

**Votes & Proceedings
Of the
Eighteenth Parliament**

No. 24

**Second Sitting of the Thirteenth Meeting
Thursday, 20th August 2009**

10.00 a.m.

1. The House met at 10 a.m. pursuant to the resolution of the House made on Tuesday, 18th August 2009.

2. Hon. Riddell Akua, M.P., Speaker of Parliament, took the Chair and read Prayers.

3. **Questions on Notice**

Question No. 1 of 2009 was replied to.

Question No. 2 of 2009 was replied to.

Question No. 3 of 2009 was replied to.

Question No. 5 of 2009 was replied to

Question No. 6 of 2009 was replied to.

Question No. 7 of 2009 was replied to.

Question No. 8 of 2009 was replied to.

Question No. 9 of 2009 was replied to.

Question No. 10 of 2009 was replied to.

Question No. 11 of 2009 was replied to.

Question No. 12 of 2009 was replied to.

Question No. 14 of 2009 was replied to.

Question No. 16 of 2009 was deferred to the next sitting.

4. **Leave Sought for**

His Excellency President Marcus Stephen sought leave of the House to suspend all Standing Orders to enable him to give notice of a motion to present the Liquor (Amendment) Bill 2009 at the next sitting.

Hon. Dr. Kieren Keke (Minister for Finance) seconded.

Leave was granted.

5. **Notice of Motion**

His Excellency President Marcus Stephen gave notice that at the next sitting of Parliament he shall present the Liquor (Amendment) Bill 2009.

Hon. Dr. Kieren Keke (Minister for Finance) seconded.

Question put and passed.

6. **Questions Without Notice** were asked.

The Chair, with consensus of the House, suspended the sitting and to resume when the bell rings.

Resumed.

7. Ministerial Statements & Tabling of Papers

(i) Hon. Mathew Batsiua (Minister for Justice) made a statement on the 'Appointment of a new DPP' which reads as follows:

"Mr. Speaker, as Hon. Members of Parliament will be aware the former Director of Public Prosecutions Mr. Paul Bannister, ended his term with us on 30th June 2009. Since then the Justice Ministry has been collaborating with the PIF Secretariat to try and secure a placement in a timely manner through a competitive recruitment and advertising process in the region. In the interim period I am pleased to inform the House that the Justice Ministry did secure the services of a prosecutor from the Office of DPP in the Solomon Islands, Mr. Henry Kausimae to assist a prosecutor in the Office of DPP which was critical because of the very important pending cases in the recent Supreme Court session.

(1) Mr. Kausimae graduated from the University of the South Pacific with Bachelor of law in 2000 and postgraduate in Legal Practice in 2001.

(2) Admitted and practised as a barrister and solicitor and Commissioner for Oath in the High Court of the Solomon Islands since 2001. Amongst his work experience he has successfully prosecuted criminal cases of attempted coups in the Solomon Islands.

(3) Principal Legal Officer at the Solomon Islands Director of Public Prosecutions Office a current member of the Solomon Islands Law Society.

(4) He was admitted to the Supreme Court of Nauru on the 4th August 2009.

After his arrival and assumption of duty on Nauru on the 24th July, Mr. Kausimae had successfully prosecuted 7 cases at the District Court and 4 cases at the Supreme Court. The fourth Supreme Court case has returned a guilty verdict and is now awaiting sentencing.

I also wish to add that we are finalising with the Pacific Islands Forum the recruitment of a substantive DPP. The preferred candidate has been identified by the selection panel and that choice will be communicated formally to Nauru for our endorsement by tomorrow. Once endorsed, the successful candidate will be offered the post and I have been informed that he will be available almost immediately, hence we should see our new DPP in Nauru very shortly. Thank you, Mr. Speaker.

(ii) Hon. Sprent Dabwido (Minister for Transport) made a statement to the House on the 'Development of the Nauru Port Authority', which reads as follows:-

'Mr. Speaker and Honourable Members, I wish to give a brief update on the development of the Nauru Port Authority. As you are well aware there are on-going repairs being carried out on the mooring system.

The same repairs were also carried out as recently as in 2006. Unfortunately the repairs of the moorings are very expensive. The repairs done in 2006 were said to have cost just over 2 million dollars. The cost of the current repairs without replacing the head buoy which is missing is now reaching half a million dollars. If the head buoy is to be replaced then such expense will blow out to an estimated 2 million dollars. But without the head buoy being replaced it is very unlikely that the ports can safely berth phosphate ships of the size of 40 tonnes, unfortunately these are the size of the ships that buyers of our rock finds to be the perfect ship which will meet their needs. So it would be prudent to fix the head buoy.

The Port Authority and RONPHOS are currently working together to address the immediate issue of repairing the mooring system and this includes looking at replacing the very important head buoy. It is anticipated that a refurbishment of the buoys maybe the way to go. This plan is still being discussed and yet to be developed further.

I also wish to inform the House that since last year the government has been in discussion with ADB to find a permanent solution to the mooring system and the port facilities in general. It was agreed that ADB would fund a study on the best way forward to developing the ports to enable it to provide a better service to all its customers by developing an all-weather port that would accommodate all our customers.

Earlier this year a consultant was engaged and he had arrived in April and has done a report for the government on the development of the ports. The report suggested 3 different options for developing the ports ranging from repairing the mooring system to building an all-weather port that would see ships as big as 40 tonnes enter and leave the ports even when the westerly winds are dancing on the harbour. With the 3 options there are different prices ranging from \$2 million up to \$70 million.

Earlier this year at the PALM meeting, the ADB report was discussed by His Excellency the President and his delegation in Japan and I am pleased that as a result of the successful meeting between Nauru and Japan, Japan has sent 2 ports consultants who were here last month and have done a full study of the ports and the ADB report. Their interim report has recommended that option No. 3 in the ADB report will be of real interest to the Japanese Government to support.

