningful feedback on the proposed amendments.

2. Amendments to the fundamental Rights Provisions

The Committee noted that the fundamental clauses in the Constitution will have to be amended to allow for the Political Parties (Registration and Administration) Bill 2009 to operate. Also, the Committee's general concern is that these fundamental rights are very crucial that the proposers of the Bill must be very careful in proposing the amendments. Chairman of the Working Committee on the Political Parties Bill acknowledged that

legislating political parties will affect fundamental rights that are enshrined within the Constitution. For instance, amendments in clauses 2, 3, 4, and 5 of the Constitution (Political Parties Amendment) Bill 2009 deal directly with certain fundamental rights that the proposed political party reform is suggesting. Chairman of the working Committee on the Political Parties Bill submit that the Constitution (Political Parties Amendment) Bill 2009 ensures that these fundamental rights are not violated in any way.

The Committee also noted from stakeholders that have appeared before it that clause 5(fb) of the proposed Bill discriminates against Independent Members of Parliament. For instance, an independent member can resign according to his freedom of conscience if his or her political party does not live up to his or her expectations. However, the resigning member cannot join another party as he or she is not allowed to do so under clause 4(d) and 4(e) of the Bill, therefore he or she would have to vacate his or her seat. Moreover, his or her resignation from a political party is not related to election or parliamentary proceedings, thus, this will affect his or her right under section 15 (1) of the Constitution, and other fundamental rights provision. As such, it creates an avenue that causes discrimination against independent members.

The Committee further queried into section 13 (1) of the Constitution. Section 13 (1) of the Constitution states;

Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to political parties or to form or belong to trade unions or other associations for the protection of his interests.

This section provides for freedom of assembly and association. It also made express reference to the freedom to assemble freely and associate with other persons, particularly to form or belong to a political party. The Committee understands that the Constitution already has specific reference to the formation or belonging to a political party under section 13(1), however, the Bill proposes another amendment to the Constitution under section 13(2)(d) and section 13(2)(e) to cater for the formation of political parties. This was seen by the committee as a repetition of the same provision aforementioned.

The Committee is of the view that Working Committee on the Political Parties Bill should strictly consider section 13 for ways to legislate for the enabling Political (Registration and administration) Parties Bill 2009 and leave the other fundamental rights untouched. For instance, Section 13(1) of the Constitution adequately enables the enactment of the Trade

Union Act; Cap 76 and that there was no amendment to the Constitution. The Committee is of the view that Section 13(1) in this instance also adequately enables the enactment of the Political Parties (Registration and administration) Bill 2009 (NO. 25 of 2009) and that there is no need for Section 13 of the Constitution to be amended as proposed in this Bill.

In response to that query, former Governor General, Sir Nathaniel Waena has expressed his view that the Political Parties (Registration and Administration) Bill 2009 is sufficient to regulate the administration of political parties. Sir Nathaniel Waena also noted that the wisdom in proposing such Constitutional amendment rests with the government of the day in seeing it fit to cause necessary amendments reflected in the Bill. However, he suggests that the Committee and the government should collaborate on those proposals and deliberate on the appropriateness of such amendments to be accommodated in the Bill.

The Committee has further noted from Sir Nathaniel Waena's submission that fundamental rights and freedom without regulation could lead to anarchy. It is regulation that ensures respect to individual rights, creating peaceful coexistence between people in a society.

3. Misconstruction of the Blanket Clause” Regulating the Conduct of Members of Political Parties and parliamentary proceedings”.

The blanket wordings in clauses 2(d), 3(e), 4(e), and 5(fb) of the proposed Bill which states, “for the purpose of regulating the conduct of members of political parties and other persons, in relation to elections or *parliamentary proceeding*”, according to the view of the Committee are not related.

Mr. Fugui when questioned by the Committee on this phrase stated that he has less to say on the phrase but stressed that the proposed Bill looks at achieving institutionalising or political engineering of individuals into political parties. He is of the view, that the Bill should be enacted and implemented and if there are hiccups, then it can be tested in Court, but first, allow the Bill to be enacted for changes to occur.

