

BILLS AND LEGISLATION COMMITTEE
INQUIRY INTO THE
CONSTITUENCY DEVELOPMENT FUND BILL-2013

13 March 2013

ANTI CORRUPTION SOLOMON ISLANDS

Members

Hon Manasseh Sogavare	-	Chairman
Hon Douglas Ete	-	Member
Hon James Tora	-	“
Hon John Maneniaru	-	“
Hon Derek Sikua	-	“
Hon Matthew Wale	-	“
Hon Milner Tozaka	-	“

Witnesses

Mr Alfred Sasako

Mr Leslie Kwaiga

Mr Chairman: I call the Committee to order. I acknowledge the presence of Anti Corruption Network Solomon Islands now before us.

The bill before us is the Constituency Development Funds bill 2013 which the government has put through the parliamentary processes to be processed to parliament. It has come through Cabinet, the Caucus and this Committee is an extension of Parliament to process this bill through. This Committee does that by calling people who have interest and have views to express about this bill, which eventually will become law and will the lives of everyone. And

so it is appropriate that you are invited to express your views on it. We acknowledge your presence to talk on this bill.

Like I have reminded those who came this morning that you are covered under the immunities and privileges extended to members of Parliament so that what you say in here will not be taken up in any courts of law or charged or whatever. It is all in the interest of expressing everything. We listen to what you say and we take it up and the role of this Committee is basically to take information from you, put it in a report and submit to Members of Parliament to guide them in their debates in Parliament.

As we also heard, this bill will not come into operation until the 1st of January next year so you may want to express some views on that too. Considering the number of issues that have been raised needing the attention of the government to look at this bill.

Without further ado I welcome the Anti Corruption Network of Solomon Islands before the Committee. I will now hand it over to you two as to how you want to arrange who will be talking first before we open it up for discussions.

We also acknowledge the written submissions from you already, which is now with us but since we did not have time to read it so you maybe you would want to talk us through your submission because it will help the Committee in its final report. I will hand it over to you two now.

Mr. Alfred Sasako: Our approach in our presentation this afternoon is for me to make the general overview of this bill and Leslie will speak to the nuts and bolts of the proposed legislation given his background as a lawyer because there are certain phrases or words that we use every day with different meanings and in legal terms their meaning is also different. So I think he is more qualified to speak on that area.

Let me begin by saying that I think this bill that is now before Parliament in a way is greatly appreciated by me that we have come to this point because it has been a topic of discussions both within Parliament and also outside in the public in the media that there ought to be some mechanisms in place to address what is perceived by the public as corruption and

widespread corruption in the system. The very fact that it is here now in a way is a plus as the starting point.

Having said that, I would like to say that when you are building a house, it is very important to make sure the foundation is done properly because if it is not done properly, along the way we will regret it because the costs that would be incurred in terms of the areas not taken into account will be prohibitive. And so I look at this bill in the same way that while it is being proposed to address those areas that we haven't addressed in the past, it is very important that we tread very carefully and cautiously making sure we can take on board the areas that might turn around down the line and hurt us. But at the same time if that is the way we want to go, then it should be spread out so that it's fair to everyone that is named or whose offices are named in the bill.

The way some of us view this bill is that one can be forgiven for saying that the intention of the bill shows a number of things. First, it looks like certain things that have been done in terms of using money appropriated by Parliament for certain things looks like the government is treading on very thin lines and therefore there needs to be a bill to fall back on to say, 'well, it's legislated for', 'our actions are protected by law', and that kind of thing. You can easily draw that conclusion that there have been a concerns raised, for example, in our normal budgeting system in Parliament we have two lines of budget, one is the recurrent which is largely funded by tax payers and, of course, the development budget, which is largely donor funding. The Solomon Islands Government also put in money there. And it is the general understanding Mr Chairman and members of the Committee that only Parliament has the authority to appropriate these allocations to ministries and the line of budgetary expenditures they can see.

We have witnessed in the last 12 or 14 months that Cabinet is increasingly been used to undermine, in a way what was appropriated by Parliament for them to use.

Okay, although I am not lawyer by profession but when I look through the bill, I can see that it's not right because again you come to this issue of the separation of powers. We have these three pillars of government; the Legislature, the Executive and the Judiciary, and each of

these institutions were instituted to have a common goal but to work independently of each other, not to undermine.

What Cabinet has been doing as the executive, in my view, is totally undermining the powers of Parliament where for example, it gives money to Ministry X. The cabinet use it to get that money out and give total control on how the money is going to be spent to politicians. Mr Chairman, I am glad you made it clear in your opening remarks that we are covered by privileges of parliament in whatever we are going to say. I just wish that we are covered politically as well because unfortunately when we raise these issues you become the victims. Although it is for the common good of all, unfortunately these are taken against you individually, and I think that is a sad thing because as a democratic society we ought to be free to express the views that we have. Some of us continue to write about those things, and it's not that we want to destroy anyone, but we are saying that there is a better way of doing it. So let me come back to our presentation this afternoon by the Anticorruption Network Solomon Islands. We have done in our submission quite a number of researches where we came up with a number of countries that have similar legislation to the CDF. But the way they have done it appears they have done a lot of work prior to introducing the bill before parliament. It does appear there were a lot of consultations at the grass root level because it is reflected in their legislations. But take Tanzania, for example and Kenya in Africa, these are countries in a continent that is riddled by perception of corruptions and all that and yet there are countries in there when it comes to protecting how members of parliament would behave in terms of disbursing development funds, there is a legal instrument that guides everyone there. Therefore, in our view we think that with the increasing use of Cabinet to approve and endorse taking funds from ministries to do their work, there is another thing that is happening as well, and that is when we do that it begins to beg the question what will the public service be doing, especially with the development budget. That fund is for implementing of their departmental work programs and when you remove that from them, it totally misses a line because the development budget is approved in line with the government's policy on how it will do it, which Parliament too must approve it. We have created now a new way of doing things where there is no limit in what government can do in trying to carry out whatever it thinks as its priority.

