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THE STRUGGLE FOR THE OIL PIPELINE
IN PAPUA NEW GUINEA

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IN PAPUA NEW GUINEA

by
Brian D. Brunton

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"We, who seven years ago
Talked of honour and of truth
Shrick with pleasure if we show
The weasel's twist, the weasel's tooth".

W.B. YEATS, Nineteen Hundred and Nineteen
1. INTRODUCTION

This paper describes the struggle in Papua New Guinea for control of the country's first oil pipeline. The struggle was between a group of multinational corporations and a diversity of national interests who it would not be improper to refer to as 'the people'. In the short term, 'the people' failed to gain control of the pipeline, and the multinationals acquired the ownership of a strategic asset, which is a substantial gift by way of a tax benefit.

An oil pipeline is important to the nation because it is the conduit through which a high-value, non-renewable resource is transmitted before being loaded onto tankers for export. Those corporations that control the pipeline exercise economic and political power over competitors and over the nation-state. To place this control in the hands of the private sector, or one group of private investors, has obvious disadvantages because the interests of private or individual investors are not necessarily congruent with the wider national public interest. Such private investors spent much effort trying to convince us that their interests and the public interest were the same, but history does not treat their case well.

The events behind the struggle for the pipeline are not just Papua New Guinean history. Some events unfolded outside Papua New Guinea, in the United States of America, some relate to the expansion of the global oil industry and the development of the global market, and some relate to the coercion and manipulation, not just of the Third World, but of stable democracy. The events constitute not only a critique of the domination of the South by the North, but a critique of democracy itself, and raises questions about community integrity in post-modernist society.

Constitutionally, integrity is not idealistic. Contrasting with dependence, subservience and subordination, it sits well with interdependence and a dignified place of a people in the world. National integrity means that a people should be able to make their own decisions and have some degree of autonomy, that their sovereignty should not be reduced by external political, economic, or military dependence, and that the leadership should be free to make its own decisions (CPC Report 1974: Ch. 2, p.3, para.3).

The Australian Experience

A recent Australian experience makes these points clearer. In 1975, the Australian Labor Party was driven from office through a series of events that had, as their nucleus, a determination to get greater control over mineral resources. This experience has important implications for Papua New Guinea because, in 1973, the Whitlam government established a nationally-owned Pipeline Authority with a view to extending a pipeline grid across the whole continent. Although only part of the grid was ever put into place, a significant degree of nationalisation was achieved with major gas pipelines from Central Australia to New South Wales and South Australia remaining in public hands. The pipeline linking the North-West Shelf to South-East Australia was never completed, and the current Labor government has moved to privatise the Pipeline Authority.
2 The Struggle for the Oil Pipeline in PNG

Before 1972, Australia had no centralised ability to monitor the exploitation of its natural resources. Resources were a matter for the states and the business community. This hands-off attitude was passed on to colonial Papua New Guinea. The events surrounding Australia’s mineral resources after 1949 have reflected divestiture and neglect. The Commonwealth Oil Refineries were sold off by the Menzies government, and foreign investment was encouraged to take a dominant position in all the major mining activities associated with aluminium, oil, natural gas, iron and copper. The Australian Government did not collect statistics or collate data on mining investments and contracts, and had very little ability — apart from customs legislation — to control export prices. Australia’s mineral resources were sold off and sold out.

In 1972, the Whitlam government put an end to much of this lack of control. It came to office with a slim majority and no control over the Senate. Whitlam formed a Commonwealth Ministry of Minerals and Energy, and appointed Rex Connor as the Minister. Connor was a giant in all senses — a nationalist with a clear vision of the strategic importance of the mineral wealth of his country. He was the well-spring of the Whitlam government’s minerals policy. The Whitlam government established a Royal Commission into the petroleum industry, commissioned a report on the contribution of the minerals industry to Australian welfare, abolished tax concessions to mining companies thus ending a subsidy to the mining industry, and sought to directly intervene in the mining and petroleum industries in Australia (Whitlam 1985: 238-263).

The main vehicle for that intervention was to be the Petroleum and Minerals Authority which would explore for and develop resources, promote Australian ownership through joint ventures, and process, transport, and market minerals. Closely associated with the Petroleum and Minerals Authority Bill, was the proposal to establish a national pipeline grid and a national Pipeline Authority. The national pipeline grid was to bring cheaper gas from Central Australia and the North-West Shelf to the cities in South-East Australia, so turning the export of a raw material into something that could enhance domestic production. The Pipeline Authority Act was passed in June 1973. This legislation met with strong opposition in Parliament, as well as from mining and oil companies, right-wing journalists and the press (Connell 1978: 119).

Both the Petroleum and Minerals Authority and the Pipeline Authority needed to borrow capital to accomplish their tasks. Connor identified a US$65 billion capital market in Middle-East petro-dollars and proposed to borrow US$4 billion dollars. Nearly A$2 billion would have gone on pipeline construction, and the balance on a petro-chemical complex, uranium mining, railway electrification, and upgrading the coal export industry. The idea of the government borrowing for commercial purposes to enhance Australia’s economic productivity was an anathema to the Australian Right. There was major opposition from big business institutions, both international and domestic.

Initially the opposition was centred around conservative bureaucrats in the Department of Treasury who Whitlam believed undermined the policy
whenever they could, and leaked material to Opposition politicians (Whitlam 1976). However, there is also a view that the United States Government became involved in a much wider plan to bring about the fall of the Whitlam government. The Labor government sought to have greater control not only of Australia’s mineral resources, but also of Australia’s defence and foreign policy. It appears that two operations were put in place — one to discredit the Australian Deputy Prime Minister and Treasurer, Jim Cairns, and the other aimed at the Minister for Minerals and Energy, Rex Connor, although the precise extent of American involvement is not clear (Pilger 1989: 153-155).