The Committee however, is of the view that the proposed amendments do affect parliamentary proceeding. Parliamentary proceeding as explained by Enid Campbell claimed that;

“The protection of Article 9 clearly covers debates in parliament, including motions, parliamentary questions and answers thereto. They cover also the proceedings of parliamentary committees, the tabling of documents and petitions once presented to a house. Activities not so protected included casual

*conversations between members during debate and meetings of Political Parties, even when held within parliamentary precincts.*⁵

The Committee confirms that the blanket clauses 2(d), 3(e), 4(e) and 5 (fb) directly affect parliamentary proceedings and therefore open to legal challenges. The Committee is of the view that institutions like the parliament should be independent and that its proceedings should not be tampered as proposed in the Bill.

4. Appointment or Election of Prime Minister

Sir Nathaniel Waena submitted to the Committee that the Constitution (Political Parties Amendment) Bill 2009 effectively gives recognition to the Speaker of Parliament to summon Parliament for the election of Prime Minister and stressed that the Speaker as head of Legislature should have such power.

The Committee noted that there are four options outlined in the Bill for the appointment or election of the Prime Minister.

- The first option is where the Speaker invites a party with an absolute majority to nominate a name for Prime Ministership. The party sends its written nomination to the Speaker and the name of the nominee is announced in Parliament within three days upon receipt. The Speaker then advises the Governor General to appoint the Prime Minister. The Committee notes from evidence presented by Stakeholders that this option would be highly unlikely to occur as no party is capable of winning an absolute majority.

Whilst the Committee acknowledges such assertion made by stakeholders, it also agreed with particular evidence provided by the Sir Nathaniel Waena, that in 1989, the Solomon Mamaloni led party (People's Alliance Party) won the election of the Prime Minister by having an absolute Majority. Therefore, history has shown that this option is attainable. The Committee noted that in instances where this option is prevalent reform to be made to the electoral system.

- The second option is where written invitation made by the Speaker to the party with the highest number of seats in Parliament. In the event where two or more parties have equal numbers, Invitations will be sent to both of them. Invited Parties then sent invitations to other minority parties and independent members to form a coalition within 3 days. The Speaker upon receiving nominations for a Prime Minister again announced in Parliament the name of the Prime Minister and later advice the Governor General to appoint the member as Prime Minister. The Committee notes

⁵ Campbell, E, *Parliamentary Privileges*, Monash University, The Federation Press, 200, p12

from evidence presented before it that that this option does not state the minimum number a party must have to qualify for the invitation as party with the highest number of seats and further, it does not reform the current situation as intense lobbying will occur and independent members and smaller parties will subject to corrupt interferences. However, Mr. John Keniapisia claim that the wisdom in allowing independent candidates in this second method is to stop a party with the next highest number from playing the 'waiting game' purposely to sabotage the party with the highest number from forming the government. He stressed that this is an improvement from the current practice where independent members can sell themselves to different groups for the highest price.

- The third option is the Coalition of political parties. As outlined in the Bill, Agreement for a Coalition of parties must be entered into by interested parties before the election of the Prime Minister. The Coalition must have an absolute majority (the independent members of Parliament) who joined in after the election of the Prime Minister is not counted as part of the absolute majority. After three days, a name of a member is sent to the Speaker where his name is announced in Parliament and the Speaker then advises the Governor General to appoint the Member as Prime Minister. The Committee notes that this option is less corruptible and more achievable. However, problems would still be experienced as different parties have different ideologies and to maintain a coalition through the government would be very difficult as there would be varying opinions, differences in party politics, and differences in party platforms.
- The fourth option is the election of Prime Minister to form a government of national Coalition. The Committee notes that this option describes the current system where there is a coalition of parties made up of different parties and independent members.