This bill itself in a way is a cut and paste job. I say that on the basis that first of all, I think some members have alluded this morning that there were certain ideas in there that had been proposed in the past, for example the 50 constituency officers. That was an idea, I think was in the policy of the SIAC Government, for example, where the idea was to take development to people in the rural areas. There was a structure in place to do that. And when you bring it closer to where we are now, it looks like this bill is basically squeezed to a point where even the policy of NCRA Government, for example, for the establishment of economic growth centres in the rural areas has been squeezed to a three-men operation where the minister, the member of parliament and the CDO control how development in a particular area would take place.

To me it is a sad day that while thousands of people are out there wanting to be part of what is happening, they want to have and feel this sense of belonging that they are part of Solomon Islands, although they have voted for someone who lost in the election, they still want to be part of the process in making sure that development takes place in their homes, this time this bill is going to lock them out. That is how some of us see it. It is going to lock them out because of this reason.

There was an analysis that was done after the last election on whom in terms of representation of the population voted for winning members and the conclusion was that only 30 percent of the population voted for the winning members.

If we take 580,000 people as the basis of our population, that 30 percent only represents 174,000 people. Seventy (70) percent have no access either to participation or direct benefit from funding that will come in this bill, and that is 406,000 people in Solomon Islands that funds will not reach them. I am saying this and I am mindful of the fact that what I say does not represent all of you honourable members. There are honourable members who have done a lot of good things and do not look at someone who didn't vote for you as someone you do not want. You are very inclusive about that, you bring them in, you want them to be part of what you are doing. But the way you look at the bill, just by reading it you can tell that this bill, as someone who has made a comment earlier on today that this bill is intended to bring back the government to office after the elections next year. That to me undermines the

principle of democracy where people have the free choice to choose who they think has the calibre and a broader mind to represent everybody, regardless of whether or not he or she is your voter.

I say this because and I do not want to name any particular constituency, but there are one or two constituencies, particularly on Malaita, where response from some members of parliament is 'if this project was started by the former member, go to him so that he can assist you to do maintenance on it'. I mean that kind of comment is not right, because that person is no longer there and it is totally unfair.

Parliament is being asked to endorse a bill that is intended to basically disintegrate communities. And the integrity of members that we are talking about here will not be there because you are now seen to be one-sided. Unfortunately, for us, these kinds of things can cause a lot of disharmony within the community.

I think it is important that while this bill, and I think in your own words, Chairman, when I sat in here this morning and I listen to you, one of the things you said was, 'this bill is a small bill'. But I would like to add on something to what you said that yes it is a small bill but it has far wide ranging implications for the nation down the line. Therefore, the position of the Anti-Corruption Network of Solomon Islands, I think it is important that the foundation of this small but important piece of legislation is clearly thought out. There ought to be more time given for consultation so that we move away from what I describe as the 'cart before the horse approach'. That is that last week, for example, the Government held a round table consultation. Some of us think that you should have done that kind of thing before putting out your policies and not the other way around. And this bill is just exactly the same thing. And I like the analogy by the TCSI this morning that this is like a pig with its head chopped off and brought here but its whole body hidden somewhere. Those are the things we would like to look at.

In saying this, I think there were others who support the approach. I think the approach is good but the timing is very short in bringing this bill to come into effect. It needs consultation in the rural areas because that is where 85 percent of our people reside and we need to be inclusive in our approach to development.

The third point I would like to make before giving it over to Mr Kwaiga, is that is, as we know, Mr Chairman and your members who are Members of Parliament, Members of Parliament are elected to make and pass laws. Maybe a question will come back that this is also law making process, but when it comes to handling public finances, I personally do not favour managing finances because it is so easy; the temptation is always there to use the money. And it is easy to use but when it comes to accounting for it, that is the headache. This accountability aspect of this bill, there is a section there that says something about protecting the recipient of the fund. That is so ambiguous because what does that mean? Are you saying to me that this bill is intended to protect the interest of the 174,000 people out of the 580,000 people of Solomon Islands? What does that implicates? When you look at it closely, it's that very group of people that would be receiving assistance each year – in some constituencies I am talking about, let me to be clear on that. Only 30 percent of the population will be receiving financial assistance every year in whatever form whether it's a project type or in hard cash or like for us in East Kwaio, it's in the yellow envelope with only \$200, and that's it, that is development.

But this is the sort of thing that you can easily fall into the temptation when there is so much money around you, you can easily sidetrack from what is your real work as a parliamentarian. Therefore, I would also like to give my personal analogy of this legislation. I believe this legislation is liken to a fish. It is like a fish but an uncommon fish that we see every day and sometimes it's one our dinner table where there is less bones than meat, but this fish has more bones than meat. And these bones, some are poisonous which could strike us if we are not careful in trying to separate the bones from the fish.