Connor and Cairns had the brief from Whitlam to secure large loans. Cairns opened negotiations with the Arabian Monetary Agency (personal communications, J. Cairns, July 1991). On 8 December 1974 Whitlam gave a brief to Connor to raise US$4 billion (Cairns 1976:93) using a bankrupt conman, Tirath Khemlani, who had been recommended to Connor by the London bullion firm Johnson Matthey, through the Australian Government’s legal advisers in London, Coward Chance & Co (Pilger 1989: 154; Kelly 1985: 160). This authority was revoked on 7 January 1975 (Cairns 1976: 94), but was reinstated when a A$2 billion loan was authorised on 27 January 1975. Immense pressure was put on the Whitlam government by the media which made all sorts of allegations regarding improper and corrupt dealings by government ministers. Eventually, the authority was revoked on 20 May 1975 (ibid.: 100).

Cairns had been persuaded to give letters to Harris, a Melbourne businessman, on the basis of other letters shown to him by Harris from Commercial International, which was reputedly a company set up by the United States Navy Intelligence and used by the CIA for ‘dirty tricks’ (Pilger 1989: 154). The letters were mere expressions of interests which Cairns stated that he had no recollection of having signed. Cairns was first shuffled to the environment portfolio because of this, but was later sacked from the ministry when it was alleged that he had misled Parliament. Cairns had stated in Parliament that he had not offered a commission to any middlemen to raise loans for the government. However, the Opposition was able to produce a letter signed by Cairns saying that the government would be prepared to pay a brokerage fee in the event of a successful negotiation of an overseas loan. Cairns denied that he had ever knowingly signed such a letter, and after refusing to resign he was sacked (Cairns 1976: 104).

The role of the courts in the Australian politics of the time was important. In 1974, Opposition members sued government politicians over the constitutional validity of the double dissolution of Parliament (which had occurred on 11 April 1974), and the reconvening of the new Parliament (to consider six bills including those containing the resources initiatives). In August 1974, the Opposition tried to force proceedings and have the matters quickly determined by the Court. The Court decided that it had the power to intervene if the procedures used by the government were unconstitutional, even though the procedure adopted by the government for the double dissolution was constitutionally valid. However, it refused to fast-track any other scrutiny of the legislation until the bills had been passed by Parliament (Cormack and ors v. Cope and ors [1974] 131 CLR 432) and refused to examine the individual bills that were before Parliament.
This decision left the government very much up in the air, sponsoring legislation that could still be challenged in the High Court, not on the basis that the content of the bills exceeded the government's constitutional authority but because there was a procedural defect in the way in which they had passed through the Parliament. The problem was that the Australian legal system had not yet 'come into the twentieth century'; it would not give advisory opinions. It is tempting to suggest that the decision by the High Court to defer these issues was narrow-minded, somewhat archaic, and in the circumstances of a Parliament that was finely divided, rather irresponsible. A government is entitled to know where it stands, and a nation is entitled to expect that its appellate court will not unnecessarily destabilise the legislature or executive.

Two days after the first decision of the High Court, a joint sitting of both Houses of Parliament passed the Petroleum and Minerals Authority Bill. A week later, the Victorian Liberal Government sued for declarations that the Act was invalid. That litigation continued for more than a year before the High Court held that the proper procedures had not been followed and that the Act was therefore constitutionally invalid (Victoria v. The Commonwealth and Connor [1975] 134 CLR 81). These events may not be unremarkable and can be rationalised in terms of orthodox legality, but historically, as we shall see with Papua New Guinea, the intervention of conservative judges can prove to be the straw that breaks the camel's back in the struggle of a people for the control of their own natural resources.

Subsequently, the Australian Treasurer was sacked, and the Minister for Minerals and Energy was ridiculed in Parliament and publicly in the press. The government's most crucial reforming legislation was held up by the courts, thus frustrating its attempt to implement its policies and contributing to its overall political instability. Connor was personally sued, and the action was kept going after the fall of the Whitlam government in 1975. It continued until 1978, even though Connor died in August 1977 (Whitlam 1985: 254-255). Connor was forced to resign when Khemlani arrived in Australia and disclosed that the loan negotiations had proceeded with Connor's approval after Whitlam had ordered them to cease (Kelly 1983: 260-265).

The case for the social ownership of an oil pipeline is straightforward. After it is established that a commercial body of oil or gas exists, and the market value of the reserve is such that it is economically viable to build a pipeline, then the construction of the pipeline becomes a technical matter. As the pipeline is essential to the exploitation of the oil reserve, it becomes bankable in the same way as any other technical ingredient associated with the development of the oilfield. While a pipeline is, in principle, essentially bankable, it does not follow that all pipelines must be owned either in part or exclusively by private investment. The organisation that owns the pipeline makes a profit by charging a toll on the volume of the material that passes through it. When the oil and the pipeline are both owned by the same person, then there is a notional charge on the use of the facility.

More appropriately, a pipeline may be viewed in the same way as a road, a railway system or a shipping line. It is the surplus from the use of this facility
that becomes one of the issues in the argument over pipeline ownership. Furthermore the organisation that owns the pipeline has control over its use. This may be limited by law, but the ownership nevertheless gives considerable economic power. By controlling tolls and access to the pipeline, the owners can determine the viability of oilfields, and whether or not exploration proceeds.

The other element of concern is that of political control. The arguments for and against the social ownership of an oil pipeline may be put in terms of the concerns surrounding privatisation. However, privatisation is a limited debate, and is part of the agenda set by Friedmanism during the 1980s which had the effect of marginalising an earlier and more profound discussion about imperialism and the subordination of Third World economies. Here, we seek to re-establish the discussion about multinational corporations and the national interest of the Third World.

2. CHEVRON’S CORPORATE HISTORY

The struggle for control of the oil pipeline in Papua New Guinea involves a multinational corporation — the Chevron Corporation of California. There are several other investors involved in the Kutubu Joint Venture including the State, British Petroleum, and Australian and Japanese companies. However, the driving force behind the Kutubu project is the Chevron Corporation as the project manager and coordinator. Although the involvement of British Petroleum, BHP and the Japanese companies is not treated with the same attention, this is not exclusively Chevron’s story; it is also an account of political development in Papua New Guinea. Nevertheless, to fully understand what has happened, it is necessary to detail the corporate culture of Chevron.

