

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

DAILY HANSARD

FIRST MEETING – EIGHTH SESSION

THURSDAY 27 APRIL 2006

The Speaker, Sir Peter Kenilorea took the Chair at 9.45 am.

Prayers.

ATTENDANCE

At prayers all were present with the exception of the Ministers for the Department of Foreign Affairs, Lands & Survey and the Members for Central Honiara, East Honiara, Gao/Bugotu.

Mr Speaker: The Honourable MP for Aoke/Langa Langa has sought permission to raise a point of privilege and clarification.

Hon ULUFA'ALU: Mr Speaker, I just wish to raise two matters – the first is on seeking clarification and the other is a matter of privilege.

On the issue of seeking clarification from your Chair, this is an unprecedented issue where a motion is stated on the Order Paper to be moved by the Caretaker Prime Minister, which the action of such office in the past has been restricted to the executive and not necessarily on the floor of Parliament. It is in that context I raise this for clarification so that it goes down on records properly because parliamentary matters are matters of precedent and hence since there was no precedent in the past you may be in the position to clarify this matter so that it goes down in the records as parliamentary procedure for future reference. That is the first point I would like to seek clarification on from the Chair.

Mr Speaker, the second point is raised under Standing Orders 25 - a matter of privilege, and it is in respect to this Parliament, the dignity

and respect that people accorded this Parliament. This Parliament is the last place in this country

that is supposed to be holy, sacred and respected because it reflects the sovereignty of this country. I am referring to the holiness that people of this country subscribe to this institution, their Parliament, and in this context the actions that had happened in this chamber seem to me to be undermining the sacredness, holiness and the very sovereignty which is the essence of our democracy as a sovereign people.

Mr Speaker, I refer to the incident where military forces entered this very chamber assembling their riot gears and everything in this chamber. Although they are operating under the Facilitation Act, the scope that that Facilitation Act gave them was really outside of Parliament and not in the chamber in here. They should have restricted their access outside Parliament and not inside the chamber. This is where it is called the holy of holies if you can remember the words used in the Bible and therefore should be kept only for people who are entitled to enter the holy of holies and not any military personnel or other persons who are not warranted to be in such a holy and sacred place like this.

I want to raise this because this really amounts to complete annexation of the Solomon Islands' sovereignty and freedom. Although what they are doing is facilitated under the Facilitating Act, the scope of that Act is limited, it is not everything. It is in that context I raise this point. In fact some people may have questioned whether the actions taken were within the context of the Facilitation Act or is the Facilitation Act itself for a different circumstance created as a result of the ethnic tension.

There are a number of issues that need to be raised and clarified in order for all of us to have a good understanding of these things. As I

said it is regrettable and you yourself, Mr Speaker, would have noted what I am saying that these people are assembling their riot gears in the very chamber itself. I am quite sure they have all the time in the world to assemble those things outside of this chamber.

Hon Fono: Point of order. Mr Speaker, the MP for Aoke/Langa Langa should not confuse the public. The Chamber means where we are sitting inside now. I do not see any riot gears in this chamber. They are outside of the building and so he should not confuse the public. Although this is raised under matter of privilege he should say things rightly. What the Police and the security are doing is outside of the building and not in the chamber and so he should withdraw his statement that there is no riot squad in the chamber. My understanding of the chamber is where we are sitting in right now and so he should not misinform the public again, Mr Speaker.

Hon Ulufa'alu: There are always others venues the honourable Member can correct my statement. The chamber includes this whole building. The gallery is part of this chamber. Where do you draw the limits of jurisdiction? Whilst I have respect for my honorable colleague for Central Kwara'ae, I think it is important to bring this matter out so that relevant authorities can ensure what to do about it.

I am only raising it because it affects the dignity, the holiness and the sanctuary of this chamber. I brought it up because it is part of this chamber, the gallery is very much part of it. I am raising this matter because of that concern and it is not for us to debate and argue about it.

With those few comments, Mr Speaker, I thank you for your permission to allow me to raise this on the floor of Parliament because this is where these matters are supposed to be raised and not somewhere else.

Mr Speaker: In regards to the first point you raised in relation to the Prime Minister who has kindly vacated his seat, the Constitution is very clear that the tenure of service under section 34(4) provides that whilst there is a vacancy, the Prime Minister who has just created that

vacancy can continue the function as a Prime Minister until a Prime Minister is elected. So whilst there is vacancy the function is served. So there is nothing wrong for the Caretaker Prime Minister to continue performing the role of a Prime Minister until the vacancy is filled by the election of a new Prime Minister. I think that is quite clear and nothing untoward in the current Caretaker Prime Minister performing the role of prime minister in Parliament.

In providing that servings provision, there is no language to the effect of limitation of his function and so I take it that his function in Parliament includes the normal functions he would be doing outside of Parliament.