My view and the view of our presentation is that those of us who talk against corruption and all these things. One of the driving forces in our approach is because we want to protect the integrity of Members of Parliament. We don't want to put them in a compromising position where they would be forced to do things that they would not have normally done in normal situations, whereas this bill is now opening this door even wider to lure Members of Parliament to do beyond what was prescribed in this piece of proposed legislation.

Although I am not a lawyer, I join the others who have expressed the view whether this bill reflects the sort of quality of work or thinking that we expect from lawyers that are preparing these documents because the process is that it goes to the Attorney General's chamber first and then comes back to Cabinet for approval. The way this bill is set out looks like there is very little thought being given to it.

I know that as members of parliament now, the pressure is even more. This bill is going to increase it even more because knowing that you have now access to all these other funds, I doubt that many people will stay in the rural areas, they will all be here wanting a piece of the cake. And I don't think that is the purpose of what you wanted here. You want to make sure that this is done in a way that everyone is catered for. The others have raised the issue about locating offices in the constituencies and having provincial members to be signatories. It is easy to talk about those things, but the practicality of it is another story.

In my view, it seems that we are moving in a direction that five years down the line we may not have any public service because their work depends on the money that you have now removed from them. Because there is no definition in this proposed legislation on what this CDF is. Because easily the Cabinet can move and say bring in this allocation and put under the CDF and automatically it becomes the CDF. So it is an open ended thing.

In a way it is an open cheque book, and the people of Solomon Islands are being asked through their representatives in Parliament to give a blanket approval for a legislation that will basically lock out 70 percent of the population from government services, from project benefits, from what they are entitled to as citizens of this country. And I don't think that is democracy, is about equality, is about free expression of our thinking. This legislation is going to be a litmus test to you the honourable Members of parliament that if you believe you are here to represent the views of the people of Solomon Islands, then unfortunately that has not been taken on board in so far as drafting this bill is concerned.

The Anti Corruption Social Network of Solomon Islands would very much prefer to have this bill deferred. There ought to be some working group conducting consultations in the rural area and in our submission we made [a to f] recommendations on the way forward. So we are not here merely to criticise, we are here to say we want to be part of a good thing. This is a

good thing if it's done properly, it's going to bring out a balance in terms of equality in sharing resources. It's going to bring equality in terms of making sure that everyone in the country receives the same recognition as a Solomon Islander is entitled to. The way the bill is going is not saying that, it's more about denial than providing what it is sugar coated to be. There is a lot of sugar coating going on in this legislation, but I think it needs more work to make sure that once that foundation is in place, we can amend it along the way but you don't sake the foundation of this important piece of legislation.

Again, the other thing that is not clear in this bill is that this approach now serves to be a catalyst for development in rural areas that this is now going to carry that so called development we talked about many times in the rural areas or what is it. Because legislation is something that is alive and therefore it has to look beyond just 2014, and unfortunately some of us see this bill as focussing more on 2014 than what it portrays to be saying to us.

I think that's all in my introduction. Sorry for talking a bit long but as you know as a former politician we can talk too much. I will give it to Lesley to speak on the nuts and bolts of this legislation.

It's a good legislation if done properly but I think you need a lot of time to consult people. If there is one legislation that the people will own, this is the legislation, and to be able to be part of the ownership group, they must be consulted but that has not taken place. Thank you.

Mr Chairman: Thank you very much. Thank you very much Alfred. We really enjoy listening to you. In fact, you are in the right place. Thank you. Will ask Lesley to address the Committee. Thank you.

Mr Lesley Kwaiga: Thank you Chairman and thank you committee members and the committee secretariat. It is truly an honour to come and speak before this honourable committee, in particular on a bill that will affect the lives of every single Solomon Islander who are living now and who are yet to come. This is a very important piece of legislation.

Before I proceed I wish to simply explain the documentations we have provided to the Committee for purposes of clarity to the Committee. You would note that there is a graph there, a one page document. This graph reflects the growth of the Constituency Development Fund since 2007. You would know that from 2007 to 2013, the rise of the RCDF is a bit high from \$600,000 to \$5.9million. That's the first document.

The second document you would see is titled MRD of MRD funds of \$145million. This is a document that came about as a result of our own research from funds that were made available to Members of Parliament in 2012. We have done our research and these are some of the funds. The list may not be complete but what is important in this document is the kind of spending or projects that Members of Parliament spend people's money on. We have attempted to list all 50 constituencies and records of their spending of that \$145million last year.

The purpose of this document is to confirm some of the points we will be raising in our submission in due course. The next two copies of documents are copies of legislations we have downloaded from the internet and the purpose of these two legislations is for the Committee to look at our draft, our Solomon Islands draft and compare it with other countries.

The CDF is not peculiar to us, the CDF has been used in other countries too and they have laws that regulate it. We are attempting to do that which is a very good thing but does our law, the current draft bill reflective of the importance of this fund or are we playing with it and we have been playing with it since 1989. Since 1989 the CDF has not been regulated. We are happy that finally our leaders have seen the need to regulate this fund and provide a law to govern it as to its usage, its benefits and its recipients.