The Committee's main concern in options 2 and 3 is that, there is the possibility whereby coalition parties may agree to replace the Prime Minister at any time they desire, thus resulting in two to three Prime Ministers from the Coalition within the span of four years.

The second concern with regard to the appointment of the Prime Minister, which the Committee wishes to raise in this report, is the election of the Prime Minister from within the Party system. The Office of the Prime Minister is one of the highest offices of the land and where an election is done within the party's walls, it reduces the integrity of the office and respect given to it.

All the Stakeholders agreed that electing the Prime Minister should be the prerogative and the privileges of the members of Parliament. This is to maintain the integrity and respect of the office of the Prime Minister and so his or her election must be done in the chamber of the Parliament House and by all elected members of Parliament. Mr. Fugui submitted to the Committee that the Prime Minister must be elected by members of Parliament. An election of a Prime Minister which is done within the walls of the Party's room is open to outside influences and people who are not elected members of Parliament does involve in such political party election, thus demeans the integrity of the Prime Minister's Office.

5. Appointment and Removal of Leader of Opposition

Sir Nathaniel Waena in his submission to the Committee stressed that there seemed to be inconsistencies with the process prescribed in the proposed Bill with regard to the appointment of the Leader of opposition and his termination. He pointed out that according to a lay man's view, the provision for the appointment of the Leader of Opposition is clear in that the Governor General appoints the Leader of opposition in accordance to the advice of the Speaker, whilst the termination clause remains unclear as the Governor General can terminate the appointment of the Leader of Opposition or his Deputy if the members of his party or Coalition of parties are not happy with him, thus, indicating no involvement of the Speaker. The Committee noted his concern and indicated that they will raise this issue with the drafters and principal advisors of the government during the latter part of the Hearing.

6. Removal of the Prime Minister

The Committee has also raised concerns on the proposed amendment for replacing the Prime Minister under clause 8 of the Constitution (Political Parties Amendment) Bill 2009. This occurs when a party or coalition of Parties have lost confidence in the Prime Minister. In such situation, a motion will be moved under clause 8 of the Bill and if it is passed, the Prime Minister will therefore tender his resignation. Under the proposed amendment, it only allows the Prime Minister to resign, leaving his Ministers to keep their ministerial portfolios. The committee acknowledged that the Prime Minister's position should be respected and must not be treated lightly in that sense.

The Committee is concern that this provision will give rise to the emergence of 'super ministers' as put by one of the stake holders. Ministers who are not happy with the Prime Minister can rally support against the Prime Minister from within the party or coalition of parties and move a motion of no confidence against him. As such, even if there is any replacement of the Prime Minister and the same party goes on and if there is another

instance where they are not satisfied in the decision of the Prime Minister again, the Ministers may force the Prime Minister to step down.

In responding to this concern, chairman of the Working Committee on the Political Parties Bill put forward that the idea of 'super minister' as assumed by some stakeholders cannot occur. He further stressed that such circumstances are taken care of by the 'minimum rules'⁶ stipulated in the Political Parties (Registration and Administration) Bill 2009. Such rules states that "...the Prime Minister must consult with the coalition executive leaders before he or she can appoint Ministers". Under the proposed minimum rules for coalition agreements, anything against the Prime Minister must be investigated by an appointed panel. Once the facts are established, party executive leaders must talk, consult, and negotiate. Procedures involved in such circumstances are not practically easy to create super ministers according to the Chairman of the Working Committee on the Political Parties Bill. In fact, they have to go through proper consultation mechanisms such as party leaders and party constitutions.

Mr. Moffat Fugui further submitted to the Committee that when a Prime Minister is dethroned easily as proposed by the new method, it could cause a downfall in the system. If parties that are in power are allowed to change or remove the Prime Minister, the new proposed system must be re-entrenched in order to make it stronger. This could avoid changing the Prime Minister on political whims or just because of governments' own convenience. Mr. Moffat Fugui stressed that changing the Prime Minister does not only amount to changing the person or office, but rather changing the entire country or system. He further agree that *"even if we allow political parties to change the Prime Minister, make sure it's re-entrenched so that it's difficult for political parties to change the Prime minister just because they don't want the clothes he wore yesterday or because he does not speak proper English in Parliament"*.