As regards to the concern about the use of the Parliament Chamber, for purposes other than the purposes it is intended to, I have been drawn to that very important issue on Tuesday last week by my staff that they understood that some gear that should not be brought into Parliament were brought into Parliament, and I accordingly asked the RAMSI officers to kindly remove them from inside Parliament to outside of Parliament.

Since Tuesday last week I have not noticed any repetition of bringing these things back into Parliament unless it is for their normal Police function of the Parliament Building. I do fully subscribe to the concern that the honorable Member for Aoke/Langa Langa has brought in relation to the Parliament Building but that issue I believe has already been cleared

Hon ZAMA: Point of Order. Mr Speaker, thank you for that clarification but I think, Mr Speaker, you need to define executive functions as against legislature.

This is a meeting of Parliament and so where do you really draw the line here? In as far as executive functions are concern then I think the definition and the line you are trying to clarify may hold water. But in terms of a meeting of Parliament this is where clarification is needed to be made. This is a meeting of Parliament and not a function of executive, and that is what we want clarification from your chair on.

Mr Speaker: We do have a Parliament still in existence. This is the Legislature and we are

meeting as a Parliament, but we do also have an Executive Government, caretaking still. Therefore, the honorable Prime Minister has every reason to attend Parliament as a Caretaker Prime Minister under the servings provision to which I referred to earlier - section 34(4) of the constitution. His function is not taken away from him just because he vacated the office until a new Prime Minister is elected. That is very clear.

And his responsibility includes answering of questions in Parliament and since Parliament is meeting and so he is here in Parliament to respond to any issues raised by Parliament.

I hope those rulings are clear, but of course that is the Speaker's view unless the Attorney General may wish to make further clarifications.

Hon HAOMAE: Point of Order. Mr Speaker, I wish to seek your indulgence to clarify sitting arrangements in Parliament at this point in time because some of our Ministers in caretaking capacities are still Ministers but have not resigned as Ministers of the Crown and are sitting on the other side of the Opposition Bench.

For purposes of the dignity of Parliament which my honorable colleague for Aoke/Langa Langa has subscribed his views on that point, I wish to seek your clarification as to whether it is proper parliamentary practice for a member of the Cabinet to sit on the Opposition Bench when he is yet to resign as a Minister of the Crown.

Mr Speaker: I suppose in terms of sitting in Parliament it is up to the Member's freedom to sit wherever he wants to sit

(hear, hear)

and so that does not affect his appointment as a Minister wherever he sits in Parliament. Of course, by convention we know the areas that Government normally sits but as I said officially it does not affect his official appointment wherever he sits.

Mr LILO: Point of Order: Mr Speaker, I do appreciate your ruling on the question of the responsibility of the Caretaker Prime Minister. But I think we have to understand that the bedrock of democracy is really the majority rules. Now in a situation where the Prime Minister no longer commands that majority, it serves no purpose for us to come to Parliament and try to transact business. We know that we would not have a democratic decision on it, and that is majority decision on any parliamentary business. I think that is really the gist of the matter that is being raised by the Honorable MP for Aoke/Langa Langa and also the MP for Rendova and South New Georgia.

The point is whether or not the Prime Minister has the majority or numerical strength to pass any business in Parliament. By the look of things that is exactly the basis upon which the Prime Minister resigned yesterday knowing very well that he doesn't command the majority on the floor of Parliament. I think it would set a very bad precedence if we allow the caretaker Prime Minister to organize and prescribe government business knowing very well that at the end of the day it will have no effect on the decision that is required on the floor of Parliament because obviously the Opposition will vote against that business.

I think we have to have a clear understanding and ruling on this that in a case where we are required to achieve a result in Parliament, which is a democratic one in Parliament then we have to look at what is the strength on both sides. The Prime Minister has resigned yesterday simply on the basis of number and if you allow Parliament to continue today with minority rule then obviously it would be undemocratic.

I humbly appeal to you, Mr Speaker to make a clear clarification on this particular issue which I think will set a precedence.

Hon Haomae: Point of order Mr Speaker, I think you have already made a ruling on that point. If the Honorable colleague, the Member raising that point wish to clear it in the courts of law he may do so.

Mr Speaker: May be I can try to clarify this point before we talk about courts. The situation

that has be fallen our country at this time happened when a meeting of Parliament is in process. We do not have a Prime Minister officially now because he has resigned under section 34, of course, as read with section 136 of the Constitution he has resigned. If I understand the news correctly yesterday the resignation was official because His Excellency the Governor General has received it and so we do not have a Prime Minister per say.

The provision I referred to, which is provision 34 says that “during any period when the office of the Prime Minister is vacant, the person who held the office immediately before the vacancy arose shall continue to perform the functions of a Prime Minister until a person is elected to the office of Prime Minister in accordance with the provision of schedule 2 to the Constitution”.

Whilst we do not have a Prime Minister per say, the person who held that particular office before the vacancy, the functions he performed are served under this particular provision, and that is why we refer to him as the caretaker Prime Minister.

