

THIRD DAY

Thursday 20 January 2022

DRAFT HANSARD

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PARLIAMENTARY DEBATES
CORRECTIONS TO DAILY DRAFT HANSARD

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Corrections should be authorized by signature and contain the name, office and telephone number of the person transmitting/making corrections.

Amendments cannot be accepted over the phone.

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HARRY MOMOS

Principal Parliamentary Reporter

THIRD DAY

Thursday 20 January 2022

The Deputy Speaker (**Mr Koni Iguan**) took the Chair at 10 a.m.

There being no quorum present, Mr Deputy Speaker stated that he would resume the Chair after the ringing of the Bells.

Sitting suspended.

The Speaker (**Mr Job Pomat**) took the Chair 10.55 a.m., and invited the Member for Lufa, **Honourable Moriape Kavori**, to say Prayers:

‘Powerful God and the Creator, mipela itok good morning lo yu, tete lo monin mipela ikam hia lon sesen. Papa God long Heven, opim window bilong Heven, mi markim 111 members long Parliament na i laik toktok wantaim yu long prayer long dispela monin, putim ia na harem prayer bilong umi long dispela monin lon how mipela iken ronim dispela Gavaman na lidim pipol bilong yu. Pipol bilong yu em business bilong yu na garden bilong yu. mipela ikam nau long kisim sevis na givim sevis igo long ol na bringim ol na redim ol long kam bek bilong yu. Thank God, Jesus, mipela olgeta members istap hia, olgeta taim mipela i save feisim planti pressure. Pipol bilong yu taim ol igat hevi na need i save kam knock long door every monin, olgeta dei mipela i feisim hard time lo how mipela iken sevim dipela ol pipol. But God, mipela em business bilong yu, mipela i larem long han bilong yu. Wanem rot ba mipela i kisim na sevim ol, lidim ol na lukautim ol igo inap Jisas yu kam. Tete long dispela monin ba mipela i toktok long ol issue bilong kantri, blesim Prime Minister, Ministers na ol Members bilong Parliament wantaim Opposition Leader, umi olgeta iken kisim na skelim gutpela na nogut tok tok bilong issue bilong kantri na lainim dispela yia igo na elections to ba kam. Elections to ba kam, God long Heven, lida yu yet i save makim. Sampela bilong yumi nau istap ba nonap kam bek, sampela ba kam bek, God bilong Heven yu stap wantaim mipela lo dispela election long dispela taim tu. Election ino niupela samtin. Papa God mi pray na larim olgeta programm bilong dispela dei igo long han bilong yu. Thank yu long harem mipela, prayer bilong mipela igo osem long gutpela na powerful name bilong yu, Jesus, Amen’

ACKNOWLEDGEMENT OF VISITORS – STATEMENT BY THE SPEAKER

Mr SPEAKER – Honourable Members, I have to inform the Parliament that His Excellency, Mr Nobu Yuki Watanabe, Ambassador of Japan, and the diplomatic staff are present in the Speaker's Gallery.

On behalf of the Parliament, I extend to the distinguished visitors a very warm welcome to the National Parliament.

QUESTIONS

Regulatory Committee on Alcohol Sale

Mr AIYE TAMBUA – Thank you, Mr Speaker. This is a follow-up question from the last meeting that we had. The question is directed to the Minister for Justice, but since he is not around, I will direct it to the Prime Minister.

Mr Speaker, I would like to give a brief background before I raise my question. In the last meeting, I raised a question regarding the sale of cheap alcohol. After raising this concern in Parliament, I went back to Goroka where two drunkards caused a big public disturbance in Goroka town, forcing the town to shut down for two days.

These things are happening because of the cheap alcohol being consumed. This cheap alcohol is sold right throughout the nation and is causing a lot of issues.

I raised this question already but for the good of every citizen, I would like to raise it again.

Can the Prime Minister set up a committee to assess the issue of cheap alcohol that is being sold here in the country?

We have to act quickly because election is just around the corner and this may cause problems during the election process.

02/03

I leave these concerns to the Prime Minister, especially the need to set up a parliamentary committee to look into the issue of companies or people brewing cheap beer.

How do we monitor the alcohol industry in the country so that their cheap products do not come in and filter our communities and contribute to our social unrests and law and order? We have to know who is monitoring the alcohol industry so there are some control measures in place.

Mr JAMES MARAPE – Thank you, Mr Speaker. I thank the Member for Goroka for his questions regarding the negative effects of consuming cheap alcohol, especially by the youths in our communities. The Member in the last Sitting introduced a Bill in Parliament to deal with the issue relating to drugs, to try and increase the penalty for drug possession, et cetera.

His heart is in the right place and may he be assured that such a committee will be set up to look into the origins of cheap alcohol flooding into our communities. This committee will assist us in making better policies to control this issue.

Supplementary Question

Strict Measures for Breweries

Mr JOHN KAUPA – Mr Speaker, I recall raising a similar concern in the last sitting, and in NCD we are now trying to establish a licensing committee. A meeting was conducted and we will give notice to those who are in the business of producing cheap beer in the city. To add on to that, I would like to ask the Treasurer to involve IRC so that they will work together with the city authority to come down hard on those people importing the spirits to formulate these drinks. By law IRC has special tax margin clearance for importing beer and spirits. SP Beer comes under Food and Sanitation; for beer no more than 7 per cent tax and spirits is no more than 37 per cent tax margin.

These manufacturers are taking advantage and producing above those lawful percentages. I would like the IRC and the city authority responsible for the licensing of these so-called brewers to be harsh on these people.

Can the Prime Minister ensure that a formula is designed to ensure the sale of cheap alcohol beverages is regulated?

Mr JAMES MARAPE – Mr Speaker, as I have already mentioned, we will set up a committee to look into this issue. I acknowledge that consumption and sale of alcohol is uncontrolled. We will get the committee to look into that as well as the tax margins that IRC charges on alcohol. We do not want to make it expensive but we want to ensure that

alcohol consumption and production is controlled and properly regulated. All these can be put together as terms of reference for the committee and let the committee recommend what is workable to use.

03/03

The committee can recommend to get members from both sides of the House to sit in on the meetings so we can identify something that is workable in as far as alcohol policy in our country is concerned.

Thank you.

Carbon Trade Funds

Mr PETER ISOAIMO – Thank you, Mr Speaker. My question is directed to the Minister for Climate, Environment Protection Agency, Honourable Wera Mori.

Mr Speaker, in November last year, I was privileged to be selected by the Government or the Prime Minister to accompany the Minister himself as the Prime Minister's special envoy to COP26 Meeting in Glasgow, Scotland.

In relation to COP26 or Carbon Trade, it is a program that has a lot of monetary benefit.

In fact, the whole of the European Union countries has committed up to a hundred billion to help under-developed countries, including the Western countries. This is a six trillion-dollar program.

Many other Pacific Island Nations including Australia and New Zealand are tapping into this program and benefiting the indigenous landowners.

Many of us are excited about drawing down on those funds but we are just confused as to which concept to follow; the Minister's preferred rainforest, Kevin Conrad concept or the Oro Governor, Honourable Garry Juffa's concept?

Does the department have a mechanism in place for PNG to draw down on the Carbon Trade Funds?

Thank you, Mr Speaker.

Mr WERA MORI – Thank you, Mr Speaker. I would like to thank the Member for Kairuku-Hiri for this question.

My notable absence from Caucus today was basically because I was 'walking-the-talk' on post-COP26.

I would like to mention this from the outset that it is true that the industrialized countries are committing funds to help countries to mitigate the impact of climate change. What is of relevance to Papua New Guinea is how we can monetize our rich bio-diversity.

In actual fact, there are two ways of approach; one is the voluntary mechanism of which is spearheaded by the good Governor of Oro and the other is the option for us to go under a national framework.

Let me basically outline the differences between these two approaches.

The voluntary scheme does not involve the National Government. It is an arrangement for the selected group of landowners in a particular region of the country who will be assisted by very reputable organisations to market their carbon credits and the benefits will flow directly to them.

The arrangement under the national framework we will have to take queue from the statement made by the Prime Minister in his address to the United Nations. This is where the industrialised world must pay Papua New Guinea to preserve its rainforests. This is the national framework we are developing for which Cabinet has recently approved the setup of a secretariat.

04/03

This morning I met with those personally involved because for us to drive this national framework, we need assistance. It's not Kevin Conrad but the assistance of those global entities including our partnership with NS Young, the largest accounting firm in the world, and including recent group discussions held with Bill Gates and many others, and how they would come in to participate in this program so that we can bring money into the country. The reason why we need to strongly advocate under the national framework is so ensure that the State will have the upper hand and visibility.

So, we are in the process of setting up the secretariat, which will have discussions with other line agencies like departments of Forestry, National Planning, Finance and many others. So, when we bring in the money, we will have an amicable formula to arrive at as to how those funds can be disbursed.

Thank you, Honourable Member, for asking this very important question. The simple answer is; we are working on the processes to get both the voluntary scheme and national framework to come under one umbrella.

Thank you, Mr Speaker.

Supplementary Question

Climate Change Law

Mr POWES PARKOP – Thank you, Mr Speaker. As part of our national response to the *Paris Agreement* to meet our obligations on our climate change, the government had also agreed to conserve and preserve some of our national rain forest areas. Apart from Carbon Trading this is a major part of our obligation under the *Paris Agreement*.

So, in this respect, the Government had proposed to enact a law on protecting our forests. And we've been talking about it for a long time and we are still talking.

My question to the Minister is; when is this proposed law going to come to the Parliament for enactment?

Thank you, Mr Speaker.

Mr WERA MORI – Mr Speaker, I thank the NCD Governor for the supplementary question.

It is in our collective interest to ensure that a Protection Act is before Parliament for us to pass it. At the moment it's basically before the State Solicitor's office and once it becomes available, we will bring it to Parliament for enactment.

I am pretty sure that we will try to get it done in the next Parliament sitting so that it can become a law before we go to elections.

Thank you.

Mr Garry Juffa – Point of Order! Actually, it's a point of clarification given that the project is in Oro.

Mr SPEAKER – Is it a Point of Order or point of clarification?

Mr Garry Juffa – Both. Can I have a moment to clarify?

Mr SPEAKER – The Chair cannot allow that because it's Question Time. If you can rephrase it as a question, the Chair will give you the opportunity to ask the question.

Mr GARRY JUFFA – Thank you, Mr Speaker. Before I ask my question, I want to clarify that our project in Oro Province is not a Carbon Trade project but a sustainable land management project of which Carbon Trade may be a component.

05/03

Right now, the price of atmospheric carbon is very low. Therefore, there is no incentive for us to embark on this project until such time the price is at a stage where we are able to benefit from this project.

My question now is to the Minister for Mining

Mr SPEAKER – Your clarification is out of order; however, you may ask your question to the Mining Minister

Alluvial Gold Mining

Mr GARRY JUFFA – Thank you Mr Speaker. We all know that alluvial mining is reserved for only Papua New Guineans but we notice that so many foreigners are coming into this activity. Many of these foreigners are buying gold at a price where it is not fair to Papua New Guinean operators in the country.

Some time ago I was working with you on a Bill to enforce these laws so that this business will only be for Papua New Guineans. Looks like all businesses in Papua New Guinea are going out to foreigners. How will we as a country benefit from these foreign-owned businesses? We are now giving our gold business to foreigners who are abusing the system because they are not buying at the proper price and at the same time exceeding the world market price. They have other intentions apart from making profit. So, when will this Bill be passed in Parliament? We have waited too long for this Bill. It will soon be elections and my people back in Oro have been constantly asking me about this business.

Mr JOHNSON TUKE – Thank you, Mr Speaker. I also thank the Governor of Oro for this question.

As I have mentioned in earlier Sittings, alluvial mining activity in this country does not have a stand-alone policy but because it's a mining activity, we have put it together with the main *Mining Act*. We have identified this and we would like to bring in a stand-alone Mining Act. It is now with the State Solicitor's office.

I would like to advise all Papua New Guineans that alluvial mining activity is a business reserved for Papua New Guineans. We have come up with a policy to involve more Papua New Guineans, therefore, we have come up with a ratio of 51:49 to give more benefit to Papua New Guineans.

All alluvial gold produce for this country must go through a refined process whereby it will be exported. This is one of the benefits where the Government of Papua New Guinea will be giving to all alluvial miners in this country. In the next coming parliament meeting, I will introduce this alluvial mining act so that Papua New Guinea will benefit from this alluvial mining. Hard rock mining is for international mining, who have the money to partner with Papua New Guineans

Alluvial mining is a business that Papua New Guineans must be involved in, if they want to have a better future.

Thank you, Mr Speaker.

06/03

School Project Fee Policy

Mr KONI IGUAN – Thank you, Mr Speaker. My questions are directed to the Minister for Education, but seeing that he is not present today, I will re-direct it to the Prime Minister.

Mr Speaker, when the Prime Minister came into office, we stopped the free education policy and we let the parents pay their children's school fees. They are responsible for their children as well.

Due to the pandemic, the Government in its wisdom announced free education to help the parents.

Mr Speaker, it is almost the start of the schooling year, and as members of Parliament, we know that we will soon be approached by parents, asking for help with school fees.

The Government has announced the free education policy, but there are some schools imposing school fees.

(1) Can the Prime Minister inform the Parliament whether schools are still allowed to impose project fees now that the free education policy has been implemented?

(2) If they were to impose the project fees, then what should be the limit?

Schools might impose fees that are not approved by the Government.

(3) Can the Honourable Prime Minister clarify that this government has included school fees in the 2022 Budget to help the parents?

(4) Are there other fees that parents should be aware of that are not included in the free education policy for this academic year of education?

Thank you, Mr Speaker.

Mr JAMES MARAPE –Mr Speaker, thank the Member of Markham for asking good questions.

Mr Speaker, the Deputy Speaker's question is for us to establish clarity to all our parents and citizens, and more importantly, to our school boards and school administration right across our country, in respect to our public policy in school fees and what they should charge at that level to parents and guardians of our children, right across the country.

Mr Speaker, when we took office in 2019, the Budget was tight. We wanted everyone of us to share responsibilities. So, from elementary to secondary and national high schools, we allowed for 63 per cent of school fees to be subsidized or paid by the National Government through the National Budget and 37 per cent was to be passed back to parents and guardians, as well as local districts or provincial governments.

And on record, let me appreciate provincial governments and districts who have carried and assisted parents in the 37 per cent component of the school fee in 2020 and 2021.

Our circumstances are different from what it was in 2019. When we framed our 2020 Budget, no one saw the Covid-19 hitting global economies and hitting our own domestic economy, which has had a direct impact on parents and citizens in their ability to pay for school fees.

07/03

Knowing on hindsight what has happened in 2020 and 2021, we felt responsible as a Government to lighten the burden of our people by choosing to pay the 37 per cent of the fees they were paying in the elementary, primary, high and secondary schools. Today, 100 per cent of school fees are covered for elementary up to grade twelve. We are also ensuring full funding for post grade twelve, especially those who are entering colleges and universities.

Our TESAS and HECAS program will continue. The Higher Education Loan Program will continue as well for students who are struggling with their parents, especially those students who do not qualify for HECAS and TESAS program and are required to pay out of their own pockets. They can have access to additional support to pay for their school fees in the 2022 academic year.