The purpose of these two documents is for the Committee to be enlightened on issues that will touch on the usage of this fund, issues that would have been better if it had been put into the draft bill. We will be saying in due course that the draft bill is bad, it is not good and should not be used as a law in this country. It makes our leaders a laughing stock to use such a poorly drafted legislation in our National Parliament.

The final document is called the Ministry of Rural Development and was given to the Committee, I believe chairman just this morning. This is a document that we believe the bill

was derived from. This is a concept developed by the Ministry of Rural Development. Based on this concept, this current bill we are dealing with was drafted. Unfortunately, the important aspects of the concept the ministry has developed were purposely left out from inserting into the bill. If it had been done according to this concept, I am sure a lot of missing links within this piece of legislation would have been covered. We will be referring in our submission every now and then to these documents and I beg the Committee to please have a look at these documents before making the final report. They will assist you so much in the entirety of the bill. We have been speaking about things since yesterday up until today but there is very little evidence of what we have been talking about. We are providing this honourable committee with evidence, so use these evidences to make a good conclusion for the sake of the people of this country.

The sixth document is, of course, our written presentation. You would note that our written presentation is about 16 pages, much longer than the bill we are discussing, which is about 8 pages. We have done this because we feel this bill is very important to the people of this country. This is one bill that touches the people of Solomon Islands. This is one bill that can help to develop the people of Solomon Islands. But have we done well in drafting it? Chairman and the honourable Committee, I do not think so. They were careless, they were negligent and they have not done a good work. Why? Why did they treat a piece of legislation that will affect the people of Solomon Islands in this way? This is bad and I will show you why I say it is not good.

Look at the whole bill, it contains 15 sections, from section 1 to 15. But before I talk about these sections, when you look at what it says, 'entitled, 'an act to provide for the purpose of developing, supervising and regulating the management and disbursement of constituency development funds in a transparent and accountable manner'. That is a lie. Is that in this bill? No! It is not in there, and it is wrong to mislead the people of this country. When you state something that sounds very good, sounds very beneficial but then do something else in the bill. That is not good.

May I at this point also state that Members of Parliament have the duty of care to the people of Solomon Islands. Your constitutional duty is under section 59(1). That is basically

your job description and the basic description that all Members of Parliament must know and must follow is that the Parliament that you are a member of, this honourable House, is for making laws, laws for peace, order and good governance. You will be performing your duty when you will consider this bill in Parliament. But let me ask you one question; are you really performing that duty when you are going to pass an act that is not good, an act that we do not know its purpose, an act that does not describe anything for the people of this country, but yet says it is for their benefit?

I pray for you all 50 members of Parliament representing the 50 constituencies of Solomon Islands to please look carefully at this bill. It is a good law but this bill is not good. Have a good look at it. Let us look at this bill because I have been saying that it is not very good so that we know.

In my view, the 15 sections within this piece of bill, only three sections seem to have been drafted according to law. The other 12 only consist of definitions, so you have a piece of bill that in reality should have only three provisions and the whole thing should come under interpretation clauses. When you look at the bill you will notice that section 1 is okay, but starting from section 2 and down, you cannot see a trace of anything that looks like a law. When you get to section 13, you would see a provision there that looks like a law. And when you go down further section 15 again looks like a piece of legislation.

When you consider section 3, the first question that you Mr Chairman and honourable members of the Committee should ask is what is the integrity referred to in there? Where is its definition? Any person can come up with his own definition of integrity if it is not defined in the bill. You can make a subjective definition of integrity if you wish. An alternative you can do an objective definition of integrity. This is an issue that should be clarified within section 3.

Section 3 continues on to read like this, "integrity and in a prudent manner". What is a prudent manner? You cannot take it as your own and make your own definition. It is a law and it must have its meaning. Where is its meaning inside this bill? There is none. Are we just leaving it like that so that anyone can come up with his own definition and say "I have done it in a prudent manner by giving the project to my son or to my wife; it's prudent? That is wrong, it is not right. And then the key to the whole bill is the word coined "potential recipients". Can

anyone tell me what a potential recipient is under this bill? This is a fundamental word in this bill and therefore should be defined and well defined. Why is it that the bill does not have definition of the word “potential recipient”? Are we going to leave it to the end to the Member of Parliament and his CDO to decide what a potential recipient is? That is wrong because every one of us Solomon Island must know the meaning of “potential recipient” so that they know they are potential recipients and can apply.

Are we saying that I am a person who resides in Honiara, a registered voter of East Honiara and I also register in North Malaita? During the election I did not vote here in East Honiara but I went back and vote in North Malaita. Are we saying that I am a potential recipient for both North Malaita and East Honiara? That is obviously wrong, it is unfair and unjust. The definition of this key word is fundamental for this bill for its administration.

Coming down to section 4 of the bill on establishment of the Constituency Development Office, the first question that we should ask ourselves is this. What is a constituency development office? What is it? Is it something that the Member of Parliament will stand up and say the constituency development office is like this, you go and sit down there as the CDO, you come and assist the CDO, you come as an accountant? No, not so. There needs to be a structure and the law must define that structure. It is wrong if anybody, just anyone creates a structure because there has to be consistency here. This is a national law that whatever applies in one constituency must apply in the 50 constituencies so we cannot leave the definition of that fundamental word or phrase out too.