The Early Days of Chevron: SOCAL

Chevron, or as it used to be known, SOCAL, was one of the seven major oil companies — "the Seven Sisters" that dominated world oil production before the formation of OPEC and the crisis of 1973 (Sampson 1978: 23). By 1973, SOCAL was the twelfth largest manufacturing company in the world, based on its assets, and the fourteenth largest manufacturer, based on sales revenue (ibid.: 202). SOCAL emerged from local oil capital in California after Drake’s first drilling in 1861. The original venture was founded by Demetrius Schofield, a pioneer oil driller. Schofield and other local entrepreneurs fought a price war with Rockefeller, who was importing oil to California, around Cape Horn. When oil reserves were discovered under Los Angeles, prices collapsed because of oversupply. In the chaos, Rockefeller bought out Schofield in 1865, and Schofield’s assets became part of Standard Oil of California (SOCAL) for the next eleven years.

In 1906, Schofield regained control of his enterprise, although it remained closely integrated within the Standard Oil group of companies. SOCAL, Exxon and Mobil were traditionally thought of as part of the Standard Oil Group. They all sold their oil at the same price, under the same Standard name; their directors were old Standard Oil men; and their principal shareholder was John D. Rockefeller.
The Struggle for the Oil Pipeline in PNG

The foundations of SOCAL were embedded in sharp capitalist competition and oligopoly. In the early days, it was essentially a Californian company with a chauvinistic and parochial attitude towards wider national interests in the United States. Because it was located on the West Coast, away from the industrialised East and Mid-West regions, and away from the centres of Eastern seaboard-based capital, SOCAL had to battle for markets for its plentiful supply of oil. The organisation developed a blend of capitalism based upon conservatism and provincialism. Sampson (1978) stated that SOCAL made a positive cult of conservatism. Even as recent as the early 1970s he described it as a very stuffy company:

"on the eighteenth floor, the directors are served by reverent black flunkies and timid secretaries; it is only in the last few years that SOCAL has allowed women secretaries" (Sampson 1978: 208).

This conservatism should not be mistaken for backwardness. SOCAL was an organisation that flourished because its austere philosophy gave it clear goals and its principals were engineers, lawyers and people with access to power.

The combination of oil technology through engineers such as Otto Miller — SOCAL chairman in 1966, who planned the huge Ras Tanura refinery in Saudi Arabia; James O’Brien — antitrust lawyer and former senior partner of Pillsbury, Madison and Sutro (SOCAL’s lawyers from the early days); John McCon — former head of the CIA, and its continued support for Californian Republicans such as Richard Nixon, not only made it one of the most formidable money-making machines in the world, but gave it the ability to influence the United States Government.

Its austere conservatism meant that it had little difficulty in adjusting to the moves of an undemocratic and inhuman regime — Saudi Arabia. Indeed, it was Saudi Arabia that made SOCAL (Chevron) a global capitalist, as distinct from a provincial corporation isolated on the Pacific coast of the United States of America (see Yergin 1991: 410-411). The philosophical affinity of conservative America with feudal Saudi Arabia is only seemingly incongruous. However, the phenomena should not pass unnoticed.

SOCAL has a history of putting its own pecuniary interests before national ones. Even when the United States of America was threatened, profits were allowed to predominate over wider collective security. This pattern of behaviour goes back to the turn of the century.

In 1909, President Taft withdrew three million acres of potentially oil-rich federal land in California from sale in order to provide a strategic oil reserve for the United States Navy. This decision prevented the expansion of Californian oil producers such as SOCAL, and a running conflict developed between SOCAL and sections of the federal government.
The battle over the oil reserves continued for the next ten years with SOCAL using the law firm, Pillsbury, Madison, and Sutro to engage the federal government in the courts and to lobby in Congress.

Sutro was a friend of Taft, and although the Secretary of the Navy, Josephus Daniels, was able to put up stiff resistance, with the aid of Californian Senator, Jim Phelan, SOCAL forced Taft and Daniels into a compromise whereby oil drillers got some access to federal land in California (Sampson 1978: 52-54). By 1919, SOCAL had expanded and accounted for twenty-six percent of the total oil production in the United States of America. From its early days, SOCAI grew up in the cutthroat world of American oligopolies, market domination, lobbying, court actions, political intrigue and manipulation.

SOCAL Driven into the Third World: Saudi Arabia

Before 1928, there were regular boom and bust cycles in the oil industry. As early as 1923, there were fears of an oil shortage (ibid.: 78). SOCAL's oilfields were largely in California and its directors were torn reluctantly between the prospects of dwindling domestic oil reserves and having to spend capital on overseas exploration.

The company began to explore for new reserves, outside the United States. It spent millions of dollars (unsuccessfully) on exploration in Latin America, the Philippines, and Alaska. Its conservative directors were never at ease with the speculative nature of oil exploration in foreign countries, particularly as the market changed from shortage to glut after 1927, when the Soviet Union disrupted the market by playing off one company against another and releasing their cheap crude oil onto Western markets. However, after 1928, the major oil companies agreed to divide the world into market shares by controlling the supply and pricing of oil. Nevertheless, largely by a stroke of good fortune SOCAL became involved in the Middle East in the early 1930s.

The background of how SOCAL began operations in Saudi Arabia reveals the texture of the oil politics in which Chevron existed. It begins with the vision of the Armenian entrepreneur Calouste Gulbenkian who saw the potentiality of the Tigris Valley for oil in 1914 and formed the Turkish Petroleum Company (TPC), with British Petroleum, Shell and the Deutsche Bank. In 1919, as part of the victors' division of the spoils of war, the corporate structure of TPC was revised at an international conference in San Remo in a new TPC Agreement. The German interests were transferred to France which put them in the hands of its national oil company, Compagnie Francaise de Petroles (CFP). This conference also gave a twenty percent share to the Iraqi State.

The immediate post-war revision excluded American oil investment from the old Ottoman Empire as the area was considered a British and French sphere of influence. However, the United States of America's State Department, driven by American corporations, took up the challenge on behalf of its oil companies, and pressured the British Government until a twenty percent share of the Turkish Petroleum Company was given by the British to American interests. What was at stake was access and control over Iraqi oilfields. Seven American
companies were party to the deal including Exxon, Gulf, Texaco and Mobil. All but two dropped out, leaving Exxon and Mobil in the cartel.

