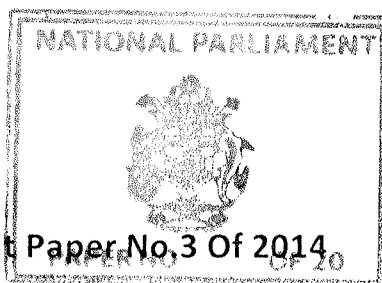




**NATIONAL PARLIAMENT OF SOLOMON ISLANDS
BILLS AND LEGISLATION COMMITTEE**

**Report on the Magistrates'
Courts (Amendment) Bill 2014
and the Criminal Procedure
Code (Amendment) Bill 2014**



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EXECUTIVE SUMMARY

The Committee after conducting its inquiry into the *Magistrates' Courts (Amendment) Bill 2014* and the *Criminal Procedure Code (Amendment) Bill 2014* acknowledges the Ministry of Justice and the Government for taking the initiative to introduce this development in the Magistrates Court.

The Committee resolve to inquire into the Bills together because they deal with procedural matter that encompasses both their principal Acts. Both amendments seek to enable proceedings conducted in the Magistrates' Court to be recorded using sound recording equipment. The amendments sought will enable the Magistrates' Courts to record oral evidences and have more accurate records of trials. These records can assist appeals to the High Court to be quicker as transcripts of recorded evidence will be available on time.

There are other related issues such as costs and the need to introduce such system in the lower courts. However being equipped with this technology will enable the public to have confidence in the Magistrates' Court proceedings.

The Committee sees these amendments as significant developments in the Judiciary and so have no problem in recommending these two amendment Bills to Parliament for passing.

1 INTRODUCTION

The Bills and Legislation Committee (“the Committee”) had completed its review of two Bills on the 24th of March 2014. The *Magistrates’ Courts (Amendment) Bill 2014* and the *Criminal Procedure Code (Amendment) Bill 2014*. These Bills were submitted to the Speaker through the Clerk to Parliament as required under the *Standing Orders*¹ on the 12th of March 2014.

The Committee had its deliberative meeting on the 19th of March and resolved to invite stakeholders² to make presentations on the contents and policy matters of the Bills. The hearing into the Bills with the stakeholders was held on the 24th of March. The minutes of these proceedings are in appendix 1.

1.1 Functions of the Committee

The Bills and Legislation Committee is established under the *Standing Orders*³. The Order made pursuant to the *Constitution*⁴ has the functions together with the necessary powers to discharge such, to:

- (a) examine such matters as may be referred to it by Parliament or the Government;
- (b) review all draft legislation prepared for introduction into Parliament;
- (c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;
- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;
- (f) examine such other matters in relation to legislation that, in the opinion of the Committee require examination; and
- (g) make a written report to each Meeting of Parliament containing the observations and recommendations arising from the Committee’s deliberations.

1.2 Terms of Reference

Pursuant to its mandate under the *Standing Orders*⁵, the terms of reference of the Committee in this instance is to examine the Bills and to report its observations and recommendations on the Bills to Parliament.

¹*Standing Order* 44 (1)

²See Appendix 2

³*Standing Order* 71

⁴*Section 62, Constitution of Solomon Islands 1978*

1.3 Membership

The current members of the Bills and Legislation Committee (9th Parliament) are:

Hon. Manasseh D. Sogavare, MP (Chairman)

Hon. Dr Derek Sikua, MP

Hon. Milner Tozaka, MP

Hon. Matthew Cooper Wale, MP

Hon. John Maneniaru, MP

Hon. James Tora, MP

Hon. Douglas Ete, MP

Hon. Sam Iduri, MP

Hon. Johnley Hatimoana, MP

⁵*Standing Order 71*

2 BACKGROUND

The Magistrates' Courts (Amendment) Bill 2014 and the Criminal Procedure Code (Amendment) Bill 2014 are considered together by the Committee because the proposed amendments sought to amend a procedural matter that is associated in the application of both principal Acts. The objective of both amendments is to enable proceedings conducted in the Magistrates' Courts to be recorded using sound recording equipment

2.1 The Magistrates' Courts (Amendment) Bill 2014

The amendment sought under this Bill seeks to repeal section 69 of the principal Act and substitute two new sections. The contents of the section is not amended however it now begins by referring to the new section.