If we read further down subsection 2 says, ‘the funds allocated to the Ministry for constituency development purposes shall be administered and managed by the development office and its officers’. Is the meaning of ‘its officers’ be the same meaning as the CDO- the Constituency Development officer? No, there is no definition there. Once again it is open to abuse and is open to misinterpretation. Why do we treat an important legislation like this?

I pray that the Legal Draftsman of Solomon Islands redrafts this bill and recognizes that point. We don’t know who is ‘its officers’. The only way probably we might know is by reading the concept that was developed by the MRD because it is actually described in there. But is this a document that you have to find them to interpret the law? No, it is not right. The law must

interpret itself. You can, of course, do research to support your interpretation but you cannot get a document lying somewhere and come and say the law is referring to that when that document was never referred to in that law. There is even no definition of the 'constituency development officer'. There is no process established under this bill in appointing this very important person who will be looking after people's money, who will be looking after the people's office. There is no process in this bill that deals with that.

I made the comment that this bill is not good, and it is for that reason that I am going section by section to show to this Committee that I can prove my words. Section 5, under 'recipients' says, 'the funds may be allocated for development purposes to individuals, group income generating projects or community projects'. Do you know what an individual is? Do you know what an income generating project is? Do you know what a community project is? How will members of parliament award projects in these three areas? Are you going to follow your own mind that this is individual, that one is income generating project and that one is going to be regarded as community project because it does not fall under individual and it does not fall under income generating project? In all laws those kinds of technical words must be defined.

Law is made for a purpose and that purpose is to help those who fall under that law. It's not always that laws are made to penalize people. No, laws are made for a good purpose and as I said this piece of legislation is important. But it does not provide for the necessary mechanisms for application of this law. I believe that when it comes to the time of application of this law, we are going to fight over this because it does not have definitions of very technical and important words that will facilitate implementation of this piece of legislation.

Section 5 deals with gender equality, combating gender discrimination. A lot of us do not know what gender equality is. When we see gender equality we think all the projects will be given to the women so that it is equal. A lot of people don't really understand what gender equality really is. Gender equality means that woman and I are equal, so you give both of us the project, you give one project to that woman and you must also give one project to me because I am also a man.

Because there is no definition of such technical words, once again a member of parliament who may not know the meaning of gender equality, and I know quite a number do not know, he will be confused as to how he will provide for this.

Section 6: when we look at it – they again came up with two very important words there; ‘constituency development plan’ and ‘constituency profile’. What is the meaning of those two words again? What is a constituency development plan? Once again each Member of Parliament can decide on his constituency development if there is no guidance under the law. The law must provide that guidance so that we have a standard one, not necessarily standard but at least something that is applicable universally. Constituency profile, what if I just write ‘North Malaita Constituency’, our population is like this, the number of our villages is like this, is that a profile. No, therefore, we have to define the words ‘constituency profile’ in this bill.

Let’s move to section 7 and section 7 is really the root of this bill. This is where the money is; account. “Each constituency shall set up a constituency account for budgetary support purpose as approved by the ministry”. Once again, is it a cheque book account, is it an ATM account? What kind of account? These are small things but very important in the implementation of an act of Parliament? There needs to be a definition for that.

We move on to section 8. This is the key for the benefit of our people, allocation from constituency development funds shall be by way of grants. What is a grant? There is no definition of that word in this bill. I and my colleague here, he will have his own definition on this grant and I will have my own. But once again when you allocate that grant to that person what is the meaning of the grant given to that person? What is the condition of that grant given?

Today my colleague Charles Ashley was talking about criminality of the law and civil way, but this is important because this grant should have conditions, terms and conditions of the grant. But they are not, they just throw the ward grant and forget about it, which means that you cannot put any conditions, any whatever conditions put on the money you give is wrong because it only says grant. The only way you can find the meaning of grant is go to the standard dictionary and look up its meaning. It is not proper, there has to be further expansion

of that word and it must be inside of this bill. You cannot go elsewhere to get a definition of a part of a law. You are misinterpreting a law if you do that.

Section 9 deals with endorsement; “bear the endorsement of a member of parliament”. What is the meaning of endorsement here? You can do verbal endorsement; it’s okay, just get it, I agree with it. That’s an endorsement. Or you can actually sign or you can put your thumb print on it. Those are forms of endorsements and they need clarify those technical words. What form of endorsement are we referring to here? Is it for a member of parliament to sign or to simply say ‘I endorse’ what you are doing, go ahead or give me that stamp and I will put my thumb print on it. This is important to give some clarity or definitions to them.

Let us go down to section 10, but I need to support why I said the bill is a bad bill. Section 10 talks about “approve a development project”. I go up to section 2 on the interpretations and I cannot find the meaning of ‘development project’. Will development project be defined as anything a member of parliament says it is a development project? Would that be acceptable?

Look at the records of this MRD fund of \$145 million. You will see when you study the 50 constituencies that they have different things like, for example, a revolving fund, is it a development project? Only the person doing it will know but not the other one. But this is the law of Solomon Islands and what applies on Guadalcanal has to apply on Malaita. We cannot apply different things in different place. This law is the law of Solomon Islands and it is a law of the people of Solomon Islands and they must know the meaning of a development project. It is not good for people to lie to them saying the project I gave you is a development project so just get it and go. It’s not that way, they must know and if they do not know how will they make a project proposal?