In 1925, the Iraqi Government was forced to sign an agreement which stripped it of its twenty percent equity, gave the Iraqis a royalty of four gold shillings a ton, and granted a concession to the year 2000 to the renamed Iraq Petroleum Company. As part of the agreement, each member of the cartel agreed not to seek further concessions in the former Ottoman Empire. Gulbenkian ('Mr. Five Percent') kept his five percent control and drew a 'Red Line' on the map around Turkey, Syria, Palestine, Jordan, Saudi Arabia and Iraq. The shareholders were excluded from further participation in concessions in these countries unless they all agreed on the manner of the participation (Sampson 1978: 82-85).

In 1923, a New Zealand Geologist, Frank Holmes, had seen the significance of oil in Saudi Arabia. He moved to Bahrain and bought a concession there from the sheikh (ibid.: 103-104), but he had difficulty in attracting the attention of the major oil companies. Eventually, Gulf took over Holmes’ rights in Saudi Arabia and agreed to work with him to secure a concession in Kuwait. However, Gulf was bound by the TPC agreement and could not get approval to operate in Saudi Arabia or Bahrain, so it had to settle for Kuwait. The British did not want an American company in Bahrain, so Gulf sold its Bahrain interests to one of SOCAL's Canadian subsidiaries. SOCAL was not a member of the TPC and was not bound by the 'Red-Line Agreement'.

After protracted diplomatic manoeuvring by the governments of Britain and the United States of America, the British allowed SOCAL into Bahrain conditionally and SOCAL's Bahrain Petroleum Company went on to strike oil in 1932. In the same year SOCAL became seriously interested in exploration in Saudi Arabia. King Ibn Saud's government was short of money and negotiations dragged on into 1933, with the Iraq Petroleum Company and Anglo-Persian bidding against SOCAL for the concession. The negotiations were helped along by Jack Philby (Kim Philby’s father) who worked with King Saud, the Iraq Petroleum Company and SOCAL. In May 1933, a concession was granted to SOCAL over some 360 000 square miles and was to last for sixty years. In consideration, King Ibn Saud received gold worth US$270 000 in loans over a period of eighteen months and a further loan of $500 000 when oil was discovered. The loans were to be repaid out of future royalties. Jack Philby received enough money from SOCAL to pay his son’s university fees at Cambridge where Kim Philby was recruited by the MKVD (Yergin 1991: 280-290). SOCAL established the Californian-Arabian Standard Oil Company (CASOC) with its headquarters in a Jeddah building rented from Jack Philby.

SOCAL’s position in Saudi Arabia was achieved partly as a result of its status as a lesser member of the oil cartel and because it was not a party to the TPC agreement. In other respects, it was achieved by a confluence of opportunism. There was the opportunism of the Saudis, who were in need of cash, and who played one multinational off against another, as if they were engaged in bargaining with rival clans or tribes. In retrospect, it may be harsh to
say that their world view was limited and amounted to being prepared to sell the birthright of their people for a mess of pottage. SOCAL’s access to Arabian oil was achieved because its executives were more prepared to offer loans of gold to the Saudis than were their competitors. However, more widely, SOCAL gained access to Saudi oil reserves as a result of a realignment in the strategic imperial balance.

German and Turkish interests were expunged by the defeat of those countries in war, while Britain and France were declining world powers. The war had been won by the intervention of the United States. Even though the Arabian Peninsula was not part of the pre-war sphere of influence of the United States, that country was able to capitalise on its rise as a strategic power and intervene on behalf of its nationals in the region.

The Saudis were barely a nation, were still involved in tribal fighting, and were technologically ill-prepared for their role as a supplier of raw materials to the industrialised world. At that time, the combination of American strategic power, resourcefulness, and acumen of its corporate executives were no match for the Saudis. From a Papua New Guinean perspective, there are some striking similarities between the position of their country in the 1980s and that of the Saudis in the 1930s.

By 1935, SOCAL was having difficulties in finding markets for its Bahrain oil and cut back on production. Also, European refineries could not handle the Bahrain crude because of its high sulphur content. Texaco, another American company, had markets in Africa and Asia, but no local supply. SOCAL and Texaco therefore agreed to pool their resources East of Suez in a joint venture and formed the California-Texas Company (CALTEX). Texaco also bought into SOCAL’s Saudi Arabian concessions (Sampson 1978: 106-107). According to Sampson (ibid.), SOCAL and Texaco were viewed within the oil industry as the terrible twins — the people who always said ‘no’. Apocryphally, Joe Cullinan, the founder of Texaco, flew a skull and crossbones flag from his offices, before he was ousted in 1913.

Texaco had a reputation for austerity, penny-pinching and general negativity. Culturally, Texaco was from a similar mould to SOCAL. Whereas SOCAL was provincial-conservative-Western-American capital, Texaco was its south-western variation. They both had parsimony, conservatism, provincialism, and the dislike of big government in Washington in common. Texaco was a company with one objective — to make money as quickly as possible, it was not a benevolent institution for world peace (ibid.: 210).

The Trans-Arabian Pipeline (Tapline)

The struggle for the oil pipeline in Papua New Guinea was not the first time that SOCAL/Chevron had been involved in ensuring that it retained control of a pipeline. A bitter struggle was waged between SOCAL and the United States Government over the ownership and control of the Trans-Arabian Pipeline (Tapline), during and after the Second World War. Oil was finally produced for the first time by SOCAL in Saudi Arabia in March 1938, but these operations
were largely shut down after 1940 because of the war. The war had intensified the association of oil supply with the United State's strategic objectives.

Secretary for the Interior, Harold Ikes, responding to the needs of the Army/Navy Petroleum Board, sought to acquire state control over the Arabian concessions to secure supplies for the war effort. SOCAL and Texaco fought Ikes to a standstill. Ikes changed tactics and proposed the building of a pipeline across the Arabian Peninsula to the Mediterranean coast in order to secure oil supplies for the European theatre. The pipeline would be owned by a government body called the Petroleum Reserve Corporation. As part of the deal, Yergin states:

the companies would establish a one billion barrel oil reserve for the American military, which would be purchased at a 25 percent discount from market prices (Yergin 1991).

The oil companies opposed the proposal and it was stalled until after the invasion of Europe when its military necessity waned (ibid.: 398-399). In 1944, CASOC changed its name to the Arabian-American Oil Company (ARAMCO), which was jointly owned by SOCAL and Texaco.