So, let me take this time to clarify to the nation that, at no instance, should school boards be collecting extra school fees except what the National Education Board

requires for the project fees. Project fees can be collected but should not be beyond 20 per cent or the school fee benchmark. That is the policy and requirement for the parents and citizens right throughout the country. If a school charges beyond 20 per cent for what is labelled as project fee, then that is improper and those school boards need to be advised.

I, therefore, ask all the Members of this Honourable House that under your chairmanship in the districts and also more importantly all the provincial governors because education at lower level is a provincial function to have a keen interest at your provincial education board and translate the National Education Board's policy directive that project fees do not exceed 20 per cent. At the range from 0-20 per cent, the discretion lies at the school boards to set so no school board in our country should be setting project or school fees under the provision of project fees beyond 20 per cent or what is required by law. All school fees have been paid by the National Government in this instance, accept school fees in respect to tuition fees.

I will get the Education Minister to give more clarity on this through a paid advertisement and by circular to all provinces for them to use as a reference in making and ensuring that the correct fees are charged to our parents and citizens as well as the disbursements that are happening at schools.

I take this time to also announce that we have already disbursed K321 million out of the K632 million that is in Budget for the lower education school fee, that has been disbursed through the Education Department. They are working with all schools throughout the country to ensure that when the academic year opens, there's money in the school accounts to ensure the accounts are operational.

In closing, I repeat that it is incumbent for all provincial governors through your provincial administrators to ensure that your provincial education board is working with all schools to ensure the 2022 academic year starts with minimal disturbances especially in the face of election. We don't want to compromise the safety and ease of access to school for all our students nationwide.

Mr BENNY ALLAN – Thank you, Mr Speaker. I direct my questions to the Honourable Prime Minister. Before I do, I seek leave to extend Question Time by another 20 minutes.

Mr SPEAKER – Honourable Member, there is enough time. Please ask your question.

Mr BENNY ALLEN – Mr Speaker, we appreciate the Prime Minister's visit to Eastern Highlands to open the new Goroka market this month. Some of us were not aware of the opening date and did not turn up for the occasion.

08/03

Funding for Unggai-Bena and Henganofi Roads

My first question is regarding the funding that was given to the provincial government. I think the total was K64 million, and the Prime Minister had confirmed that amount when the member for Henganofi and I visited him. So, that amount of money is now with the provincial government.

Mr Speaker, my questions are;

(1) Can the Prime Minister clarify whether the funding that was given is to be shared with the districts or is it for the provincial government alone and for what purpose?

In another visit to Kainantu, the Prime Minister stated that each district of Eastern Highlands Province will receive K4 million for district roads alone. Whilst we appreciate his visit, my district and Henganofi have not yet received anything.

(2) Can the Prime Minister also clarify to the people of Henganofi and Unggai-Bena whether the K4 million promised to each district for roads is captured in that K64 million which was given to the provincial government?

In my understanding, other districts may have received their funding, but for Henganofi and Unggai Bena, nothing has been done. We have not received anything all.

Mr Speaker, the other question I wish to raise is regarding the DSIP funds for 2022. According to some reliable sources, we found out that the Department of Treasury has issued warrants to pay K3 million each to every member from the Government side.

(Members Interjecting)

Mr BENNY ALLAN – If that information is true, I know the Prime Minister is a fair person. There are people in the system like the Treasurer himself who are doing that. This is totally unfair and that should never be done because I asked a question last year regarding this issue when Opposition members received K3 million whilst the government side received K7 to K8 million.

Whilst I would like to thank the Prime Minister for honouring his commitment towards us on this side of the Floor, someone on your side is being unfair.

Mr SPEAKER – Order!

Mr BENNY ALLAN – Let me also remind the Prime Minister that the school year is about to commence and we are to help pay for our children's school fees in the districts. How are we going to pay for their fees if the DSIP's –

Mr James Marape – Point of Order! With due respect to the Member for Unggai-Bena, I would like to clarify something here.

For the last two years, the Government has paid 63 per cent of the school fees while the districts and the provinces have also helped to pay a percentage. For this year, the Government has taken on 100 per cent of the school fees so, whatever DSIP funds that you will receive, use it to maintain your districts or use them for other programs.

09/03

Mr SPEAKER – Your Point of Order is in order.

Mr BENNY ALLAN – Thank you, Mr Speaker.

The Prime Minister is correct about the lower primary and other schools but what about the tertiary schools? Of course, we still have to assist, this is my point. That is why we need some funds this year to assist the students attending tertiary institutions.

But according to information from the Treasury Department, all Government Members are to receive K3 million. So, I ask the Prime Minister to be fair on this. Also, the Treasurer has raised warrants for all Government Members so I ask him to be fair too.

(Members Interjecting)

Mr Ian Ling-Stuckey – Point of Order! Thank you, Mr Speaker.

I take note of the comments raised by our good leader but I ask him to rephrase his statement. He is supposed to be asking questions and not making wrongful and unsubstantiated allegations in relation to his comments that Treasury has been unfair.

For the record, in 2021, Treasury has played its part fairly and warranted all 111 districts and provinces to receive their full amount of DSIP funds.

Mr Speaker, in fact, at the first DMC meeting this year, when I had queried the same source that he quoted, which is the Department of Finance, or the Secretary in fact, I had asked them to provide me a remittance advice and if I was queried on the Floor of Parliament, could I say publicly that all provinces and districts have received their funds. And his answer was affirmative.

Thank you, Mr Speaker.

Mr SPEAKER – Honourable Prime Minister, you may go ahead and answer the questions by the Member for Unggai-Bena.

Mr JAMES MARAPE – Mr Speaker, I believe the member has not completed asking his questions.

Mr SPEAKER – Honourable Prime Minister, we'll let the Member for Unggai-Bena continue.

Honourable Member, it seems that you are repeating your questions over and over. Please rephrase your questions.

Mr BENNY ALLAN – Mr Speaker, I would like to know what questions have I been repeating over and over.

(Laughter in the Chamber)

Mr SPEAKER – Honourable Member, if I'm not wrong, you have repeated your question regarding the K3 million two or three times. So, I am asking you to rephrase your question before Question Time lapses.

Mr BENNY ALLAN – Mr Speaker, I am only saying that those of us in the Opposition received K4.9 million in November last year whilst the other members over there received theirs before November. That is why I want to ask about the K64 million.

(Members Interjecting)

Mr SPEAKER – Honourable Member, you are repeating yourself again on the K64 million issue, therefore, I will now allow the Honourable Prime Minister to answer your question.

Mr JAMES MARAPE – Mr Speaker, it is a good question that needs a good response and every Member of Parliament is entitled to ask questions.

The Member for Unggai-Benna is stating his grievances as the father of Unggai-Bena as well as being the voice of the Opposition in Parliament, in respect to the second question.

I'll get straight to the facts. Last year, when I came to Eastern Highlands, we disbursed K64 million. That is correct and it was budgeted.

When we travel to districts and provinces and make commitments that are consistent with the national plan, it is captured in the next Budget.

10/03

So, last year whatever that was budgeted for in the 2021 Budget for roads in Eastern Highlands Province has been given to them. I think that the Departments of Treasury and Planning and Monitoring have disbursed the funds to both the district and the provincial government respectively. It is not the Prime Minister's job to go down into details of the whereabouts of the cheque.

When I came back from the Eastern Highlands Province, I realized that the entire K64 million as per 2021 Budget was warranted to the provincial government and is in receipt of that funding.

I think there was a confusion because the provincial government pegged their Budget 2021 against the National Budget allocation and all the roads in Eastern Highlands, if I am not wrong, were also factored into the provincial budget.

Member for Unggai-Bena, you're not the only one asking. I did receive some news from the Member for Goroka about these funds because out of that K64 million, K10 million was allocated for Goroka Town roads, K4 million was budgeted for Goroka rural roads and he hasn't received those yet.

So, I would like to make it clear to the Member for Unggai-Bena, that this is not National Government playing politics; it is how the funds were disbursed or the way 2021

Budget was structured where funds intended for district roads went to the province. This can be sorted at the provincial level; you and the provincial members are asked to meet and discuss because these are public funds meant for roads including the K2 million - if I am not wrong - for the road that you are currently working on which is to link Unggai-Bena to Henganofi. With our support we are trying to drop the road into Ramu Valley. The K4 million for Henganofi road was also given in the tranche of disbursement to Eastern Highlands Provincial Government.

I strongly recommend that leaders from the province work together with the provincial government so those funds can be disbursed. I note that contracts are running on those roads. In the first instance, these are funding meant for those roads. The K2 million for Unggai-Bena and K4 million for Henganofi into Ramu should by now reach the contractor because the actual cash was met with the disbursement from our Treasury as I made the electoral or provincial visit to Henganofi and Kainantu in the Eastern Highlands Province.

So, the entire K64 million was transacted into the Goroka Provincial Treasury account and I want to believe that the Provincial Treasury in Goroka has been supporting the roads that the funds were earmarked for.

Mr Speaker, based on experience last year, for this year and moving forward this is not only as for the Goroka, Eastern highlands, but everywhere else in the country we have realized that many districts and provinces were competing for the same roads.

So, what we are going to do this year - and I thank the Minister for Works - the provincial roads are being made out in our National Budget to provinces and district roads have been made out to our districts of course with the oversight of the Department of Works but they will take care of the national roads. This is to tidy the mismatch and sometimes our own differences can come in the way of effectively putting to good use the funds that are allocated for roads.

Mr Speaker, we have well over 323 roads right across the whole country. These include districts and provincial roads as well as our national roads under the Connect PNG project which we are running.

So, Member for Eastern Highlands, I think I have clarified your question in that the money has already being disbursed and if the provincial government has not released these funds, I give you my assurance that I will check with the provincial government to identify what has happened to the funds. I am informed by the Governor from my briefings with

the provincial government that those funds are being put to good use and I hope that this is true.

Coming back to the DSIP Funds, it would have been better if you thanked the Government for the DSIP Funds that was given to the Opposition members before you had raised your question

11/03

Mr Speaker, the Member for Unggai-Bena knows it very well because we served in government ranks many times together. And the Deputy Prime Minister sitting here will confirm that when he was in the Opposition for a much longer period, the governments of the past had never released full amounts of DSIP funds. So, the country must know that not just Prime Minister but the entire government ranks had been fair to all Opposition members. In last year's allocation, the full 100 per cent funding was released to the members of the Opposition.

If the Treasury and the Budget Management Committee had warranted to the Government members K3 million and Opposition members K1 million, you can understand sometimes based on cash flow, there's a preference. Even other members who have been around for a long time know that when cash flows come, government policy decides which program goes first. But on record, I am proud to say, my government Caucus had given me the strength to warrant full amount to the Opposition members last year. We will not let the Opposition members down. I have been advised that K1 million has gone to Opposition members, and if Government members have received K3 million then we will certainly try our best to ensure that there is an element of fairness because we all represent people.

Thank you, very much.

ANSWERS TO PREVIOUS QUESTIONS

Juha Royalty Payment

Mr KERENGA KUA (Sinassina-Yonggamugl – Minister for Petroleum) – I seek leave of Parliament to answer previous questions.

Leave granted.

Mr KERENGA KUA – Mr Speaker, yesterday, while Mr Deputy Speaker was in the Chair, the Governor of Western Province raised questions in relation to the entitlements for the people of Juha PDL area. I answered the questions in part and said that I would provide answers in detail today.

Mr Speaker, the Governor asked whether the people from the Juha PDL area are entitled to receive royalty and equity benefits, and if they are, they why have they not received anything. I have sought clarification because I don't want to mislead our people in the village.

Mr Speaker, Juha PDL is part of Integrated PNG LNG project. I had pointed out yesterday that at the moment they are not extracting resources within Juha PDL area. But today, I am ascertaining that whether resource have been harvested or not, they remain part of the Integrated PNG LNG project, therefore, they have the rights to receive royalty and equity benefits.

these entitlements are accumulating because the landowner identification process has not been completed. We should have started this process in 2020 when the Marape Government took office, but due to Covid-19 and ExxonMobil had restricted travel in and around the PDL area for over two years, we did not complete the landowner identification process.

12/03

But in January of this year ExxonMobil lifted these restrictions so we are now able to travel to the Juha area to complete the outstanding landowner identification, followed by gazettal of the ministerial determination by which time royalty and equity benefits can be made.

However, if MRDC goes ahead and makes payment for other PDL areas that are ready, entitlements for the people of Juha will be kept in a trust account until all statutory processes are completed to allow for payment.

Mr Speaker, these are answers to the two questions that the Governor of Western Province, Mr Taboi Awi Yoto, has asked.

**ACKNOWLEDGEMENT OF VISITORS –OFFICERS OF FINSCHHAFEN AND
NAWAEB DISTRICT –STATEMENT BY THE SPEAKER**

Mr SPEAKER - Honourable members, I would like to acknowledge the presence of officers from the Finschhafen and Nawaeb districts of the Morobe Province who are with us today in the Gallery.

On behalf of the Parliament, I extend to the distinguished visitors a very warm welcome to the National Parliament.

**AUDITOR GENERAL OF PAPUA NEW GUINEA - REPORT ON THE
NATIONAL GOVERNMENT DEPARTMENTS AND AGENCIES,
PART II FOR THE FISCAL YEAR 2015, 2016 -
MOTION TO TAKE NOTE OF PAPER**

Mr SPEAKER – Honourable Members, I present the following paper pursuant to statute:

Constitution -

Auditor-General of Papua New Guinea –

*Combined Reports of the Auditor General on National Government
Departments and Agencies on the control and transactions with or
concerning the public monies and properties of Papua New Guinea Part II,
2016 and 2015.*

Motion (by **Mr Aiye Tambua**) agreed to -

That the Parliament take note of the Report and that the Report be referred to the Permanent Parliamentary Committee on Public Accounts.

**AUDITOR GENERAL OF PAPUA NEW GUINEA – AUDIT REPORT ON NEW
BRITAIN PALM LIMITED TRUST FOR THE YEARS 2015, 2016 –
MOTION TO TAKE NOTE OF PAPER**

Mr SPEAKER – Honourable Members, I present the following paper pursuant to statute:

Constitution –

Auditor-General of Papua New Guinea –

*Report of the Auditor General on the audit of the New Britain Palm
Oil Limited for the years 2015 and 2016.*

Motion (**by Mr Aiye Tambua**) agreed to –

That the Parliament take note of the Report and that the Report be referred to the Permanent
Parliamentary Committee on Public Accounts.

**PARLIAMENT MEMBERS PENSIONS AND RETIREMENT BENEFITS
COMMITTEE REPORT 2021 – PAPER AND STATEMENT –
PAPER NOTED**

Mr CHRIS HAIVETA (Gulf) – Mr Speaker, pursuant to the provisions of Section 8 of the *Parliamentary Members Retirement Benefit Act 1997*, I present on behalf of the committee the 2021 Report on Pensions and Retirement Benefits and wish to make a statement on it.

Mr Speaker, members of the committee who also serve as board members under the Act including myself are; Honourable Governor of NCD, Powes Parkop, Honourable Governor of Enga, Grand Chief Sir Peter Ipatas, Honourable Governor of East New Britain, Honourable Nakikus Konga and Member for North Fly, Honourable James Donald.

We are charged with the responsibilities of making policies and overseeing the management and administration of the Fund in accordance with the Act to look after the

welfare of 296 former members of Parliament on pension and contribution savings for current members of parliament.

