



## FORTY-NINTH SESSION

### Hansard Report

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**TUESDAY 10 DECEMBER 2019**

**MADAM SPEAKER took the Chair at 1.00 p.m.**

#### **OPENING PRAYER**

**MADAM SPEAKER (N. RATTLE):** Honourable Members, please be seated.

I call Parliament in order.

Greetings to each one of you who are sitting in this Honourable House this afternoon. I greet you and acknowledge you, from the Clerk, Deputy Clerk and all the staff in this Honourable Parliament this afternoon.

Yesterday, it was amiss of me to notice the presence of the Prime Minister's wife and I would like to acknowledge her for taking the time to be with us yesterday.

I would also like to take this time to acknowledge and say thanks to those who came to the swearing in of our new Member of Parliament yesterday. Although I did not meet you, I was able to see it all on Facebook so, my sincere thanks to you all.

Greetings also to our people in the Outer Islands, although we are told by the Pastor that our radio is not operating in the Outer Islands. Nevertheless, my words of greetings go to them all as well.

I also thank the Assistant Church Minister from Nikao Ekalesia, who presented our prayer service this afternoon.

#### **MADAM SPEAKER'S ANNOUNCEMENTS**

Honourable Members, I just have a few announcements to make before we begin with the business of the day.

As you know, we are in a new location so the Hansard report of yesterday, will not be handed out to you today to check because our staff, the transcribers, are doing that at Parliament after receiving the recording from yesterday.

I also omitted to share with you the extra temporary staff that we have taken on board, in order for us to be able to do this job this week in the new location. They are Jean Nootai who is an Admin and Finance person, Tenoa Puna who himself introduced himself to you yesterday by being on the job and we were also able to engage Junior

Takai who is our House Attendant for the Sitting this time. We have Kimi Marsters who is helping, her title is Mixer of the sound machine in the back. There is Purotu Ringia who is also Parliament's Hygiene Officer. There is also our youngest member as you would see here, Phillip Junior who is our cameraman. So, that is the extra people we have taken on temporarily, while we are able to deliver this Sitting in these two weeks.

I also would like to remind you of the announcement made by the Prime Minister yesterday, of the service on Friday morning at 10.00 a.m, at the Auditorium. So I may as well then tell you, that we will be adjourning on Thursday and come back on Monday, so we are all able to attend the service on Friday. The service is at 10.00 a.m. There will still be lunch available here at the hotel at 11.30 a.m, if we are able to come back and do that because since we have engaged the hotel, all activities will continue as previously arranged. Thank you.

Yesterday, as you would have also seen, some may have seen the team of people who came and also in the newspaper this morning there were a group of public members who came to deliver the Anti-Chlorination Water Supply Petition. The Clerk has received that and it will go through a proper process that we are required to do, before anything can begin with that petition.

That is my final announcement and we will now go to Question Time.

### **QUESTION TIME**

Yesterday, at the end of Question Time, there was a question asked by the Honourable Member Tina Browne, to the Honourable Minister Mark Brown. I call the Minister Mark Brown.

**HON. M. BROWN:** Thank you Madam Speaker.

The question I believe was what consultation was undertaken on leasehold land that pipes were laid down on?

The initial consultation in the laying of the pipes Madam Speaker was what was undertaken. The remedial work merely is replacing those pipes that were laid. So the consents were already achieved in the previous consultations. Perhaps there is a specific piece of leasehold land that the Honourable Member would like to refer to. I would be happy to hear which one it is.

**MADAM SPEAKER:** Thank you and I see the Honourable Tina Browne.

**HON. T. PUPUKE BROWNE:** Thank you Deputy Prime Minister.

Before I clarify my question, the Infrastructure Act, the theme running through that Act is that there should be consultation, consultation, consultation with the landowners. There are no exemptions provided in the Act for remedial work. I asked the question yesterday because the House was told that there has been consent given by the landowners to all the work related to Te Mato Vai.

Now the piece I did say yesterday as I was driving out of my driveway, I saw all this piping that is parked on land that does not belong to Government. On driving to work this morning...

**MADAM SPEAKER:** Honourable Member, if I could just interrupt you.

You asked a question yesterday. You are only now allowed to ask a Supplementary Question. Can you ask your Supplementary Question please?

**HON. T. PUPUKE BROWNE:** I was simply responding to the Deputy Prime Minister who said which lessee? I am explaining where this property is that I am talking about.

The leasehold interest is opposite my driveway. There is no intention to stop any work, but I am just wondering whether having approved or passed the Infrastructure Act, are we not going to carry out what we promised we would do which is consult with the landowners? There has not been any consultation, so I am asking, who did you consult with?

**MADAM SPEAKER:** Thank you. I see the Honourable Minister Mark Brown.

**HON. M. BROWN:** It appears the Leader of the Opposition is querying two things, one is consultation with landowners and another is a pile of pipes that is on a piece of land opposite her section.

Consultation has been undertaken and achieved from the landowners, for the work of laying the pipes. The work is now being carried out by the Contractor to do the remedial replacement of pipes, therefore the Contractor I assume would have obtained the consent to whoever is the leaseholder or the landowner on that piece of land that they have placed their pipes on. I do not think there have been any complaints about pipes being on people's lands that I am aware of, but I believe this is a matter that is handled by the Contractor and not myself. Thank you, Madam Speaker.

**MADAM SPEAKER:** I see the Honourable Selina Napa, you have the Floor.

**MRS S. NAPA:** Thank you, Madam Speaker. My question is also to the Minister of Finance in regards to Te Mato Vai. He keeps repeating the word remedial as if we do not understand or know what the meaning of remedial is.

So the question that I am putting out to him is, was the Te Mato Vai remedial work tendered or was it just given out to the successful Contractor?

**MADAM SPEAKER:** Thank you, I see the Honourable Minister Mark Brown.

**HON. M. BROWN:** Yes, Madam Speaker the work was tendered. Thank you.

**MADAM SPEAKER:** The Floor is to the Member Selina Napa.

**MRS S. NAPA:** Can the Minister of Finance tell us when it was tendered and was due diligence done on the successful candidate and I have a supplementary question as well.

**MADAM SPEAKER:** Thank you, I see the Honourable Minister Mark Brown.

**HON. M. BROWN:** It was tendered this year and yes, due diligence was done. Thank you.

**MRS S. NAPA:** Supplementary question, who tendered the contract whether it was ICI or MFEM and what was the project tendered out for?

**MADAM SPEAKER:** Thank you, I see the Honourable Minister Mark Brown.

**HON. M. BROWN:** It was tendered out by the Project Te Mato Vai, through the Government tender process, which is under the Ministry of Finance. Next.

**MADAM SPEAKER:** Thank you, I see the Honourable Tetangi Matapo, you have the Floor.

**MRS T. MATAPO:** Thank you, Madam Speaker. My question goes out to the Minister of Finance.

Yesterday, our Parliament Session stopped for a while because of some problems with our radio. Therefore, my question to the Minister is, can the Minister confirm to this House, if the current Parliamentary Session is being broadcasted live to the Pa Enua as required by law. If not, why and for how long is Government going to continue to deny our people in the Pa Enua the ability to hear Parliament being broadcasted?

**MADAM SPEAKER:** Thank you and I see the Honourable Minister Mark Brown.

**HON. M. BROWN:** Thank you, Madam Speaker. Madam Speaker that question is best directed to Parliament. Parliament has the responsibility to broadcast the Sessions of Parliament to all of our islands as required, not the Ministry of Finance. Thank you, Madam Speaker.

**MADAM SPEAKER:** Thank you and I see the Honourable Kitai Manuela, you have the Floor.

**MR K. MANUELA:** Thank you, Madam Speaker. I am not quite sure whether to pose the question to the Minister of Finance or to the Member for Arenikau. Madam Speaker, please allow me to explain first before I ask the question.

**MADAM SPEAKER:** Ask the question first.

**MR K. MANUELA:** He will not understand unless I explain the question first.

**MADAM SPEAKER:** Only for a short period of time.

**MR K. MANUELA:** Thank you. My question is for the Member for Arenikau. What is happening to the 200 water tanks that you report in the Council meeting that it will arrive before Christmas? Thank you.