After the war, production recommenced and profits rose dramatically. However, international politics had changed. The Saudis were more confident, Palestine was in crisis, and the Cold War had set in. Communism and socialism were alive in Europe; hence, there was a need to spread the political risk in Saudi Arabia. SOCAL and Texaco had no intention of letting the United States Government build a publicly-owned pipeline in the Middle East.

By 1947, conditions in Europe had changed to such an extent that the Aramco partners struggled to secure steel, which was still rationed, in order to build the pipeline themselves. The 'Tapline' was to cost US$100 million, compared with SOCAL's US$80 million investment in Saudi Arabia as at 1946 (ibid.: 411). This meant that Arabian production would have to be lifted substantially to pay for the new investment. The Saudis were also pressing for an increase in production as they needed more royalties. However, the investment required for the Tapline was huge and, much against its instincts, SOCAL was forced to bring in other partners, and to spread the political risk. Sampson commented on this contradiction:

Ever since it first found oil in Saudi Arabia, its dependence has steadily increased, so that by the seventies half its oil came from its share in Aramco. Once it flowed, the main problem was to find outlets, and to minimise taxes by intricate arrangements of transfer pricing within its subsidiaries, at which SOCAL is specially expert. In all its dealings abroad, it had been obsessed by this Arabian jackpot, reluctant to share it with any new partner, whether from West or the East (Sampson 1978:208).

After quarrels with the French and British over the effect of the TPC agreement, Standard Oil of New Jersey (Jersey) and Socony were let into Aramco in
March 1947 eventually sharing thirty percent and ten percent of the equity, respectively. The new companies granted a loan of US$102 million to Aramco (to be converted to equity later) in return for access to oil. SOCAL and Texaco were to receive US$470 million over several years for selling forty percent of Aramco. Effectively, Jersey and Socony paid for the Tapline, and SOCAL and Texaco reaped the benefit.

The pipeline was completed by September 1950, despite tensions fuelled by the Arab - Israeli War and the partitioning of Palestine. The confluence of interest between the Saudi princes and Californian and Texan executives was to startle many, but it was not surprising. One could surmise that had the Saudi princes been more concerned with Arab nationalism that a Palestinian state could well exist today.

This was the time when the United States was actively backing the creation of the Israeli state, but was unable to secure its Saudi investments by force because of the advent of the Cold War and the threat of direct Soviet intervention. Later, during the Suez crisis, the deterrent offered by the Americans to ensure the acquiescence of the Saudis was not military force, but the threat of turning to nuclear power as an alternative source of energy. It was an empty threat and no-one took it seriously in the 1950s. This dimension of local elitism — its parochialism, malleability, and greed — should not be forgotten, and is relevant when considering Papua New Guinea's response to Chevron.

In 1943, the Venezuelan Congress passed a new petroleum law which had the effect of dividing the rents from petroleum leases equally between the Venezuelan Government and foreign oil companies. The law raised the various royalties and taxes to a level that the State appropriated a share equal to the profits of the companies. The idea of 'fifty-fifty' took time to travel to the Middle East. In 1948-1949, John Paul Getty was able to secure a concession from the Saudis in the Neutral Zone between Saudi Arabia, Kuwait and Iraq for a consideration that was a significant increase over the Aramco agreements. The consequence of this intervention by independent oil companies was to allow the Saudis to put pressure on the Americans. Yergin states that in December 1950 Aramco and the Saudis signed a new agreement, the heart of which was the Venezuelan fifty-fifty principle (Yergin 1991: 445-447).

**SOCAL as Part of the Global Oil Cartel**

The general anti-competitive and oligopolistic antecedents of SOCAL are not only found in its role in United States politics and its concessions in Saudi Arabia. SOCAL was also a participant in the global oil cartel that was put together in the 1920s and lasted until 1947 at least. In 1928, Walter Teagle of Exxon had begun a series of initiatives to counter the oversupply of the market that had been brought about by the Soviet Union. A number of secret meetings were held, culminating in August 1928, when Sir Henri Deterding of Shell, Sir John Cadman of British Petroleum and Walter Teagle of Exxon met at Achnacarry Castle in Scotland and laid down the basis of a global cartel. It was
a loose agreement, at times breached, that was to hold together until 1947 and perhaps as long as 1973 when it was disturbed by OPEC.

There was a good deal of speculation about the nature of the agreement because of the secrecy involved. Sampson (1978) points out that the concerted actions of the multinational oil companies during this period were undoubtedly affected by the nature of the oil market. However, there was sufficient evidence before the United States Senate inquiries in the 1970s to conclude that a cartel existed and that markets were manipulated. The Achnacarry Agreement, known as the 'Pool Association' was not fully revealed until 1952. The principles of the Agreement we now know were to keep petroleum markets 'as is', to accept the present volume of business as a baseline, and to agree that any future increases in production would keep the proportionality set by that baseline. It was agreed that additional facilities would be regulated by market demand and by efficiency considerations; that is, competition was to be restricted. Finally it was agreed that oil prices should be fixed globally according to the 'Gulf Plus System' (the going price in the Gulf of Mexico plus the standard freight charges for shipping from the Gulf to that market). These principles were eventually adopted by fifteen other American producers including SOCAL (ibid.: 90).

When SOCAL came to Papua New Guinea it had an established record for commercial ruthlessness, oligopolistic market practices, association with despotic regimes, political intrigue, parochialism, narrow self-interest and an ability to dominate the most powerful government in the world. However, it also had a record for adaptability and pragmatism. It was tough, but tough in a political context — with its own modern capitalist government, the Marxist-Leninists in Angola, the princes of Saudi Arabia, and now the democrats of Papua New Guinea.