I would like to inform this Honourable House that the committee on board had three meetings in 2022 and two meetings last year to discuss certain amendments to the pensions and Retirement Benefits Act, the status of the fund and matters in relation to final payments to families of deceased and current members.

13/03

The policy submission on the proposed amendments to amend several provisions of the Act to increase pension benefits for former members and former prime ministers, and to create an appropriate pension benefit for former speakers of Parliament was submitted to the Prime Minister and the Speaker of Parliament for consideration, endorsement and implementation. The amendments were endorsed and are now on the Floor of Parliament.

Mr Speaker, with the status of the Benefits Fund, I am happy to advise members that their retirement benefit funds are safe and secure, with the State having met most of its obligations to the fund by repaying monies outstanding since 2016.

At the start of a ten-year period, our asset were approximately between K12 to K15 million. The Benefits Fund cash assets totaled K22.4 million today with no liabilities.

As per provision of section 10 of the Act, the Board invested a total of K10. 5 million with Credit Corporation and Fincorp Limited on interest bearing deposits and term deposits, which have been rolled over on maturity dates and will be paid before the next General Elections. This is to ensure that members who are entitled to a refund of contributions after the elections can expect a refund of their contributions upon loss of their seats.

In addition, members who complete a minimum of four parliamentary service years will be entitled to a fortnightly pension for life.

On the same note, I wish to inform members that your update or an update of your contributions of savings statements for 2020 is completed and available for collection in our office.

The Benefits Fund also facilitates advances to members who requested advances on their savings and is repayable during this term in office. Advances to members totalled K4.5 million and the remaining cash excess of K7.4 million is now in the fund's bank account with ANZ Corporate Centre.

During this term, the Tenth National Parliament has so far lost six (6) sitting members and fifty-one (51) former members of Parliament, including our founding fathers of the country; Grand Chief, Sir Michael Somare, Sir Pita Lus and Knights of the Realm , Sir Akepa Miakwe, former Governor General, Sir Silas Atopare, Member of the Constitutional Planning Committee, McKenzie Daudi, first woman member of Parliament and Minister for Justice, Nahau Rooney and Waliato Pau, and business and aviation personality and former Governor of Eastern Highlands, Mal Kela Smith. We have a list attached for all of you to see.

Due to the deaths of current members, which is the highest in the history of our Parliament, Honourable Thomas Pelika (Menyamya), Sir Mekere Morauta (North-West), Richard Mendani (Kerema) and Honourable Roy Biyama (Middle-Fly), the fund has paid out final entitlements to their families.

With the two recent deaths of Honourable Jonny Alonk (Middle – Ramu) and Honourable Sam Akoitai (Central – Bougainville), the Fund is yet to pay out final entitlements to their families.

The committee would also like to inform members that audits of 2020 is due to be finalised and once completed will hopefully be tabled at a later date before we rise to go for elections.

Finally, Mr Speaker, despite 2019 Covid-19 outbreak, in the past two (2) years of this Term, hampering the work of the committee in processing the over fifty (50) deaths of present and former members.

On behalf of my committee and the board, I would like to thank the staff of the Retirement Benefits Fund and the secretary for their tireless efforts, for all of us and all former members of Parliament and the eligible widows, in performing the administrative duties efficiently and effectively.

I commend the report to Parliament.

Thank you, Mr Speaker.

Motion – That the question be now put – agreed to.

Motion – That the Parliament take note of the Paper – agreed to.

Paper noted.

14/03

MOTION BY LEAVE

Mr RAINBO PAITA (Finschhafen – Minister for National Planning & Monitoring) – I ask leave of Parliament to move a motion without notice.

Leave granted.

SUSPENSION OF STANDING ORDERS – REARRANGEMENT OF BUSINESS

Motion (by **Mr Rainbo Paita**) agreed to –

That so much of the *Standing Orders* be suspended as would prevent Notice Nos. 299, 300, 301, 302, 303, 304, 305, Government Business, being called on forthwith.

ATTORNEY GENERAL (AMENDMENT) BILL 2022

First Reading

Bill presented by **Mr Bryan Kramer** and read a first time.

Second Reading

Mr BRYAN KRAMER (Madang–Minister for Justice & Attorney General) – I move –

That the Bill be now read a second time.

Mr Speaker and members of this Honourable House, it is with great pleasure that I graciously take this opportunity to introduce in today's parliamentary sitting the Attorney General Amendment Bill 2022.

Mr Speaker, the Government over the years has experienced some degrees of change in the way we conduct state function including the very processes that we create and try to protect becoming our own worst enemy.

Therefore, as a Government, we must be proactive in bringing change while maintaining the status quo for the sake of achieving good public policy for this country.

Mr Speaker, the Attorney General (Amendment) Bill 2022 that is being introduced for tabling in this Honourable House intends to amend the *Attorney General Act 1989*. The principal *Act* is quite unique. It established three specialised legal officers namely the Attorney General, Solicitor General and State Solicitor.

Mr Speaker, the amendments are minor yet essential for the purpose of removing any ambiguity and clarify the application of the law and the related issues that is, the transition of judiciary of the three State legal officers to strengthen the delivery of the quality and effective legal services to the government, its instrumentalities and the people of Papua New Guinea.

Mr Speaker, past court decision established and position the law that the Solicitor General has to provide evidence of instruction from the Attorney General in all matters before the court. In practice, this has made it impractical for the Solicitor General to provide evidence of receiving instructions from the Attorney General before appearing for the State in any proceeding.

15/03

This position has been abused by claimants bringing Section 5 Notice under the *Claims by and Against the State Act* who have questioned the Solicitor General's competence to represent the State in the absence of written instructions from the Attorney General. This inadvertently obligated the Solicitor General to disclose confidential and privileged information received from the Attorney General regarding instructions to appear for the State.

Mr Speaker, as such, this legislative reform was initiated by my office as the current Minister for Justice, and supported by the Department of Justice and Attorney General to bring forth these necessary changes. The policy rationale for the amendments is intended to strengthen the government business processes legislated by the principal *Act* which

prescribes the mandatory duties, functions and responsibilities of the Department of Justice and Attorney General and reports directly to and supports my office as the Minister for Justice.

Mr Speaker, the Attorney General (Amendment) Bill 2022 is designed to;

- (a) provide additional powers to strengthen the functions of the Attorney General;
- (b) demarcate functions of the Solicitor General;
- (c) align the appointment process for the Solicitor General and State Solicitor;
- (d) increase outdated penalty provisions;
- (e) impose new penalty provision; and
- (f) ensure enforcement and compliance of this Bill for purposes of administering justice related matters.

Mr Speaker, the draft Bill contains:

- amendments to the duties, functions and responsibilities of the Attorney General with additional powers to strengthen its existing functions; creation of four new provisions that establishes the Attorney General's Advisory Committee to deliberate on brief-out matters, vetting of lawyer's bill and out of court settlement; creation of a new provision specifically dealing with reporting between the offices of the Attorney General, Solicitor General and State Solicitor for a more coordinated approach on legal matters for and on behalf of the State;
- amendments to the establishment of the Office of the Solicitor General;
- amendments to the appointment of the Solicitor General to be appointed through the Judicial and Legal Services Commission with the inclusion of increasing the term of appointment from three years to five years to be consistent with that of the State Solicitor
- amendments to the functions of the Solicitor General;
- amendments to the functions of the State Solicitor with the inclusion of appointment to office to be made by the Judicial and Legal Services Commission to be consistent with that of the Solicitor General; creation of a new transitional provision to validate any actions undertaken between the time periods of the existing act and the coming into operation of this Bill; and amendment for increased penalty provisions in the law for a deterrent effect to ensure compliance by relevant person(s).

The amendments are consistent with the *Constitution* of the Independent State of Papua New Guinea and other pieces of legislation as vetted and cleared by the Office of

the State Solicitor and done in accordance with the ministerial portfolio of the Minister for Justice and further supports the Marape-Basil government's fight against corruption and reduce public expenditure by the State for brief-out matters and legal bills.

The intentions of these amendments are clearly to strengthen good governance in the Office of the Attorney General, limit the exposure of the State to abuse of brief-out matters and payment of exorbitant legal bills, ultimately safeguarding the State against unauthorized out of court settlement.

Mr Speaker, I commend the Attorney-General (Amendment) Bill 2022 to this Honourable House.

Dr ALLAN MARAT (Rabaul) - Thank you, Mr Speaker. I take note of the Second Reading made by the Minister for Justice & Attorney General.

I commend the amendment but just a point of clarification. When you look at section 6 and section 9 of the amendment in agreement, it is the expression following the appointment process prescribed. Is that referring to the Attorney General Advisory Committee and its relationship with the Attorney General?

It is not really outlined properly and it needs further clarification, thank you.

Motion – That the question be now put – agreed to.

Motion – That the Bill be now read a second time – agreed to.

Bill read a second time.

16/03

Third Reading

Leave granted to move the Third Reading forthwith.

Motion (by **Mr Bryan Kramer**) proposed –

That the Bill be now read a third time.

Sir PUKA TEMU (Abau) – Mr Speaker, whilst commending the Minister for Justice for his efforts in introducing this Amendment Bill, I wish to pose a question in

relation to the new *section 7 a, b, c, and d*, particularly 7a, sub section 3, which refers to the Attorney General's Advisory Committee. Basically, it recommends that the secretary for Justice - if the secretary is not the Attorney General - the Solicitor General and the State Solicitor plus two senior officers of the department at the deputy secretary level.

I would strongly recommend it to the Minister to review it. Everyone is coming from the same department, so I recommend that for section 7d, it should be two prominent lawyers from the outside rather than from the department. This is because their heads, the State Solicitor, Secretary and Solicitor-General are already there, so we are talking about the same group of lawyers. Rather than having someone from outside, as an advisory committee, I strongly recommend that we should also include, particularly for section 3

These are all prominent already in the department therefore I strongly recommend that particularly for section 3(d), at a later time, the Minister to consider some prominent lawyers from the private sector

Mr KERENGA KUA (Sinasina–Yonggamugl – Minister for Petroleum) – Mr Speaker, I commend the Minister for Justice for bringing this amendment, particularly proposing that there be an advisory committee established for the Attorney General to help the Minister for Justice and the Attorney General to make important decisions on behalf of the country.

Under these proposed amendments; part of the powers given to the new committee will be to consider matters of briefing out lawyers on behalf of the state and checking out the bills coming in for services provided and also advising on out-of-court settlement matters.

The current arrangement we have are completely unsatisfactory insofar as the state's interest in legal matters are concerned. It is unsatisfactory to a point where we are getting a lot of urgent injunctions and the state bureaucracy is unable to respond in real time. There are quick injunctions and when we fall into default, we get injunctions against us. And the bills coming back to the State for lawyers representing the State, the method of brief-out is so inadequate that we are having a lot of arguments and debates now about these three issues.

One thing that I have seen evolve over the last 15 years or so is that a cartel has developed amongst the lawyers. I used to be part of them before - and I am still one of them. I am not entirely a politician yet. I monitor what is happening.

Mr James Marape – Point of Order! Mr Speaker, can the Minister explain what he means by ‘cartel’. Unknowingly, he may have made it look as if he is a part of a cartel. And from my knowledge, the Minister in his time as a lawyer was amongst the best lawyers in the country and he practiced with the highest standards.

He has made reference to a cartel which might reflect upon himself.

17/03

Mr SPEAKER – The Point of Order of the Prime Minister is in order. Honourable Minister, can you clarify your statement as it may be misinterpreted.

Mr KERENGA KUA – Mr Speaker, I agree completely with the Prime Minister’s objection. The legal profession has always been regarded as a noble profession and that is the reputation which we want to maintain all the way through, now and into the future.

When a new culture is evolving amongst the legal profession that threatens to erode the respect and trust for the legal profession then we must confront it as that erosion is beginning to take place and arrest it right then and there so that the reputation of being a noble profession is maintained right throughout.

When I say ‘cartel’, I am referring to the charge-up rates. A cartel evolves when a number of traders all agree to do somethings in a uniform way. They may be different groups of business groups or practitioners in law but if they agree to a common culture then a cartel results from that; whether it is agreeing to a fixed charge rates, and etcetera. If you go to a one-man operator without an office or infrastructure, without too many lawyers and he charges the same rate as a big international law firm, where do we go as a client. The government is a big consumer of legal services. When we go to the one-man operator, he charges the same rate as the international law firm without the requisite experience and range of lawyers with their skills and expertise and all of that. This results in a cartel when it comes to fixing charge up rates.

I am not accusing them but that is what we are seeing which is a result of their conduct so what we need to do as a government is to confront that issue.

I have seen a lot of debate between lawyers acting for the government, the Attorney General and the Minister for Justice about outstanding legal costs and this question always emerges. So, it is important that this committee needs to address it and we need to find a better way for lawyers to fix their charge-up rates so that a cartel does not evolve simply

because there are no regulations. The establishment of the committee will look at it but we need to go beyond that.

I think we need to prescribe rules about what a lawyer's charge-up rate should be. When you graduate from university how much should you charge; when you have three years' experience how much do you charge or when you reach five years, which is about the time in a properly managed law firm where an ordinary lawyer becomes a senior associate, level what should he charge? And then another two years or seven years of legal practice you qualify to become a partner if your standards have been right I a properly managed law firm so what should a junior partner charge-up rate be then after seven years how should they be charged? There should be some fixed criteria where these standards are used because as it is the industry is not regulated.

Therefore, everybody is charging what they want and as a result bad practices have evolved and everybody is charging the same rates as everybody else regardless of infrastructure and the number of senior and junior lawyers. This is how cartels evolve.

So, I have no apologies to make to the legal profession for that. It may be because the government has not addressed the issue properly.

I commend the Minister for Justice and Attorney for taking on the issue but I flagged the issue because once he gets this bill passed, he should get his committee to look at the rates by law and regulation. The rates must be fixed.

18/03

Rates must be charged according to years of practicing law, whether it is three or five years. If you have a PhD and specialize in one particular area, charge a rate according to that because you have become an expert through more investment in refining your skills for that particular subject matter. So, give him another rate, but everybody should have a rate that's fixed by law by reference to the years of practice. That way we will have some order.

Mr Speaker, this is important because the Government has millions of kina in outstanding legal costs and the Department of Justice and Attorney General has no way of making a determination whether the bill is fair or not and also, the selection of the lawyers.

We need to establish an independent system to ensure that it leads us to the right law firm for the right matter. The different law firms have different areas of specialization similar to doctors, engineers and accountants.

We need to establish criteria on how we engage a law firm for one particular matter based on their recorded area of specialization. Instead of arbitrarily giving big constitutional law amendments or reform proposals on behalf of the government to somebody who does not have specialization in this area. So, these are three big areas we need to focus on.

So, I want to apologize if I have made some lawyers unhappy about the way I've described it. But I want to say that the comments that I have made are for the good of the Government and people of Papua New Guinea who are consumers of legal services.

So, we need to talk aggressively on this and criticise ourselves, if necessary, to come out with right answers.

I support this Bill by the Minister for Justice and Attorney General and Member for Madang.

Thank you.

Mr BRYAN KRAMER (Madang – Minister for Justice and Attorney General) – Mr Speaker, just to contribute to some of the debate on this Bill and hope to clarify to the members.