**MADAM SPEAKER:** Thank you and I see the Honourable Member Tereapii Maki.

**MR T. MAKI:** Thank you Honourable Member for asking this question that a child can answer. The question was raised in the Council meeting and the answer to that is it will still arrive.

**MADAM SPEAKER:** Thank you, the Honourable Member Kitai Manuela.

**MR K. MANUELA:** This is what the Honourable Member said, Christmas but I am not sure whether it is this coming Christmas or Christmas next year. He himself said that it has been appropriated in the Budget. If he can recall, I am sure the Member Junior Maoate will recall as well.

**MADAM SPEAKER:** So your question is, is it this coming Christmas, the one after that or after that? Is that your question? What is your supplementary question?

**MR K. MANUELA:** It has to be this Christmas and not next year.

**MR T. MAKI:** He asked his question and he answered his own question. There is no time frame that this kindness will arrive into our country.

**MADAM SPEAKER:** I see the Honourable Vaitoti Tupa.

**MR V. TUPA:** Thank you, Madam Speaker. I have a very simple question for the Minister of Finance. I must acknowledge him because the bus for Mangaia has arrived. My question to the Minister is, when is this bus going to be transported to Mangaia, as we know there is a very important youth gathering in April next year.

**MADAM SPEAKER:** Thank you and I see the Honourable Minister Mark Brown.

**HON. M. BROWN:** Thank you for this simple and easy question. Maybe it is easier to take this bus to Atiu first. We are waiting for our barge to arrive first before we can transport many of our Outer Islands Government cargos which includes the bus for Mangaia.

**MADAM SPEAKER:** Thank you and I see the Honourable Tamaiva Tuavera and you have the Floor.

**MR T. TUAVERA:** Thank you Madam Speaker and my question is for the Prime Minister. This is a simple question, Mr Prime Minister and I am sure you have an answer to question.

Yesterday, when I asked a question regarding the Te Mato Vai Project and its funding, a question came to me today because we deliberated on this at our last Parliament Sitting earlier this year. This is in regards to the part-time workers for the Ministry of Culture.

I asked this question at our last Sitting of Parliament, as to when will these part-time workers be paid and I have given you all the documents related to this matter. Up to now, these people have not been paid, so when are they going to be paid for their services.

**MADAM SPEAKER:** Thank you and I see the Prime Minister.

**HON. H. PUNA:** The Minister of Culture is itching to answer the question. But I do not want you two Honourable Members to argue here today. This is a good question.

First of all, Kia Orana to us all in the Name of the Lord. Madam Speaker please allow me to convey my greetings to my island people today because at 3.00 p.m this afternoon there will be a special dedication of the Catholic Hall in Tukao.

**MADAM SPEAKER:** This is Question Time, Honourable Prime and there is 12 minutes left to go.

**HON. H. PUNA:** I know, it is because these people have asked too many questions and the time is running out.

**MADAM SPEAKER:** You will get a chance to speak to your island very soon.

**HON. H. PUNA:** Regarding this question, it is a good question and the thinking is good. I have discussed this issue with the Head of Culture and the reply to me was, I am looking into it. Maybe this is a standard response by the Public Servants.

I want you Honourable Member to know that I, with the Minister of Culture, is not happy that this outstanding issue has not been resolved. Money should not be an issue today especially paying our people.

But since you have asked the question, I, together with the Minister, will look into this matter because these are our own people being denied their remuneration. Time has passed for this money to have been paid already to these good people.

Madam Speaker that is my answer to the question.

**MADAM SPEAKER:** Thank you.

**HON. H. PUNA:** Since I am standing, I might as well pose my question from this side of the House since the questions on the Floor has been one sided today. I am looking at the Honourable Member for Tamarua, Mangaia. I am asking a simple and easy question. I know that you and our women Members of Parliament have been overseas on a Parliamentary travel recently.

My question is in regards to the two weeks you were here in Rarotonga prior to the Parliamentary travel I have mentioned. I want to know as to why you were here in Rarotonga the two weeks before your Parliamentary travel. When we travel on a Parliamentary business, we get paid travelling allowances immediately we are on that travel. You have the Floor to answer the question.

**MRS T. MATAPO:** Thank you Prime Minister for the question. I would like to say Madam Speaker, although I travelled to Rarotonga and I am not sure of the exact dates, but I want the record to be corrected as I disagree that I was in Rarotonga for two weeks prior to the overseas Parliamentary travel. I was here for the Crimes Bill Committee meetings.

**MADAM SPEAKER:** Right, normally we will not accept questions to a Member of Parliament who does not have responsibilities as far as Parliamentary work goes. But since maybe it is because of finances that are paid through Parliament and then that becomes a responsibility of the Member.

So, Prime Minister if that is alright with you for the Member to prepare herself to respond to you during the week?

**HON. H. PUNA:** The answer is accepted however, I will not accept the ruling that we cannot ask a Member of Parliament a question only to do with their work for Parliament. However, I accept the answer from the Honourable Member because if that is the reason of her travel, it should be on your Parliamentary record.

When in fact, there was a Crimes Bill Select Committee meeting at the time. But there was one event and it will be part of my Supplementary question to the Honourable Member because at the same time there was a Democratic Party conference held during that period here in Rarotonga. If the Parliament record does not show that there was no Select Committee meeting at that time then the answer is not accepted.

I therefore want to ask the Honourable Member if that was the real purpose of your travel to Rarotonga to be here for your Democratic Party conference?

**MADAM SPEAKER:** Did you want to speak again Honourable Member?

**MRS T. MATAPO:** Thank you Prime Minister for the question. Monday I flew to Rarotonga. Even if I had to pay for my fare to Rarotonga for the Democratic Party conference on Tuesday, Parliament still has to pay for my airfare because of the Crimes Bill Select Committee meetings that were held during the same week. Thank you.

**MADAM SPEAKER:** The Parliament can look at their records and see what actually happened. I see the Honourable Tina Browne.

**HON. T. PUPUKE BROWNE:** This is a Supplementary question to the question raised by the Member of Tamarua. Her question was on the radio broadcast of our Sittings to the Outer Islands. The Deputy Prime Minister responded by saying that the question should not be directed to him. Therefore, I am asking my question to the Minister of Parliamentary Services about the radio broadcast of Parliament.

I would like the Minister to clarify whether our Parliamentary Session is valid and legal since we are obligated under law to broadcast our Sessions to the Outer Islands. I would like you to clarify if our Parliamentary Session is legal.

I want to ask my question to the Minister Responsible for Parliamentary Services because the Deputy Prime Minister has clarified that this question cannot be asked to him.

**HON. R. TOKI-BROWN:** Thank you Madam Speaker and greetings to all of us in this Honourable House this afternoon.

In response to the question raised by the Leader of the Opposition, I am sure that we are all aware that our Session is going live-streamed as previous Sessions of Parliament.

Regarding the radio broadcast, most of the Outer Islands are receiving our radio broadcast except for the islands of Nga-Pu-Toru and I believe the island of Mangaia as well. Thank you.

**MADAM SPEAKER:** Thank you and I see the Honourable Tina Browne. You have a Supplementary question Honourable Member?

**HON. T. PUPUKE BROWNE:** Yes I do. Apologies, my question is whether our Sitting is valid since it is a requirement that this is to be broadcasted, as you have said that there is no signal in Ngaputoru and Mangaia. My question is where do we stand from the meeting you have had yesterday and today

**MADAM SPEAKER:** Thank you. I see the Honourable Minister Rose Brown. We have run out of time. You can just be very quick please.

**HON. R. TOKI-BROWN:** Thank you. Thank you to the Leader of the Opposition. Our Sitting is on livestream and under the guidance of the Clerk of Parliament, they have confirmed that our Parliament is legal. Thank you.

**MADAM SPEAKER:** Honourable Members, that completes our Question Time.

We will now go back to Orders of the Day.

## **ORDERS OF THE DAY**

### **PAPERS FOR PRESENTATION**

We will begin with Paper 28: Companies Act (Commencement Order) 2019.

**HON. R. TOKI-BROWN:** Madam Speaker, pursuant to Section 2 of the Companies Act 2017, the Regulations Act 1971-72 and the Legislative Service Act 1968-69, I have the honour:

#### **To submit the Companies Act (Commencement Order) 2019, Serial No. 2019/09**

I now lay this on the Table.