This option involves building a wharf on the south side of the boat harbour out on to the edge of the reef and along the reef and up to the base of the cantilevers. Even though this will not be an all-weather port it will mean that the mooring system will be no longer needed. The estimate cost of this project is expected to reach USD15 million. If this project is approved, it is estimated that it will commence work in 2011 and be completed in early 2013.

With the help of Foreign Affairs Department, Nauru has sent its official request to the Government of Japan to assist in developing this ports project. We are now at the stage of waiting for a reply, hopefully a pleasant reply.

Mr. Speaker, as soon as further news on this issue arises I will inform this House. Thank you.

Mr. Waqa (Boe) moved that the paper be noted.

(iii) Hon. Frederick Pitcher (Minister for CIE) made a statement relating to 'Updates on Developments and Achievements by the Utilities Sector for the period April to August 2009', which reads as follows:-

'Hon. Speaker and Members of the House, in my capacity as Minister responsible for the Utilities Sector, I am delighted to provide the following update on developments and achievements during the period April to August 2009. This reporting period covers part of the previous financial year and the early months of the current year. I will focus my report on performance across the three sections – electricity, water and fuel supplies.

From the outset, Mr. Speaker, I wish to draw your attention to a great leap forward with our electricity supply now on 24- hour service. It's been a long while since we have lived with load-shedding and this recent achievement has lifted the mood of our community.

Firstly let me outline the capacity of Utilities to deliver on its outcomes.

Staff Capacity – *As of today the total number of local staff in position is approximately 134 employees. Local security team is expected to transfer to the Nauru Police Force once the service agreement is signed sometime in the next few days.*

In addition to local staff is a team of expatriates, 5 in total, who have taken up full time positions at the executive management level. The expat team consists of the CEO, Manager – Operations (Power & Water), Manager of Tank Farm and Financial Manager. Expatriates contracted on part-time arrangements include the Ruston engineer and the calibration engineer.

The Utilities manpower capacity continues to be strengthened by the EU funded Energy Office. Recently recruitment of two energy officers was made and they are expected to progress the energy efficiency agenda previously implemented by the former Energy Officer, Ms. Silvie Dageago.

On this note, Mr. Speaker, I wish to pay tribute to Ms. Silvie Dageago who was the pioneer of the energy efficiency program. She was a great asset to the Utilities Sector and the community and her ability to bridge differences between various stake-holders was her greatest strength. She is missed by her colleagues and we pray that she rests in peace.

In terms of staff development, training of staff is ongoing through on the job training, attachments, and various other arrangements including participation in formal courses up to 3 months.

Of special note, Japan continues to support training in diesel operator maintenance and a candidate has been confirmed to participate in next month's training course in Tokyo, Japan. A couple of employees are currently at FIT undertaking full time certificate and diploma programs.

Recently a 2-day attachment regarding water safety and standards was undertaken by the RO engineer with Veolia Water of Melbourne, Australia.

As previously reported most training costs are often covered by development partners and training providers.

Budget Performance - *Mr. Speaker, the current year's budget along with its work program was approved in the budget preparation process and it is currently being implemented. Approved expenditure for 2009/10 was \$3.17 million and details of priorities and previous year's achievements have been outlined in the report process being part of the budget formulation process. However, future statements will attempt to capture budget achievements during the current year.*

Reconciliation of the accounts for period 2007/08 has been made and preparation for auditing has since experienced disruptions, but effort is made to audit the accounts of previous two financial years at the earliest opportunity.

In terms of development assistance to the sector, the contribution from the AusAID program has not yet been confirmed.

The EU has agreed to allocate 2 million Euros for the next funding cycle to continue strengthening the electricity sector, in particular loss reduction and increased efficiency of the distribution and transmission system. This funding will hopefully become available in 2010.

Other development partners have been approached such as the Japanese Government for assistance to the water sector. Ongoing assistance is received from CROP agencies regarding various projects across the board and some of these supports will be detailed in the appropriate sector performance report.

Draft NUA Bill - *Mr. Speaker, the ADB mission early this year has agreed to assist the Parliamentary Counsel and Utilities team in fine-tuning the existing draft Bill. The scope of work is currently being developed by the team in consultation with the ADB coordinator for Nauru. It is likely that the next ADB mission will also include a legal specialist to take on the drafting work.*

Prepayment Meters - *Report on the prepaid system has been made through a separate statement to the House so this report will not delve into the subject.*

Ongoing community education on energy efficiency is sustained by the EU funded Energy Office that is attached to the Utilities operation. A detailed education program has been developed which will involve consultations and workshops at every district throughout the island.

It is expected that our community will have a better appreciation of the link between demand side management and supply side management. It is also expected that they will have the capability to audit their own consumption thus leading to greater efficiency.

Power Generation Supply Capacity - *Mr. Speaker, the power supply capacity is sustained by Ruston Nos. 1, 5 and 6 plus 2 Cummins units. Ongoing maintenance effort on No. 7 and No. 4 is in train.*

The lease arrangement with Coates ceased in June and Utilities purchased 2 of the Gensets at a price of \$60,000. These units provide back-up capacity.

Load-shedding has ceased and 24-hour supply has been restored. Disruptions may continue to occur due to a failing distribution infrastructure and public must be aware of this issue.

The government continued to provide fuels free of charge to Utilities for electricity production.

Renewable Energy Projects - *The wind testing equipment was installed at the telecommunication tower at Anabar District in June. Monitoring of wind speed during a 12-month period will gather sufficient data to determine if wind energy source is viable for Nauru. A wind speed average of 5.4 or higher will prove wind energy viable for Nauru.*

Performance of the solar grid connected system installed last year at Nauru College is monitored continuously. The system so far has demonstrated its viability by producing each month more than 2,000 kilowatt on average – this means that fuel saving is achievable. Whilst this is a good sign, monitoring performance for a period of 12 months may produce a better outcome.