Section 69 is now structured into three subsections. The subsections mentioned the Court Clerk or other officer performing the duty of the Clerk, to record the evidence using a suitable recording device and to make sure the recordings are transcribed into writing and certified by the presiding Magistrate.

2.3 The Criminal Procedure Code (Amendment) Bill 2014

For this Bill, the amendment inserts a new section after section 315. The new section 315A is structured into two subsections. The first subsection deals with the requirements for recording where the Court Clerk or other officer performing the duties of the Clerk, to record the evidence using suitable recording devices. The second subsection requires the transcribing of the recordings into writing as soon as practicable after the conclusion of proceedings and such transcripts be deemed to be the official record of the Magistrate proceedings.

3 IMPACTS

The witnesses who appear before the Committee highlighted two most important benefits that could be derived from these two amendments.

3.1 Accuracy of records

One of the benefits mentioned by witnesses who appeared before the Committee during the inquiry into these two Bills is the accuracy of records in any Magistrate proceedings. The recording equipment when used during proceedings record exactly word for word what is said during court proceedings. If there are discrepancies, the Magistrate will always have the benefit of going back to the recording equipment to hear what is exactly stated during the proceedings.

3.2 Speedy Proceedings

Another benefit with these amendments mentioned during the inquiry is, it will enable Magistrates' proceedings to be a lot quicker than what is currently experienced. The current process under section 69 of the *Magistrates' Courts Act* [Cap. 20] states that any presiding Magistrate has to record the evidence given before them in writing. If the Magistrate is incapacitated, he or she may direct the Court Clerk to record the evidence in writing. This is often a slow process when oral evidence are given during court proceedings as what is said is paused now and then to give time for writing it down. With the amendments, what is said in the magistrates' Courts will be recorded live with no interruptions for writing.

These two amendments are very much beneficial when cases in the Magistrates Courts are appealed because the recordings enable accurate evidence to be kept in the court file and much quicker for information required to reach the appellate court.

4 RELATED ISSUES

During the Inquiry, members of the Committee raised other issues that are aligned with the Governments policy on developing the country's' judicial system.

4.1 Lower courts

There are other courts that also perform judicial functions to the public below the Magistrate Courts. Such courts include the Local Courts and the House of Chiefs. Significantly these courts are their first point of entry to any proper judicial settlement for most Solomon Islanders. It is well known that these courts are not administered properly and have a back log of cases pending actual hearings. Often hearings are slow and evidences are not properly recorded or misinterpreted. During the Inquiry Committee members commented that necessary amendments should be made to allow such equipment to be used in the lower

courts. Such equipment will assist the lower courts and the public to have confidence in their proceedings.

4.2 Costs

Another related issue raised during the inquiry is the costs associated with these amendments. There are costs for the purchase of the recording equipment and the salary for those officers who will be involve in operating this equipment and those transcribing the recorded evidences. Further costs will be incurred when these equipment need maintenance and improvement. The Ministry of Justice and Legal Affairs did not provide a cost analysis on the application of these amendments, therefore what impact these amendments will have on the national budget is yet to be known.

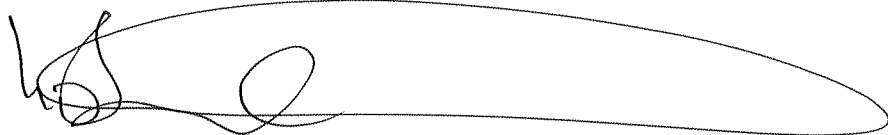
5 RECOMENDATIONS

1. The Committee recommends the passage of the two Bills.

2. The Committee recommends the use of recording equipment to record proceedings in the Magistrates' Courts.

3. The Committee recommends the Ministry of Justice and Legal Affairs to improve legislations so that proceedings in the lower courts can also be recorded with recording equipment.