Overall, the Committee's view is that Ministers must also lose their seats if the Prime Minister loses his seat in a motion of no confidence. The rationale behind this is that the Prime Minister is the one who appoints the Ministers, and thus, if he resigns, his cabinet Ministers appointment becomes invalid and therefore automatically lose their ministerial portfolios. The new Prime Minister can then select his new ministers even if it includes the former ministers.

7. Powers of the Governor General to appoint Prime Minister

⁶ Schedule 2, Minimum provisions for the Constitutions and Rules of Political Parties, Political Parties (Registration and Administration) Bill 2009.

The Committee noted with concern, that schedule 2 of the Bill provides for the Governor General to have powers beyond what is prescribed for in the Constitution to appoint and terminate the Prime Minister after his election.

The Constitution⁷ of Solomon Islands provides that “the executive authority of the people of Solomon Islands is vested in the Head of State”. A question that would arise in such instance is whether the appointment of Prime Minister by the Governor General falls within the executive authority poses by the Governor General pursuant to section 30(1) of the Constitution. It must be noted that the Governor General is a figure head and acts mostly in accordance with advice from various bodies when prescribed by the Constitution. In that regard, *would shifting from electing the Prime Minister to appointment by the Governor General an executive power that falls directly under the powers of the Governor General?* This is an issue that needs to be carefully looked at when the Bill proposes that the Prime Minister should be appointed by the Governor General.

Sir Nathaniel Waena submitted to the Committee that the High Court has made it in clear that the Governor General does not have extra powers other than those prescribed in the Constitution and that he only enjoys deliberate powers specially prescribed in the Constitution. He stressed that the Speaker is the head of the legislature and should have that sort of powers.

Furthermore, Mr. Moffat Fugui suggests that in electing or appointing the Prime Minister by the Governor General, two things could occur. Firstly, the Prime Minister could be elected on the floor of Parliament by Members of Parliament and then forward it to the Governor General for endorsement just as a formal action of appointment. This method according to Mr Fugui should be the right approach. The second approach is for the Prime Minister to be directly appointed by the Governor General. He suggests that the second method could raise legal implications as to the Governor General’s power.

The Committee believes that the Governor General’s roles should be limited to the roles prescribed in the Constitution.

Apart from the power of the Governor General to appoint the Prime Minister, the Committee is concern that the proposed method of appointing the Prime Minister may allow non-members of Parliament of a particular party could involve in the decision-making of appointment or electing the Prime Minister.

⁷ Section 30 (1), Constitution of Solomon Islands.

In response to that concern, Mr. Moffat Fugui firmly submits that whatever method of appointment or election of the Prime Minister is used, it must allow only members of parliament to appoint or elect the Prime Minister. In this regard, he implied that non-members of parliament should not be allowed to involve in appointing or electing the Prime Minister. He further explained that the underlining rationale for taking that stand is based on the Westminster system of government that we adopt from England. He stressed that under the Westminster system, only elected members of parliament have the privilege to speak or vote on the floor of Parliament. Any non-member of Parliament does not have that same privilege, thus, cannot be given the mandate that only elected members of parliament have.

8. Parliamentary Secretaries

Clause 6 (b) (5) of the Bill provides that;

“The Prime Minister may, from amongst the members of Parliament (other than Ministers) in Government, appoint such prescribed number of parliamentary secretaries to perform the functions as maybe specified in the instrument of appointment, and such appointments are not to be regarded as cabinet positions.”⁸

With regards to this provision, Mr Andrew Nori when giving evidence before the Committee submits that such appointment of parliamentary secretary is a radical step to be taken by the government. Mr. Nori explained that while Cabinet Ministers will be appointed by the Governor General with specific government assignments and portfolios, the Bill also provide for the appointment of parliamentary secretaries. Such parliamentary secretaries will be appointed from amongst members of Parliament to perform responsibilities that are not prescribed by the Bill but rather prescribed in the instrument of appointment. He stressed that building another pool of political supporters to be called parliamentary secretaries beside cabinet and statutory board appointments will be highly politicised. He is of the firm view that such ‘shift leads to the politicization of the entire political apparatus’ of Solomon Islands.