Mexico had nationalised its oil concessions in 1943. Mossadegh nationalised the Iranian Oil Company concessions in 1951. The CIA and British Intelligence funded a coup and Mossadegh fell from power. Iraq nationalised the IPC in 1972. Venezuela completed its nationalisation process in 1974, and Kuwait nationalised its oilfields in 1975 — the year that Papua New Guinea gained independence. The Saudis completed the nationalisation of their oil resources in 1976, and the Aramco concessions were terminated. This did not mean that Chevron and the other Aramco partners left Saudi Arabia. They stayed on because the Saudis needed their technical expertise and their established markets. Yergin comments that:

Instead of being concessionaires, with ownership rights to the oil in the ground, the companies were now becoming mere contractors with production sharing contracts that gave them rights to any stream that they discovered. This new type of relationship was pioneered by Indonesia and Caltex in the late 1960s... the lingering aura of a colonial past was banished; after all, the companies were there merely as hired hands... (Yergin 1990: 652).
One final point can be made about Chevron and its history. At Independence, a policy was developed in Papua New Guinea of avoiding multinational corporations with a bad global track record. For this reason, Kennecott was not courted when it decided to pull out of the Ok Tedi project, and BHP — a modest Australian corporation with little international experience — was encouraged to take over as project manager. On the other hand, Chevron was allowed to take on the management of the Kutubu Joint Venture with a well-earned reputation for muscular treatment of government, including that of the United States. National minerals policy had fallen into disarray by the mid-1980s. It had become the captive of economic rationalism and the view that development can only be foreign investment led. The decision to hand the project management of the Kutubu Joint Venture to Chevron must be seen as an erroneous move on the part of the government.

3. CHEVRON IN PAPUA NEW GUINEA

Chevron Niugini Pty Ltd is the Papua New Guinean subsidiary of the Chevron Corporation — a major oil company based in the United States of America. Chevron has 45,000 employees worldwide, and has operations in the United States of America, Canada, the United Kingdom, West Africa, Indonesia, and Australia. Apart from its involvement in the oil industry, it has interests in chemical manufacturing, mining and land development (Post-Courier, 4 July 1990). Chevron is SOCAL, so Chevron's jewel was in Saudi Arabia, although the company's media releases in Papua New Guinea never mention this connection (see Chevron's corporate profile, Post-Courier 29 January 1991, Kutubu Project Supplement, p.4). Chevron's revenues for 1990 were US$42.6 billion and its net earnings were US$2.157 billion (Post-Courier, 28 January 1991). The total revenue and grants for the Central Government Budget in Papua New Guinea in 1987 were K824.8 million — more than US$1 billion (Turner 1990: 38).

In 1978, two years after having its concessions terminated in Saudi Arabia, Chevron began exploring in the Southern Highlands Province of Papua New Guinea, in the Petroleum Prospecting Licence (PPL) areas known as PPL 100 and 101. Its drilling programme began in 1980. In 1986 oil and gas reserves were discovered in the Jagitu structure (Post-Courier, 29 January 1991, Kutubu Project Supplement, p.5). Thirty-eight holes were drilled and fifty percent of them were positive. The oil came from trapped accumulations in sandstones. The Jagitu and Hedinia accumulations formed a broad complex structure about twelve kilometres long by eight kilometres wide. The Agogo field was an anticlinal structure fourteen kilometres to the north-west of Jagitu/Hedinia (ibid., p.8). It was estimated that they could produce 3,000 to 4,000 barrels of oil a day (BOPD).

The drilling program cost about K350 million, while the development of the oilfield to production was estimated by Chevron to cost a further K850 million. This estimate included a 280 kilometre pipeline, and 110 kilometres of road costing K40 million. The project is anticipated to have an eight to eleven year life span. The production of the first crude oil was expected in November 1992, with a construction phase of approximately three years through to gas injection
The Struggle for the Oil Pipeline in PNG

(Times of Papua New Guinea, 7 July 1990). However, it is hard to imagine that any company would invest US$1 billion over eleven years and then vacate the area.

That level of investment indicates a much larger oilfield, and an intention by the company to stay in the long term. Indeed the lagifu/Hedinia central production facility will have a design capacity of 96 000 BOPD and 96 million cubic feet of gas per day. The Agogo field facility has a design capability of 12 000 BOPD and twelve million cubic feet of gas per day. Initially, the pipeline will operate under gravity flow conditions, but provision is allowed for two pumping stations which can produce a flow of 270 000 BOPD. The tankers which will collect the crude oil from a 2.5 metre loading line will be between 50 000 DWT and 150 000 DWT. There will always be tankers at the mooring buoy to receive crude oil from the pipeline (Post-Courier, 29 January 1991, Kutubu Project Supplement p.7).

The Kutubu Development Project — known as the Kutubu Joint Venture (KJV) is a joint venture involving six major foreign investors and the Government of Papua New Guinea. The joint venture is operated by Chevron Niugini Pty Ltd, which has a 19.375 percent equity. The other partners in the venture are the Ampolex Group (16.455%), BP Exploration (19.375%), BHP Petroleum (9.688%), Oil Search Limited (7.763%), and the Japan (PNG) Petroleum Corporation Ltd (4.844%) (Post-Courier, 21 September 1990). Eventually the largest shareholder in the Kutubu Joint Venture will be the Government of Papua New Guinea. Its 22.5 percent equity will be ‘carried’ and paid out of production (Post-Courier, 21 September 1990; 24 October 1990). In practice, what will happen is that the Kutubu Joint Venture will borrow from its own sources to finance the State’s equity. The KJV will then deduct repayments for these loans from the profits from the sale of oil, that would have gone to the State (Times of Papua New Guinea, 19 July 1990).

BP Petroleum Development Ltd (BP Exploration), a subsidiary of British Petroleum, is a company based in the United Kingdom which has been involved in petroleum exploration in Papua New Guinea for more than seventy years, although there have been periods when it withdrew largely in favour of Oil Search Limited. It has assets worldwide including major investments in the Prudhoe Bay Field in Alaska, and the Forties Field in the North Sea, off the United Kingdom coast. The British Petroleum group has an annual operating profit of approximately US$5 billion and BP Exploration has an annual expenditure of US$3.5 billion. Ampol Exploration Ltd is an associate of Ampol Petroleum Ltd — an Australian company started with local Australian capital in 1936. It has investments in Papua New Guinea, and Australia where it owns a refinery in Brisbane.

BHP Petroleum (PNG) Ltd is the wholly owned subsidiary of the 'Big Australian', BHP. BHP is involved in many levels of Papua New Guinean industry, but most notably as the major shareholder and mine manager of the Ok Tedi Mine. In the past ten years, BHP has developed its range of investments far beyond Australia, with BHP Petroleum having interests in twenty countries. Oil Search Ltd was formed in 1929 in Port Moresby by Australian capital and registered in Sydney in 1934.
It is a small company that has had a long association with British Petroleum, Mobil Oil and later Esso, using farm-out arrangements, and has explored for oil and gas exclusively in Papua New Guinea. It has interests in three exploration permits in the Highlands, together with one offshore permit (Post-Courier, 29 January 1991, Kutubu Project Supplement, p.39).