This Bill is essentially to improve governance structures within the Attorney General. Those engaged in the past were colleagues then appointed as the Attorney General and then started dishing out cases to their specific colleagues and benefited off public funds.

This will now take the powers away from the Attorney General, separate those powers and invest it back in the department. This Bill is also to tackle the issue of departments, authorities or provincial governments briefing out to lawyers without having the bills assessed. There some cases where we have received bills and claims to Electoral Commission costing 10 to 15 million kina. We had those bills independently assessed and found that they were less than K1 million.

It seems that one of the best ways to make money out of the Government is through legal bills. So, those provisions are directly to assess that, and I note the comments from the Member for Abau. The reason we did not get two independent lawyers is because this is acting for the State, in State's interest.

When we start involving private lawyers in State business then they are privy to confidential matters concerning the State. And the reason we included other two department heads within the department is because sometimes the State Solicitor General

can be appointed through political convenience and that person will be subservient. So, by adding two other department heads in there, at least they can provide the check and balance.

So, this basis is why we did not include independent lawyers from outside the department.

Motion – That the question be now put – agreed to.

Motion – That the Bill be now read a third time – agreed to.

Bill read a third time.

19/03

CLAIMS BY AND AGAINST THE STATE (AMENDMENT) BILL 2022

First Reading

Bill presented by **Mr Bryan Kramer** and read a first time.

Second Reading

Leave granted to move the Second Reading forthwith.

Mr BRYAN KRAMER (Madang - Minister for Justice) – I move –

That the Bill be now read a second time

Mr Speaker and members of this Honourable House, it gives me great pleasure to introduce the Claims By and Against the State (Amendment) Bill 2022 which amends the *Claims By and Against the State Act of 1995*.

Mr Speaker, the primary amendments are made to *Section 5 and 6* of the *Claims By and Against the State Act 1995* which provides for Notice of Claims Against the State and Fees. The aim of the amendment is to;

(1) Improve the State's ability to defend itself against frivolous and vacuous claims on serial litigation

(2) To allow the State to conduct further assessment of the legitimacy of claims against the State and lodge an investigation to determine the approach it must take in addressing the claims

(3) To ensure that the State is not liable to any fees or court documents relating to a court proceeding.

Mr Speaker, the *Claims By and Against the State Act 1995* has been in force for more than 15 years steering the delivery of state legal services. However, times and circumstances have changed and laws should also be amended to reflect these changes thereby reflecting the current status quo.

The changing landscape of the delivery of State legal services have exposed glaring gaps within the law resulting in the abuse of the state legal services.

Over the years, the State has spent significant funds against frivolous vacuous claims as a result of loop holes identifying the laws and used to the advantage of serial significance.

Mr Speaker, the past and recent Supreme Court decisions established that in the tort claims that were brought against the State, the law did not require the tortfeasors to be specifically named in the court proceeding as it was sufficient that naming the State as a party to the proceedings was the only prerequisite for establishing vicarious liability against the State. This was also applicable in cases of a breach of contract, where in the particulars of a contract were not required to be mentioned in the claims. Furthermore, although the State was exempted from paying fees for documents related to the court filing process where the State's thought to appeal a case, it had to pay fees for accessing court transcripts to assist in preparing its submission for appeal. These inconsistencies affected the ability of the State specifically the Solicitor General to access the legitimacy and merit of a claim and initiate investigations to determine the best approach to undertake in addressing the claim.

Mr Speaker, it was these Court decisions that prompted the legal reform to address the inconsistencies within the laws. The amendments of the *Claims By and Against the State Act 1995* makes it mandatory for the alleged wrong doer to be named in the notice and specifically state the date and time of the cause of action. Additionally, the amendment to *Section 6* of the *Act* ensures that the State will now be exempted from paying fees to act as Court transfers.

Mr Speaker, these amendments will strengthen the State's ability to defend itself against unmeritorious claims curbing adverse exploitation of the law regarding claims brought against the State.

Mr Speaker, these amendments made to *Section 5 of the Claims by and Against the State Act 1996* consequently necessitates an amendment to the *Wrong Miscellaneous Act of 1975 Chapter 297* that was tabled separately in the Wrongs (Miscellaneous Provisions) (Amendment) Bill 2022

Mr Speaker, with that, I commend the Claims by and Against the State Amendment Bill 2022 to this honourable House.

20/03

Third Reading

Leave granted to move the Third Reading forthwith.

Motion (by **Mr Bryan Kramer**) proposed –

That the Bill be now read a second time.

Motion – That the question be now put – agreed to.

Motion – That the Bill be now read a third time – agreed to.

Bill read a third time.

FAMILY PROTECTION (AMENDMENT) BILL 2022

First Reading

Bill presented by **Mr Bryan Kramer** and read a first time.

Second Reading

Leave granted to move the Second Reading forthwith.

Mr BRYAN KRAMER (Madang—Minister for Justice and Attorney-General) –

I move –

That the Bill be read a second time.

Thank you, Mr Speaker, for giving me this opportunity to present to this Honourable House, and the people of Papua New Guinea, this important Bill which intends to amend the *Family Protection Act 2013* entitled "Family Protection (Amendment) Bill 2022".

Mr Speaker, domestic violence remains as one of the most pervasive forms of violence in this country. It is a violation of human rights that is deeply rooted in gender inequality whereby the overwhelming majority of perpetrators are men and the majority of victims are women.

Men's use of violence in a relationship is a deliberate choice to maintain power and control in that relationship.

In a national demographic survey, that was conducted in 2019, it was found that 63 per cent of women reported having experienced domestic violence and 57 per cent of those women reported sustaining injuries as a result of the violence.

Mr Speaker, this is also supported by anecdotal evidence from the various social service providers such as women's groups and human rights defenders that indicate high levels of violence against women across the country and the extreme difficulties that are continuously encountered by victims in accessing effective support.

In the last year, we have seen and heard about atrocious acts of domestic violence committed against Papua New Guinean women. The foundation of family units and foundations are being affected by this evil that is eating away the fabric of our society.

Mr Speaker, the sad reality is that we only hear about a few cases through print and social media, but there are countless number of individuals who struggle in the privacy of their homes.

The Government has heard the concerns raised by Papua New Guineans and has taken measures through the review of the *Family Protection Act of 2013*.

The *Family Protection Act 2013* is the primary piece of legislation that criminalises domestic violence and affords protection for victims of domestic violence through the court ordered Family Protection Orders with the conditions and enforcement when there is a breach of the order granted by the court.

Mr Speaker, I am pleased to inform this Parliament and the people of Papua New Guinea that the Family Protection (Amendment) Bill addresses some key areas that were noted from relevant key stakeholders who assist in the referral process to provide support to a survivor of domestic violence including law enforcement authorities.

The following are the areas that the Bill addresses:

Increase in penalty provision

The penalty provision for the offence of domestic violence to increase from the current which is a fine not exceeding K5,000 or an imprisonment for a term not exceeding two (2) years, to a minimum fine of K1000 and not exceeding K10,000 or imprisonment for a term not less than two (2) years and not exceeding five (5) years.

This reform means that the courts when sentencing a perpetrator, cannot set fines less than a K1000, and also, cannot sentence a perpetrator to imprisonment for less than two (2) years. The sentencing must start from a minimum fine of K1000 and a minimum of two (2) years imprisonment.

The penalty provision for a breach of a family protection order has now a minimum fine of not less than K5,000 so the courts will not sentence a perpetrator for less than K5,000 and a minimum term of imprisonment not less than 12 months and not exceeding seven (7) years.

21/03

The penalty provision for a breach of a family protection order now has a minimum fine of not less than K5,000 so the courts will not fine a perpetrator for less than K5,000 and issue an imprisonment term of not less than 12 months and not exceeding seven (7) years.

New aggravated offence of domestic violence

A new offence has been included in the current reform, which is, aggravated domestic violence. The penalty for aggravated domestic violence is much higher than the domestic violence offence and it does not include a penalty fine. The minimum threshold penalty is imprisonment of not less than five (5) years and not more than seven (7) years. With this new provision, a person who commits the act of domestic violence in a particular

circumstance, may be charged with aggravated domestic violence. It will not be a defence that the defendant has paid an amount of money or given other valuable consideration to the complainant. The category of circumstances includes, where a person commits an act of domestic violence in relation to a person under 18 years of age; or in the presence of a person under 18 years of age; or in relation to a person with special needs or a person living with disability; or in relation to a pregnant woman; or in relation to a person incapable of resisting; or using a dangerous and offensive weapon or instrument; or whilst under the influence of a drug, controlled substance or alcohol; or repetitively.

Authorised person to issue urgent protection notice in urgent circumstances

A new set of provisions have now been included in this Bill. Unlike, court issued orders, this provision allows for the Minister to appoint ordinary members of the community as authorised persons to issue Urgent Protection Notices for up to 14 days in circumstances where there is an urgent need to do so. An Urgent Protection Notice may be issued against the perpetrator where there is an imminent risk that the defendant will commit an act of domestic violence against the complainant or a family member. A person may be authorised by the Minister as an authorised person to issue the notice. They must be of good reputation and character and have good standing in community. It is considered an offence where a person breaches the Urgent Protection Notice.

In issuing an urgent protection notice, the authorised person can also include a family member or any other person providing assistance to the complainant. The policy rationale behind this reform is to allow victims to get immediate protection whilst awaiting assistance for a Family Protection Order.

Obstruction of service provider

A new offence provision is now included in this Bill that criminalises the conduct of obstructing and threatening service providers such as counsellors, health practitioners or other persons that provide service to a victim of domestic violence. The penalty for obstruction attains a term not exceeding 12 months, and the penalty for a threat, attains a term not exceeding three (3) years.

In conclusion, Mr Speaker, I would like to stress that the State can intervene and do only so much, however, there are many facets of this issue that need to be critically investigated to arrest the problem. We need the academia and practitioners to be working closely to research and understand the underlying root of the problem in the PNG context. We can legislate, increase penalties, include new solutions in law, but that is not the only solution to addressing domestic violence. These are just bandages to the wound. There is a

need for leadership in changing this vicious cycle of violence. I challenge all you leaders in this Parliament and those who have leadership and influential roles in your families and communities to intervene and adopt better ways to arrest the issue of domestic violence and look at preventive measures.

Mr Speaker, finally, I would like to acknowledge the hardworking front liners who work day in day out to ensure another life is not lost to domestic violence. These are the real heroes that need all our support. I would also like to thank all the stakeholders who have participated during the course of the provincial consultations to review of the *Family Protection Act 2013* and thank the support of our donor partners, particularly, the Australian Government in providing financial and technical support to this review process.

With that, I now commend the Family Protection (Amendment) Bill 2022 to this Honourable House.

22/03

Mr ALLAN BIRD (East Sepik) – Mr Speaker, I thank you for the opportunity to commend and support the Minister on this very important Bill.

Firstly, I wish to thank the Minister and to acknowledge his effort. As a non-lawyer, in the last four years, I cannot recall any justice minister bringing these many amendments to legislations on the Floor, and I wish to commend the Minister for a fine effort.

Secondly, because we are talking about violence, I would like to speak on behalf of Sepik people to pass our sincere condolences to the people and family of the late member of the police force who was killed between the border of East and West Sepik.

If the reports reaching me are correct from the PPC of East-Sepik, the particular officer was in the process of dealing with issues on family and sexual violence within the community. If that is indeed true, then the people of Sepik stand shameful in this act where a member of the police force was working towards easing of family-based violence as a result of alcoholism and drug abuse within that remote community.

Even though he may have been attached with a logging operation, he was out in the community working to help women who were victims of domestic violence. That is from the report I have received from the PPC and I stand here to give my condolences to the family, the police force and also to the people of West New Britain.

I want to also say this to all the members of the Royal Papua New Guinea Constabulary, who are going out of their way to assist women and children who are victims

of domestic violence in our society. From this Floor and as the Deputy Chair of the Special Committee on Gender-Based Violence, I would like to commend all those members of the Royal Papua New Guinea Constabulary.

Mr Speaker, our women and girls have been crying for many years for protection of the law in this area of domestic violence. They deserve every support we can give and particularly lately, where we see all sorts of violence increasing in our country; It is truly worrying.

Mr Speaker, sadly in my province during Christmas and New Year, we had to attend to more than 40 different cases of violence between communities. Some of them started off from domestic violence; many of them triggered by the consumption of illegal alcohol. All of these things result in affecting the biggest victims. The biggest victims are those who are living with disability, the biggest victims are the women and the biggest victims are the children where these violence leads to deaths or burning of homes.

If you turn up in the villages, it breaks your heart to see women and children living under a canvas because their homes are burnt to the ground; all their beddings are burnt to the ground. All of their cooking utensils are burnt to the ground, Mr Speaker.

It is indeed commendable, in the midst of violence increasing in our community, to see the Minister of Justice bringing to this House an amendment to a Bill that is actually worthy; very worthy of us and it speaks to the character of the Members of Parliament who will stand up and give their voices in support to pass this Bill.

On behalf of the women and children, I am indeed very proud and grateful that this House has seen fit to bring important amendments to this legislation. So that our women and children can recognise that we do indeed care for the sufferings that they face in the hands of perpetrators, who would otherwise get away.

I would like to encourage members of the judiciary and the members of the police force to ensure that these amendments, once they are signed into law are fully implemented so that those who are victims can be assured that justice will be served.

I am particularly pleased with the amendment that removes any protection for the offender who pays compensation. And I want to make it clear to the PNG public who are listening, this amendment will ensure that if you are a perpetrator and you think you can pay compensation to the victims and get away, well the Parliament of the people of Papua New Guinea has taken that way from you with this amendment.

23/03

You will not pay compensation and be forgiven for the trouble that you caused. Under these amendments, if families accept compensation, it does not mean the perpetrator or the trouble-maker walks free. Whether or not he pays compensation, he still gets to pay for his crimes.

Mr Speaker, this is one of the Bills that I am proud to have been brought to Parliament. I am sure our women and girls, who mostly are the victims of gender-based violence, will thank us for it.

I commend the bill to the House.

Mr DOUGLAS TOMURIESA (Kiriwina-Goodenough) – Mr Speaker, I would like to also support this Bill and commend the Minister for Justice for a job well done. Again, I would like to reiterate the comments made by the Governor of East Sepik, in that, the Minister for Justice is not a lawyer by profession but he has done a fantastic job while in that office for a short time.

Mr Speaker, in support of the Bill, I would like to congratulate the Chair as well. In supporting this Bill, we are telling our women and girls that we are supporting them. But on the other hand, we must also protect the rights of men. A lot of times we support our females but let us be reminded that men, too, get abused; we have to show some fairness here.

I am someone who supports the rights of women but I say this because I have been brought up in a family where my father never abused my mother and I grew up in a society where we respected our women and girls. But the society today is totally different. Last year a young man married to a young woman here in the city was stabbed by the wife, but the woman was protected. What about the rights of that man?

Whilst we are trying our best to end violence and look at the rights of our women and girls, let us not forget our menfolk. While I support the bill another issue that needs our attention is the customary or traditional laws that most times gives our menfolk the support or leverage to do what they want to do. We must address these traditional issues as well because most times these traditional customs suppress the women.