Going down further, one very good point was made here. It makes people who are going to read it will say this is good. Section 10 says, “Where a project has been approved as a development project, the constituency development officer will pay the supplier of goods and services the appropriate payment in accordance with prescribed financial instructions”. What is the meaning of supplier of goods and services? If for example I sit down thinking and say I need a concept to develop a cocoa fermentary, ‘Alfred, could you just draft one concept for me on

cocoa development”? Alfred drafts it and I pay for it. He is a supplier of services. But is that the kind referred to here? Or what is the process of identifying supplier of services? It has to be consistent. This supplier of goods and services has to be consistent with other parts of the legislation that deal with the projects. If it is not consistent, then it is wrong. And the standard of agreeing or accepting a supplier must be stated in this bill.

Let us go down to section 11. Section 11 says, and there is an interesting aspect there, in fact, there are lots of them; ‘Act in accordance with directions’. The issue there is, what directions will be legal in this sense and what directions will be political? Take a scenario where there are 26 members of parliament in the ruling government and you have 24 members in the opposition; a very close match. The Minister for Rural Development is going to be very powerful because he can issue any directions he wants because there are no defined areas that he can give directions on. He has absolute control. As long as he says I am fulfilling the objects of this bill, I direct you not to give money to that guy, all his projects must be rejected and I direct you to provide all funding to this particular person because I want him to move over to the government so that they can support us to win. With the political instability we have been experiencing all along, there are just too many little places we can play with, and this one opens up a can of worm for that.

On agreements, what kind of agreements, agreements to do what, agreements on what areas? Register, what is the format of that register that he will keep? There was reference to an account on section 8. Is this the same with the account on 11(d)? These are issues that need clarification.

Looking at the section I said was properly drafted, section 13, when we consider section 13 and we look back at the history of the CDF in this country, it is something that we must question. I read in the papers that the Auditor General was so happy that that provision is inside there. But does he has the capacity to carry out 50 audit reports every year? But does he have the capacity? I do not think so and that is why even the other audit reports cannot be done. In fact, it was only RAMSI that came and helped that upgrade that office and that is why we are able to receive audited reports. If not, everything is just outdated. And in reality, the CDF, when I went to ask that office for a copy of any audited report of any year at all, they told

me that there are no audited reports of the CDF and they cannot give us any information on it. This is a very information provision to fulfill what is mentioned above; transparency and accountability. My submission is that this provision should be expanded to include the Auditor General giving out audited accounts of the accounts to outside or private auditors. It should involve the Auditor General paying for that service, not from his budget money but from the CDF because it is important that the audited reports must come out annually, not like now where since it started there are no audited reports of the CDF. It is public funds and yet no one has provided one. Now that we are regulating it, it is important that this particular provision be expanded.

Therefore, the Anti Corruption of Solomon Islands regards this Bill in its draft form as bad and should not be allowed to go through Parliament. Parliament is an honourable House, it is the legislative house of Solomon Islands. Such a poorly drafted document should not go into parliament. By putting this poorly drafted bill into Parliament, my submission is that the executive is abusing the legislative arm. If the executive pushes this through it is abusing the legislature and that is not right, it is a sad thing and we must not allow it. We must not allow such a poorly drafted law like this to be part of our laws. We have a lot of lawyers around, check them out. That is our view on the entirety of the bill and why it is bad.

The other aspect that we differ from other groups is like what my colleague has stated that this piece of legislation when considered closely, is simply legalizing what people have been complaining against – how the CDF has been managed. The CDF is not a new thing so that we do not know what has happened and how it has been managed. It is something that has been there since 1989 until today – around 24 years. And so we would know already the benefits of the CDF and its weaknesses. Those are the things that should be considered – its weaknesses and its strengths and then we make law to reflect its weakness to strengths and hold on tight to its strengths. One of the weaknesses that has been advanced by so many people over the years is the control of the funds by members of Parliament.

And in this bill, section as read with section 9, definitely gives total control to members of parliament - total. I say total. It is total because members of parliament will approve the

project and will sign the cheque. If he refuses, that is it, there is nothing, difficult for anyone to receive it. Those two acts alone give that control mechanism to members of parliament.

Our submission in this regard is that, of course, members of parliament have interest in their constituency. They would want to know what developments are taking place in their constituency but let's protect that. Let's put them as oversight to this.

We see this constituency development office as stated in the bill as the secretariat for a group that has no place in the bill but supposed to be. That group, if you look at our submission, you will notice that we call it the constituency technical committee. The composition of that committee is in our recommendation.

We maintain that members of parliament have an oversight on what is going on in their constituency. This morning I am very pleased with the Honourable member for East Honiara to confirm that members have a discretionary fund. That is good enough and let what is for development to go for development and what is for discretion is to be used for discretion.

I reiterate what Mr. Sasako has said that the more money people think is in your hands, the more they will come to you. If they know that all their money is with this group, it is that group they will flock to. But surely we have that duty to support deaths, to support marriages and all that. I think that half a million dollars the MP has referred to today is enough in my view. Therefore, we think that oversight is important.

To make me not talk too much, I will leave the others and I want to just ask, please honourable members of the Committee have a look at some little discussions we put in our submission relating to separation of powers as it is important. It would have been better had I downloaded a few court cases relating to this. Unfortunately I did not have the time and so I didn't do it. But the arguments are there; the legal arguments are there and definitely how our bill is structured will fall into that.