**MADAM SPEAKER:** Thank you. Paper 29: Companies Regulations 2019.

**HON. R. TOKI-BROWN:** Madam Speaker, pursuant to Section 405 of the Companies Act 2017, the Regulations Act 1971-72 and the Legislative Service Act 1968-69, I have the honour:

#### **To submit the Companies Regulations 2019, Serial No. 2019/10**

I now lay this on the Table.



**MADAM SPEAKER:** Thank you. Paper 30: Income Tax (Automatic Exchange of Financial Account Information) Amendment Regulations 2019.

**HON. M. BROWN:** Thank you Madam Speaker. I have the honour to present:

**Paper No. 30: Income Tax (Automatic Exchange of Financial Account Information) Amendment Regulations 2019, Serial No. 2019/11**

I lay this on the Table.

**MADAM SPEAKER:** Thank you. Paper 31: Personal Property Securities Regulations 2019.

**HON. R. TOKI-BROWN:** Madam Speaker, I present to you:

**Paper 31: Personal Property Securities Regulations 2019, Serial No. 2019/12**

I now lay this on the Table.

**MADAM SPEAKER:** Thank you. Paper 32: Incorporated Societies Regulations 2019.

**HON. R. TOKI-BROWN:** Madam Speaker, I present to you:

**Paper 32: Incorporated Societies Regulations 2019, Serial No. 2019/13**

I now lay this on the Table.

**MADAM SPEAKER:** Thank you. Paper 33: Personal Property Securities Act (Commencement Order) 2019.

**HON. R. TOKI-BROWN:** Madam Speaker, I present to you:

**Paper No.33: Personal Property Securities Act (Commencement Order) 2019, Serial No. 2019/14**

I now lay this on the Table.

**MADAM SPEAKER:** Paper 34: Incorporated Societies Amendment Act (Commencement Order) 2019/15.

**HON. R. TOKI-BROWN:** Madam Speaker, I present to you:

**Paper No. 34: Incorporated Societies Amendment Act (Commencement Order) 2019, Serial No. 2019/15**

I now lay this on the Table.

**MADAM SPEAKER:** Thank you. Paper 35, our final Paper, which is Ministry of Education Statistics Report for the period of 2018-2019.

**HON. H. PUNA:** Madam Speaker. Thank you. I have the honour to present:

**The Ministry of Education Statistics Report for the period 2018-2019**

I now lay this on the Table.

**MADAM SPEAKER:** Thank you very much.

We will now go to Orders of the Day.

**ORDERS OF THE DAY**

Interrupted debate on the Second Reading of the Telecommunications Bill.

When we adjourned yesterday, the Honourable Member Tina Browne had seven minutes to complete her debate. You may take the Floor now.

**HON. T. PUPUKE BROWNE:** Thank you Madam Speaker.

Yesterday, I was talking about the huge gap of the telecommunications services provided for the Pa Enua and the services provided in Rarotonga and Aitutaki. I support the move to improve the services but I am of the view that the improvement should be across the board.

I accept that there will still be a gap between the services provided in Rarotonga and Aitutaki and the Pa Enua but as responsible Members of Parliament, especially for us from the Pa Enua, we should try and endeavour to close that gap. The message we got clearly from the workshop, from the promoters during the workshop and from Bluesky in the meeting that we had with them, this Bill is not going to achieve that.

So I am asking Government and the Minister in charge, let us look at ways to improve the services provided in the Pa Enua. When I say that it will not be the same is because we understand that the cable can only go to Rarotonga and Aitutaki. To say to us that, well the Pa Enua can happen at some other time should not be acceptable.

My other issue with the Bill is the transitional provisions. We are aware that there are currently on foot, proceedings in Court. My reading of this Bill suggests that once it's passed, that is the end of those proceedings. If I am wrong, then perhaps the Minister in Charge can correct me. Those of us in the legal profession it is not something that you do lightly to take away rights of people that currently exist. So the Opposition would like some clarification on that.

My last area of concern is whether or not we have an even playing field. I say this because unusually, and I say unusually, the licence that has continued for the existing provider is part of the Act and they have been guaranteed a term of 15 years and I understand all of that. They have spent heaps of money to get to this stage and then the new applicants will be provided terms and conditions and it is difficult to, in my view, to justify why this licensee should be subject to these terms and conditions and any new applicant maybe subject to other conditions.

I am not saying that these terms are favourable to the current licensee, they may not even like it. All I am saying is that there should be an even playing field, two teams, three teams, four teams enter the field and the same rules, same umpire, and same everything and we should not be promoting a Bill that is not going to create that environment. Thank you.

**MADAM SPEAKER:** Thank you Honourable Member, well timed. The Floor is now open for debate on the Telecommunications Bill. I see the Honourable Prime Minister.

**HON. H. PUNA:** Thank you, Madam Speaker. I thank you for the opportunity, Madam Speaker because I am waiting for my turn to be called.

Greetings to all Honourable Members of this House and all our people listening in to the sitting of this House. Kia Orana Madam Speaker and all your staff in this House.

Please give me the opportunity to give my regards to the Church members of the Catholic Church in Manihiki because as I look at the time they are already prepared for the opening of their hall at 3.00 p.m.

We are supposed to be there the Member of Parliament for the island. But anyway my wife and I send our greetings to the Head of the Catholic Church, who is also the Deputy Mayor, Papa Tarau Kaina, and all the Church members.

I would like to thank you for the sacrifices that you have given for the building of this community hall and it was done in an expedient way. So enjoy with the celebration at the opening of this community hall and for the Christmas period and New Year.

Madam Speaker, I just want to comment on this Bill before the House. Yesterday, as I listened to the Leader of the Opposition, it seems to me that she is praising this company. That is correct because it is hard to run a business especially in the Cook Islands. But I would say they have done well to some extent because she mentioned of us especially living in the Pa Enua. Those who have lived in these islands for over fifteen years, we know the hardship of life but this is normal for our people who live on these islands.

Yes, I agree that it should be equal in all the services that is provided. I agree with that thought.

I would like to raise this issue that we are bringing into the House about broadcasting this Sitting on radio. I sympathise with the Deputy Prime Minister because all these questions are being directed to him and yet we forget who the owners of the radio are. We are supposed to direct those questions to them. These are the same people. But I do respect the procedure that is outlined by this House that we cannot talk about somebody else if they are not present in the House. According to our Standing Orders it is not appropriate. I will not mention any names but I would like to make mention of the difficulties that we go through especially those in the Outer Islands.

We are talking about this cable coming to Rarotonga and Aitutaki and the fast internet service that these two islands will get. I thank God that the level of country is moving into a new venture and to a higher standard. Yes, we can ask the question why it is only Aitutaki and Rarotonga who are connected to this cable broadband. If we had the

money and resources to do that we will ensure that it will get to each individual island. We know that sometimes life is not fair and cannot be fair but we have to make the best of it.

When we plan for the country it is only right we look at areas that will benefit the whole country. We accept that these are the two mothers looking after our country, Rarotonga and Aitutaki. So in the development of our country, yes we agree that it will go to Rarotonga and Aitutaki first because according to the finance that is available that is what we can do for now. But the belief for us here is that if these two islands can benefit the overflow will go to the rest of the country but let me assure you that we are not forgetting the Pa Enua.

The Prime Minister of this country comes from Manihiki. So would you think that the Prime Minister of this country will allow for any development just to go ahead without the benefits to go to the Outer Islands? It is in the plan but we have to take steps in sequence.

We are in negotiations with those who knows and have experience in this service for the best system for the Outer Islands but we have got to have the fast cable here in Rarotonga and Aitutaki so we in the Outer Islands can tap into the fast broadband. We are still in negotiations with experienced people what the best system for the Outer Islands is.

Early this year we were invited to Silicon Valley by a company and we had the privilege to see the technologies that are being developed at Space X laboratory. They have technology, once refined that may be appropriate for the Outer Islands. But the technology is still being developed.