In support of Mr. Nori’s view, Dr. Philip Tagini further questioned the rationale for appointing members of Parliament as parliament secretaries. The Bill does not expressly provide for the roles of parliament secretaries. As such, Dr. Tagini has raised concerns as to the clarity of parliament secretaries’ roles and duties. Another issue that would arise as far

⁸ Clause 6 (b) (5), Constitution (Political Parties Amendment) Bill 2009.

as parliamentary secretaries are concern is that of time to perform their assigned duties. It is explicitly obvious that being a Member of Parliament itself is an onerous duty. Thus, in the instance where members of Parliament are appointed as parliamentary secretaries, their duty to Parliament as elected members could be jeopardise to a great extent.

The committee was concerned as to the clarity of roles and responsibilities of parliamentary secretaries, thus queried such concerns with the Chairman of the Working Committee on Political Party Bill. In response to the Committee's query, Chairman of the Working Committee on the Political Party Bill refer the Committee to raise their concern with the Attorney General as he himself is not aware of the roles and responsibilities of parliamentary secretaries.

However, Mr. Moffat Fugui in his submission to the Committee asserts that the rationale behind creating Parliamentary secretaries is for Members of Parliament to take on parliamentary responsibilities. Since Members of Parliament made decisions that affect everyone as well as themselves, they should be the forefront in implementing their decisions. According to Mr Fugui, this idea to create Parliamentary secretaries is an invention, engineered to put Members of Parliament to take on various responsibilities every day.

9. Financial Implication of the Bill

As with any bill, the Committee was interested to hear about the likely financial implications of implementing the bill. In that regard, Mr. Moffat Fugui submit that in order to have an accurate financial estimate as to the implication of the Bill, a proper financial analysis is required in terms of the economic situation in Solomon Islands. However, it is noted by most of the stakeholders that appear before the Committee that the financial implications of the Bill if implemented as of 2010 would be very high.

Some of the specific economic implications that the government would incur in implementing the Bill is that of parliamentary secretaries. In giving evidence to the Committee, most of the stakeholders that appear before the Committee agree that creating such new posts would incur further costs to the government in terms of salaries and entitlements. Such specific costs with regards to parliamentary secretaries have already posed a huge financial cost to the government. Thus, implementing this Bill in its entirety would obviously create an enormous financial burden to the State.

Further to that, Chairman of the Working Committee on the Political Party Bill reiterates that the economy of Solomon Islands would not be able to afford implementing this Bill in 2010. However, in the long term, our economy could afford to financially sustain implementing this Bill depending on major investments like mining that would enhance our economy in the future.

10. Drafting style

Dr. Philip Tagini has raised a minor issue as to the drafting style used in Clause 5 of the Bill which amends section 15(5) (f) of the Constitution. New proposed amendments are added at the end of paragraph (f) which is described as (fa) and (fb). While such drafting style adopted is understood to retain the clause as they appear in the Constitution, according to Dr. Tagini, there is a tendency to confuse such clause with other clauses in the Constitution that appear as clause (f) (a) or (f) (b). The later is different from the former, however, could cause confusion because of such lettering style.

The important point to note in this instance is to understand that sometimes clause (fa) and (fb) have the reference to the original (f), however for the purpose of the Constitution (Political Parties Amendment) Bill 2009, the original paragraph (f) is completely different from the added paragraphs (fa) and (fb) in terms of their subject matter. In such case, Dr. Philip Tagini suggests that one drafting option to take is to give a separate lettered sub clause to each different subject. For instance, after lettered sub clause (f), the following lettered sub clauses should be (g), (h), (i) and continue in alphabetical order. This could avoid any confusion that may arise in terms of lettered sub clauses.