I support that compensation should not give anyone the right to not pay for their crime. And the traditional boundaries must be looked at as well. If a woman wants to standup against a man, all eyes are on this woman because traditionally she is not allowed to suppress the man. I watched a video showing a woman hitting a man. She ran out and

was chased, caught and held, while the man was allowed to publicly abuse her. This happens because our traditional custom interferes with common sense.

While some of our traditional customs are good there are others that are not so good. We need to go back and review our traditional customs. Those that hinder the progress of our changing society must be removed and those that encourage progress, we must embrace and take it on with us.

One thing I see that is contributing to our lack of respect for each other is that we are not investing in strengthening the foundations of our families. We have to strengthen our family ties. The fabric of familyhood is what's eroding our societies. In the past families sat together and ate together; nowadays come mealtime, father is at one end of the house, eating his meal while looking at the phone.

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Today, when it is dinner time, the father will serve his food, go to a corner of the house and while he is eating, he will be looking at the phone screen and the mother too will do the same thing. The time for discussing the important issue is during dinner time so when the parents are not sitting together to have dinner this time is lost.

How do we strengthen the homes? How do we strengthen the fabric of society? We have to go back to the basics of life again. For too long we want to adapt laws but we forget that to strengthen society we must go back to the home. If you look at the criminal activities that are happening today, they start in the homes because we have lost the foundation of the family unit which parents sitting their children down and talking or teaching their children the basics of life.

Today, you will find that the mothers spend more time with the children while the mother is enjoying his time away from them. We must strengthen the fabric of society and that is family; fathers and mothers together.

Law and order issues in the country are real and today we have spoken about a good policeman who had gone out to sort out some family issue and he got stabbed and died.

Mr Speaker, I know that the Minister for Police is listening, we need to urgently re-introduce and bring the reserve policemen back.

There are many of us like in my electorate, Kiriwina-Goodenough have no policemen. Very recently one policeman was sent to my electorate - but what can one or two policemen do to address issues? Now, with family violence and other issues on the rise

we need more policemen to be in the electorate in remote areas to address law and order issues which are resulting from lack of discipline at home.

Thank you, Mr Speaker.

Motion – That the question be now put – agreed to

Motion – That the Bill be now read a second time – agreed to

Bill read second time

Third Reading

Leave granted to move the Third Reading forthwith.

Motion (by **Mr Bryan Kramer**) proposed –

That the Bill be now read a third time.

Mr GARRY JUFFA (Northern) – Thank you, Mr Speaker, for allowing me to add some remarks to this debate and I would like to show support towards all the debates that have been made before me in and complimenting the Minister.

I agree with Governor Bird and the Member for Kiriwina-Goodenough that this Minister has brought many amendments to the House and I also would like to encourage him to do more.

I would like to thank the Prime Minister because he is encouraging this kind of change to take place so that it can allow us to perform our duties to the fullest here in Parliament as the legislators.

With that, I would like to add a few comments to this Bill.

Firstly, the Minister for Police is a very active minister but can he take note. In the police unit we have a family and sexual violence unit which is not under the structure and command of the Police. This needs to be corrected so that they can be a proper command structure for the family and sexual violence unit. In that way there will be a proper career

path for policemen and women who are wanting to work in that unit and address the issues which we are talking about.

At the same time the police must have the capacity to conduct investigations and awareness in regards to the efforts to address the growing violence against our women folk in our society which is getting worse year after year.

25/03

The other issue I want to raise is in regards to the *Bail Act*. I would like to propose that we look at amending the laws so that the *Bail Act* is not afforded to those who are involved in this type of crimes. Many a times the perpetrators are granted bail and they are already going back into their communities and sometimes even into the households where the victims are.

In addition, I would like to propose that we must look at the training of the police. Their training on addressing these issues must begin from the moment they enter the police college. So, they understand the importance of addressing this issue.

One of the most important issues or aspects of policing was mentioned here by the Governor of East Sepik, that is the compensation culture. When we compensate their relatives, it shows that the perpetrator of this crime can get away. This must be completely discouraged.

The other issue is the bystanders, watching and witnessing but not doing anything. They are also guilty of this crime. Guilty of hating and abetting.

And finally, I'd like to make mention that in all provinces, we must build safe houses so victims of these type of crimes can be accommodated and kept safe away from the perpetrators.

Last but not the least, Education Minister please take note, all our children, from the moment they enter an educational institution, they need to be trained, instructed and made to understand the importance of respecting one another.

Thank you, Mr Speaker.

Mr BRYAN KRAMER (Madang–Minister for Justice & Attorney-General) – Thank you, Mr Speaker, just to add briefly to the debate, I acknowledge the support of the members of the House. A significant portion of this Bill or the amendment actually other than imposing greater penalties, will address this issue of Protection Order.

In the short period that I was Minister for Police, I had the opportunity to sit down and meet with those in the area of Family Sexual Violent Unit. They highlighted that one of the biggest challenges they had was when a victim came to see them to obtain a Protection Order, the law or process required for them to go to the hospital and most of them didn't have transport from the police station to the hospital and if some of these offences were committed at night then they had to find a doctor to give them a medical report. Then they have to find a lawyer to help prepare them for an application in the district court and if district court is not sitting, they can wait days before they get the Protection Order and, in some cases, there's so many others applying to district court registry that they don't get any response.

So, these amendments that you are supporting will now give the power to the Department of Justice and the minister responsible to be able to appoint civic people in this field, be it a Family Sexual Violent OIC officer, a doctor or anyone of those who work on the front line in providing protection against our women and children.

They themselves will now have the authority to issue a Protection Order that will last for 14 days. Therefore, allowing the victims then to get immediate protection under the law. In the past, there were no penalty, you could break a Protection Order which is essentially a court order and then when you go, they would have to file contempt of court. Today, we have actual penalty of crime when breaching a Protection Order for up to 12 months. And if the person or perpetrator disregards the Protection Order, he can be denied bail and sits in jail until he comes back to court and fight for bail.

That is one of the essential aspects of this Bill that we are considering today and it will have a significant impact on improving the issues of addressing domestic violence. And I also acknowledged the support of the department as well the Prime Minister and the members of the Cabinet that has allowed us a quick turnaround period just before Christmas to have it drafted and have it on the first sitting of Parliament in January.

Thank you, Mr Speaker.

Mr LEKWA GURE (Rigo) – Thank you, Mr Speaker, for giving me this opportunity to contribute to the debate.

I want to bring traditional perspective to the debate but firstly, congratulations to the Minister for Justice for bringing this series of Bills to the Parliament for considerations.

26/03

Coming back to the Family Protection Amendment Bill, I want to debate on a comment made by the Governor of Northern, where he said those who watch but do not do anything are actually encouraging this crime to be committed. I want to take up that debate from that point on, acknowledging the fact that women can also abuse men but it is mainly a majority of women being abused by men. The point I would like to bring across is that women being abused are looking for a support system and the law will give them that support in the long term. But in the short term, what the women would like is the immediate support system, is somebody there to put a stop to this crime from being committed.

For instance, if a woman was being abused by the husband either the father or the brothers will have to go and tell the husband to stop or he will have to deal with them. So if the family steps in and does this to the husband then they are the support system for the woman and at the same time create fear in the husband so he will not abuse her anymore because he will have to answer to the family. But if they just stand by and watch what the husband does to their relative than they are encouraging this crime.

In our society most people have this mentality that when men pay bride price of their wives, they have that right over their wives and they can do anything to them. But paying this bride price does not give men the right to abuse their wives. Therefore, I am encouraging the relatives of the women out there who are being abused by their husbands to not just sit and watch. Get up and do something to stop this crime from being committed. Thank you, Mr Speaker,

Motion – That the question be now put – agreed to

Motion – That the Bill be now be read a third time – agreed to

Bill read a third time

CRIMINAL CODE (AMENDMENT) BILL 2022

First Reading

Bill presented by **Mr Bryan Kramer** and read a first time

Second Reading

Leave granted to move the Second Reading forthwith

Mr BRYAN KRAMER (Madang - Minister for Justice & Attorney General) – I move –

That the Bill be now read a second time

Thank you, Mr Speaker, for giving me this opportunity to present to this Honourable House and the people of Papua New Guinea this important Bill to amend the Criminal Code entitled *Criminal Code (Amendment) Bill 2022*.

Mr Speaker, there are fourteen prisoners, two of which have escaped, for being imprisoned for death penalty.

27/03

These prisoners are on death penalty awaiting the State through the Government to make the necessary decision and to put in place the administrative mechanism and infrastructure to implement the courts decisions on the death penalty.

There were nine (9) other prisoners who were sentenced to death since the introduction of the death penalty into our criminal justice system in 1991.

However, some of these prisoners have died awaiting execution and others have successfully appealed or reviewed their sentences to the Supreme Court.

Mr Speaker, one of the main reasons for our inability to implement the death penalty is the lack of necessary administrative mechanisms and infrastructure to implement the death.

This was largely attributed to the difficulty presented by a single method of implementation and administration of the death penalty in the past which was to be done by hanging. Issues were raised as to whether it was the most humane way to do so.

Mr Speaker, it was in view of this that the Government amended section 614 of the *Criminal Code Act* which was intended to give greater flexibility and capability to enable the State to implement the death penalty.

It provided a range of methods of execution of the death penalty for the Government to choose from depending on the Government's preparedness and availability of administrative mechanisms and infrastructure suitable to that particular method of execution.

Mr Speaker, in 2013, the NEC had also tasked the Chief Secretary to inquire into the feasibility and implementation of the death penalty and to report back to Government by end of that year.

The Chief Secretary put together a technical team comprising of officials from the relevant government agencies and the team went on a fact-finding tour to the United States of America (USA), Thailand, Singapore, Malaysia, and Indonesia and upon their return, submitted a report titled, 'Implementing the Death Penalty in Papua New Guinea'.

Mr Speaker, following the presentation of that report, NEC endorsed and approved the Guidelines for implementation of the death penalty which set out the process and procedure to procure death for three (3) methods of execution (execution procedures for lethal injection; manual on execution by firing squad; and manual on execution by hanging).

Mr Speaker, as stated earlier, in 2013, amendments to the *Criminal Code Act* provided three (3) methods of execution for the Executive Government to choose from and the government had also approved the Guidelines for implementation of the death penalty.

Despite all the steps taken to implement the death penalty, over the years, the Government has not used any of these methods to implement the death penalty.

According to the report, it would be practically difficult to implement all three (3) methods. Each method would require different protocols and equipment to be used efficiently. As such, the Government does not have the administrative mechanisms and the infrastructure to implement the Death Penalty.

Mr Speaker, as a way forward, the *Criminal Code Act* was reviewed to amend all offences that have the penalty of death to be repealed and replaced with the penalty of life imprisonment either without parole or with eligibility of parole after 30 years.

The following offences will be amended to reflect this change:

Criminal Code Provision	Offence	Amended Penalty
Section 37	Treason	Life imprisonment. No parole.
Section 81	Punishment of piracy	Life imprisonment. Parole after 30 years.
Section 82	Attempted piracy with personal violence	Life imprisonment. Parole after 30 years.
Section 299	Wilful murder	Life imprisonment. No parole.
Section 299(A)	Wilful murder of a person on account of sorcery	Life imprisonment. Parole after 30 years.
Section 347(C)	Aggravated rape	Life imprisonment. No parole.
Section 386	Robbery with violence	Life imprisonment. Parole after 30 years.

These alternate penalties whilst addressing the lack of necessary administrative mechanisms and infrastructure, also remain proportionate to the gravity of the crime thus, maintaining the status quo for severe offences.

With that, I now commend the *Criminal Code (Amendment) Bill 2022* to this Honourable House.

28/03

Mr JAMES MARAPE (Tari-Pori – Prime Minister and Minister for Bougainville Affairs) – Mr Speaker, I rise to give support to the Bill that the Minister for Justice is now presenting.

Death penalty has been in our laws for many years, but consistent with other global trends, the death penalty is not an effective deterrent to offences. Studies globally have shown that death penalty a part of penalties in laws in all jurisdictions has never been a deterrent to serious crimes as prescribed in our *Constitution*.

However, there were six specific offences that were deemed serious and could be penalised by death penalty. In our own country, in the last seven (7) years, we have tried to review the possible mode of execution. Some trips were made to United States and other countries that have laws allowing execution or death penalty but we haven't really made a choice on the mode of execution.

However, as time changes, our country must look at the bigger picture as a Christian nation. In my view, the notion of 'thou shall not kill' still prevails, although some will make reference to the Bible, saying "an eye for an eye, and tooth for tooth".

Whilst I'm not qualified to be a pastor, let me share that the very first heinous crime that took place on the face of the planet Earth was Cain murdering Abel. God, the giver of life, never pronounced death on Cain right away. In fact, God passed punishment on Cain by casting him out of the home that he set up for Adam and Eve, but he said, "let no men cast a hand over Cain", and he allowed Cain to have his life, so an extension of life was given to Cain.

Therefore, as a Christian country, I think, it is fair on the greater tenet of the sanctity of life that God be the judge of that person. We had in our laws, offences like prison and piracy, the penalty would have been death. I think that adjustment is proper. We are removing death as penalty but we are replacing it with longer and strong terms for those who commit this sort of offences. For example, for offences like the ones that the Minister read, you will serve life sentence with no partiality. I think it's better that God be the judge of those persons who commit offences. God forbids, these offences should take place, but as a democracy, we need to have these laws in place and the Minister is bringing those changes which I believe blends and synchronises with our nation's identity as a Christian nation.

So, I propose this Bill to the House in support of Justice Minister's good work.

Thank you.

Motion – That the question be now put – agreed to.

Motion – That the Bill be now read the second time – agreed to.

Bill read a second time.

Third Reading

Leave granted to move the third reading forthwith.

Motion (by **Mr Bryan Kramer**) proposed –

That the Bill be now read a third time.

29/03

Dr ALLAN MARAT (Rabaul) – Thank you, Mr Speaker. I express my support for the removal of the death penalty.

All I want to express on the Floor of this Parliament is the alternative penalties that are being proposed for those offences, that carry the death penalty. Treason is one and the proposed penalty is life imprisonment and no parole. That for me, personally, I accept.

But I want to suggest that all these death penalties were imposed by Parliament, following an increase in the wickedness of this particular crimes at that time for example; rape, aggravated rape and murder like nobody's business. So, the death penalty for these offences were imposed following the cries of the people. It seems that all these particular crimes are not abated.

A few minutes ago, the Governor of East Sepik has expressed concern about the continuous increase in crime in this country. So, the gravity of offences at that time was not abated until now.

So, my suggestions would be for example; looking at the punishment for piracy, the killings that took place between Kokopo and Namatanai. Those offenders faced the death penalty, they are on death row, but I think one of them had died. That is serious and here the amended penalty for that is just simply life imprisonment and parole after 30 years.

What if in the near future an offender of piracy is a 20-year-old and is sentenced to life imprisonment until the matter comes before the parole board after 30 years? There is no guarantee for him to be released. It is an issue of seriousness of gravity of this particular crime.

In summary, I would rather see that parole after 30 years is removed and let their punishment be life imprisonment with no parole.

Thank you, Mr Speaker.

Mr BRYAN KRAMER (Madang – Minister for Justice and Attorney-General) –
Thank you, Mr Speaker. I would like to respond to what the Member for Rabaul just said.