Just last year when we switched on to 4G here in Rarotonga, Huawei was here. Huawei has some plans for connecting the Outer Islands to the fast broadband here in Rarotonga and that is still under investigation and research. So it is wrong to think that we are leaving the Outer Islands behind. Our policy is, let no one be left behind, that is the vision of Papa Arapati and we are not going to let that happen.

I will now talk about the challenges of how we can service the whole of the Cook Islands. Air Raro has done a fantastic job, although it is costing a mint to travel on Air Raro to the Northern Group, but they are providing a service and I am pleased that if things happen as they are being planned with the sealing of Manihiki and Penrhyn airports, then Air Raro will be able to operate the bigger plane which will see a drastic reduction in the airfares. But the current service provider can learn a lot from Air Rarotonga.

I just want to express the frustrations of my people in Manihiki when the telephone systems breakdown and communications by telephone is cut off or non-existence altogether. But those times are becoming too frequent and you can imagine that we are entering the hurricane season and how difficult things will be.

Yes, yes Blue Sky is trying their best but I think in their planning and their operations it can be a bit better. Particularly in terms of responding to the request when the system breaks down and having the right people to service those break down.

These are things that I want to share before this House because I want us to be inclusive for us to work together for the future. But we need to plan things properly and for me the priority will always be Rarotonga and Aitutaki because they are the one providing the bulk of the revenue for this country. However we also need to ensure the Outer Islands are not that far behind.

Yes, there are provisions in the current Bill providing for Blue Sky for the next 15 years. I know you had some discussions with people from Blue Sky last week. But I think those questions should have been put to them and perhaps a proper answers sort from them also. But for me it is not right that we come here and voice our reservations and concerns about their answers that we are not happy with.

But I can assure you that that provisions for 15 years to allow Blue Sky as a transition period is absolutely necessary because of the sensitivities involved in the negotiations to open up the telecommunications market. So there are imperatives in terms of time for us to get this legislation through this Honourable House. I am told that just this weekend the cable will be landing in Aitutaki and then the following weekend it will be landing here in Rarotonga at Rutaki.

But we have already given the message to those involved that if it arrives here on Sunday they have to find their way. We have our principles to observe and no way would we ignore them just for the convenience of welcoming the cable on land. But in light of those fine sensitive developments we really need to hurry along with this legislation.

I fully sympathise finally with the local shareholders involved in this company because these are our local people. However, when we look at something that involves the whole nations we need to start balancing interests because as we weigh between individuals and the few with the nation at large. We will see where it out ways between the two. So, sometimes we have to make difficult decisions.

Madam Speaker I commend this Bill to this Honourable House. It is opening the door to a new world, a new level of development for our little country and we need to embrace it. Thank you, thank you very much.

**MADAM SPEAKER:** Thank you and I see the Honourable Minister Mark Brown.

**HON. M. BROWN:** Thank you Madam Speaker. Madam Speaker I rise to give notice to advice that I will be moving a motion to ensure that the Second and Third Readings of these Bills will be completed by 4pm today.

The Prime Minister alluded to the reasoning of why we need to pass these Bills in this Sitting of Parliament and I will give some explanations as well today.

The first reason for passing the Bills without delay is that any delay translates directly to a delay in the expected benefits from the competition, the universal access agreement which flows through to improvements in service and price reductions. Our extensive consultations have clearly demonstrated that the Cook Islands community is waiting for these benefits and their patience is wearing thin.

Secondly, the rationale is to provide the industry with more certainty moving forward, in order for companies to make significant investments especially in long term infrastructure. They need the information about the impact that the future regulatory environment will have on them. Delaying the Bills will prolong this uncertainty and continue to compromise these investment decisions. This includes decisions to make upgrades of telecommunication infrastructure for the Pa Enua.

Thirdly, Madam Speaker the Prime Minister mentioned the landing of the Manatua Cable this week or next week in Aitutaki. And we must pass these Bills not just the Telecommunications Bill but also the Competition Regulatory Bill in order for the Government to meet its Manatua Cable commitments. The New Zealand Grant Funding arrangement for the Manatua Cable the government committed to ensuring that effective telecommunications regulations are established prior to the service state of the submarine cable.

This includes the passing of the legislation to enable the creation of the regulator as well as the establishment of the office and the recruitments of appropriate people to perform that function. Our second partner the Asian Development Bank in a loan agreement for the Manatua Cable also commits the Government to establishing an effective telecommunications regulatory framework.

Therefore, delaying these Bills even to the next Sitting of Parliament will put these commitments at risk.

**MADAM SPEAKER:** Honourable Minister may I interrupt you please. Parliament will suspend until 3.00 p.m.

**Sitting suspended at 2:30 p.m.**

**Sitting resumed at 3.00 p.m.**

**MADAM SPEAKER:** Honourable Members, please be seated.

Parliament is resumed.

We will now go back to Orders of the Day. Interrupted Debate on the Second Reading of the Telecommunications Bill.

The Honourable Minister Mark Brown had the Floor and you may continue.

**HON. M. BROWN:** Thank you Madam Speaker.

Prior to the break I was talking about the rationale for passing these two Bills, the Telecommunications Bill and the Competition and Regulators Bill in this Sitting of Parliament.

The lead time Madam Speaker to establish the staff and the office of the Regulatory Authority will take time and should the Government not have an effective regulatory framework in place, this could result in a breach of the grant funding agreement and the

loan agreement terms and conditions with potential for significant financial consequences.

The reports that I received from the staff of MFEM who attended the Parliamentary workshops were very encouraging and I believe very useful and helpful to the Members of Parliament to understand these two Bills. So it was a little disappointing to hear the Leader of the Opposition misrepresenting the contribution of the public servants at this workshop for political point scoring, especially where public servants were named and have no right of reply in this particular venue.

All the more disappointing as the MFEM officials willingly participated in this workshop for the benefit of all MPs, particularly in reference to the Pa Enua and the comments made that there will be no work done in upgrading services for the Pa Enua.

I would like to point out Part 10 of the Bill Madam Speaker which clearly articulates the universal service agreements to ensure service levels are provided at an adequate amount to the Outer Islands. I was a little surprised at the casual approach to the Court case that is currently before the Courts, by the Leader of the Opposition and the potential conflict of interest, as she is well aware the Court case involves the Chief of Staff of the Opposition Office.

Additionally, I'm not too sure about whom the discussions took place with from Bluesky but I can assure you that the Government is currently in discussions with Bluesky and our partner, the New Zealand Government, to ensure that we have the upgrades necessary for all of our Pa Enua.

The mention of Bluesky disconnecting their service in the Cook Islands, Madam Speaker, is nothing more than cheap scaremongering to our people. Section 120 requires Bluesky to continue the Pa Enua service at its current service levels until the universal access plan has been confirmed.

Therefore, Madam Speaker, as I reiterate my point about the extensive consultation that has taken place with stakeholders, with business, with individuals and with our Outer Islands. The single message comes through from all of them, please start now. We cannot wait any longer and that is what this Government is doing Madam Speaker.

Thank you very much.

**MADAM SPEAKER:** Thank you very much Honourable Minister.

Now I will put the Question, and the Question is:

**That the Bill be read a Second time**

Once the Minister has rounded up the debate, there is no further debate on the Bill. Your opportunities to speak were given before the speaker spoke.

What is your....

**MRS S. NAPA:** Madam Speaker, I am here...

**MADAM SPEAKER:** Are you wanting to go back to what you brought up yesterday?

**MRS S. NAPA:** Yes.

**MADAM SPEAKER:** We need to read the Bill the Second time first before that can be done.

Yes, the procedure is that once a Minister has rounded up all the debate we then put it to the second Question and vote on it and then we move on from there.

I will again put the Question:

**That the Bill be read the Second time?**

**Motion agreed to**

**CLERK AT THE TABLE:** Long Title: An Act to repeal and replace the Telecommunications Act 1989 and to provide for the regulation of competition in markets for telecommunications in the Cook Islands.

**BILL READ A SECOND TIME**

**MADAM SPEAKER:** Thank you. I see the Honourable Selina Napa.

**MRS S. NAPA:** Thank you Madam Speaker.

According to Standing Order 101, I would like to put a Notice of Motion on to the Table:

**That this Bill be referred to a Select Committee**

If I may speak to it as to my reason why.