The Japan (PNG) Petroleum Corporation Ltd bought the Merlin Petroleum Company on 31 July 1990; Merlin was a subsidiary of the Mitsubishi Corporation (4.884%). Merlin Petroleum Corporation was 79.5 percent owned by the Bond Corporation, through the subsidiary Bond Petroleum (USA) Inc., and the Puget Tug and Barge Co., a subsidiary of Crowley Maritime Corporation (USA). On June 1990, the Bond Corporation agreed to sell its holdings in Merlin Petroleum Corporation to a new company called Japan (Papua New Guinea) Petroleum Corporation Ltd, which was formed by the Mitsubishi Oil Co. Ltd and the Mitsubishi Petroleum Development Co. Ltd (MPD). The sale price was approximately K99.5 million. MPD incorporated on 7 June 1990. The Bond Corporation had been forced to sell by its bankers (Post-Courier, 13 July 1990, p.10).

The entry of the Japanese into the Kutubu Joint Venture was significant for two reasons. First, it was a positive move by the Japanese to secure their energy supplies from Papua New Guinea which, in terms of tanker distance, is ten days closer to Japan than sources in the United States of America (Post-Courier, 25 July 1990). Second, the Japanese initiative was significant because of the manner in which it took place at the expense of Australian capital. Weaker Australian capital had retreated from its Papua New Guinean investments and gave ground to the Japanese interests. However, that retreat should be put into context. Merlin Petroleum Corporation held the smallest share of any of the Australian partners, in the Kutubu Joint Venture, and there was no suggestion that BHP or Ampol Petroleum were in a similar situation to the Bond Corporation.

4. SHOULD PAPUA NEW GUINEA HAVE A REFINERY?

The Kutubu Joint Venture has always had its share of controversy. The first major political argument was over the extent to which Papua New Guinea itself should refine the crude oil that it produced. The oil companies and the Department of Minerals and Energy argued for a mini-refinery to be established in Papua New Guinea, while politicians from Southern Highlands and Gulf Provinces argued for a larger refinery that would be able to satisfy all of Papua New Guinea’s domestic needs, at least. The official proposal was for Oil Search Ltd, a ‘Papua New Guinean oil company’ (Niugini Nius, 29 March 1990) to build a mini-refinery which would specialise in the production of diesel and aviation fuel. At a later stage, it could move on to producing gasoline.

The refinery was scheduled to start production in early 1991 and was to produce 1 000 BOPD. The product market in the Highlands was said to be about 1 500 BOPD, and the non-mining sector total product market in Papua New Guinea was estimated at about 6 000 BOPD, although with mining the total market could be double that figure. On this basis the annual total product
market in Papua New Guinea would be 4 380 000 barrels (12 000 x 365). The Department of Minerals and Energy claimed that Papua New Guinea used about 10 000 to 18 000 BOPD (Post-Courier, 5 October 1990), giving Papua New Guinea an annual consumption of 6 570 000 (18 000 x 365). The present oil reserves were estimated to be 170 million barrels, while other reports put this figure at 200 million barrels proven (Post-Courier, 9 October 1990).

It is more than likely that the oil reserve available is much larger. For example, in April 1991, Command Petroleum Holdings NL announced that its wildcat exploration well SE Gobe 1 in PPL 56 produced 3 600 BOPD in a weekend test — the highest flow ever from the jagiwi sandstone formation. The well is within twenty kilometres of the proposed oil pipeline (Times of Papua New Guinea, 4 April 1991, p.4). The SE Gobe 1 well is a find that could significantly expand the known reserves available to Chevron.

The arguments presented by Oil Search Ltd against a larger refinery did not answer the questions raised by critics. The critics argued for a refinery that would substantially satisfy Papua New Guinea’s domestic needs. Oil Search maintained that Papua New Guinea did not need a refinery capable of competing on the export market. However, this was not the point. They stated that a larger refinery would supply a much broader range of products. Oil Search stated that there was an excess capacity of refineries in the world, and that a new refinery in Papua New Guinea would not be competitive.

The cost of building a refinery in Papua New Guinea was estimated to be K1 000 million, and would be too expensive. The internal markets in Papua New Guinea were said to be diverse and not easily accessible. Also, it was cheaper to import the refined product from Singapore. It was not viable to put a refinery in Gulf Province because there was no site for a deepwater port, and the cost of a pipeline to Lae was said to be prohibitive (Ngint Nius, 29 March 1990).

These arguments were supported by the Department of Minerals and Energy which asserted that a major refinery needed a capacity of more than 100 000 BOPD, and that the oil reserves in Papua New Guinea were too small to support a refinery of that size. The reserves would need to have sufficient capacity to last the thirty year life span of the refinery; most refineries are near large markets; and already there is an overcapacity in the world market for refined petroleum products. The department also argued that refineries were very expensive and that it was more practical to export the crude oil (Post-Courier, 5 October 1990).

However, there was something very odd about the department’s position. The argument that a major refinery needed reserves that would last thirty years was weak, because the size of the Kutubu reserves, although not proven, was known to be greater than eleven years. Furthermore, to state that a major refinery needed a capacity of 100 000 BOPD was also far from satisfactory. The central processing facility in the Hedinia Valley would have a processing capacity of 128 000 BOPD. The marine terminal at Cape Blackwood would have a maximum handling capacity of 280 000 BOPD, with pumps installed (Post-Courier, 29 January 1991, Kutubu Project Supplement, p.19).
Should Papua New Guinea Have a Refinery?  17

Are we to believe that the project was being built with a surplus capacity that would never be used, or was the real issue that the major oil companies did not want a modern refinery operating in the South-West Pacific? Not without surprise, the arguments put forward by Oil Search and the Department of Minerals and Energy were rejected by nationalist elements.