Parole is not a guaranteed right. So, while I note that he raised concerns about parole after 30 years, parole has to be applied for. The applicant has to demonstrate that there is serious reform in his conduct and the circumstances of his involvement to justify whether he would get parole. So, in regard to what the member for Rabaul has raised there is no guarantee that they will get parole.

Mr Speaker, just to add to the debate, there are two proponents and opponents that get the death penalty. Some will say that it is a deterrent, but evidence has shown through countless research around the world, that the death penalty has not been a deterrent.

So just from some of the research that I came across, the United States was a number one implementer of death penalty. It reinstated the death penalty up to the Supreme Court ruling and allowed for it as a part of a justice system. Over 1,400 people have been executed by the State or the Federal Government. Courts in the US do not usually entertain the claim for innocence until the convicted individual dies of a natural cause or goes through with the execution.

There have been 15 cases where there is strong evidence to suggest innocence out of this number, with the latest being Carlton Michael Gary who was executed in 2018 by the State of Georgia. A police statement withheld from the defence indicated that the witness who identified Gary in court, actually was asleep at the time and she could not describe or identify her attacker. The DNA left at the scene excluded him as well.

30/03

So, these are the concerns that relate to the death penalty in PNG. What happens when we get it wrong? Are we ready? Do we have full confidence in the police investigations, justice system or prosecution? Do we have full confidence when ordinary members of the public are tasked to carry out the execution?

They will be tasked to take a person on death row, either out to the back of CIS and shoot them in the head. That is the reality of what we are asking someone to do. Not ourselves, but we are asking someone else to take that death row person out and hang them. That person conducting the execution is an individual who has to go home to his family. He or she will be asked; how was your day?

Every time the Courts sentence a person to death, someone has to live to answer these questions. Would you like that to be the case for you? As it happens, the most advanced countries are getting it wrong. What happens to those individuals when they find out that he killed an innocent person? The person who has carried out the execution will live with this guilt on his conscience for the rest of his life.

Mr Speaker, so part of the decision-making and the decision on the policy of the government is not only a moral one. Many argue that the wages of sin is death. We are all guilty of sin and if that is so, then we should all be executed. It is clearly not an argument in support of the death penalty.

The central issue is; is Papua New Guinea ready to carry out the death penalty?

Are we confident that we will get it right? And for some of us in Parliament, the view is no. The issue of the death penalty being repealed is that development partners are prepared to give us additional support in the areas of investigation and prosecution so we can start to focus on preventing these heinous crimes of rape, murder and piracy which are occurring.

Sir Puka Temu – Point of Order! The honourable Minister has made a statement which worries me. He has mentioned that this amendment is part of the process to get development partners to support us better. This is a sovereign state. The Honourable House should not be influenced by outsiders like development partners. We make the decisions when we know it is the right thing to do so, Mr Minister.

Mr BRYAN KRAMER - When it comes to us asking for money for health and in other areas, we do not have a problem so, clearly, the same principle does not apply. The issue here is that by getting additional support, we can prevent women and children being raped; and is that not a priority? Are we assuming that a death penalty will deter crimes? There is no evidence and nothing will confirm that. Should we not focus on prevention? We have been working with development partners in health and education and they have made recommendations and advised us. The decision was purely made in that regard. The decision was because of a contributing factor that we considered. I think prevention - as a doctor would know - is better than cure.

So, the focus will be on prevention of heinous crimes rather than finding someone guilty and then waiting for the State to execute him.

Mr PETER ISOAIMO (Kairuku-Hiri) – I would also like to contribute to this debate in support of this amendment. As Christians and for me as a practicing catholic, our Catholic Church hierarchy has always called for Christian principles and I am happy that the Minister brought about the amendment to the death penalty.

I just have one issue with the list of the sections here, especially for willful murder, in relation to sorcery.

31/03

I think sorcery is something that cannot be proven clinically or otherwise so how can we identify it to be an offence. It is just a belief which people have accustomed themselves with.

My mother is from Koiari and they have so many beliefs in sorcery but I do not believe in sorcery. We have to seriously look at how we are going to address this issue because we are jailing people for sorcery without any proof. So, I think the term sorcery has to be defined before we can make it an offence.

I would like to thank the Minister for bringing this amendment to this House as it is in the best interest of the people to control law and order in this country.

Thank you, Mr Speaker.

Sir PUKA TEMU (Abau) – Thank you, Mr Speaker. I would once again like to thank the Minister for Justice for bringing these very important amendments to this House and I support all these amendments.

Mr Speaker, my concern is that the honourable Parliament over time has passed so many laws but our problem has always been not having the ability to administer and police the laws. I think it is time for us to review the structures under which the laws are being administered or policed.

Take for example, under the Family Protection Amendment Bill which we gladly passed we are directed back to the police to provide the implementation. We are ignoring structures like the churches which have had greater influence in every level of the community, we need to bring things such as our Christian values and also our traditional values in.

I am glad that some of these amendments have been brought in for consideration but we are really focusing more on the offenders rather than those that have been offended. That is my main concern.

I am very disappointed that when we passed the Death Penalty law, it took a long time for us to try and implement it. We were going all over the world to try and find the methodology and we had to bring the Chief Secretary to come back and make a recommendation but we also failed to make that happen.

We then were using human rights, the Bible and principles of forgiveness to defend our position that we should not kill someone else. But my greatest concern now is why we are faced with so much lawlessness in the society, including violence against young women and mothers.

Mr Prime Minister and Minister, I think we really have to get to the bottom of these all and find out why there is so much lawlessness happening in Papua New Guinea.

I think that the Governor of Northern Province has provided us one solution and that is to start with the Elementary students in the Education system by teaching them respect for each other, respect of the government, respect for women and etcetera. We have to acculturate these into the Education system.

32/03

Let's create jobs for young boys that are roaming on the streets. Many Grade 12 graduates will not enter the colleges. What is their future? I think we really had to come down to the bottom of it. But Mr Minister, I support the amendments and I agree with the shadow Attorney General and Deputy Opposition Leader. I really don't think offenders of serious criminal offences should be allowed parole.

All the best with the implementation and I support the amendment.

Mr CHRIS HAIVETA (Gulf) – Mr Speaker, I support the Justice Minister, basically because in our country during the colonial times, the first man to be sentenced to death by hanging was a person by the name of Karo Arowo from Toaripi, Kerema. And the consequences of that punishment by the States reverberated right throughout the country. I just want to say that it was not good. Seven to eight generations have passed since the first death penalty was carried out.

So, we have by legislation in the Independent State of Papua New Guinea come up with a death penalty that is now about to be revoked.

If I recollect correctly, a minister of State with the Chief Secretary took trips around the world at the expense of the Government, but has a report ever been tabled?

I want the Minister for Justice to tell us. What did it say! What were they looking up? Were they looking up on the methods of execution or were they looking at the laws on the death penalty? That law is useless and has never been put into action.

But on the whole as a Government and a people, we should not support murder by the State in any form.

Mr Speaker, I fully support the repeal on the death penalty. Let's get on with it and look at some other ways in which we can treat law and order problems rather than going ahead with the death penalty.

Thank you, Mr Speaker.

Motion – That the question be now put – agreed to.

Motion – That the Bill be now read a third time – agreed to.

Bill read a third time.

WRONGS (MISCELLANEOUS PROVISION) (AMENDMENT) BILL 2022

First Reading

Bill Presented by **Mr Bryan Kramer** and read a first time.

Second Reading

Leave granted to move the Second Reading forthwith.

Mr BRYAN KRAMER (Madang - Minister for Justice & Attorney General) – I move –

That the Bill be now read a second time.

Mr Speaker and Members of this Honourable House, it gives me great pleasure to introduce the Wrongs (Miscellaneous Provisions) (Amendment) Bill 2022, which amends the *Wrongs (Miscellaneous Provisions) Act* of 1975.

33/03

Mr Deputy Speaker, the *Wrongs (Miscellaneous Provisions) Act* 1975 has not been amended since its enactment in 1975. Changing circumstances in the law and in this case where the State Legal Services are concerned, should be reflected accordingly.

In addition to the gaps in the *Claims by and Against the State Act* 1996, it has inevitably exposed the related glaring gaps in the *Wrongs (Miscellaneous Provisions) Act* with the past and recent Supreme Court decisions establishing that, in tort claims that were brought against the State, the law did not require the tortfeasors to be specifically named in the court proceeding as it was sufficient that naming the State as a party to the proceedings, was the only prerequisite for establishing vicarious liability against the State.

Mr Deputy Speaker, these inconsistencies tremendously affected the ability of the State, specifically the Solicitor-General, to assess the legitimacy and merits of the claim and initiate investigations to determine the best approach to undertake in addressing the claim.

Mr Deputy Speaker, it was these Court decisions that prompted the legal reform to address the inconsistencies that I have already alluded to earlier in my speech on the *Claim by and Against the State (Amendment) Bill* 2022. These amendments make it mandatory for the alleged wrong doer to be named in full with all relevant information stated within the notice with specifics of the date and time of the cause of action.

Mr Deputy Speaker, these amendments will strengthen the State's ability to defend itself against unmeritorious claims curbing adverse exploitation of the law regarding claims brought against the State.

Mr Deputy Speaker, the amendments to the *Wrongs (Miscellaneous Provisions) Act* are consistent with the *Constitution* and other pieces of legislation, complementing and enhancing the *Claims By and Against the State (Amendment) Bill* 2022, simultaneously strengthening the existing government mechanisms for better access to justice for all.

Mr Deputy Speaker, with that, I commend the *Wrongs (Miscellaneous Provisions) (Amendment) Bill* 2022 to this Honourable House.

Mr JAMES MARAPE (Tari-Pori – Prime Minister and Minister for Bougainville Affairs) – Thank you, Mr Deputy Speaker.

Let me commend the Justice Minister. I want the Parliament to support this Bill because over many years, there has been well over hundreds and millions of kina in claims against the State that may not have necessarily being correct. Not to say injunctions of the past were wrong but this law helps us put into context many of these claims. So, this is a good Bill because it will provide clarity on which is the correct bill and who is supposed to pay for it, instead of having someone hiding behind the banner of the State and walk away scot-free. It is a small simple amendment but has a huge consequence on saving the State millions of kina that have been lost through the claims against the State. So, I just want to commend the members of this Parliament to pass this Bill.

We are not here to ask for DSIP or PSIP, we are here to correct laws that need to be corrected and amend laws that need to be amended because they set the preambles in which we operate as a country, and the good Justice Minister is leading the course of this Bill.

Mr Speaker, I commend this Bill to the Parliament.

Motion – That the question be now put – agreed to.

Motion – That the Bill be now read a second time – agreed to.

Bill read a second time

Third Reading

Leave granted to move the Third Reading forthwith.

Motion (by **Mr Bryan Kramer**) proposed –

That the Bill be now read a third time.

34/03

Sir PUKA TEMU (Abau) – Thank you, Mr Deputy Speaker.

This is a short comment in support of the Bill.

I hope we are not trying to make peace to protect the so-called State. We must also know that the State also involves many of our citizens. I hope that this law does not compromise and overpower the rightful claims by citizens that are made against the State.

I hope in the administration of this amendment, it will protect our citizens as well and not only the State.

Motion – That the question be now put – agreed to.

Motion – That the Bill be now read a third time – agreed to

Bill read a third time.

**CONSTITUTIONAL AMENDMENT (DECLARATION OF PAPUA NEW
GUINEA AS A CHRISTIAN COUNTRY) LAW 2021 – REFERRAL TO
PERMANENT PARLIAMENTARY COMMITTEE
ON CONSTITUTIONAL LAWS AND ACTS
AND SUBORDINATE LEGISLATION**

First Reading

Proposed Law presented by **Mr Bryan Kramer** and read a first time.

Ordered - That the Proposed Law now stands referred to the Permanent Parliamentary Committee on Constitutional Laws and Acts and Subordinate Legislation.

BUSINESS GROUPS INCORPORATION (AMENDMENT) BILL 2021

First Reading

Bill presented by **Mr William Samb** and read a first time

Second Reading

Leave granted to move the Second Reading forthwith.

Mr WILLIAM SAMB (Goilala- Minister for Commerce & Industry) – I move –
That the Bill be now read a second time.

Mr Deputy Speaker, before I read my statement, I'd like to acknowledge the contributions of past ministers and officers in the department who have brought this Bill. I just came into office to conclude the process so I'd like to give respect and acknowledge their efforts.

Mr Deputy Speaker, today, I am tabling to Parliament the Draft Business Groups Incorporation (Amendment) Bill 2021 and for consequent endorsement and enactment by Parliament. The Act has not undergone any review or amendment since its passage nearly 50 years ago. A lot has changed in the intervening years, especially regarding the use of technology to support online electronic registry systems. My ministry through the Investment Promotion Authority (IPA) administers the Act through an electronic online registry system. IPA is implementing a major upgrade scheduled for January 2022 and the success of this project will be greatly enhanced by these amendments as they provide the IPA with proper authority to manage incorporated business groups within an electronic database. None of the proposed amendments represent a shift in policy or a change in how incorporated business groups are formed or operated in PNG.

All these changes are similar to existing provisions in the *Companies Act* that relate to using and administering an online registry. The key changes are:

(1) New definitions added that specifically recognize the validity of electronic documents and filings.

(2) The IPA will be given specific authority to rectify the online register in the event of data entry error and to use email to deliver notices to people advising them of their upcoming filing requirements.

(3) Requirements for incorporated business groups to notify the registrar whenever a change is made in the committee members. This will allow the registry to provide current and accurate information on the management of each business group. This precisely

mirrors the requirement in the *Companies Act* that all companies report changes in directors to the registry.

(4) Requirement for incorporated business groups to update their postal address for service whenever a change is made, and that change must be to the register. This will assist the Internal Revenue Commission (IRC) in identifying and bringing in tax evaders to pay their dues and comply with our tax laws.

(5) Requirement for an incorporated business group to file a more general annual return with the registrar. The purpose of the annual return is to make sure that the information in the registry about the incorporated business group is accurate.

(6) During the winding up process, an incorporated business group will be required to file with the registrar any court orders that pertain to it ceasing its operations.

Mr Speaker, these are part and parcel of the reforms my ministry is undertaking, and I will soon bring to Parliament, amendments to the *Investment Promotion Act 1992* and the *Associations Incorporation Act*.

36/03

The National Executive Council recently approved the reserved activities list which is currently with the NEC Secretariat for gazettal. Upon Parliament endorsement of the *Investment Promotion Act* amendments which I will soon bring to Parliament, my ministry will immediately undergo a further public consultation with non-state actors, private sector peak bodies and the general public in line with the consultation process prescribed in the new amendments.

Mr Speaker, I commend this Bill to this Honourable House.

Motion – That the question be now put – agreed to.

Motion – That the Bill be now read a second time – agreed to.

Bill read a second time.

Third Reading

Leave granted to move the Third Reading forthwith.

Motion (by **Mr William Samb**) proposed –

That the Bill now read a third time.

Mr PETER ISOAIMO (Kairuku-Hiri) – Thank you, Mr Speaker. I stand to support the Minister on amending the *Business Groups Incorporation Act*.

Small businesses have been operating in the village since the time of our ancestors and have been passed from generation to generation with some succeeding whilst others have not.

I commend the Minister because we are now living in a modern era where technology has evolved.