**MADAM SPEAKER:** I call for a Seconder please.

**Seconded by the Honourable Tina Pupuke Browne**

Did you say you wanted to speak to it?

**MRS S. NAPA:** Yes

**MADAM SPEAKER:** You may have the Floor.

**MRS S. NAPA:** Thank you Madam Speaker.

The reason for myself and our team wanting to put this through to a Select Committee is that, in the view of the complexity and interrelationship of the Telecommunications Bill and the Competition and Regulatory Authority Bill and the far ranging implications of both, it would be an abuse of Parliament's representative role and responsibility to



accede to any proposal or attempt to rush this legislation through the House, when detailed enquiry and close scrutiny are what is required of this Bill.

To that end, a Special Select Committee be appointed with powers to co-opt from the private sector persons, with specialty knowledge in either or both fields, sit with the Select Committee and participate in deliberations, but without voting rights but always without prejudice to the Committee's normal powers to call them. As witnesses to be questioned under oath, pursuant to the Legislative Assembly powers in the Privileges Act 1967.

**MADAM SPEAKER:** Thank you.

Can we have a copy of your Motion please if that is all written down?

So your Motion, this is your explanation here. Your Motion was actually to refer this Telecommunications Bill to the Select Committee. Right?

I put the Question. The Question is:

**That the Motion be agreed to?**

All those in favour say aye – Opposition for the Motion

Those opposed say no – Government against the Motion

*(No clear result)*

**HON. G. ANGENE:** I call for Division.

**MADAM SPEAKER:** A Division is called and we have to go through a Division. It is unclear with the noise as to what the vote is.

The process of the Division is that I will put the Question, those who agree will stand and your names will be written and read. As your name is read you sit, each one will sit until we finish the yes and I will put the Question and those for a no will stand and go through the same process.

The Question is:

**That the Motion be agreed to?**

For the Motion:

1. Mr Wesley Kareroa, Oneroa,
2. Mr Tetangi Matapo, Tamarua,
3. Mr Terepai Maoate, Amuri-Ureia,
4. Hon. Tina Pupuke Browne, Rakahanga,
5. Mrs Selina Napa, Titikaveka,
6. Mr Tamaiva Tuavera, Ngatangia,
7. Mrs Agnes Armstrong, Ivirua,
8. Mr Kitai Manuela Teinakore, Vaipeka-Vaipae-Tautu.

**MADAM SPEAKER:** Thank you, and those opposed please stand.

Against the Motion:

1. Hon. Rose Toki Brown, Teenui Mapumai,
2. Hon. Vaine Mokoroa, Nikao-Panama,
3. Hon. Mark Brown, Takuvaime-Tutakimoa,
4. Hon. Henry Puna, Manihiki,
5. Hon. Robert Tapaitau, Penrhyn,
6. Hon. George Angene, Tupapa-Maraerenga,
7. Mr Tai Tura, Mauke,
8. Mr Tingika Elikana, Pukapuka-Nassau,
9. Mr Patrick Arioka, Murienua.
10. Mr Tereapii Maki Kavana, Arutanga-Reureu-Nikaupara,
11. Mr Tuakeu Tangatapoto, Mitiaro,
12. Ms Tehani Brown, Tengtangi-Areora-Ngatiarua.

Abstained from voting: (Contrary to Standing Orders 145, two Opposition Members present in the Chamber did not vote)

1. Mr Vaitoti Tupa, Matavera
2. Mr Nooroa Baker, Akaoa

Absent from the House:

1. Mr William Heather (sick leave – medical certificate provided)
2. Mr Albert Nicholas

Result:

For the Motion – 8

Against the Motion – 12

Abstain – 2

Absent – 2

**MADAM SPEAKER:** Honourable Members the Motion is defeated with eight yes and twelve no.

I now resolve Parliament into the Committee of the Whole.

### **COMMITTEE OF THE WHOLE**

**MADAM CHAIRMAN:** Honourable Members, I seek leave from the House that I cover the Bill with Clause 1,2,3 and cover the rest of the Bill in Parts and finishing off with the Schedules. We will now begin.

Clause 1: Title.

The Question is:

**That Clause 1 stands part of the Bill?**

**Motion agreed to**

Clause 2: Commencement.

The Question is:

**That Clause 2 stands part of the Bill?**

**Motion agreed to**

Clause 3: Repeal

The Question is:

**That Clause 3 stands part of the Bill?**

**Motion agreed to**

Part 1: Preliminary matters

The Question is:

**That Part 1 stands part of the Bill?**

**Motion agreed to**

Part 3: Competition and consumer protection

The Question is:

**That Part 3 stands part of the Bill?**

**Motion agreed to**

Part 5: Interconnections

The Question is:

**That Part 5 stands part of the Bill?**

**Motion agreed to**

Part 6: Numbering

The Question is:

**That Part 6 stands part of the Bill?**

**Motion agreed to**

Part 7: Domain administration

The Question is:

**That Part 7 stands part of the Bill?**

**Motion agreed to**

Part 8: Radio spectrum

The Question is:

**That Part 8 stands part of the Bill?**

**Motion agreed to**

Part 9: Technical standards

The Question is:

**That Part 9 stands part of the Bill?**

**Motion agreed to**

Part 10: Universal access

The Question is:

**That Part 10 stands part of the Bill?**

**Motion agreed to**

Part 11: Status of Telecommunications Licenses as Infrastructure Managers under the Infrastructure Act 2019

The Question is:

**That Part 11 stands part of the Bill?**

**Motion agreed to**

Part 12: General and miscellaneous provisions

The Question is:

**That Part 12 stands part of the Bill?**

**Motion agreed to**

We will now go to the Schedules.

Schedule 1: Amendments to Act

The Question is:

**That Schedule 1 stands part of the Bill?**

**Motion agreed to**

Schedule 2: Telecom Cook Islands Limited Network Operator Licence

The Question is:

**That Schedule 2 stands part of the Bill?**

**Motion agreed to**

Schedule 3: Exemptions

The Question is:

**That Schedule 3 stands part of the Bill?**

**Motion agreed to**

Schedule 4: Mandated Access Services

The Question is:

**That Schedule 4 stands part of the Bill?**

**Motion agreed to**

Schedule 5: Continuing Instruments

The Question is:

**That Schedule 5 stands part of the Bill?**

**Motion agreed to**

Long Title: An Act to repeal and replace the Telecommunications Act 1989 and to provide for the Regulation of Competition in markets for Telecommunications in the Cook Islands.

**Motion agreed to**

The Question is:

**That the Bill be reported to Parliament without amendments?**

**Motion agreed to**

**MADAM SPEAKER:** Parliament is resumed. I call on the Minister Responsible to report to Parliament.

**HON. M. BROWN:** Thank you Madam Speaker, I am happy to report:

**That the Bill has passed through the Committee Stage smoothly  
without any amendments**

**MADAM SPEAKER:** Thank you and I put the Question:

**That the Report be adopted?**

**Motion agreed to**

I call the Minister to move for the Third Reading of the Bill.

**HON. M. BRWON:** Thank you Madam Speaker, I now move:

**That the Telecommunications Bill be read a Third time**

**MADAM SPEAKER:** I call for a Seconder for the Motion, please.

**Seconded by the Honourable Member Tingika Elikana**

I put the Question:

**That the Bill be now read a Third time**

**Motion agreed to**

**CLERK AT THE TABLE:** Long Title: An Act to repeal and replace the Telecommunications Act 1989 and to provide for the regulation of competition in markets for telecommunications in the Cook Islands.

### **BILL READ A THIRD TIME**

**MADAM SPEAKER:** That completes the First, Second and Third Reading of the Telecommunications Bill 2019.

We will now go to Orders of the Day.

### **ORDERS OF THE DAY**

Competition and Regulatory Authority Bill 2019.

I call on the Minister to move for the Second Reading of the Bill.

**HON. M. BROWN:** Thank you Madam Speaker, I move:

**That the Competition and Regulatory Authority Bill 2019  
be read a Second time**

If I could speak to this Bill, Madam Speaker. As I mentioned earlier, this particular Bill works hand in hand with the previous Bill that we have just passed, the Telecommunications Bill. The purpose of the Competition and Regulatory Authority Bill is to establish authority with responsibility for administering and enforcing laws for the regulation of certain industries and activities in the Cook Islands.