Fuel Supply Management – *Mr. Speaker, some changes have occurred in this sector. The Department of Finance has delegated its engagement in fuel procurement to Utilities where it believes has the expertise and market knowledge essential for performing the role effectively.*

The teams from Finance and Utilities have developed a procurement policy manual and this document is in the process of adoption by Cabinet. The new arrangement took effect in July and I am proud to report that the first shipment of fuel arrived 2 weeks ago. About 1,000 tons of diesel and 200 tons of ULP, which is equivalent to \$800,000 were offloaded. I am also proud to report that the low sulphur content of this stock is compatible with heavy machineries operated by RONPHOS thus we expect minimal breakdowns of mining machineries.

A second fuel shipment of 2,300 tons of diesel, donated by the Japanese government arrived last week. This diesel has higher sulphur content and will be used for power generation. The stock on the island is expected to last until October or early November.

Key projects for tank farm for the current year will involve cleaning of the Jet A1 fuel tank as well as repairing of the fuel pipeline. These projects are self-funded and progress will be subject to availability of funds.

Water Production & Delivery - *Mr. Speaker, daily production of water continued to rely on the RO units and all units are operational. In recent weeks about 120Kl of water is produced daily because the operation runs on 10 hours only. Water storage level has reached its highest of 14 meters. This achievement can be attributed to the continuous blessings of heavy rain we have received in recent months which has allowed us to store sufficient water daily.*

The 3 delivery trucks are operational each has a capacity of 5,600 litres, 10,000 litres and 14,000 litres of water respectively. The delivery truck, known as the red truck, which was donated by the Japanese government arrived safely on the island in June. The second truck with 4,000 litres capacity is expected to arrive this week on the cargo ship.

A proposal is currently being developed for a third truck with capacity of 10,000 litres. The Government of Japan has agreed in principle to support this proposal. Additional capacity will certainly ease the pressure on water delivery.

Involvement in Regional Initiatives - Mr. Speaker, I was head of the delegation to the Energy Ministers and Officials meeting which was held in Tonga in April this year. Our team was instrumental in driving the agenda for restructuring the energy program, being part of the new Regional Institutional Framework for Regional Agencies servicing the region. We also supported a list of development priorities that were key to Nauru's developments and we are currently working with relevant Energy CROP agencies to progress national initiatives.

Nauru continues to monitor progress on implementation of the Bulk Fuel Procurement Project by the Forum Secretariat. Although the regional effort is taking time to move forward, we have taken steps to ensure that our procurement procedures reaps us the benefits of price and product quality. This House will be updated once movements occur in this sector.

In closing, Mr. Speaker, I wish to extend my gratitude to you and Members of the House for your support and leadership in the development of the Utilities Sector. Without this strong political will our efforts will remain in vain. I also wish to convey commendation to our community for their support in this challenging time of economic hardship. Tubwa.' Mr. Tsitsi (Aiwo) moved that the paper be noted.

(iv) Hon. Roland Kun (Minister for Education) made a statement to the House on 'Developments in the Department of Education', which reads as under:-

'Nauru Secondary School Refurbishment – The progress of work on the school is on track. The school will be handed over in two stages. The first stage will be the academic blocks which will be handed over in later December 2009 and in March 2010 the two TVET blocks will be handed over. It is proposed to have the official opening of the school on Independence Day 2010.

TVET & Trade Training Program – In 2008 I engaged the Australian Chamber of Commerce and Industry (ACCI) to develop a TVET qualifications framework that would provide quality assurance for by our TVET programs offered through the Nauru Secondary School. I am pleased to advise the House that this has now been completed and I have endorsed the Final Report.

In preparing the Report, the Australian Chamber of Commerce and Industry conducted an environmental scan of the training needs of Nauru. The Report identified our immediate, short term and long term occupational needs. These are provided in the Environmental Scan Report which I am distributing to Members today.

This Report made 8 recommendations regarding TVET. I advise the House that after consultation with the TVET Advisory Committee, I have endorsed these recommendations and my department is now implementing these.

The recommendations provide for an Administrative Framework and a Learning Framework for TVET. The Administrative Framework provides for both quality control of courses offered and certificates issued. The Learning Framework provides for persons with disabilities (PWD); a requirement that vocationally specific language, literacy and numeracy (LLN) development programs and employability skills development form an integral component of the Framework; and importantly, that partnerships with industry be developed.

The Nauru Technical Learning Framework developed by ACCI provides a detailed TVET curriculum for NSS to commence in 2010. I have provided a summary of that Framework for Members. It shows that in 2010, NSS will be offering Certificate I courses in

hospitality, manufacturing, engineering, construction, business services, agriculture and health and community services. These will extend to Certificate II courses in 2011.

Students who obtain a Certificate II in one of these courses are then eligible for a scholarship offered by Australia Pacific Technical College. These scholarships offer trade level training in a variety of trades and para professional occupations.

All the certificate courses I have just mentioned are aligned to the Australian Qualifications Framework. In addition to these certificate courses the Education and Training Department will be providing also a range of non-AQF aligned courses. These courses will be aligned to a Nauru Qualifications Framework and included such courses as –

- Short courses provided by SPC in fishing and agriculture
- Specific skills training courses in Commonwealth of Learning, short courses of Working with Wood, Working with Small Engines and Working with Concrete,
- Topic Specific Health and Nutrition courses provided by Health Department, WHO and other bodies.

They will not be offered through the school-based curriculum of Nauru Secondary School, but will use the facilities of the TVET sections of NSS to offer the packages after normal school hours.

The Report also makes the important observation that ‘productivity gains can be driven through up-skilling the existing work-force’. This observation recognises that the TVET program needs to be directed to the needs of our economy and that there is potential skills resource in the existing work-force but it needs to be developed.

In addition the department will provide also specific up-skilling courses that provide qualifications required to obtain employment overseas, such as the successful welder up-skilling programs. These will be subject to funding.