I understand that the Government has allocated some funds to his department to help set up businesses for our people. I recommend that the Government must come with a policy to help business groups, cooperative societies and our rural people with their seed capitals. All this time, we have been helping our rural people to start up their small business out of the DSIP funds allocated to us. What we want is for the National Government to play its part as well, through its ministry to roll out their programs.

Funds have been given to National Development Bank (NDB) to cater for our people to start up their businesses. But when they go to NDB, they are given so many questions and the processes are too complex for our people to get what they want. NDB is supposed to be a Papua New Guinean owned bank.

I am saying this because of the people I deal with who face these issues every day. This leaves me no choice, so I have to go and make deals with other finance companies.

This is one of the areas that the Ministry of Commerce needs to tidy up. I am thankful for the Minister of Commerce for bringing this amendment to the Floor.

Mr GARRY JUFFA (Northern) – Thank you, Mr Deputy Speaker for the opportunity to say a few words on this amendment.

Firstly, let me appreciate the Minister for the amendment brought forth, but I would also like to encourage him to make some amendments with IPA. This department needs to refocus its effort so that it is not just an organisation that is encouraging investment, registering companies and leaving them alone to do as they please.

A restructure in this organisation must take place so that it must have an enforcement and a prosecution function as well. For instance; a number of foreign-owned companies that come here actually register as Papua new Guinean companies and then go out and about operating as such and are therefore able to attract the benefits of operating as Papua new Guinean companies, all the while avoiding certain taxes and liabilities, and certain permits and licenses that are required of them as foreign-owned companies that operate at will and win.

They register a company to operate as a particular business and then they go to another part of this country and they operate in a totally different business. And these types of activities have been happening for the last decades and the IPA does absolutely nothing about it. Its screening mechanism is also atrocious. Anybody from anywhere in this world, whether they are transnational criminals or scam artists or con men, they come into Papua New Guinea and are able to register a company and operate anytime and anywhere, without scrutineering.

So, Mr Minister, I want to encourage you as you are a very active minister who likes to look into these issues and are very concerned about them because you tell us all the time when you have the opportunity. So, this is good because you are in the right place at the right time.

Now go to IPA, sit down with the CEO and his executives and say we want to restructure this organisation so that it protects the interest of Papua New Guineans. Because it is not doing that, it is a giant rubber stamp as we speak. All it does is register anybody and everybody that comes into this country. There is no proper vetting process and when those companies come and operate as they please wherever they want to, they are left alone as they please to do whatever they want to and without any scrutineer at all. For instance; I raised an issue about gold recently with the Mining Minister, and I am hoping he keeps his promise and brings the bill here, immediately so that all the Papua New Guinean gold miners are able to receive the relief that they need.

There are companies that are operating in these particular areas that are busy buying gold at prices that are far beyond our market value prices and this is putting Papua new Guinean gold traders out of business. And the purpose of them doing this is for transfer pricing and money laundering, that's what they are doing but who is scrutinizing this and who is investigating this? Who is holding them to account, who is protecting the Papua New Guinean business men and women out there who are struggling to pay their taxes?

The IPA is supposed to be doing this. It has served its purpose well in attracting investment, registering organisations, companies, selling Papua New Guinea, etcetera. But it now needs to step up and perform its other very important role which it has not done so. Perhaps its organisational structure is not approved yet and because there is no legislation that allows it to do that. And so, Mr Minister, you are now in the right place to be able to do that with your energy and vigor, I am sure you will make this happen. So, I would like to see those amendments you brought to this Parliament as well so that we protect the interest of Papua New Guinea through this organisation.

Thank you.

Mr DEPUTY SPEAKER – Honourable Member, I understand the motion to put the question has been called but the debate has led the Minister to make some clarification so the Chair will allow him to do so.

Mr JOHNSON TUKE (Kainantu – Minister for Mining) – Thank you, Mr Deputy Speaker.

I acknowledge the statement made by the Member for Kairuku-Hiri and Governor for Oro.

Firstly, I have noted the points raised by the Member for Kairuku-Hiri but I want to stress our government policies in that area. The K200 million that the Government budgeted and the process at BSP is working very well, which is intended for existing businesses. The other K100 million to NDB is for start-up businesses. Unfortunately, there is a court order at NDB that is delaying the expenditure of that money and we are working on addressing it.

In regard to the challenges raised, may I invite both the Governor and Member for Kairuku-Hiri to come to my office and so I can take up those concerns to the Department to address.

In response to the Governor's point, if you see my second ministerial statement, this Act was enacted 50 years ago. We are in the process of reviewing some of these policies to make the necessary changes. I also mentioned in my speech that there will be subsequent amendments to other laws.

Thank you.

38/03

Motion – That the question be now put – agreed to.

Motion – That the Bill be now read a third time – agreed to.

Bill read a third time.

COMPANIES (AMENDMENT) BILL 2021

First Reading

Bill presented by **Mr William Samb** and read a first time.

Second Reading

Leave granted to move the Second Reading forthwith.

Mr WILLIAM SAMB (Goilala - Minister for Commerce & Industry) – I move –
That the Bill be now read a Second time.

Mr Speaker, today I am tabling in Parliament the Draft Companies (Amendment) Bill 2021 and for its consequent endorsement and enactment by Parliament.

In 2014, the *Companies Act* underwent a significant policy-based amendment to fit with international best practices at that time. Changes included: simplifying the lengthy and cumbersome process of registering a company. It now takes a minimum of two (2) days to register, streamlining the filing of annual returns, and generally keeping information about all companies current.

- This was all facilitated by the introduction of an electronic online company registry, administered by the Investment Promotion Authority (IPA). A first of its kind then

back in 2013, people anywhere in the world could now access the business registry as long as they have an internet connection and a computer.

- It has been eight years since the 2014 amendments. In that time, international mandates regarding anti-money laundering and anti-terrorist financing have grown more stringent, and the *Companies Act* does not adequately address these issues.

- The Government of Papua New Guinea has endorsed a National Anti-Money Laundering and Counter Terrorist Financing Strategic Plan 2017-2022 (NSP), which promises to bring into compliance PNG laws related to business entities.

- Furthermore, the electronic online company registry maintained by the IPA, the administrator of the Act, is implementing a major update to the online company registry. The success of this project is directly dependent upon a requirement in the amendment that all companies undergo a re-registration.

39/03

None of the proposed amendment represents a shift in policy regarding business law or a change in how PNG companies are formed or operated.

Key changes include:

(1) Requiring companies to obtain information on beneficial ownership and providing it to appropriate authorities upon request. This satisfies anti-money laundering mandate that require such information be made available to law enforcement.

(2) Requiring companies to report all transactions for transfer of shares of the company. This allows company information to be updated as and when the transfer occurs, rather than the current practice where transfer of shares is only updated once a year when the annual return is filed. This is good practice and consistent with the approach taken throughout the Pacific region including in both New Zealand and Australia.

(3) Improving IPA's compliance by having an efficient system that automatically strikes off non-compliant companies who still fail to file their annual return after their grace period expires. This compliance routine will involve automatic system delivery of email reminder notices to companies through the online registry system, as well as publication on the IPA website if non-compliant. IPA will no longer do manual compliance checks and will no longer need to publish thousands of names of non-compliant companies in the newspaper. This will mean a significant reduction in the administrative burden and the associated cost K250,000 for IPA annually.

(4) In line with introducing an efficient compliance system, a new provision is being introduced to make it much easier for a company to be restored to the registry by simply filing overdue annual returns and paying the appropriate penalties before the Registrar restores the company.

Requiring companies to re-register to ensure that all the company data in the new system is accurate. Re-registration will be free and will take the place of the annual return so that there is no additional burden placed on companies.

This is good news for Government and the country as a whole.

(1) It enhances compliance efforts currently being undertaken by the Internal Revenue Commission in identifying tax-compliant businesses;

(2) It improves collection of reliable and updated data for government policy and decision-making.

Mr Speaker, these are part and parcel of the reforms our ministry is undertaking, and again I will soon bring to Parliament, amendments to the *Investment Promotion Act* 1992. The National Executive Council approved the Reserved Activities List which is with the NEC Secretariat for gazettal. Upon endorsement of the Investment Promotion Amendments; we will immediately undergo a further public consultation with non-state actors, private sector peak bodies and the general public in line with the consultation process prescribed in the new amendment.

Mr Speaker, I commend this Bill to this Honourable House.

Mr JOE SUNGI (Nuku – Minister for Public Service) – Thank you, Mr Speaker, I commend the Minister for bringing this Bill. This is the Bill that will actually grow and produce millionaires in this country.

40/03

I commend the enactment of the laws that we bring but the enforcement of some of these laws is a problem.

In many rural parts of Papua New Guinea, you will find foreigners operating little tucker-shops taken over from our Papua New Guinean. How can we produce millionaires in our own country? This has become a very big issue.

For example; Niugini Tablebirds produces chicken in Lae, a foreigner then purchases the chicken and brings it all the way to Wewak, Vanimu, to the Highlands and everywhere and sells it to a Papua New Guineans again there. This is supposed to be done

by the Papua New Guineans because the chicken is grown and produced by Papua New Guineans for Niugini Tablebirds. Yet, a foreigner is reselling again to us. I don't have to mention any names, you already know who they are. Now you go to Maprik, Wewak town or Vanimo, the little foreign-owned shops there are selling items that Papua New Guineans could be selling.

We need to enforce this law more vigorously, therefore, I am calling on the Minister for Commerce & Industry, Honourable William Samb, to look into this law further. Otherwise, we will never become millionaires in our own country.

The IPA online system is good but we need to be very careful because someone else can apply for a business registration on their behalf and on the ground, we will have someone else operating. Therefore, the major problem we have now in our country is that we are buying things from foreigners that we can sell to make money for ourselves and our country. Foreigners have even taken over our fresh produce and buying from our local people and selling to us again. We even have them selling betelnut also. This is really bad. Who is allowing this to happen? We need to put a stop to this.

We had a very successful case in Vanimo, some fifteen years ago. We identified these sort of people operating businesses there and removed them. Now we have them back again operating.

Mr Speaker, I'd like to take this opportunity to commend the Minister but at the same time stress the issue on enforcement in this country. In my district, I have taken it up on myself to deal with the foreigners who come in and do business in my district.

Therefore, the IPA must restrict foreigners on certain boundaries, allow them to operate but within a certain contract, don't allow them to do business elsewhere. If they are going to operate in Port Moresby, it must be just Port Moresby only. Once you allow them to do business everywhere, they will take over from our local businesses.

41/03

Mr KERENGA KUA (Sinasina-Yonggamugl – Minister for Petroleum) – Thank you, Mr Speaker.

I also want to lend my support to the Minister's initiative in introducing this Bill, through the work that he has picked up from his predecessor, both of whom have worked together to bring this Bill to the Floor.

There are four (4) points that I want to make.

Firstly, I'm looking at Section 4 of the proposed Bill. I was hoping that the Bill was written a little bit differently so that notices of trust, a trust whether they are expressed, implied or constructive, must be required by law to be disclosed to the Registrar of Companies but to be maintained in a blind register where the information is not accessible to the public, and can only be made available by subpoena of the National Court.

The reason for that is because at the moment there is no requirement to make a disclosure of such trust arrangements between the persons expressed in writing in the share register to be a shareholder and the actual man who owns it sitting behind that person's name.

So, a lot of these people, Mr Speaker, actually use that to abuse the system. They hide behind other people, simply because the law doesn't require them to hold shares directly or for one reason or another. They hide behind either declared or undeclared trust.

But the proposal here is to allow the arrangements to continue and I'm just planting the idea in the head of the Minister that somewhere down the track, he needs to turn it the other way around to see that we don't by statute enforce these arrangements that continue to give an advantage to unscrupulous people who exploit this trust arrangements by not disclosing it.

I think we can protect everybody. There are some legal situations where you don't need to arrange a trust. That is fine but disclosure must still be required. You protect their confidentiality by saying in law that the registrar must not disclose it to the public.

He keeps it in a blind register not accessible to the public, unless required on summons by the National Court. So that way it eliminates abuse by that people.

The other way to also support that is to say that blind trust, trust that are not disclosed, should not be enforceable in a court of law.

If you want to receive benefits of shareholding, your name must be in the share register. If you have a reason to hide then the law must be aware of it and help you to hide it but if something goes wrong and you were questioned about this, and the court requires this to be disclosed so that it can make a fair decision, that is when they can access it.

But if it was not disclosed and the National Court said it was null and void or unenforceable because the blind trust was not registered with the registrar in a blind register.

This way we can protect the integrity of the operation of businesses in Papua New Guinea. I will later sit with the Minister and talk about this with him.

In the same breath while we are talking about the operations of companies in this country, another area I have seen that is not covered in this Bill - but I want to suggest it so the Minister can take note to look into it for future operations - is to ban the use of tax haven companies in Papua New Guinea.

One reason why they do that is to evade and avoid tax. There is no other reason, Mr Speaker. Not for business reasons; all they are doing is to avoid tax in that jurisdiction or in this jurisdiction by mixing up registering themselves in off-shore tax haven countries where they operate tax free. There is already a move worldwide to ban tax haven registered companies from operating in local jurisdictions.

If you want to operate in Papua New Guinea, you will have to apply to the Registrar of Companies and you will have to register under the *Companies Act* of Papua New Guinea.

42/03

Instead, you register your company outside, get the benefits of tax haven and then come and operate free here. You are not paying any tax anywhere in the world. It's unfair because this is robbery. So, we need to look at it. It's a simple thing and I bring it to the Minister's attention.

We must bring another amendment after this and allow current tax haven companies to continue because nothing restricts them but all future registration of tax haven companies in this country must be banned. It's only fair that you pay for the cost of the police, hospitals, law enforcement systems roads and airports that you use and all the expenses that the government has to incur to provide a platform for you to do business, therefore, to have to disclose your tax here and pay your tax in full. So, there is a need to ban tax haven registration and operation of tax haven companies in Papua New Guinea.

Furthermore, I would like the Minister to take note that there is a blind-spot in between the Registrar of Companies and Commissioner General of IRC. We need to build a statutory bridge in between the two so that they feed off each other. Whatever documents you lodge at the Registrar of Companies must also be consistent with what you file at IRC in your financial report. You must lodge the same documents at both sites. If there is any elements of tax evasions or tax avoidance discovered, we must give power to the Registrar of Companies to suspend the registration of that particular company. This is because it has not disclosed the uniform information with the Registrar of Companies and Commissioner General of Taxation.

Therefore, there must be statutory bridge built into the provisions of the relevant laws like *Companies Act* and *Income Tax Act* where the Commissioner General and Registrar of Companies must discuss, compare information and make sure that nobody is hiding information from one another and are paying less tax than the appropriate tax. This is one of the areas in tax loss so we need to build a statutory bridge and I recommend it to the Minister to take note and engage some lawyers to try draft some laws to build the statutory bridge so that IRC and Registrar of Companies receive the same information for tax purposes.

However, at the moment the foreign companies are not tax haven companies. They operate separately but generally speaking, all foreign companies can come and re-register with IPA and get a certificate to operate in Papua New Guinea. The certificate will prescribe the type of business activities they will be doing and the location it will operate.

As Governor Juffa has mentioned, many of these foreign companies that are certified to operate in Papua New Guinea usually breach these terms and conditions. So, enforcement becomes necessary and we need to look at this strictly. If you are registered to operate in Port Moresby, you operate in Port Moresby alone. You don't go to other rural areas and compete with the local businesses like what the Minister Sungi is complaining about. There are procedures already in place but enforcement is the problem.