The Authority will initially have one focus on regulating the telecommunications industry through the Telecommunications Act 2019. The Government has also identified a need for independent regulation of the provision of monopoly services in other industries such as electricity. The Regulatory Authority Bill that I have tabled will make it easier to accomplish this.

The Authority that is established by this Bill will be independent of Government or any other person in the performance of its functions. The independence provision in Section 7 of the Bill is vital to ensure that the Authority in performing its functions under this Bill or the Telecommunications Act is blind to the ownership arrangements of the companies that it is regulating.

The Bill provides for the administrative establishment and general operation of the Authority including a rigorous process for recruiting and appointing suitably qualified and experienced authority members. The Authority will also be held accountable to the normal financial transparency and reporting requirements. The Bill vests the new regulator with the necessary investigative and enforcement powers to enable it to affectively regulate telecommunication companies in a competitive environment.

At the same time Madam Speaker the Bill provides safeguards, checks and balances to ensure that its decisions are transparent and subject to proper scrutiny. In addition to the normal judicial review provisions the Bill provides for certain authority decisions to be reviewed by a panel of experts with appropriate skills and expertise.

The Authority will also be able to conduct inquiries that relate to its functions at its own instigation or on referral by the Minister or Parliament. Authority inquiry reports are required to be tabled in Parliament by the Minister.

What we have Madam Speaker is followed world best practise in terms of firstly opening up the industry to competition but also ensuring that we have appropriate oversight to provide proper regulation over these industries.

Madam Speaker, I commend this Bill before the House.

**MADAM SPEAKER:** Thank you Honourable Minister and I call for a Seconder for the Motion.

**Seconded by the Honourable Member Patrick Arioka**

You may speak to the Bill or do you prefer to speak at another time. It is open for debate now. Please Honourable Members.

I see the Honourable Member Vaitoti Tupa and you have the Floor.

**MR V. TUPA:** Thank you Madam Speaker. Madam Speaker I seek your approval for me to pass my words of comfort to people in my constituency who are grieving for loved ones at this time.

I extend my greetings to all the people in my constituency, to all the different denominations and leaders in my village of Matavera. I extend comfort to the family that did an unveiling of the headstone of their lost loved one this morning – the family of Rupe and Tai Teokotai and the family. That is the reason Madam Speaker I was not present at our Sitting yesterday. The reason being that the CICC church in Matavera was asked to cater for the unveiling.

Secondly, I would like to say thank you to our Honourable Ministers Robert Tapaitau and George Angene for what you two are doing in the upgrade of the roads in Matavera. We can see the tar sealing of our main roads with the hot mix sealing. This will start in Tupapa and leading to the end of the Matavera road. Then we will wait for further Appropriation for this kind of work to complete Ngatangiia and other parts of the island.

I would like to thank our Deputy Prime Minister, Minister of Finance and our Prime Minister because they have allowed our colourful lights to be installed in Matavera. There were some difficulties from the Minister of Finance but at the end he said there is no problem. It will be done. But most comfortingly for what you have supported as the Prime Minister and for your electorate Manihiki, let us see what is going to happen to them.

Madam Speaker, we return to the Bill that is before the House this afternoon because I have looked through this Bill it has no difference to what Government intends to do. Here is an explanation. Under the direction and responsibility of Environment there is a body called the Rarotonga Environment Authority and some provisions under this Bill is also in line with some responsibilities of the Environment Authority.

I also look at some outlines under the Aponga Uira because when I look at the Aponga Uira it goes along with what is shown in this Bill, because of these outlines I have no problem to support this. This will give a good foundation to enable the Telecommunications Bill that we have just passed to go ahead. This will also assist policies in terms of electricity, the water system and land waste refill.

Madam Speaker, during my time in the Government workforce, this is exactly what I was pushing for and for it to be established. I remember back in those days Environment got into trouble and taken to Court, and for what reason, because something like this was not done. Fortunately, Madam Speaker I was not the Head during that time, so Government has to bear the cost as there was nothing outlined like what we see in this Bill today.

Government paid about \$87,000 to those affected in Murienua. But the problem Madam Speaker was I was the one facing the gun at the time, the person responsible has left and I replaced that person. The matter went to Court and all the blame were directed at me. So we need to give support to the Bills that outlines everything like this so in the future there will be strong foundations established for things like this.



I would like all those in the House and Madam Speaker to be aware that I have read this Bill from front to back as well as the one we had passed. I would like to indicate that I have noted some of the things that I wanted to comment on but that has been done. Madam Speaker, I want to ask us in this House to support whatever protects our people and the intentions of the Bills that we have passed.

But I would like to direct a question to the Minister responsible for this Bill in regards to the Board of CIIC. I believe that a lot of Government assets have been given to this Authority to run. I am happy to look at this Bill because there is an Authority established to look after and to govern this Act.

I am hoping that none of the CIIC responsibilities will have any connection with this because I have done some research on all these Boards that have been created and the involvement of CIIC. This is one of the issues that I want to raise so it will not become a problem for the future because we have accepted the new Bill which has become law and now we are looking at another one that runs closely that works with it. Because it would be under this Bill that will create the body and that will give the authority to this body to administer all the requirements that are needed for the Telecommunications and for this Bill too.

So that is the part, Madam Speaker that I would like to direct to the Minister responsible to carefully look at this regarding the CIIC responsibilities.

If you take some time to have a proper read of this Act you would see what the Bill will establish and you will discover that no-one can find an excuse if they are part of it. That is why I am standing before this House to give my support to all the things that have been outlined in this Bill. I know this Bill is similar to laws under the SOE, other agencies as well as other Ministries.

That is what I wanted to speak about before this House Madam Speaker. Thank you.

**MADAM SPEAKER:** Thank you.

Are there any further speakers? I see the Honourable Tina Browne. You have the Floor.

**HON. T. PUPUKE BROWNE:** Thank you Madam Speaker.

I rise to indicate our position with regard to this Bill. Logic tells me that this Bill must go ahead because of the decision that Government has just taken on the earlier Bill. Having passed the Telecommunications Bill it is inevitable that this Bill should go with it in spite of my reservations with regard to certain areas in this Bill. It is unfortunate that the Minister responsible for this Bill was not at the workshop because those reservations were discussed at the workshop.

The reservations that I had which was indicated at the workshop were not about the Bill as a whole. It was in particular areas of the Bill. I will give you just a couple of examples. If the Regulator is really to remain independent, then the way to achieve that is to make it self-funding. We know that the Financial Supervisory Commission is a good example of that.

I also picked up the fact that there is provision for the Regulator to advertise when there are applications that have been submitted – I have just lost that now. And I thought that was rather odd because applicants – there are commercially sensitive matters that should not be put forward for public consultation.

Aside from those two and others which was mentioned in the workshop, we are a responsible Opposition and we accept that this Bill needs to go through to support the Telecommunications Bill that was just passed.

Thank you.

**MADAM SPEAKER:** Thank you, Hon. Member. Are there any further speakers? If there are no further speakers, I call the Minister Responsible to round up the debate.

**HON. M. BROWN:** Thank you, Madam Speaker. Thank you very much to the Members for their support for this Bill and just to clarify some of the comments that were made, this Authority is not under any other Authority like the Cook Islands Investment Corporation. It is not responsible for managing any assets, it is a regulatory Authority responsible for ensuring fairness in terms of operations by companies and also fairness in terms of service to the consumer. It operates entirely independently in its functions, Madam Speaker particularly once this Act comes into force.

As I mentioned initially it will be regulating the Telecommunications industry but the intention is to broaden its authorities over other monopoly operations that exist in our country. For example electricity provision, this Authority will have the powers to determine whether the pricing for electricity is fair and reasonable.

Eventually it will also have authority over the Water Company and the future Sanitation Entity that will be put in place that will manage water and sanitation in the country. And there is no reason why this cannot also be extended to other monopoly operations such as transportation.

So this is a very comprehensive Bill, Madam Speaker and as the Leader of the Opposition rightly stated to be fully independent it should be self-funding and the long term goal of the Competition and Regulatory Authority is for it to be self-funding. However, in the interim and in the start-up and with one licensee it will definitely require Government support.