I also wish to make a point that this bill, and I go opposite to what Charles Ashley said this morning, this bill really safeguards members of parliament. It gives no obligation to you at all. You are well protected. You are even not obliged to give audited reports to the public to see. This bill is totally against transparency and accountability. The only thing that will happen

is because this bill is poorly drafted, if people are to exercise their legal rights, there will be a lot of court cases contesting this and contesting that.

With those comments I want to make our recommendations to the Committee. Chairman and Honourable members of the Committee, our first recommendation is to commission a study to identify weaknesses and strengths of the current system of administration of the Constituency Development Fund in our country. There are some good things that are happening with the administration and management of the CDF and there are also bad things. Let's do a study, let's commission a study so that it advises this honourable House to make a full decision and a proper decision because as I've said earlier, the law will affect every single living human being in Solomon Islands.

The second recommendation we want is to commission a specific research on specific issues. These issues include CDF's breaching the separation of powers, a doctrine that we must keep close to our heart because it is part of the democratic system we have in Solomon Islands. We must do everything possible to protect it.

CDFs distribute allocation less progressively than other funding mechanism. These are some specific areas we should look at. CDF allocations and project selection are used to influence results of elections. CDFs displace funding that might otherwise have gone to local or provincial governments and impose a number of administrative and monitoring burdens. On the other hand, separation and balance of power can result in enhanced transparent. It would seem relatively simple to enhance transparency in CDF operations.

The implementation of CDF projects are poorly monitored than that of other projects, and that is very true. Look at the Rural Development Project, the PGSP, they have tangible results, they are things that people can see. We have mostly solars, of course, that we can see and it's a true thing but not that many. But if we look at those funds it is a big lump sum of money that is enough for people to see some developments.

A few more specific things that we believe should be researched. We believe, and the third recommendation, we believe that this honourable House for the benefit of the 50 Members of Parliament, you need legal advice on this bill. Get the Attorney General to make a full and complete advice on the CDF in respect to this law breaching our national constitution

and also other laws. There is the possibility that if opinions are researched and prepared, they can be identified.

Our recommendation [d] is in regards to the way we talk about this bill and described it, we want further expansion to the provisions of the bill in the areas of good governance, transparency and accountability, which is currently lacking. It's there at the top of the bill but it is not included in the body of the bill. We need to include that in the body and not just outside of it.

To expand the provisions of proper auditing and administrative and management mechanisms. At the moment when you look at the bill there is no administrative mechanism or management mechanism in place, it's everywhere. The setting up of the CDO, CDO as an office and CDO as an officer; only those were mentioned. There is no structure there, there is no management. We prefer the bill to be expanded to include mechanisms to cater for that and other areas that we already talked about.

In this recommendation in particular, our recommendation (e), we which to inform the honourable committee that there has been consultation carried out nationwide last year, which I actually was involved in on political integrity and stability in Solomon Islands. It is a Cabinet taskforce and we have carried out a comprehensive, nationwide consultation. This issue of CDF is one of them. We have, for the Committee's benefit, included the recommendations of the taskforce report and also the views of the people of Solomon Islands as we got them through the consultation process. That is what you will see in the report. This recommendation relates to that, our recommendation (e).

Finally, our proposal or our suggestion on Members of Parliament remaining as oversight person over their constituency, we suggested that the actual body that should look after the fund and allocate projects is what we called the constituency technical committee. This constituency technical committee should include representatives of chiefs, churches, youths, women, disable people and representatives of expert people. These experts should include an engineer, an environment specialist, an accountant, a teacher, a lawyer and, of course, a development specialist. These are the technical people that should be included there with the representative of the people.

Of course, there are many ways to skin a cat. We can change this around and collect let's say, you take North Malaita, as an example, there are three provincial wards there and you can get those three provincial wards to be members of these so that it is complete. But whichever way, there has to be some form of a committee there to allocate projects and to monitor them.

The CDO, the Constituency Development office should only form the secretariat work to do the work. Because he is a public servant his work is to manage that office, to make sure everything follows the process of law, the process of public service and all other process that we need. That is his work. The committee's work is to say we need something like this for our constituency to develop. These are roles that should be distinguished and put in the bill before we can pass it as a law.

Finally honourable Chairman and members of the Committee, we pray to you, please whether you can get through with the executive government or not, but please tell our views to them; move this bill so that we work on it properly. We are willing to even assist the executive government to do another consultation with the people of Solomon Islands. We are will to draw up the matrix and all the technical things to be used. We are will to also assist in redrafting of the bill if the government is willing to engage us. We are happy to help out.

But with the current state of the bill, please do not allow it. It is not good. It is our prayer to you and please pass it on to other members of parliament who are not here to make sure they know that we are praying for them as well. Please do not allow a bad bill like this to go through in Parliament. The intention is good but the draft is not good. We need to work on it.

With these few remarks, honourable Chairman, I thank you very much and members of the committee, thank you for your patience and listening to my presentation. I am talking from my heart and I talk on behalf of members who are discussing this on Facebook with emotions and with a heart for this country. Thank you very much.

