

FIRST DAY

Friday 15 July 2016

DRAFT HANSARD

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FIRST DAY

Friday 15 July 2016

The Parliament met this day at 2.45 o'clock p.m., in accordance with the terms of the decision of the Supreme Court of Papua New Guinea dated 12th July 2016.

The Speaker (**Mr Theo Zurenuoc**) took the Chair and read Prayers:

‘Honourable Members bai yupela ipasim ai na daunim het na mi mekim preiya. Papa God mipela itok tenkiu long dispela gutpela dei yu givim long mipela. Mipela ol man wer ol pipol imakim long stap long hia. Mipela ikam bung ino long laik bilong mipela tasol long laik bilong kot bilong dispela kantri. Papa mipela isabmit aninit long autoriti bilong yu, rulship na kingsip bilong yu. Bel bilong olgeta lida iop long presens bilong yu, yu tasol yu God na u tasol inap lukim na skelim bel bilong mipela olgeta. Dispela kantri iwet long lukim laik bilong yu Papa God. Mipela ikam long hia mipela save mipela igat responsibiliti long stap aninit lo ol lo na rule, em yu yet ibin putim long dispela naisen. Papa mi tok tenkiu long dispela dei osem yu igivim dispela opotuniti long mi long mekim beten long dispela haus wankain osem olgeta arapela lida long hia. Mi prei na tok tenkiu osem Papa yu larim o liken sanap long hia and as we stand before you we also stand before your people. Lord you are one and true God who is able to see into our hearts and know what our hearts are like but Lord mipela ikam long aten long wanpela meta tasol. Fada mipela isabmit aninit lo autoriti blong yu na askim na tokaut olsem let your will be done not ours and the desires of men, not the intentions of any individual but let your will alone be done. And so Lord, we stand before you to thank you for this opportunity for you to speak to this nation through the actions of the leaders you have appointed to be here in this Parliament. Father this is our prayer and before we head into the proceedings we will say the Lord’s Prayer. Amen.’

RECALLING OF PARLIAMENT – SUPREME COURT DECISION

SCC(OS) NO. 3 – STATEMENT BY THE SPEAKER

Mr SPEAKER – Honourable Members, I thank you for your attendance. This is a special meeting of the Parliament. You all know that we have been ordered by the Supreme Court at such short notice.

The Supreme Court on Tuesday 12 June handed down a decision in SCC(OS) No. 3, 2016 an application by the Leader of the Opposition pursuant to *Section 18(1) of the Constitution* for Parliament to be re-called to introduce, debate and vote upon a motion of no confidence in the Prime Minister Honourable Peter O’Neill within five days inclusive of Tuesday 12 July, 2016.

Honourable Members this will be the only item of business for the Parliament in this sitting. The Supreme Court made certain declarations contained in the orders issued on Tuesday 12 July, 2016 including a declaration that the Parliament’s decision in failing to conduct the meeting of the Parliament 8 June 2016 in such a way as to facilitate the introduction of the said Motion of No Confidence in Parliament thereby preventing debate by Parliament on the No Confidence Motion lodged on 7 June 2016 was unreasonable or inconsistent with or in breach of the *Constitution* and declared that unconstitutional and invalid.

On this basis the Supreme Court ordered the recalling of Parliament and further ordered that the Clerk of Parliament place the notice as the first item of business on the first day of the sitting that the Parliament was to be recalled on.

02/01

Similarly, the Supreme Court declared that the Motion of No Confidence in the Prime Minister lodged with the Speaker on 7 June 2016 complied with the technical requirements of *Section 145 of the Constitution* and *Standing Orders 22 and 130*.

Honourable Members, this effectively means that the Supreme Court, in my view, usurped the powers of the Permanent Parliamentary Committee on Private Business to declare the Motion of No Confidence to be in order.

The Court further, again in my view, has usurped the powers of the Clerk by ordering that the Notice of Motion be put on the Notice Paper without being formally introduced to the House in accordance with *Standing Orders*.

Again, honourable Members, the Supreme Court Orders were somewhat vague, ambiguous and open to all sorts of interpretation. The Parliament was put in a situation where

the Notice of Motion for a Vote of No Confidence in the Prime Minister was to be introduced, then debated and finally voted on in today's sitting of the House in compliance with the Supreme Court Orders in direct contravention of the relevant provisions of the *Constitution*.

However, at approximately 11:30 a.m. this morning the Chair received from the Supreme Court an ancillary order containing the orders that:

(Members interjecting)

Mr SPEAKER – 1. Parliament meet today at 2:00pm to comply with *Orders No. 7 and 8* for Parliament to introduce the Motion; and, to adjourn for one (1) week to Friday 22 July 2016, for the Motion to be moved, debated and voted on in accordance with *Section 145(1)(b)* of the *Constitution*.

2. These orders take effect forthwith.

Honourable Members, this is one of the clearest times that the Judiciary has encroached on the Legislature –

(Government Members Applauding)

Mr SPEAKER– In complete contravention of the Doctrine of Separation of Powers in the *Orders* that it issued on Tuesday 12 July 2016 and the ancillary order of Friday 15 July 2016.

As a direct result of the Supreme Court Orders, the Legislature has been forced to breach provisions of the *Constitution*, the *Organic Law on the Calling of Meetings of Parliament* and the *Standing Orders*.