Therefore the Members of this House can be rightfully proud that the passage of these two Bills will result in improved services initially for telecommunications for all consumers in our country and I know our people will be waiting in anticipation for firstly the commissioning of the cable, the establishment of the Regulator's Office and the advent of competition into our telecommunications sector which we anticipate will produce cheaper services for all of our consumers.

With those words, Madam Speaker I commend this Bill to this House.

**MADAM SPEAKER:** Thank you Honourable Minister.

I now put the Question:

**That the Bill be read a Second time?**

**Motion agreed to**

**CLERK AT THE TABLE:** Long Title: An Act to (a) Establish the Competition and Regulatory Authority and (b) Provide for the functions and powers of the Authority and (c) Provide for Review of and Appeals from Decisions of the Authority.

**MADAM SPEAKER:** We now resolve Parliament into the Committee of the Whole.

**COMMITTEE OF THE WHOLE**

**MADAM CHAIRMAN:** I seek leave that we go through the two Clauses and I continue in Parts to the end of the Bill.

Thank you leave is granted.

Clause 1: Title - Competition and Regulatory Authority Act 2019.

The Question is:

**That Clause 1 stands part of the Bill?**

**Motion agreed to**

Clause 2: Commencement

The Question is:

**That Clause 2 stands part of the Bill?**

**Motion agreed to**

Part 1: Preliminary Matters

The Question is:

**That Part 1 stands part of the Bill?**

**Motion agreed to**

Part 2: Establishment

The Question is:

**That Part 2 stands part of the Bill?**

**Motion agreed to**

## Part 3: Meetings

The Question is:

**That Part 3 stands part of the Bill?**

**Motion agreed to**

## Part 4: Functions, Powers and Duties

The Question is:

**That Part 4 stands part of the Bill?**

**Motion agreed to**

## Part 5: Complaints and Investigations

The Question is:

**That Part 5 stands part of the Bill?**

**Motion agreed to**

## Part 6: Enquiries

The Question is:

**That Part 6 stands part of the Bill?**

**Motion agreed to**

## Part 7: Enforcement

The Question is:

**That Part 7 stands part of the Bill?**

**Motion agreed to**

## Part 8: Reviews and Appeals

The Question is:

**That Part 8 stands part of the Bill?**

**Motion agreed to**

## Part 9: Financial

The Question is:

**That Part 9 stands part of the Bill?**

**Motion agreed to**

Part 10: General and miscellaneous provisions

The Question is:

**That Part 10 stands part of the Bill?**

**Motion agreed to**

Long Title: An Act to (a) Establish the Competition and Regulatory Authority and (b) Provide for the functions and Powers of the Authority and (c) Provide for Review of and Appeals from Decisions of the Authority.

**Motion agreed to?**

The Question is:

**That the Bill be reported to Parliament?**

**Motion agreed to**

Parliament is resumed.

**MADAM SPEAKER:** I call the Minister to report the progress of the Bill to Parliament without amendment.

**HON. M. BROWN:** Thank you Madam Speaker.

I am happy to report:

**That the Bill has passed through the Committee Stage with no amendments**

**MADAM SPEAKER:** I put the Question:

**That the Report be adopted?**

**Report adopted**

**CLERK AT THE TABLE:** Long Title: An Act to (a) establish the Competition and Regulatory Authority; and (b) provide for the functions and powers of the Authority; and (c) provide for a review of and appeals from decisions of the Authority.

**MADAM SPEAKER:** I think we jumped the line.

Honourable Minister, you were to move for the Third Reading. Please do that. Can we please retract and I call the Minister to move for the Third Reading of the Bill please.

**HON. M. BROWN:** Madam Speaker, I move:

**That the Competition and Regulatory Authority Bill 2019  
be read a Third time**

**MADAM SPEAKER:** Thank you and I call a Seconder for the Motion.

**Seconded by the Honourable Member, Patrick Arioka**

I put the Question:

**That the Bill be read a Third time**

**Motion agreed to**

**CLERK AT THE TABLE:** Long Title: An Act to (a) establish the Competition and Regulatory Authority; and (b) provide for the functions and powers of the Authority; and (c) provide for a review of and appeals from decisions of the Authority.

**BILL READ A THIRD TIME**

**MADAM SPEAKER:** Honourable Members, that completes the First, Second and Third Reading of the Competition and Regulatory Authority Bill 2019.

Thank you and we will go to the Orders of the Day.

**ORDERS OF THE DAY**

Orders of the Day is the Income Tax Amendment Bill.

I call the Minister responsible to move for the Second Reading of the Bill.

**HON. M. BROWN:** Thank you Madam Speaker.

Madam Speaker, this particular Bill is one of six Bills that are before the House and each of them have an amendment that addresses one specific issue and that is the removal of preferential tax rates and it is preferable, Madam Speaker, that these Bills be openly debated by the Members collectively rather than individually.

Therefore when I move for the Second Reading of the Income Tax Amendment Bill, I will also be referring to the other six Bills that are in order and I would be quite happy for other Members also to talk broadly across the six Bills in place on the principals and merits.

With your indulgence, Madam Speaker, I will now speak to the Bills.

**MADAM SPEAKER:** Yes.

**HON. M. BROWN:** In 2017, the Government made a commitment to the European Union to amend certain Cook Islands laws that the EU had identified as containing preferential tax provisions.

**MADAM SPEAKER:** Excuse me Honourable Minister.

Just to clarify a point that was raised to me, did you move for the Second Reading of the Bill?

**HON. M. BROWN:** No I did not. So I should.

**MADAM SPEAKER:** Would you please move for the Second Reading of the Bill before you continue?

**HON. M. BROWN:** Of course Madam Speaker.

Madam Speaker, I now move:

**That the Income Tax Amendment Bill be read a Second time**

**MADAM SPEAKER:** Thank you.

**HON. M. BROWN:** Therefore the laws that were identified by the EU as containing preferential tax provisions include the Income Tax Act of 1997, the International Companies Act of 1981-82, the Captive Insurance Act of 2013, the Insurance Act 2008, the Banking Act 2011 and the Development Investment Amendment Act of 1995-96.

Amendments to all of these laws are to be enacted by the 31<sup>st</sup> December this year to avoid the Cook Islands being listed by the EU as a non-cooperative tax jurisdiction or, in other words, as being “blacklisted”. Being listed by the EU as “non-cooperative tax jurisdiction” would be highly undesirable for the Cook Islands. The EU’s list is a prominent international list that is expected to influence foreign governments and international financial institutions. It would harm our country’s international reputation and negatively impact international banking relationships for the public and private sectors causing extreme difficulty in accessing financial markets and processing international financial transactions.

In order to ensure that the Cook Islands meets its commitments to the EU, these laws need to be amended by the following Bills which form a suite of amending legislation and I will just go through these quickly Madam Speaker.

The first one, the International Companies Amendment. Section 249 of the International Companies Act provides for exemption from Cook Islands tax for any company incorporated or registered under the Act. The EU has identified this exemption as preferential given that the rate of company tax for companies incorporated domestically is 20 per cent. This Bill will remove that exemption. A transition period will be put in place for companies incorporated under the International Companies Act before the Bill is passed into law so that the exemption will continue to apply until the 31<sup>st</sup> of December 2021.

If I turn to the Captive Insurance Amendment Bill, the Captive Insurance Act currently provides a tax exemption from Cook Islands tax for any licenced captive insurer that is incorporated under the International Companies Act. This tax exemption will be removed in accordance with the amendment to the International Companies Act.

Thirdly, the Insurance Act of 2008 creates a number of classes of insurance licence. Among them is the Class C licence that can only be issued to a company incorporated under the International Companies Act. Therefore, as an international company, the licensee is therefore exempt from all Cook Islands taxation.

With the enactment of the Captive Insurance Act in 2013, there is no longer a need for a Class C licence as they fulfil the same function as a company licensed to carry on captive insurance under the Captive Insurance Act of 2013. Category C insurance licences then will therefore be removed from the Insurance Act of 2008.