In association with this curriculum framework and provision of the physical infrastructure, the department is also developing the human resource capacity required to deliver these training packages through a program with APTC. This program will see 14 TVET instructors complete a Certificate IV course in training and assessment that will enable them to be classified as registered trainers and assessors for the AQF certificates. This program will commence in September and conclude in April 2010. To assist our instructors in the course we have engaged 2 highly experienced instructors from Fiji to work with them as mentors.

As I advised earlier, the TVET facilities at NSS will be completed by March 2010. The department has plans to develop more facilities to provide NQF courses in automotive, electrical, electronics and food production. The curriculum for these courses is available and the department is working to secure providers of these courses. The department is planning to form partnerships with local industries and short course providers such as SPC, WHO, Don Bosco and COL.

Youth Ambassador Program - I am pleased to advise the House of the success of the Taiwan Youth Ambassador Program which was conducted over 3 weeks in July for senior students. The program was extremely well received and full attendance of students at each session is a testament to how much the program was appreciated by the students. The program provided students with knowledge, skills and understanding in ICT, culture, dance and sciences. The courses were provided by undergraduate university students from Taiwan. I record with sincere appreciation of the department to Taiwan for this program and look forward to developing this concept.

Secondary Scholarship Scheme - I am pleased to advise the House that 10 scholarships for Year 8 students to study in Fiji in 2010 will be available this year. The exams to select the successful students will be conducted from October 12 to 15. Students

who wish to sit for the exams must register with the education department by August 31. Registrations can be done through Nauru College and Kayser College.

Fiji Students begin Term 2 holidays on 21 August and the department has made arrangements for our students who are not at Nausori Baptist to stay at Nomads Skylodge in Nadi.'

Mr. Waqa (Boe) moved that the paper be noted.

8. Motions

His Excellency President Marcus Stephen moved that motion Nos. 1, 4 and 5 be struck off the notice paper.

Hon Dr. Kieren Keke (Minister for Finance) seconded.

Question put and passed.

Motion Nos. 1, 4, and 5 are therefore struck off the notice paper.

9. Motion – Civil Aviation Bill 2009

First Reading

Hon. Sprent Dabwido (Minister for Transport) moved to present the Civil Aviation Bill 2009.

Hon. Mathew Batsiua (Minister for Justice) seconded.

Pursuant to Standing Order 158 the second reading of the Bill was adjourned to a future day.

10. Leave Sought for

Hon. Mathew Batsiua (Minister for Justice) sought leave of the House to present the Tobacco Control (Amendment) Bill 2009.

Leave was granted.

11. Motion – Tobacco Control (Amendment) Bill 2009

First Reading

Hon. Mathew Batsiua (Minister for Justice) moved to present the Tobacco Control (Amendment) Bill 2009.

Hon. Roland Kun (Minister for Education) seconded.

12. Motion – Second Reading

Hon. Mathew Batsiua (Minister for Justice) moved that the Bill be now read a second time.

Hon. Roland Kun (Minister for Education) seconded.

Second reading speech ensued.

Under Standing Order 159 further debate on the Bill was adjourned to a future day.

13. Motion – Suspension of Standing Order 159

Hon. Mathew Batsiua (Minister for Justice) moved that Standing Order 159 be suspended to enable the second reading debate to ensue forthwith.

Hon. Sprent Dabwido (Minister for Transport) seconded.
Question put and passed.

Second reading debate ensued.
Question put and passed.
The Bill was read a second time.

14. **Leave Sought for Third Reading.**

Hon. Mathew Batsiua (Minister for Justice) sought leave of the House to proceed to the third reading of the Bill.
Leave was granted.

15. **Motion – Third Reading**

Hon. Mathew Batsiua (Minister for Justice) moved that the Bill be now read a third time.
Hon. Dr. Kieren Keke (Minister for Finance) seconded.
Question put and passed.
The Bill was read a third time.

16. **Orders of the Day No. 1 – Constitutional Amendments Bills 2008**

The House resolved itself into the Committee of the Whole for further consideration of the Constitutional Amendments Bill 2008.

In the Committee

[Hon. Dominic Tabuna, (Chairman of Committees) in the Chair.]

17. **Motion**

Mr. Amwano (Ubenide) as Chairman of the Select Committee on Constitutional Amendments Bills 2008 moved that the draft agenda be adopted.
Question put and passed.

(a) **Agenda Item No. 2 – Proposed Amendments**

(i) That clause 4 of the Referendum Amendments Bill be amended to give effect to the proposed amendment recommended by Counsel as set out in document A and referred to in that document as amendment No. 1 -

Article 2A – Promotion of awareness of the Constitution

Proposed amendment to 2A(1.) 'The government shall, in the English and Nauruan languages, promote public awareness of the Constitution ~~in the English and Nauruan languages.~~'

Question put and passed unanimously.

Ayes: Mr. Stephen, Dr. Keke, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Amwano, Mr. Solomon, Mr. Deireragea, Mr. Waqa, Mr. Dowiyogo, Mr. Tsitsi, Mr. Scotty. Total - 12

(ii) That clause 6 of the Referendum Amendments Bill be amended to give effect to the proposed amendment recommended by Counsel as set out in document A and referred to in that document as amendment No. 2 –

Article 3 – Right to equality

Proposed addition to clause (3.): 'A law is not inconsistent with clause (1) or clause (2) on the ground only that it –

...

(g) makes special provision in relation to children.'

Question put and passed unanimously.

Ayes: Mr. Stephen, Dr. Keke, Mr. Pitcher, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Amwano, Mr. Solomon, Mr. Deireragea, Mr. Waqa, Mr. Dowiyogo, Mr. Tsitsi, Mr. Thoma, Mr. Scotty. Total – 14.