So, I use this opportunity to flag it so that the terms and conditions for certificate of registration of foreign companies and businesses and the types of business they will operate from and the duration they will take to operate must be made clear and properly enforced.

Mr Deputy Speaker, I think that when we talk a lot, nothing will get anywhere so the Bill that we have here is a very good start in the right direction. We all support it and I hope the Minister takes note of the three points I raise for the next generation of amendments coming into the Chamber.

Thank you.

43/03

Mr SPEAKER – Before I entertain the motion, I will allow the Governor of East New Britain to debate.

Mr NAKIKUS KONGA (East New Britain) – Thank you, Mr Speaker. At the outset, I would like to commend the good Minister for Commerce and Industry for bringing forth these two Bills.

Mr Minister, I am in support of the Bills and my opinion, if I may recall, in 1997 there was an IPA Bill amendment on this Floor of Parliament which was in connection with IRC and Commerce and Industry. That was indeed a good Bill.

Today you will see that IPA and IRC work together in collecting tax. Before these amendments were done, companies usually register with IPA to start their businesses but tax were not paid. For example; if a person from IPA goes into a shop that belongs to a foreigner and tells them to pay their tax, the owner of the shop thinks that he/she has paid tax already upon registration with IPA. That is the reason a lot of them were not paying their tax.

That is why in 1997 IPA was hooked up with IRC to closely monitor the operations of all companies big or small.

Once again, I commend the Minister for allowing IRC to work closely with him and the Commissioner of IRC, Sam Koim, who is doing a marvellous job in the department. He is collecting a lot of revenue for the Government and I can say for a fact that he is doing very well.

There is one thing that I would like the Minister to note. When you look at all the businesses today, a lot of our nationals are struggling. We need to have this Parliament rescind to bring back certain businesses. There were 28 businesses which were restricted for nationals that foreigners could now operate. Nationals were running these businesses. This was some years back, Mr Speaker. The Look North Policy had overridden the rights and protection of our people from doing business.

So, Mr Minister, I commend and support the Bills but the 28 restricted business activities must be pulled back by Parliament. Most of the businesses that are operating here in the country are run by the Asians. They can be given exemptions when dealing with big businesses but all other business must be given to our locals.

Our local people or small entrepreneurs are trying their very best and must be protected by the government so, I would like to suggest another Bill to be made in order to protect our nationals.

Thank you, Mr Speaker.

Motion – That the question be now put – agreed to.

Motion – That the Bill be now read a second time – agreed to.

Bill read a second time.

4/03

Third Reading

Leave granted to move Third Reading forthwith.

Motion (by **Mr William Samb**) proposed –

That the Bill be now read a third time.

Mr JAMES DONALD (North Fly) – Mr Speaker, I would like to debate on this Bill. Firstly, I commend the Minister for bringing the Bill to this House.

Mr Speaker, I have observed the passage of many Bills in Parliament and I feel that there is one component that is always missing. Every law we have passed is workable, however, the only missing component is the enforcement and operating aspect, which has failed us many times. I, therefore, wish to propose some suggestions.

Mr Speaker, in terms of collecting tax, there has to be someone out there who is responsible for carrying out this role.

Very key departments like Commerce, Immigration, State-owned Enterprises, Forestry, Fisheries, Mining, Energy, Petroleum and Agriculture are the ones that generate money for the country and what we should do is to make sure that a physical operation takes place. For example, Deputy Vice Ministers, or whoever should be tasked to physically carry out the operation by moving from department to department to monitor the operation. For example, the Department of Immigration, if we physically go there and investigate the people around there, you will see that they will follow.

Right now, there is no actual operation happening. Many operations are not happening and as a result many things are not taking place as yet so physically that has to happen.

Coming back to the government structure of the current Cabinet, when the next government is formed, I would like to propose that in a Cabinet line-up there must be an operation minister. For example, Deputy Prime Minister, or whoever we appoint can be an operation minister to physically do the job by going from department to department to make sure all these Bills are effectively carried out. At the moment, this is not happening and yet we continue to pass Bills after Bills. We are just depending on the police to carry out the job and nothing is happening. So, I think that the operational part has to be very active. In that way we will see a lot of work happening. At the moment, there is nothing happening.

Therefore, I propose that the way forward for this country is through improving the operational part of the Bills. We really need to improve because most of us have seen governments passing numerous Bills but nothing is happening

45/03

Mr KEVIN ISIFU (Wewak) – Thank you, Mr Speaker, for recognizing the people of Wewak.

I would like to join in the debate and show my support to the Minister for bringing this very important amendment Bill to the House. I would also like to commend the Government for taking the initiative to finally bring this Bill to control business and give opportunity to Papua New Guineans, especially for the Reserve Business Lease which falls in line with the National Government's policy and priority to empower our SMEs in the country.

Mr Speaker, my colleagues have made many constructive debates and as I was listening to their debates, I am thinking of the people back in the rural areas who need support to register their companies, business names or associations et cetera.

It is true that we have the online system in place but many of our people in the rural areas are computer illiterate which can deprive them of participating in this development.

Mr Speaker, I would like to encourage the Minister to look at bringing this service closer to the people in rural areas to make it easier for them to register so they can fully participate.

Another thing that I realise about the Government's decision to bring this Bill to this House is that many companies registered with IPA will be affected. This means that when the Bill is in effect a number of companies that are owned by foreigners who are operating under the Reserve Business Lease will automatically be de-registered.

So, Mr Minister, my concern is that when the Bill is amended and in effect foreign companies who are now operating on the Reserve Business Lease will cease. How will we account for the loss of those business?

In addition, many of those companies will be forced to lay-off their employees and the government will lose a lot of tax.

Now, how does the Government plan to give opportunity to the indigenous people to take over from this foreign business so that we maintain the employment rate and the tax so we will not be faced with economic problems?

When we close these foreign-owned companies the Government must consider pumping money into the banks so that locals can obtain loans and take over where the foreign businesses left.

46/03

We should revive schemes like the Stret Pasin Stoa and many other opportunities for indigenous people to take over foreign companies. When that law is effective the foreign companies will close up and our indigenous people will take over.

Mr Speaker, I wish to commend the Minister for bringing this Bill to Parliament, which will benefit the people of Papua New Guinea.

Motion – That the question be now put – agreed to.

Motion – That the Bill be now read a third time – agreed to.

Bill read a third time.

SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL 2021

First Reading

Bill presented by **Mr Koni Iguan** and read a first time.

Second Reading

Leave granted to move the Second Reading forthwith.

Mr KONI IGUAN (Markham) – I move –

That the Bill be now read a second time.

Mr Speaker and Honourable Members, I am pleased to introduce the Salaries and Remuneration Commission (Amendment) Bill 2021 which proposes to amend the *Salaries and Remuneration Commission Act 1988*.

The bill intends to include former Speakers and former Chief Justice in Section 11 of the *Salaries and Remuneration Commission Act 1988*. Currently, Section 11 only provides for benefits payable to former Prime Ministers.

This inclusion will create the legal basis for which the Salaries and Remuneration Commission may make determinations for the Heads of the other two arms of Government after their term in office ends.

47/03

Mr Speaker, in the thirty-second report, the commission reviewed the current benefits currently payable to former prime ministers and former chief justice and made similar recommendations to be available to include former speakers.

Mr Speaker, the *Constitution* of the Independent State of Papua New Guinea creates the Executive arm comprising of a duly elected prime minister and the ministers he appointed. The Judicial arm comprises of chief justice and his fellow judges and the Legislative arm comprises of the elected members of parliament and headed by the chosen Speaker.

Mr Speaker, the three arms of Government have specified and important responsibilities. The three arms work together to form a whole. On that basis, they should each be awarded special retirement benefits determined by the Salaries and Remuneration Commission if not already provided by the law.

Mr Speaker, the thirty-second SRC Report tabled and adopted on the Floor of Parliament by the SRC Secretariat has not been able to action this recommendation because there are no provisions for former speakers and former chief justice in the *Salary*

Remuneration Commission Act 1988. This simple amendment will include the heads of the Legislative and Judiciary.

I commend the Salaries and Remuneration Commission (Amendment) Bill 2021 to the Parliament.

Motion – That the question be now put – agreed to.

Motion – That the Bill be now read a second time – agreed to.

Bill read a second time.

In Committee

Bill, by leave, taken as a whole.

48/03

Mr KONI IGUAN (Markham) – I move –

That the following amendments be made:

Page 1, Item No.1 – Allowances for the Prime Minister, etc. (Amendment of section 11)

Insert immediately after Paragraph (a) the following new paragraph:-

‘(b) by inserting after Subsection (2), the following new subsection:-

“(3) Additional salaries, allowances and other benefits (financial or otherwise) fixed in relating to an office specified in Subsection (1) shall be reckoned from and including the day the respective -

(a) former Prime Minister; or

(b) former Speaker of Parliament; or

(c) former Chief Justice,

ceases to be a holder of that office, are payable whilst he is alive.”

Motion – That the question be now put – agreed to.

Motion – That the amendments be adopted – agreed to

Motion – That the remainder of the Bill be adopted – agreed to.

Bill, as amended, agreed to.

Bill reported with amendments: report adopted.

49/03

Third Reading

Bill by Leave read a Third time.

PARLIAMENTARY MEMBERS RETIREMENT BENEFITS (AMENDMENT) BILL 2021

First Reading

Bill presented by **Mr Chris Haiveta** and read a first time.

Second Reading

Leave granted to move the Second Reading forthwith

Mr CHRIS HAIVETA (Gulf) – I move –

That the Bill be now read a second time.

Mr Speaker, I present the Bill which proposes to amend the Act of 1997.

- (1) Increase the pension benefits for former Members of Parliament,
- (2) Increase pension benefits for former Prime Ministers,
- (3) Create a pension benefits specifically for former Speakers of Parliament and
- (4) Correct draft in errors and omissions made as a result of over 2002 amendments.

Mr Speaker, just to make it clear, this Bill must not be seen as a double whammy for the Speaker, especially in the Act that we just passed because this is only for pensions.

Mr Speaker, since 1997, which was 27 years ago, pension rates and provisions under the Act for former Members of Parliament and former Prime Ministers have remained unchanged. Also, pension for former Speakers of Parliament are not catered for in this Act. The changes proposed, therefore aims to support former members of Parliament, former Prime Ministers and former Speakers of Parliament after they leave Parliament. There are over 296 former members of Parliament are alive today.

50/03

As I mentioned in my report, since 2018, we ‘ve added 51 others who have gone. Their widows and their dependents are on pensions. Although former members are no longer serving members, they are still considered leaders in their family, community and electorates. Therefore, many of the customary obligations and expectation of leaders remain, although they are no longer mandated in a mandated public office.

Mr Speaker, former members of Parliament usually find difficulties in resuming employment to our career in the Public Sector as publicly and politically exposed person. Some former members who own businesses prior to being elected have been known to spend no time on that business whilst being a Member of Parliament and their business have suffered to some extent to some point of bankruptcy.

Mr Speaker, in addition, since 1997 the cost of living and inflation has increased continually to put increased pressure on former members to borrow money to meet medical, education, family and customary obligations and other costs of living. This is evident for the Retirement Benefit Fund records which show large individual debt for many pensioners. The Act doesn’t allow pensioners to be indebted.

Mr Speaker, the Speaker of Parliament is head of the legislative arm of government under our democratic Westminster system of Government.

In comparison, the Prime Minister is the head of the Executive Government and persons who hold this office are afforded special pensions and privileges after retiring. furthermore, the Chief justice is the head of Judiciary and has a special pension provided for. However, the Speaker of Parliament does not have any special pension benefits provided for under any acts of Parliament. All former speakers are paid under the same pension provisions afforded to ordinary former members of Parliament.

Mr Speaker, the amendments will improve the pension benefits of our leaders who have made a considerable sacrifice to contribute to building our nation before, now and in further.

Mr Speaker, the amendments will also correct technical drafting errors resulting from the *Parliamentary Members Retirement Benefits (Amendment) Act 2002*. These corrections will repeal all incorrect references to *section 16*, Members and clarify eligibility for spouse's pension in the event of death of a pensioner under the Act.

Mr Speaker, I commend the Parliamentary Members Retirement Benefit (Amendment) Bill 2021 to the National Parliament.

Motion – That the question be now put – agreed to.

Motion – That the Bill be now read a second time – agreed to.

Bill read a second time.

Ordered – That the Third Reading be made an Order of the Day for a subsequent Sitting.

51/03

MOTION BY LEAVE

Mr RAINBO PAITA (Finschhafen - Minister for National Planning and Monitoring) – I ask leave of Parliament to move a motion without notice.

Leave granted

SPECIAL PARLIAMENTARY COMMITTEE ON ALCOHOL-RELATED VIOLENCE IN PAPUA NEW GUINEA – ESTABLISHMENT OF COMMITTEE AND APPOINTMENT OF MEMBERS

Motion (by **Mr Rainbo Paita**) agreed to –

(a) That the Parliament establish a Special Committee on Alcohol-related Violence consisting of:

- (i) Honourable Aiye Tambua as Chairman,
- (ii) Honourable Elias Kapavore as Deputy Chairman;

- (iii) Honourable Don Polye;
- (iv) Honourable William Tongamp;
- (v) Honourable Lohia Boe Samuel;
- (vi) Honourable John Kaupa; and
- (vii) Honourable Allan Marat

(b) The committee shall conduct an inquiry report on alcohol-related violence with focus on community safety, preventative measures to reduce alcohol-related violence, including its ramifications.

(c) When undertaking this inquiry, the committee shall inquire into:

- the effectiveness on policies that are focused on addressing alcohol consumption;
- the sale and consumption of cheap alcohol drinks;
- the legislations governing the production of cheap alcohol drinks and its content;
- conduct educational campaigns and their role in cultivating effective social change in terms of community attitude to alcohol consumption;
- the role of parents in influencing the attitudes of young individuals towards alcohol consumption; and
- the economic cost of alcohol-related violence.

(d) The committee shall take public submissions and consult with community leaders, educators, law enforcement and medical professionals and liquor industry.

(e) The committee shall have powers to send for persons, papers, records and act during this recess.

(f) The quorum of this committee shall be three (3).

Mr RAINBO PAITA (Finschhafen – Minister for National Planning and Monitoring) – Mr Speaker, I would like to thank the Members of this Honourable House, who have been faithfully attending this week's session dealing with issues that we have on the Floor, including debating some of the amendments and legislations that we have put through.

Mr Speaker, I would like to take this opportunity to advise that we have a session with the staff of the Electoral Commission, including the commissioner. They will be making a presentation at the State Function Room today so I am inviting everyone here to attend. There will be some key announcements including the work they are doing in preparation for the 2022 National General Elections.

If you have queries on their preparation and any other election-related questions, do attend and find out.

SPECIAL ADJOURNMENT

Motion (by **Mr Rainbo Paita**) agreed to –

That the Parliament at its rising adjourn to Tuesday, 22 February, 2022 at 2 p.m.

ADJOURNMENT

Motion (by **Mr Rainbo Paita**) agreed to –

That the Parliament do now adjourn

The Parliament adjourned at 3 p.m.