11. Short Title of the Bill

One of the stakeholders that appear before the Committee submits that the title of the proposed Bill is not reflective of its content. The title of the Bill is 'Constitution (Political Parties Amendment) Bill 2009'. In giving evidence, this particular stakeholder states that this Bill is not an amendment about political parties, however, it deals with the election of the Prime Minister and other major issues such as amending the fundamental rights enshrined in the Constitution. As such, the title of the Bill does not encapsulate the content of the Bill, that is Constitutional Amendment Bill No. 3 of 2009.

5. Recommendations

Most of the stakeholders that appeared before the Committee have expressed that this is obviously the way forward to the development of this country's political party system but cautioned that due care must be taken by the leaders of Solomon Islands to ensure that the Bill is workable.

Upon completion of the hearing on Bill the Committee recommends that:

1. Wider consultation should be done on the Bill to obtain meaningful and more insights on the practical issues of the Bill
2. The Clause f (b) with regard to the fundamental rights should be re-worded to bring out clarity of the intention of this particular amendment.
3. Schedule 2 of the Amendment must be amended to ensure that the Prime Minister is elected by all Members of Parliament within the Chamber of Parliament.
4. The drafter of the Bill should re-word the intentions of Clauses 2(d), 3(e), 4(e), and 5(fb) of the proposed Bill to relate to parliamentary proceedings.
5. Clause 8 of the Bill must be improved on so that all Ministers must also lose their seats if the Prime Minister loses his seat in a motion of no confidence.
6. The Governor General's roles should be limited to the roles prescribed in the Constitution under section 30 of the Constitution.
7. The Speaker's roles in the termination of the Leader of opposition or his deputy should be clearly spelt out in the Bill.
8. The Bill or any related subsidiary legislations must have provisions that spell out the roles and duties of parliamentary secretaries and the time to perform their assigned duties.
9. The Bill should be implemented with due consideration to the financial capacity to administer the Bill and the general preparedness of the people of Solomon Islands.
10. Proposed amendment to the drafting style is to replace (fa) and (fb) with h and i.
11. Re-word the title of the Bill to capture the content of the Bill, that is, Constitutional Amendment Bill (No. 3)2009.

Hon. Peter Shanel Agovaka
Chairman
Constitution Review Committee
23 November 2009

Appendix 1: Minutes



CONSTITUTION REVIEW COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Minutes of Proceedings

Meeting No. 1

Friday, 13 November 2009, Conference room 2, 2:30 pm

1. Members Present

Hon. Peter Shanel Agovaka	Chairman
Hon. Clement Kengava	Member
Hon. Isa'ac Inoke Tosika	Member
Hon. Rev. Leslie Boseto	Member
Hon. Japhet Waipora	Member
Hon. Patteson Oti	Member

Apologies

Hon. Walter Folotalu	Member
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2. Secretariat

Ms. Alice Willy	Clerk to Committee
Mr. Stanley Hanu	Committee secretariat – Legal

3. Opening prayer

Hon. Rev. Boseto said the opening prayer.

4. Welcome and Opening Remarks by Chair

The Chair welcomed and thanked members of the Committee for their attendance.

5. Committee's deliberation of the Stakeholder's List

The Committee deliberated and resolved on the stakeholders List produced by the Secretariat.

6. Close

Hon. Rev. Boseto said the closing prayer and meeting ended at 3: 30 pm.



CONSTITUTION REVIEW COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Minutes of Proceedings

Meeting No. 2

Monday, 16 November 2009, Conference room 2, 2:45 pm

1. Members Present

Hon. Peter Shanel Agovaka	Chairman
Hon. Rev. Leslie Boseto	Member
Hon. Japhet Waipora	Member
Hon. Patteson Oti	Member
Hon. Isaac Inoke Tosika	Member
Hon. Clement Kengava	Member

Apologies

Hon. Walter Folotalu	Member
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2. Witness

Sir Nathaniel Waena	Former Governor General
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3. Secretariat

Ms. Alice Willy	Clerk to Committee
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4. Opening Prayer

Hon. Rev. Boseto said the opening prayer.