(iii) That clause 28 of the Referendum Amendments Bill and proposed new Article 21B (which will be provided for in the Referendums Amendment Bill) be amended to give effect to the proposed amendment recommended by Counsel as set out in document A and referred to in that document as amendment No. 3 –

Article 17 – Executive authority vests in the Cabinet

Proposed amendment to 17(3.)(d): 'to be responsible for conducting the foreign affairs of Nauru, whether by treaty or otherwise; provided that Cabinet shall, upon ~~ratifying~~ finally accepting any treaty as binding, table the treaty in Parliament.'

Proposed amendment to 17(4.): 'No treaty or other international agreement which is finally accepted as binding by or on behalf of the Republic of Nauru shall, of itself, have the force of law in the Republic.'

Article 21B – Council of State

Proposed amendment to 21B(3.) (d) 'the power to ~~ratify~~ enter into treaties'

Question put and passed unanimously.

Ayes: Mr. Stephen, Dr. Keke, Mr. Pitcher, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Amwano, Mr. Solomon, Mr. Deireragea, Mr. Waqa, Mr. Dowiyogo, Mr. Tsitsi, Mr. Thoma, Mr. Scotty. Total – 14.

(iv) That clause 15 of the Parliamentary Amendments Bill be amended to give effect to the proposed amendment recommended by Counsel as set out in document A and referred to in that document as amendment No. 4

Article 31 – Disqualifications for membership of Parliament

Proposed amendment to 31(f): 'has been prohibited by order of ~~the Leadership Tribunal~~ or any other court or ~~Tribunal~~ lawfully authorised to make such order, from holding a position of Leadership and

(i) if such order applies for a finite period, the period for which such order applies has not yet expired; ~~and provided that~~

(ii) if such order was made by a ~~Tribunal~~ or ~~Court~~ other than the Supreme Court, such order has been upheld by the Supreme court pursuant to Article 36 and clause (7) of Article 57A.

Question put and passed unanimously.

Ayes: Mr. Stephen, Dr. Keke, Mr. Pitcher, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Amwano, Mr. Solomon, Mr. Deireragea, Mr. Waqa, Mr. Dowiyogo, Mr. Tsitsi, Mr. Thoma, Mr. Scotty. Total – 14.

(v) That clause 16 of the Parliamentary Amendments Bill be amended to give effect to the proposed amendment recommended by Counsel as set out in document A and referred to in that document as amendment No. 5 -

Article 32 – Vacation of seats by members of Parliament

Proposed amendment to 32(1.)(d): 'if he is absent without leave of Parliament on every sitting day over three consecutive sessions within the same term of Parliament'.

Question put and passed unanimously.

Ayes: Mr. Stephen, Dr. Keke, Mr. Pitcher, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Amwano, Mr. Solomon, Mr. Deireragea, Mr. Waqa, Mr. Dowiyogo, Mr. Tsitsi, Mr. Thoma, Mr. Scotty. Total – 14.

(vi) That clause 23 of the Parliamentary Amendments Bill be amended to give effect to the proposed amendment recommended by Counsel as set out in document A and referred to in that document as amendment No. 6 –

Article 41 – Prorogation and dissolution of Parliament

Proposed amendment to Article 41(8.): 'If at the conclusion of the ~~second Tuesday~~ tenth day after the day on which a general election is held Parliament has failed to elect a Speaker, failed to elect a Deputy Speaker, or failed to nominate candidates for election to the office of President, Parliament shall stand dissolved.'

Question put and passed unanimously.

Ayes: Mr. Stephen, Dr. Keke, Mr. Pitcher, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Amwano, Mr. Solomon, Mr. Deireragea, Mr. Waqa, Mr. Dowiyogo, Mr. Tsitsi, Mr. Thoma, Mr. Scotty. Total – 14.

(vii) That clause 31 of the Parliamentary Amendments Bill be amended to give effect to the proposed amendment recommended by Counsel as set out in document A and referred to in that document as amendment No. 7 –

Article 49 – Chief Justice and Judges of Supreme Court

Proposed amendment to 49(1.): 'The Supreme Court consists of a Chief Justice and two other judges or such greater, ~~subject to the requirements of clause (2.) of Article 57, such number of other judges as is prescribed by law.~~

Question put and passed unanimously.

Ayes: Mr. Stephen, Dr. Keke, Mr. Pitcher, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Amwano, Mr. Solomon, Mr. Deireragea, Mr. Waqa, Mr. Dowiyogo, Mr. Tsitsi, Mr. Thoma, Mr. Scotty. Total – 14.

(viii) That clause 37 of the Parliamentary Amendments Bill be amended to give effect to the proposed amendment recommended by Counsel as set out in document A and referred to in that document as amendment No. 8 –

Article 57A – Leadership Code

Insert 'and' at the end of paragraph (b) in clause (5) of Article 57A.

Question put and passed unanimously.

Ayes: Mr. Stephen, Dr. Keke, Mr. Pitcher, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Amwano, Mr. Solomon, Mr. Deireragea, Mr. Waqa, Mr. Dowiyogo, Mr. Tsitsi, Mr. Thoma, Mr. Scotty. Total – 14.

(ix) That clause 38 of the Parliamentary Amendments Bill be amended to give effect to the proposed amendment recommended by Counsel as set out in document A and referred to in that document as amendment No. 9 –

Article 57D – Discharge of functions of Ombudsman

Change 'make application' to 'apply' in clause (2.) of Article 57D.

Question put and passed unanimously.

Ayes: Mr. Stephen, Dr. Keke, Mr. Pitcher, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Amwano, Mr. Solomon, Mr. Deireragea, Mr. Waqa, Mr. Dowiyogo, Mr. Tsitsi, Mr. Thoma, Mr. Scotty. Total – 14.

(x) That clause 52 of the Parliamentary Amendments Bill be amended to give effect to the proposed amendment recommended by Counsel as set out in document A and referred to in that document as amendment No. 10 –

Article 70 – Public Service Appeals Board

Proposed amendment to new clause 70(9.): 'If Parliament exercises its power under clause (1.)(a) of Article 69 to create a Public Service Commission, the Public Service Appeals Board shall become defunct, and appeal of decisions of the Public Service Commission shall lie to the Supreme Court until Parliament shall provides for the appeal of decisions of the Public Service Commission to the District Court or such other subordinate court as it may prescribe.'