Mr Chairman: Thank you very much for your elaborate presentations. We are really happy because it really affirms a lot of the concerns we have about this bill and we are grappling with

the ministry yesterday. I think the message you have given comes out very loud and clear, and we are also privileged with the written submission that is here. If there is anything else that we need to get from you that is not in the written submission that you made reference to during your verbal submission, maybe we liaise with the secretariat so that you give it to us. But I think what you have presented is very elaborate and you have gone clause by clause on the sections.

We have actually raised some very concerns on the very sections that you are raising on its weaknesses with the ministries that came yesterday. So thank you very much for those presentations. Unless any members of the Committee would like to ask any specific question to clarify what you two have said they can do so. But it is very clear. But I think the Chairman of the Public Accounts Committee probably would want to say something.

Are there any questions? Maybe the Leader of the Independent group and maybe the Leader of the Opposition also.

Hon. John Maneniaru: I just want to join you to thank Lesley for the detailed presentation by going through the bill with the committee. I also want to thank Alfred for his presentation earlier.

Just a small point I would like to make and this is concerning your prayer. You have been praying that the executive government listens to you. We are going to make a submission. Earlier on today and also yesterday, it was pointed out that the bill represents the numbers game and today it was also highlighted that it is a bill and has very high chance of going through Parliament, except those who own the bill, the executive government says otherwise.

We join you in your prayer, but the number I have on my paper here is that at the moment there are 29 in the government and 21 in the Opposition and independent. That means even if we do not want this bill or we talk against it, it will still go through. If so, what sort of prayer are we going to still make? That is my point.

Hon James Tora: I listened to both of your presentations and I am fully convinced as a person from the grassroots. Even though I am not a lawyer but how this bill is drafted is not really

good. Yesterday, I am not sure who asked the question to the AG's Chamber about the drafting of this bill and the Legal Draftsman admitted that the AG Chambers only acted according to instructions, and I am not sure here which instructions is he talking about. Is it instructions from the Ministry of Rural Development or the executive arm of the government?

Some of the points raised by Mr Kwaiga are very true, and I totally agree with the two recommendations you made in your presentations. One is to defer the bill to allow for wider consultations right down to people who are going to be affected by this bill. And the other recommendation is to redraft the bill, which is also very important. Just like what my colleague Leader of the Independent Group has said, the majority are on the other side and a minority on this side. But I believe that with God's will the government of the day will take into account the recommendations and accept the views and opinions about this bill raised by people of Solomon Islands who came before the Committee. I myself have now seen that this bill really needs a redraft and needs to be deferred for wider consultations. With those few remarks I would like to once again thank those two gentlemen for their presentation to this Committee.

Hon. Derek Sikua: Like those of you have spoken already, I also would like to thank very much Alfred and Lesley for their eloquent and very thorough observations of this bill that is now in discussion.

You have already spoken to the converted but what my colleagues have said is very true that it is not the first time that bills were pushed through the house. There was already the University Bill that the Committee has tried its best to defer and do something straight to it before we bring it back to the House, the intention is good but because the government has the number, it just flies through. And look at what we've landed ourselves inside at this time. This bill looks like it is going to be the same too. But just to give us comfort, can you give us some timeframe that if we are going to take it back and do all these consultations and redrafting before it comes back to Parliament this year, how long is it going to take or if the government looks at introducing this again in early 2014, do you think all the work that you think should be done to this bill would be still done to hit the commencement date of the bill that the Government has set in early 2014? Just some timeframe to give us some weapons to argue

that even if we take it back, the commencement date of the bill is still early 2014. If Leslie can give us some timeframe on this so that it give us some comfort to convince the government to hold it back and do more work to it.

Mr. Leslie Kwaiga: Thank you Leader of Opposition, I am very happy with that question. Our group discussed and even prepared the matrix of what to discuss with the people of Solomon Islands. That is in place. If we have the funding, we would have done it before this bill. If there is funding that can move us around the country, we are willing to carry out this consultation in the nine (9) provinces plus Honiara as the tenth.

We estimate it will take us around three months to complete it because it is only one subject matter. It is something in terms of consultation with the people and will not take weeks, it only takes half an hour to make presentations and then people to come and give their views.

In addition to that, why it is going to be easy is because this issue has been part of the consultation process of the political integrity and stability and so people are aware of this; they have formed their opinions already. So to go to them they will simply reaffirm what they have said in the past.

Mr Chairman: Thank you very much the two of you for coming before the Committee. Now it has reached the time of the other group. But thank you very much for the presentation. As I said if there are some more documents that we have not received, we really would like to have the documents you two referred to. We will cross check with the secretariat for that purpose.

If we have to wait for 24 years to come up with this piece of legislation now, we might as well wait for another three months or six months to come up with a better one. We thank you for giving us some views on that. We will certainly take up those concerns that you've raised in this report.

We are clear that this is a democratic country and we are really democratic and the processes are going to be followed. This Committee is an extended arm of Parliament to advise Parliament on how to deal with this bill and hopefully we just hope maybe; because of the

timing, we hope and from the discussions with the Prime Minister's Office that came yesterday and from the views expressed, there is leniency there that we might continue to talk about improving this bill further. I think he is of the view that there needs to be some serious improvements to this bill as well so there is an opening there. But it is in the interest of everyone in this country that we do a proper job to this bill before we bring this bill to Parliament. We've taken all the views that you've made, we swallowed everything and we will definitely put it up in the report.

Thank you once again for a very, very elaborate but right presentation. Thank you very much