

Republic of Nauru – 20th Parliament

Legislation Publication Bill 2011

SECOND READING SPEECH

H.E. Hon Marcus Stephen MP

14 April 2011

Mr Speaker,

It gives me great pleasure to introduce to the House today the *Legislation Publication Bill 2011*. The Bill assists in the implementation of one of the major outcomes of the Legal Information Access Project (LIAP), which commenced in March 2010. The goals of this project are:

- to strengthen human rights and good governance in Nauru, in particular transparency of government;
- to strengthen the capacity of Nauru's legal and judicial system; and
- to improve access to Nauruan legal information for the government, administration, legal practitioners, students and the public in a manner that is sustainable over the long term.

The end results of LIAP will be:

- consolidated electronic reprints of all laws in force;
- a searchable database containing a complete and accurate collection of legislation, court decisions and Gazettes that will be available on-line to the public free of charge; and
- a Legal Publication Unit responsible for maintaining the database and for other publishing tasks.

Mr Speaker, until recently it has been impossible to find or access a complete and accurate collection of the laws of Nauru, and there has not been a consolidation of legislation since 1966. It is essential for people to be able to access the laws that apply to them, and it is especially important for the people who administer or apply the law (such as government departments and the courts) to have a complete and accurate picture of what the law is.

The traditional role of the Government Printer is to produce consolidated hard copy reprints of laws – that is, laws that have been amended are published with all the amendments incorporated into the text of the law. This allows the public to access up-to-date versions of the law. Hard copy reprints are expensive to produce, a cost which is recouped in most jurisdictions by charging the public for copies. In recent years, many jurisdictions have

harnessed advancements in technology to also provide free electronic versions of laws via an online database – this improves access to the law, because electronic versions are both free to access and can be published more rapidly than hard copy reprints. However, electronic versions are not usually given the status of official reprints – they are a useful tool for legal research, but are not accepted by the courts as definitive statements of the law as in force at a particular time.

Some jurisdictions, however, have gone further by enacting legislation that gives official status to electronic reprints – this means that the version published online is the definitive version that will be accepted by courts as an accurate reflection of the law as in force at a particular time. This particularly suits jurisdictions like Nauru that no longer have an official Government Printer and therefore have no other way of publishing authoritative reprints of laws.

The *Legislation Publication Act* will create certainty for users of electronic reprints of our laws by providing a presumption that such reprints are a complete and accurate reflection of the law in the absence of proof to the contrary. This would not only be a milestone for access to the law in Nauru – it would also place Nauru at the forefront of developments in access to legislation taking place around the world.

Mr Speaker, the explanatory memorandum outlines in detail each clause of the Bill. However, I would like to explain briefly some of the major provisions.

To facilitate the publication of official electronic reprints, it is necessary to empower an office-holder to establish and maintain the necessary database and prepare and publish laws on the database. In Nauru, as in most other jurisdictions, this role will be carried out by the Parliamentary Counsel. The Parliamentary Counsel is not currently a statutory office, and the Bill includes provisions establishing the office to facilitate the operation of the rest of the Act.

As I mentioned previously, the Act would create a presumption that laws published on the official legislation database are a complete and accurate reflection of what they are stated to be – that is, if the electronic version of an Act is stated to be the Act as certified by the Speaker, the courts will presume it is an accurate record of the Act as certified. However, if a person can prove that there is an error in the electronic version (for example, by producing the original certified version of the Act), this presumption will be displaced.

The Act will require the Parliamentary Counsel to correct an error in the database as soon as he or she becomes aware of it. For transparency, the details of the correction and the reason for it must be included in the database.

The Act will also specify the information that must be included in a compilation of an Act that incorporates amendments made to the Act. A history of the amendments must be included, showing the legislation that made the amendments, the provisions amended and the day the compilation was prepared. This ensures that a person who accesses the compilation is aware of the date up to which amendments have been incorporated – if further amendments have been made after that date, the person will know that they are not accessing the most up-to-date version of the Act. However, they may be seeking the historical version (for example, if they are dealing with matter that relates to something done under the law as in force at some point in the past).

Mr Speaker, the Legislation Publication Bill paves the way for a new era in the management and availability of legislation in Nauru. It is no exaggeration to say that the creation of the online database, coupled with the presumption that material published on the database is authoritative, will revolutionise the operations of the courts and government departments, and provide the people of Nauru with ready access to up-to-date laws that they have never before enjoyed. As we near completion of this important project, we are realising the fundamental right of every Nauruan to access the laws that affect them. This is an achievement we should all be extremely proud of.

I commend the Bill to the House.

Hon. Marcus Stephen, M.P.
President