Question put and passed unanimously.

Ayes: Mr. Stephen, Mr. Pitcher, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Amwano, Mr. Solomon, Mr. Deireragea, Mr. Waqa, Mr. Dowiyogo, Mr. Tsitsi, Mr. Scotty. Total – 12.

(xi) That clause 31 of the Referendum Amendments Bill be amended to give effect to the proposed amendment recommended by Counsel as set out in document A and referred to in that document at amendment No. 11 –

Article 72 – Persons born on or after 31 January 1968

72.-(1.) *A person born on or after the thirty-first day of January One thousand nine hundred and sixty-eight is a Nauruan citizen if his parents were Nauruan citizens at the date of his birth.*¹

(2.) *[repealed]*

(3.) A person born on or after the thirty-first day of January One thousand nine hundred and sixty-eight is entitled to become a Nauruan citizen if one of his parents was a Nauruan citizen at the date of his birth.

Question put and passed unanimously.

Ayes: Mr. Stephen, Dr. Keke, Mr. Pitcher, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Amwano, Mr. Solomon, Mr. Deireragea, Mr. Waqa, Mr. Dowiyogo, Mr. Tsitsi, Mr. Thoma, Mr. Scotty. Total – 14.

(xii) That clause 55 of the Parliamentary Amendments Bill be amended to give effect to the proposed amendment recommended by Counsel as set out in document A and referred to in that document as amendment No. 12 -

Article 74 – Persons married to Nauruan citizens

Proposed amendment to Article 74: ‘Any person, not being a Nauruan citizen, who is married to a Nauruan citizen or has been married to a person who was, throughout the subsistence of the marriage, a Nauruan citizen, is entitled, subject to such reasonable conditions as may be prescribed by law, to become a Nauruan citizen.’

Question put and passed.

Ayes: Mr. Stephen, Dr. Keke, Mr. Pitcher, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Amwano, Mr. Solomon, Mr. Deireragea, Mr. Waqa, Mr. Dowiyogo, Mr. Tsitsi, Mr. Scotty. Total – 13.

Noes - Mr. Thoma. Total – 1

18. Motion in Relation to the Number of Seats in Parliament

Hon. Sprent Dabwido (Minister for Transport) moved the following motion –

‘That the Committee, having concluded its deliberation on the constitutional amendment bills –

(a) takes note of the recommendation of the Constitutional Review Commission and the resolution of the Constitutional Convention that the number of members of Parliament should be increased from 18 to 19, with an extra member representing Meneng; and

(b) further notes that the constitutional amendment bills considered by this Committee do not contain any clause that would give effect to the proposed increase in the number of members of Parliament, because such amendment does not require constitutional amendment, and is therefore more appropriately dealt with by an ordinary Act of Parliament, rather than in a bill to amend the Constitution; and

- (c) affirms that the proposed changes to the Constitution, contained in the constitutional amendment bills as amended by this Committee, are proposed with the intention that they will, at the time of commencement, be accompanied an increase in the number of members of Parliament from 18 to 19, which accompanying change will be effected by enacting a law to provide that the constituency of Meneng will become a three-member constituency; and
- (d) resolves to note in its final report to the House on the constitutional amendment bills that the bills as amended are presented with this intention in mind.’

Debate ensued.

10. Motion of Amendment

Hon. Frederick Pitcher (Minister for CIE) moved an amendment to (c) in the motion - by deleting the words between ‘which’ and the ‘semi colon’ in the last line.

Debate continued.

The question on the motion of amendment was put and negatived.

Ayes: Mr. Pitcher, Mr. Deireragea, Mr. Waqa. Total - 3

Noes: Mr. Stephen, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Tsitsi, Mr. Thoma, Mr. Scotty, Mr. Solomon, Mr. Dowiyogo, Mr. Amwano. Total – 10.

The question on the original motion was put and passed.

Ayes: Mr. Stephen, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Tsitsi, Mr. Thoma, Mr. Scotty, Mr. Solomon, Mr. Dowiyogo, Mr. Amwano. Total – 10.

Noes: Mr. Pitcher, Mr. Deireragea, Mr. Waqa. Total – 3

20. Motion in Relation to Article 63 of the Constitution.

His Excellency President Marcus Stephen moved the following motion -

‘That the Committee, having concluded its deliberation on the constitutional amendment bills and having previously resolved to adopt clause 43 of the Constitution of Nauru (Parliamentary Amendments) Bill, to give effect to an amendment to Article 63 of the Constitution that would insert a new clause (3) to protect the assets of the Nauruan Landowners Royalty Trust Fund from being charged as security for debt or otherwise encumbered, and to protect the assets of any other trust established for the same purpose,

- (a) notes the intention of the government to create a new Nauruan Landowners Trust that will include strong protection for trust assets; and
- (b) further notes that the lawyers for the Trust have recommended that there be certain further amendments to Article 63 of the Constitution in addition to the proposed new clause (3), to provide for the constitutional entrenchment of the new Trust Deed and to provide certain other protections for the proposed new Trust; and
- (c) further notes that the government wishes to allow time for further careful consideration of such proposals, and has therefore refrained today from moving in haste any further amendment to clause 43 of the Parliamentary Amendments Bill; and
- (d) further notes that the government might later this year introduce a separate bill proposing a further amendment to Article 63 of the Constitution, and that because Article 63 is not a provision that requires referendum, the deferral of such proposal to a later date would not interfere with any preparations for or conduct of a referendum on those proposed constitutional changes that do require referendum; and

(e) that for the benefit of public information, the Committee resolves to note in its final Report to the House the possibility that a further amendment to Article 63 may later be proposed.

Debate ensued.

Question put and passed unanimously.