5. Welcome by Chair

The Chair welcomed and thanked members of the Committee for their attendance.

The Chair thanked Sir Nathaniel Waena for accepting the Committee's invitation to appear before the Committee on such a short notice

6. Witness gave evidence before the Committee

Sir Waena provided his views to the Committee.

The Committee questioned the Sir Waena.

The Chair closed the hearing.

7. Close

Hon. Rev. Boseto said the closing prayer and the meeting ended at 3: 40 pm.



CONSTITUTION REVIEW COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Minutes of Proceedings

Meeting No. 3

Wednesday, 17 November 2009, Conference room 2, 10:45 am

1. Members Present

Hon. Peter Shanel Agovaka	Chairman
Hon. Japhet Waipora	Member
Hon. Walter Folotalu	Member

Apologies

Hon. Rev. Leslie Boseto	Member
Hon. Patteson Oti	Member
Hon. Isaac Inoke Tosika	Member
Hon. Clement Kengava	Member

2. Witnesses

Mr. Andrew Nori	Private Practitioner – Barrister & Solicitor
Dr. Philip Tagini	Private Practitioner – Barrister & Solicitor
Mr. Rodney Kingmele	Private Practitioner– Barrister & Solicitor/President

3. Secretariat

Ms. Alice Willy	Clerk to Committee
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4. Opening Prayer

Hon. Rev. Folotalu said the opening prayer.

5. Welcome by Chair

The Chair welcomed and thanked members of the Committee for their attendance.

The Chair thanked Mr. Nori, Dr Tagini and Mr. Kingmele for accepting the Committee's invitation to appear before the Committee on such a short notice

6. Hearing:

Mr. Nori gave evidence before the Committee using a PowerPoint presentation.
Dr. Tagini gave evidence before the Committee
Mr. Rodney Kingmele gave evidence before the Committee

The Committee questioned the Witnesses and suspend the sitting for lunch

Mr. John Keniapisia gave evidence before the Committee.
The Committee question Mr. John Keniapisia.

The Chair thanked the witnesses for the enlightening evidence concluded the Hearing.

7. Close

Hon. Folotalu said the closing prayer and the meeting ended at 3: 40 pm.



CONSTITUTION REVIEW COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Minutes of Proceedings

Meeting No. 4

Thursday, 19 November 2009, Conference room 2, 2:00 pm

1. Members Present

Hon. Peter Shanel Agovaka	Chairman
Hon. Isaac Inoke Tosika	Member
Hon. Walter Folotalu	Member
Hon. Japhet Waipora	Member

Apologies

Hon. Rev. Leslie Boseto	Member
Hon. Patteson Oti	Member
Hon. Clement Kengava	Member

2. Witness

Mr. Moffat Fugui	Secretary to Caucus
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3. Secretariat

Ms. Alice Willy	Clerk to Committee
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4. Opening Prayer

Hon. Walter Folotalu said the opening prayer.

5. Welcome by Chair

The Chair welcomed and thanked members of the Committee for their attendance.

The Chair thanked the Witness for accepting the Committee's invitation for him to appear before the Committee on such a short notice

6. Hearing: Mr. Moffat Fugui

The witness provided his views to the Committee.

The Committee questioned the Witness.

Questioning concluded and the witness withdrew.

The Chair thanked the witness for the enlightening evidence and closed the hearing.

7. Close

Hon. Folotalu said the closing prayer and the meeting ended at 3: 45 pm.



CONSTITUTION REVIEW COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Minutes of Proceedings

Meeting No. 5

Friday, 20 November 2009, Parliament Conference Room 2, 9: 30 am.