Now because Parliament is meeting, obviously he is not required not to attend Parliament. Of course, there must be a caretaker executive and the Opposition, and hence we are all here. There is no question about the Prime Minister who has vacated his office performing his duty until a new Prime Minister is elected. I think that is very clear.

In terms of business in Parliament, my understanding is that there is no business except a motion for adjournment that we are here to pass, so that we can properly adjourn to the day when the elections will be made, the election of the Prime Minister.

Mr KAUA: Mr Speaker, I think what needs to be clarified is that when the Prime Minister has resigned does that mean he is still the Caretaker Prime Minister which is different from a Prime Minister that Parliament appoints and then waits a the new government is in office? I think what needs to be clarified is whether the Prime Minister who has resigned can still be called a “Caretaker Prime Minister”.

Mr Speaker: That is the point I have been trying to label all morning

(laughter)

for everyone to understand. He has resigned and so he no longer holds the post of a Prime Minister per say. But the serving provisions to which I referred to allows him to perform as a Prime Minister until a new Prime Minister is elected.

Mr Oti: Mr Speaker, whilst I concur with your interpretation and ruling, the point made about a government in a caretaking capacity, in reading section 136 of the Constitution there is scope for withdrawal of resignation. But if this is taken advantage of, then of course it would have made the exercise we went through yesterday futile. That is why the Caretaker Prime Minister bringing a matter to Parliament and has to observe the fact that section 134 on resignation is a one-way traffic because the savings provision in section 136 cannot be invoked whereby the person submitting the resignation can actually withdraw on the impression that the numbers are still there.

It is quite a fine line that has to be drawn that since section 134 is a one-way traffic, the savings provision in section 136 cannot be used to pretend that he still has the number.

Mr KEMAKEZA: Mr Speaker, thank you for giving chance to this side of the House. With due respect to a lot of lawyers on this side of the House, your ruling is final and conclusive. Any doubts about the law, nobody in here is supposed to give legal advice in this House, Mr Speaker, but only the Attorney General who is still here in the Chambers. If that is the point raised by the so called Opposition then allow the Attorney General to give his opinion but do not allow many interpretations of the Constitution because we do not have the qualification to do that. Mr Speaker. Your chair has made the ruling Mr Speaker, since the Attorney General is here.

(Mr Oti interjecting) I am not interpreting the Constitution, I am reading what the Constitution says. Thank you.

Mr Speaker: The Constitution also says that once a resignation is received it cannot be withdrawn. The resignation letter has already been received as I said and therefore the person who made the application to resign cannot withdraw it. Also section 136 does not provide for any acceptance of any resignation. Once it is received by the authority to whom that resignation is entitled under the Constitution it takes effect. And as I have heard last night, obviously His Excellency has received the resignation and therefore, it was proper and we do not have a Prime Minister, but the savings provision here does provide for the Prime Minister immediate before the vacancy to continue functioning as a Prime Minister until a replacement is elected. I therefore see no reason for continuing discussions on this issue as it is, in my view, quite clear.

I wish to thank all honourable members, but I think it is good that this issue is clarified on the floor of Parliament so that we do not get entangled with it again in future.

Hon Haomae: Mr Speaker, I wish to return for purposes of clarification on the point I raised earlier. Were you saying that if I am appointed Minister in the next government I can sit on the other side?

Mr Speaker: Yes, although the Standing Order provides that it is unnecessary to be crossing the floor unnecessarily.

Mr Darcy: Mr Speaker, normally the motion of sine die is part of government business.

Mr Speaker: I got your point. On the issue of the sine die motion, my clerk and I have decided that it will not be moved by the current Caretaker Government. Today's motion is one of adjournment so that we can adjourn to the day or thereafter of the election of the new Prime Minister, and whoever is our next Prime Minister might then raise the sine die motion.

Mr Darcy: Mr Speaker, I think you have now put us in the right direction and I welcome the decision that it is a normal adjournment motion rather than a sine die.

Mr Speaker: You might see it in the Order Paper because we are in the same meeting and it has been notified.

MOTIONS

Hon Rini: Mr Speaker, I seek your permission to suspend Standing Order 9 under Standing Order 81 to move the motion that appeared in today's Order Paper.

Mr Speaker: The question is that Standing Order 9 be suspended under Standing Order 81 so that the motion for adjournment today maybe moved, and the reason for it is that yesterday's motion of adjournment was for today and the provisions of Standing Order 9 is that we can only adjourn to the next day. So the Prime Minister now is seeking us under Order 81 to suspend Standing Order 9 so that he can move the adjournment beyond tomorrow to whatever day, I think it is the 5th.

It was agreed that Standing Order 9 was suspended under Standing Order 81 to allow Parliament to adjourn until Friday 5th May 2006

Hon Rini: I beg to move that Parliament be now adjourned until Friday 5th May 2006 or should the election of the Prime Minister occur earlier to the day after that election.

The House adjourned until Friday 5th May 2006