Ayes: Mr. Stephen, Dr. Keke, Mr. Pitcher, Mr. Kun, Mr. Batsiua, Mr. Dabwido, Mr. Scotty, Mr. Waqa, Mr. Deireragea, Mr. Solomon, Mr. Dowiyogo, Mr. Amwano, Mr. Tsitsi.
Total – 13.

21. Motion

Mr. Amwano (Ubenide) as Chairman of the Select Committee on Constitutional Amendment Bills, moved that the Constitution of Nauru (Referendum Amendments) Bill as amended and the Constitution of Nauru (Parliamentary Amendments) Bill as amended be reported.

Question put and passed.

In the House

(Hon. Speaker Akua presiding.)

The Chair suspended the sitting until the bell rings to enable the Parliamentary Counsel to finalise the Committee's final report.

Resumed.

Hon. Dominic Tabuna (Chairman of Committees) made the following report on the committee's deliberations on the Constitution of Nauru (Parliamentary Amendments Bill, as amended and the Constitution of Nauru (Referendum Amendments) Bill, as amended.

'Mr. Speaker, it gives me great pleasure as Chairman of the Committee of the Whole to present the House with the final Report on the Committee's consideration of the constitutional amendment bills.

The Committee of the Whole met intensively over a two week period in June of this year, and again on 18 and 20 August, to consider and debate the content of the Constitution of Nauru (Referendum Amendments) Bill 2008 and the Constitution of Nauru (Parliamentary Amendments) Bill 2008, each of which proposes a number of amendments to the Constitution of Nauru.

For the public record, and to put this Committee's report in context, it is worth outlining the constitutional review process that has led us to this point today.

Preparations for the review of the Constitution were commenced by the Scotty government in 2004, because the government believed that there were some inadequacies in the Constitution that needed to be addressed. These preparations included the introduction and passage of a law to establish the Standing Committee on Constitutional Review, known as CRC. In 2006, the CRC resolved to proceed with a thorough process of constitutional review, which was designed to include six steps –

Step 1 – a campaign to raise public awareness of the review and of the Constitution and possible amendments, in 2006.

Step 2 – a series of forty public consultation meetings around Nauru, and the receipt of written submissions from the public, in 2006.

Step 3 – the establishment of an independent Constitutional Review Commission that took account of the views expressed by the public through the consultation process and made

recommendations for amendment to the Constitution. The Commission submitted its report in 2007.

Step 4 – a Constitutional Convention was held over a period of 6 weeks in 2007 to debate the recommendations of the Commission. The Convention consisted of both elected and appointed members. Two draft bills were prepared to reflect the motions passed by the Convention.

Step 5 – consideration of the bills by the Parliament.

Step 6 – referendum on certain proposed constitutional amendments that require approval by referendum.

In the course of Step 5, the bills were introduced into Parliament and had their first and second readings. After the second reading the House resolved to establish a Select Committee on Constitutional Amendment Bills, to consider the two bills in detail and make recommendations as to whether there should be any further amendments to the bills. The Select Committee met for a total of five weeks in the first quarter of 2009, and reported to Parliament on 10 March 2009.

In accordance with the Standing Orders of Parliament, the House then resolved itself into the Committee of the Whole on 17th June 2009 for the consideration of the constitutional amendment bills as reported by the Select Committee.

The job of the Committee of the Whole has been to consider in detail the proposed amendments to the Constitution as contained in the two constitutional amendment bills, and to consider the recommendations of the Select Committee for amendments to the bills. The Committee of the Whole has passed resolutions to amend the bills, and has thereby determined the final content of the bills so that the bills are ready to proceed to their third and final reading.

The work of the Committee of the Whole which it has completed today, is the last step required before Parliament votes on whether to accept the bills. It is important to note that at the third reading, the bills will require the support of at least twelve members of Parliament in order to pass, because a special majority is required under Article 84 of the Constitution for any bill to amend the Constitution.

The Committee of the Whole is comprised of all the members of Parliament. Its task is to thoroughly review and debate the contents of the bills before it, so as to ensure that the Parliament is satisfied with both the substantive content and the technical drafting of the bills. To this end, the Committee has been assisted by independent expert counsel, Associate Professor Kristen Walker who is an expert in constitutional law and a practising barrister.

The Committee met on ten occasions over a period of two months.

The Committee's meetings were aired on TV and radio in order that the public could follow the debates occurring in the Committee. The proceedings of the Committee are in the process of being transcribed by the staff of the Parliament Secretariat. When the transcripts of the meetings have been produced and edited, they will constitute an important historical and legal record of the Parliament's intentions in relation to the amendments to the Constitution.

As a consequence of the significance of the bills before the Committee and the fact that the constitutional amendment bills are not government bills (but rather, they are bills that were effectively produced by the Constitutional Convention), every question before the Committee has been open to a conscience vote. Government and opposition were not expected to vote along their usual lines, and they did not vote as united groups, but rather, every member voted in accordance with his conscience on each separate item. There was robust debate on most clauses of the bills. Many of the amendments to the bills were adopted unanimously. In accordance with the procedural rules adopted by the Committee, each vote on a clause of the bills was effectively treated as if a division had been called, so

that the names of members voting for and against each motion could be recorded in the Minutes and in the transcripts of the meetings.

For the purposes of this Report, all motions of the Committee of the Whole adopted in relation to the constitutional amendment bills are reflected in the appendices to this Report.

Appendix 1 to the Report contains the existing 1968 Constitution of Nauru, showing all changes that would be made to the Constitution if the constitutional amendment bills as amended by the Committee of the Whole were to be passed by Parliament at their third reading, and if the referendum on referendum matters was successful.

Appendix 2 to the Report contains the two constitutional amendment bills as amended by the Committee of the Whole, without amendments tracked.

Appendix 2 is the most important part of the Report because it is the official record of the result of the principal task of the Committee. These are the bills in their final form, and, if this Report is adopted by Parliament, it is this version of the bills that the House will be voting on at the third reading.