1. Members Present

Hon. Peter Shanel Agovaka	Chairman
Hon. Rev. Leslie Boseto	Member
Hon. Japhet Waipora	Member
Hon. Isaac Inoke Tosika	Member
Hon. Clement Kengava	Member
Hon. Walter Folotalu	Member

Apologies

Hon. Patteson Oti	Member
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2. Secretariat

Ms. Alice Willy	Clerk to Committee
Mr. Stanley Hanu	Committee Secretariat-Legal

3. Opening Prayer

Hon. Rev. Boseto opened the meeting with a word of prayer.

4. Chair's welcome

The Chair welcomed and thanked the members present for their attendance.

5. Motion to confirm Minutes of Previous Meeting

Minutes of previous meetings 1- 4 held on the Friday, 13 November 2009, Monday, 16 November 2009, Wednesday, 18 November 2009, and Thursday, 19 November 2009 were confirmed and adopted as minutes of the Committee.

6. Chair's Report

The Chairman tabled his draft report, which having been previously circulated, was taken as being read a first time.

According to Standing Order 72 (8) the Chair proposed the question 'That the Chair's report be read a second time paragraph by paragraph.'

The Committee deliberated:

That the Report will not be presented to Parliament as yet as the Committee is of the view that it would need to gather representative view of all stakeholders who have appeared as witnesses.

7. Close

Hon. Rev. Boseto said the closing Prayer and the Meeting closed at 11:30 am.



CONSTITUTION REVIEW COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Minutes of Proceedings

Meeting No. 6

Monday 23 November 2009, Parliament Conference Room 2, 9: 50 am.

1. Members Present

Hon. Peter Shanel Agovaka	Chairman
Hon. Japhet Waipora	Member
Hon. Isaac Inoke Tosika	Member
Hon. Clement Kengava	Member
Hon. Patteson Oti	Member

Apologies

Hon. Walter Folotalu	Member
Hon. Rev. Leslie Boseto	Member

2. Secretariat

Ms. Alice Willy	Clerk to Committee
Mr. Stanley Hanu	Committee Secretariat-Legal

3. Opening Prayer

Hon. Isaac Inoke opened the meeting with a word of prayer.

4. Chair's welcome

The Chair welcomed and thanked the members present for their attendance.

5. Committee deliberation on the report

That the Committee deliberated on the report on the Constitution (Political Parties Amendment) Bill 2009.

That the Report is passed with amendments and adopted as Report of the Committee. The Minutes for Friday 20 November 2009 and Monday 23 November 2009 adopted as Minutes of Committee

6. Close

Meeting closed at 10:48 am.

Appendix 2: Witnesses

Date	Name	Position/Office
Monday, 16 November 2009	Sir Nathaniel Waena	Former Governor General, Solomon Islands
Wednesday, 18 November 2009	Mr. Andrew Nori	Barrister and Solicitor, Private Practitioner, Bridge Lawyers
Wednesday, 18 November 2009	Dr. Philip Tagini	Barrister and Solicitor, Private Practitioner, Global Lawyers
Wednesday, 18 November 2009	Mr. Rodney Kingmele	Barrister and Solicitor, President, Solomon Islands Bar Association
Wednesday, 18 November 2009	Mr. John Keniapisia	Special Secretary to Prime Minister, Chairman of the Political Parties Integrity Bill Taskforce
Thursday, 20 November 2009	Mr. Moffat Fugui	Secretary to Caucus

Appendix 3: List of Submissions

Date	Name	Position/Office	Submission
Tuesday, 17 November 2009	Ms. Sarah Dyer	Solomon Islands National Council of Women	Written
Wednesday, 18 November 2009	Mr. Andrew Nori	Barrister and Solicitor, Private Practitioner, Bridge Lawyers	Written

Appendix 4: Reference

1. Campbell E, *Parliamentary Privilege*, Monash University, The Federation Press, 2003.
2. The Constitution of Solomon Islands, National Parliament Office of Solomon Islands.
3. Standing Orders of the National Parliament of Solomon Islands