This latest ancillary order, in my view, is contrary to the Principles of Natural Justice, enshrined in *Section 59* of the *Constitution*. It is a well-known tenet of the of the Judicial System of Papua New Guinea that any and all parties concerned with a matter before any court or tribunal be given an occasion to be heard prior to the issuance of any orders to allow the court to make a proper ruling on the facts before they issue their orders. It is disturbing to note that the ancillary order was given pursuant to a newspaper article that was not dealt with before any court to verify the substance of it. The reasoning behind the ancillary order was that "the Speaker published in today's issue of the *Post Courier* daily newspaper on page 5 a notice titled "ORDER OF THE DAY' for today's sittings which provides for the tabling of the Motion of

No Confidence, for the motion to be moved, for debate, calls for the vote, taking and counting of votes; and the announcement of the winner, all in today's sitting of Parliament".

Honourable Members, this is a blatant misrepresentation of the facts and I categorically deny this allegation against the Chair. The Chair has never issued or caused to be issued or published any such document or editorial in any newspaper let alone the *Post Courier*. If you read the article contained in the paper, you will find that the article states that, "This is the sequence on how the Vote of No Confidence motion in the Prime Minister will be taken if (and I stress the word "if") the Parliament proceeds with the debate and voting takes place today." This article is purely the interpretation of the newspaper journalist that compiled it and is in no way an authorised publication given under authority of the Chair contrary to the suggestions by the Supreme Court.

03/01

Honourable Members, the ancillary order may be an indication that the initial orders were somewhat vague and ambiguous, at any rate now that the Supreme Court has clarified the position, the prudent thing to do in this situation for this Parliament would be to follow their order and introduce the motion today and adjourn for seven (7) days, as required by *Section 145(1) (b) of the Constitution* whereby debate and the vote on the Motion shall be the next order of business.

Honourable Members, at this juncture, the Chair would like to advise the Parliament that the Chair shall seek a resolution of the Parliament to invoke a Special Constitutional Reference before the Supreme Court to clarify the Supreme Court's powers to order breaches of the *Constitution* and *Organic Laws* and the circumstances under which such orders can be made, including the issuance of ancillary orders based on articles that were in no way authorised by the Chair.

With that Honourable Members, we shall proceed to the only item of business today and that is the matter concerning the Notice of the Vote of No confidence in the Prime Minister.

Honourable Members in line with the *Standing Orders* and the Supreme Court ruling, this matter now stands adjourned for seven days to the 22 July 2016.

Thank you.

MOTION BY LEAVE

Mr JAMES MARAPE (Tari-Pori – Minister for Finance) – I ask leave of the Parliament to move a motion without notice.

Objections being raised, leave not granted.

Mr Kerenga Kua – Point of Order!

Mr SPEAKER – Honourable Leader, I will not entertain your Point of Order right now! What we are trying to do, is to complete the process for adjourn Parliament

Mr Kerenga Kua – Correct

(Members interjecting)

Mr SPEAKER – Resume your seat! The Speaker is in total control of this House. We are going by the rules of the orders of the Court so anyone should not be panicking in this House. I ask you to remain patient.

Mr JAMES MARAPE – Mr Speaker before I move a motion, if the Parliament pleases, may I inform Parliament that we have resumed Parliament as ordered by the Supreme Court. This is an extraordinary sitting in compliance with the Supreme Court Order; not one Order, but two Orders. One Order was made in haste this morning, consistent with the way the Opposition Leader has been saying Parliament should conduct since yesterday. And so we on this side of the House –

(Members interjecting)

Mr Belden Namah – Point of Order! My Point of Order is that, Mr Speaker, you have made a ruling from your Chair to adjourn Parliament for seven days. There is no need for the Leader of Government Business to confuse this Parliament.

Mr SPEAKER – It is not a confusion, what is happening here is, the Parliament has granted leave for him to move the motion, so in the process of moving it, he is making a statement before moving the motion. It is as simple as that. The Court allows that, pardon, the Chair will allow the Leader of Government Business to please complete the process of moving the motion.

(Members laughter in the Chamber)

Mr JAMES MARAPE – Mr Speaker and so on this side of the House consistent with the Court Orders and may I say, not one but two Court Orders issues in the Supreme Court, This side of the House will respect the Court Order and we have accepted that the *Section 145* is now in Government Notice and taking queue from your statement.

I move that Parliament endorses your call for a constitutional reference.

Mr Kerenga Kua – Division

Mr SPEAKER – There is a division, I am entertaining the division.

04/01

Mr Kerenga Kua – Point of Order! Mr Speaker, this is a special purpose sitting with only one agenda. The agenda is to have the motion introduced and that has already been achieved with your ruling and full stop there. There can be no further motion and no any other agenda included. We are now moving away from the purpose of this parliamentary recall into something else. The purpose of this Parliament is not to call for the entertainment of any other motion other than to introduce the motion for a vote of no-confidence. Therefore, having made a ruling already, you cannot call for another motion. That is out of order and to do so will be in contempt of Court.

(Members interjecting)

Mr SPEAKER – Point taken. Honourable Leaders at this time, I feel we have to be sensitive of what is happening around us. We have to be sensitive about what is happening in Papua New Guinea as well and whilst I would really like to take this matter to Court and get this Parliament to resolve for us to take this matter for judicial review, I would rather exercise

caution. I would say we will do it after we have dealt with the matter that is before us. I am exercising a lot of precaution here and for that reason I will ask the Leader of Government Business to go ahead with completing moving the motion for the adjournment of Parliament.

SPECIAL ADJOURNMENT

Motion (by **Mr James Marape**) agreed to –

That the Parliament at its rising adjourn until Friday 22 July at 10.00 o'clock a.m..

ADJOURNMENT

Motion (by **Mr James Marape**) agreed to –

That the Parliament do now adjourn.

The Parliament adjourned at 3.10 p.m.