I would also on behalf of Parliament and the people of Nauru like to publicly thank the United Nations Development Program for making it possible for us to reach this important point today of having finalised the two constitutional amendment bills. The UNDP Multi-Country Office in Suva has generously funded the whole constitutional review process, and continues to provide funding. They will be instrumental in enabling us to conduct the referendum that will occur if these bills are passed by Parliament.

I also wish to thank all members for the constructive contributions to the COTW debate and process, in particular to the Chairman of CRC, Hon. Ali Amwano, who introduced the bills to Parliament in November 2008, who chaired the Select Committee on Constitutional Amendment Bills earlier this year, and who took a leading role in the COTW.

On behalf of the Committee of the Whole, I hereby present to the House this Report on the constitutional amendment bills as amended. Thank you, Mr. Speaker.

22. Motion – Leave Sought for Third Reading

Mr. Amwano (Ubenide) as Chairman of the Select Committee on Constitutional Amendment Bills sought leave of the House to move for the third reading of the Bills.

Leave granted.

23. Motion – Third Reading

Mr. Amwano (Ubenide) as Chairman of the Select Committee on Constitutional Amendment Bills sought leave of the House moved that the Bills be reading a third time.

Mr. Waqa (Boe) seconded.

Question put and passed.

Bills read a third time.

The House was suspended until 2.00 pm Friday, 21st August 2009.

Resumed.

24. Orders of the Day No. 2 – Shipping Bill 2008

Motion

His Excellency the President moved that Order of the Day No. 2 be struck off the notice paper.

Dr. Kieren Keke (Minister for Finance) seconded.
Question put and passed.

25. Order of the Day No. 3 – Correctional Services Bill 2009

Second reading debate ensued.
The Chair, by consensus of the House, suspended the sitting until the bell rings.

Resumed.

Debate continued.
Question put and passed.
The Bill was read a second time.

26. Motion – Leave Sought for Third Reading

Hon. Mathew Batsiua (Minister for Justice) sought leave of the House to move for the third reading of the Bill.
Leave granted.

27. Motion – Third Reading

Hon. Mathew Batsiua (Minister for Justice) moved that the Bill be now read a third time.
Dr. Kieren Keke (Minister for Finance) seconded.
Question put and passed.
The Bill was read a third time.

28. Order of the Day No. 4 – Ministerial Statement & Tabling of Papers

That the statement made by His Excellency President Marcus Stephen relating to the Third Trans-Oceania Summit and the 40th Pacific Islands Forum meeting, be noted.
Debate ensued.
The paper was noted.

29. Order of the Day No. 5 - Ministerial Statement & Tabling of Papers

That the statement made by His Excellency President Marcus Stephen on the Public Service Report 2006-07 and 2007-08, be noted.
Debate ensued.
The paper was noted.

30. Order of the Day No. 6 - Ministerial Statement & Tabling of Papers

On the question that the statement made by Hon. Frederick Pitcher (Minister for CIE) on Prepayment Meters and Power Generation Update, be noted.
Debate ensued.
The paper was noted.

31. Order of the Day No. 7 - Ministerial Statement & Tabling of Papers

On the question that the statement made by Hon. Dominic Tabuna (Deputy Speaker) on the 40th APPU General Assembly Meeting in Taiwan, be noted.

Debate ensued.

The paper was noted.

The House was suspended until the bell rings.

Resumed.

32. Leave Sought for a Motion

Hon. Dr. Kieren Keke (Minister for Finance) sought leave to move a motion.

Leave was granted.

33. Motion – Telecommunications Service Tax Bill 2009

Hon. Dr. Kieren Keke (Minister for Finance) moved to present the Telecommunications Service Tax Bill 2009.

His Excellency President Marcus Stephen seconded.

Question put and passed.

First Reading

The Bill was presented and read a first time.

34. Motion – Second Reading

Hon. Dr. Kieren Keke (Minister for Finance) moved that the Bill be read a second time.

His Excellency President Marcus Stephen seconded.

Second reading speech ensued.

Under Standing Order 159 debate was adjourned to a future day.

35. Motion – Suspension of S.O. 159

Hon. Dr. Kieren Keke (Minister for Finance) moved that Standing Order 159 be suspended to enable the second reading debate to ensue forthwith.

His Excellency President Marcus Stephen seconded.

Question put and passed.

Second reading debate ensued.

Question put and passed.

The Bill was read a second time.

36. Letter of Recommendation – Article 60 of the Constitution

‘I, Marcus Stephen, President of the Republic of Nauru as Chairman of the Cabinet and in pursuance of a resolution of the Cabinet hereby notify Parliament that the imposition of the

tax as proposed by the Telecommunications Services Tax Bill 2009, is recommended to the Parliament by Cabinet.

Dated this 21st day of August, 2009. (signed) Marcus Stephen, President & Chairman of the Cabinet.'

37. Motion – Leave sought for Third Reading

Hon. Dr. Kieren Keke (Minister for Finance) sought leave to move for the third reading of the Bill.

Leave was granted.

38. Motion – Third Reading

Hon. Dr. Kieren Keke (Minister for Finance) moved that the Bill be now read a third time.

His Excellency President Marcus Stephen seconded.

Question put and passed.

The Bill was read a third time.

39. Motion Fixing the date for the next Sitting

His Excellency President Marcus Stephen moved that Parliament at its rising do adjourn until a time and date to be fixed by the Chair.

Hon. Dr. Kieren Keke (Minister for Finance) seconded.

Question put and passed.

20. Adjournment

His Excellency the President moved that Parliament do now adjourn.

Hon. Dr. Kieren Keke (Minister for Finance) seconded.

Question put and passed.

And then the House at twenty minutes past eight o'clock p.m. adjourned until a time and date to be fixed by the Chair.

Members Present

All Members were present at some time during the sitting, except *Mr. Adeang.

Frederick Cain
Clerk of Parliament

* Suspension