When I turn to the Banking Amendment Bill, Section 55 of the Banking Act provides a tax exemption for any licensee incorporated and registered under the International Companies Act. This tax exemption will be removed in accordance with the amendment to the International Companies Act noted previously.

For the purposes of clarification, the amended Section 55 provides that any income derived from an account that is provided by a licensee in the conduct of international banking business under an international banking licence is not withholding income.

I turn to the Development Investment Amendment Bill. Section 27(a) of the Development Investment Act establishes tax incentives and concessions for enterprises and activities wanting to invest in the Cook Islands. The EU has indicated that the provision of such incentives and concessions is preferential and because they are granted on a discretionary basis are also harmful and therefore must be removed.

Section 27(a) of the Development Investment Act and its regulations will be repealed so that the tax incentives and concessions will no longer be available. The BTIB reports that the concessions and incentives regime is also unsound and no concessions or incentives are being granted until amendments are made to address the provisions.

The Cook Islands position on Pacer Plus introduces a regime that will further make the BTIB concessions and incentives redundant.

Lastly, the Income Tax Amendment Bill, Madam Speaker. Section 42(1)(j) of the Income Tax Act has been identified by the EU as being preferential as it exempts revenue generated from certain public works from income tax. They also consider it harmful as such exemptions are granted on a discretionary basis by the Collector of Revenue Management even though these exemptions are rarely used.

Further, there are comparable charitable exemptions from income tax available under the law which provide tax relief for projects that are intended to benefit the public at large which fall within the established grounds of trust law. Therefore, Section 42(1)(j) of the Income Tax Act of 1997 will be removed from the Act.



Madam Speaker, recently I returned from a meeting at the OECD. This is the organisation that has determined the income level of our country and said to us that we now qualify as a high income country and we now graduate to developed nation status as of the 1<sup>st</sup> of January. The meeting I attended was the 10<sup>th</sup> anniversary of the OECD's global forum on tax transparency. Essentially, the OECD is looking at a global movement to remove secrecy provisions that enable companies or individuals to avoid paying their fair share of tax in foreign jurisdictions.

As a member of this global forum from year one, today there are now 158 countries that are a member of the global forum on taxation. Every one of those countries Madam Speaker has committed to the removal of secrecy provisions for the avoidance of tax and has also engaged in the automatic exchange of information between countries. In short, Madam Speaker, it is now very very difficult for anybody to try and hide their money in a foreign jurisdiction in order to try and avoid paying their fair share of tax. This global forum impetus, Madam Speaker, one of the outcomes is what we are seeing here in terms of the EU requirements to remove preferential tax rates that may be taken advantage of by individuals or companies from other countries and parking it in our country. Those days are gone Madam Speaker. You cannot hide any more.

In 2017 the Ministry of Finance Revenue Management Department gave one year's notice to Cook Islanders to ensure they report on any income that they hold in foreign bank accounts. The requirements of the automatic exchange of information between countries Madam Speaker, just to date our Department of RMD has over 14,000 account information's from 44 different countries with accounts totalling close to \$2 billion and we are one of the small jurisdictions Madam Speaker. When you are talking about international investment in foreign accounts, you are talking in the trillions of dollars.

By the same token, Madam Speaker, Cook Islands individuals and entities hold 1,500 bank accounts in 33 different countries around the world with close to a combined account value of half a billion dollars. This is information Madam Speaker that we did not request. It is the result of the automatic exchange of information that is coming into our agencies. But this does allow our authorities then to be able to ask pertinent questions to ensure that account holders of these accounts are complying with their tax obligations.

So the world of finance is changing Madam Speaker for all of us and it is important that the companies that are involved in the finance sector change the way they do business away from the traditional form of doing business to a new way of doing business which is centered around the provision of service and the protection of assets.

I am quite happy Madam Speaker because of the nature of these raft of legislations that we have to have an in-camera session for our Members of Parliament if required or if so desired and to have our officials come forward tomorrow to be able to answer questions or queries that Members may have regarding this suite of legislation in order to facilitate the speedy passage of these laws through Committee stage and through Parliament.

Therefore, Madam Speaker, I commend these raft of Bills to the House for its consideration.

Thank you.

**MADAM SPEAKER:** Thank you. I call for a Secunder to the Motion on the Second Reading of the Bill.

**Seconded by the Honourable Minister, Rose Brown**

Are there any speakers? I see the Honourable Tina Browne.

**HON. T. PUPUKE BROWN:** I was hoping that the Motion that all these six Bills be dealt with together might also be put to the Table.

**MADAM SPEAKER:** I am not sure that we can do that. I do not think we can. We would have to go through the process of 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> Reading of each Bill. I do not think we can do it.

**HON. M. BROWN:** Thank you Madam Speaker. I think the procedure as you outlined is quite correct. We would have to pass each Bill individually.

**MADAM SPEAKER:** But you do not debate or anything like that.

**HON. M. BROWN:** That is right, the debates would take place on the principles and merits of the first one and then cover all of the other Bills but because the particular Clauses all involve removal of preferential tax rates. So they are quite specific to each Bill.

**MADAM SPEAKER:** Yes, but each one will become an Act on its own so they need to go through the first, second, third reading each one.

**HON. M. BROWN:** But the debate on the principles and merits can be on any one of these Bills. Thank you.

**MADAM SPEAKER:** Yes. I see the Honourable Selina Napa.

**MRS S. NAPA:** I just want to raise a question about the Development Investment Amendment Bill because the Minister mentioned this Bill will also touch on the Captive Amendment.

I just want to make reference to Section 9, 11 and 12. I am happy to see in Section 9 that the Board must notify in writing those departments or agencies of the government that have an interest in decisions made by the Board under this Part. Under these provisions for some of the companies wanting to enter into this country through the Development Investment Board to do business, some of our agencies or departments are not aware of these things. It is only appropriate that these agencies work together, collaborate in terms of Immigration for those individuals entering as well as Justice for companies registered and operating in our jurisdiction.

Under Section 11 under Annual Filing of Information, these laws should be followed. I know there is a form that you have to fill in annually but I am not sure whether the

actual follow up of these businesses to provide their information annually is being followed up.

I think this is one of the problem areas for people entering our country and they have been here for a long time and how come this is happening. I suppose through this filing of annual information we are able to track their progress whether they remain in the same employment or they changed their business or employment.

Under Section 12 of Enforcements, I am encouraging that we should enforce compliance with these Regulations especially for those visitors, guests from outside entering to do business in our country. I guess some times may be because of our Christian values that we are not enforcing the fullness weight of the law on these guests and just let these things happen and they continue to live in our country.

For these six Bills has been mentioned, I would like to rise to give a few thoughts on the Development and Investment Bill.

And if I may Madam Speaker to take some time to offer my condolences to families of mine who have gone through some bereavement over the past week. This elder of mine, Papa Grand Maireroa from the Raina tribe who have passed on as well as the family preparing for his burial tomorrow.

I would like to acknowledge my Constituency of Titikaveka for the three schools involved where we are now entering into the price giving times of these three schools. Let us work hard in celebrating the efforts and the achievements of our hard working students during their time of study.

I would like to acknowledge and give my support to one of the people in our village of Titikaveka the wife of who we know as Papa Fungi who has a Takeaway at the market with their fund raising for her ailment next week. I would encourage the Members of this House if you are able to assist with this sudden illness on this friend of ours as we look to seek help for her ailment.

Coming back to the Bills, there is an agreement on our side that our Leader will talk on our behalf, however I rise to give my support to the Development Investment Amendment Bill. Kia Orana.

**MADAM SPEAKER:** Thank you and I see the Honourable Tina Browne. Can you be very brief because we will be closing up for the day soon?

**HON. T. PUPUKE BROWNE:** I am happy, Madam Speaker to sit down so we can adjourn now.

**MADAM SPEAKER:** It is five to five and perhaps to be tidy we leave things as they are and when we come back tomorrow then you will have the Floor first.

Thank you very much Honourable Members for a good day's work and we will adjourn till tomorrow at 1.00 p.m. So if I can ask somebody to close our day with a prayer please.

**CLOSING PRAYER**

**MADAM SPEAKER:** Parliament is adjourned until Wednesday, 11 December at 1.00 p.m.

**Sitting adjourned at 4.58 p.m.**