4. The Committee recommends the Ministry of Justice and legal Affairs to budget for the cost of the recording equipment's and the salary of technicians and transcribers for the recording of proceedings in the Magistrates' Courts.



Hon. Manassch Sogavare
Chairman
Bills and Legislation Committee
8th April 2014

6 APPENDICES

APPENDIX 1: MINUTES



BILLS AND LEGISLATION COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Deliberative meeting

Minutes of deliberative meeting into the Magistrates' Courts (Amendment) Bill 2014 and the Criminal Procedure Code (Amendment) Bill 2014

Held: Wednesday 19 March 2014,
Venue: Parliament Conference Room 2
Time: 11:08am – 11:26am

1. Members Present

Hon. Manasseh D. Sogavare (Chairman)
Hon. Dr. Derek Sikua
Hon. Milner Tozaka
Hon. John Maneniaru
Hon. James Tora
Hon. Johnley Hatimoana

Secretariat

Wilson Anii, Committee Secretariat

2. Chair's Opening Remarks

The Chair made welcome remarks and thanked Committee members for attending. The Chair introduced the two Bills and invites the secretary to brief members on the Bills.

3. Briefing by Secretary

The Committee Secretary briefs the Committee on the amendments sought. The principle Acts were amended to enable proceedings conducted in the Magistrates' Court to be recorded using sound recording equipment. The current practise is for all proceedings to be written down by the presiding Magistrate.

4. Committees resolution

Members were invited to suggest witnesses and stakeholders to be invited to appear before the Committee. The Committee resolved to invite the following:

- Rep from the Magistrates Court
- Rep from the Ministry of Justice
- " " " Ag Chambers Drafting
- The Director of Public Prosecution
- The Public Solicitor
- The President of the Solomon Islands Bar Association

5. Close

Closing prayer by Hon. Milner Tozaka

Minutes of Proceedings Hearing

Date: Monday 24 March,
Venue: Parliament Conference Room 2,
Time: 10:22am – 10:52am, 11:44am – 12:08pm

Members Present

Hon. Manasseh Sogavare, MP (Chair)
Hon. James Tora, MP
Hon. Matthew Wale, MP
Hon. John Maneniaru, MP
Hon. Johnley Hatimoana, MP

Stakeholders (Witnesses)

Pamela Wilde -Legal Policy Adviser
Freddy Mesa- PS Mins of Justice & Legal Affairs
Ranjit Hewagama- Legal Draftsman AGC
Robert Bei Talasasa Jnr- Director of Public Prosecution
Douglas Hou- Public Solicitor

Secretariat

Mr Wilson Anii, Committee Secretary

1. Welcome & Opening Statement

Chairman acknowledges and thanked the stakeholders for their commitment to appear before the committee for the public hearing into the Royal Style and Titles Bill 2013'.

2. Hearing into the Bill

The Chairman made welcome remarks and inform the witnesses on protection under parliament privileges.

He then invited those who appear to make opening statements to the Committee on the Bill.

The Legal Policy Adviser made presentations on behalf of the Ministry of Justice.

DPP and the Public Solicitor made presentations and state their support for the amendments because it will give accuracy and speedy records to court proceedings.

The Committee questioned, made comments and seek clarification from those who appear on the different issues covered in the Bill.

The evidence concluded and the Chair thanked the stakeholders for their attendance.

3. Closing

The hearing closed at 12:08pm.

APPENDIX 2: WITNESSES

The following witnesses appeared before the Bills and Legislation Committee;

Date of appearance	Name	Ministry/Institution represented	Position/Job title
Monday 24 th March 2014	Pamela Wilde	Ministry of Justice & Legal Affairs	Legal Policy Adviser
	Freddy Mesa	Ministry of Justice & Legal Affairs	Permanent Secretary (PS)
	Ranjit Hewagama	AG Chambers	Chief Legal Draftsman
	Robert Bei Talasasa Jnr	DPP Office	Director of Public Prosecution
	Douglas Hou	Public Solicitors Office	Public Solicitor