The premiers of the Highlands provinces continued to press for a larger refinery. Their reasoning was that if it was possible to supply part of the domestic market with a mini-refinery, then it would have been possible to supply the total market by expanding that installation. The argument that it was not possible to supply a complete range of products from a mini-refinery simply did not ring true.

For those who wanted to see the domestic market satisfied from onshore refining, it was difficult to appreciate that technology could not provide for Papua New Guinea what it had provided elsewhere. The argument that it would be cheaper to bring refined petroleum products from Singapore was familiar. It was similar to that in the World Bank Report on the Tropical Forest Action Plan which stated that Papua New Guinea should continue to export logs because it was likely to be more lucrative than exporting the products of domestic timber processing.

The argument ensured that Papua New Guinea remained a provider of raw materials and that international arrangements were not disturbed. The struggle to make Papua New Guinea more or less self-sufficient in petroleum products was lost when the government backed the oil companies. On 6 September 1990, Chevron called for expressions of interest from potential tenderers to erect a mini-refinery with a capacity of 1 500 BOPD in Southern Highlands Province (Times of Papua New Guinea, 6 September 1990).

The Third National Goal 'National Sovereignty and Self-Reliance in the National Goals and Directive Principles' of the Papua New Guinea Constitution stipulates a:

(5) strict control of foreign investment capital and wise assessment of foreign ideas and values so that these will be subordinate to the goal of national sovereignty and self-reliance and in particular for the entry of foreign capital to be geared to internal social and economic policies and to the integrity of the Nation and the People... (emphasis in the text).

The failure of the government to ensure that full self-sufficiency in petroleum products was achieved by the Kutubu Joint Venture sold short this constitutional principle, and the people of Papua New Guinea.

5. THE STRUGGLE FOR THE PIPELINE

The pipeline will extend for about 260 kilometres from the field storage tanks in the Lagifu/Hedina area to a point 35 kilometres offshore from Cape
The Struggle for the Oil Pipeline in PNG

Blackwood in the Gulf of Papua. During construction, the pipeline's right of way will have a width of about 200 metres, although only a forty metre strip will be cleared to accommodate construction. After construction, a twenty metre right of way will be required for operational and maintenance purposes (Post-Courier, 29 January 1991, Kutubu Project Supplement, p.6). The first 170 kilometres of the pipeline tracks across difficult terrain, largely through rainforest. In Southern Highlands Province it will run through limestone areas, across ridges, rivers, creeks and crevices. The pipeline will be buried. At Kantobo the rainforest gives way to areas of isolated trees, and the pipeline will enter into lower land river systems. At a point 70 kilometres from its end the pipeline will be submerged in the Kikori River (ibid.:p.11). The river route was preferred instead of a marsh island route, for environmental, safety and economic reasons (ibid.:p.19).

The terms of the licence that cover the Kutubu Joint Venture operation give the company the right: to own and operate any pipeline from the well head to the sea port from which the crude oil will be exported. The overall strategy of the legislation which sets out the conditions of petroleum exploitation is to encourage exploration, allow developers to take on the risks of exploration, and ensure that the Government of Papua New Guinea shares handsomely in the returns from the venture through carried equity and relatively high rates of taxation.

The case for the Kutubu Joint Venture ownership of the pipeline was that the partners had the risk of the exploration and it would be unfair to take the pipeline away from them. There were several negative considerations, too. The Papua New Guinean economy had suffered a setback because of the Bougainville crisis, so it was necessary to get the project into production to compensate for the shortfall in revenue. If the legislation was changed Chevron could sue, or would have to be compensated, or at worst, would pull out of the project. As a result, the project would collapse, and foreign investors would lose confidence in Papua New Guinea.

Several options were proposed as alternatives to the Kutubu Joint Venture ownership of the pipeline — those by the Southern Highlands and Gulf Provincial Governments; that by private investors (the Monticello proposal); and a private member's bill (Ramu's Bill). The ideas developed with the Law Reform Commission produced other options, and several Members of Parliament prepared their own versions of alternative ownership schemes. There was no common objective between these options, with, at best, several informal meetings between some of the parties, but by no means all of them. The tactics of those supporting Kutubu Joint Venture ownership of the pipeline were to win key Cabinet ministers, and the landowners. They wanted to discredit any opposition through a smear campaign, and frighten the Papua New Guinean decision makers into resisting submissions concerning the ownership of the pipeline. On the whole this was successful. The tactics of Chevron's opponents were to raise consciousness amongst the Papua New Guinean people through a struggle to pass amendments to the Petroleum Act.
The Monticello Proposals for Separate Ownership

The Monticello proposals were submitted by a group of Papua New Guinean businessmen. The proposals took their name from the company that was to be the vehicle for a privately-owned pipeline. According to Mori, Monticello first made its proposal for separate ownership of the pipeline in August 1989 (Post-Courier, 11 June 1990, p.11). This would appear to be correct because on 24 April 1990, the Post-Courier reported that Monticello's ideas were not new and that the proposal for a 51 percent nationally owned pipeline had been around 'in the corridors of power' for about eight months (Post-Courier, 18 July 1990, p.11).

The Papua New Guinea Chamber of Mines and Petroleum and Chevron immediately objected and stated that the proposal contravened the Petroleum Act, and that to make such a proposal was bad timing, and by implication, was a threat to the industry. Peter Donigi, a director of Monticello, responded by saying that it was time to change the Petroleum Act, and that money would be available from overseas banks (Post-Courier, 18 July 1990, p.11).

The directors of Monticello Enterprises Pty Ltd, in the eyes of Papua New Guineans, were well-known and credible Papua New Guinean businessmen - Noreo Beangke, Peter Donigi, Frank Kramer, Mekere Morauta, and Joe Tavausa (Post-Courier, 18 July 1990; Times of Papua New Guinea, 19 July 1990). The Monticello proposal sought to separate the ownership of the pipeline and ocean terminal from the ownership of the Lagifatu oilfield. It involved a switch from a total funding of the K upu Joint Venture offshore, to a partial funding onshore. The essence of the proposal was that the control of the pipeline and terminal would be substantially with Papua New Guineans, and that the bulk of the toll paid in respect of oil which passed down the pipeline would be in the hands of Papua New Guineans.

The proposed equity split in the pipeline was:

<table>
<thead>
<tr>
<th>Proposer</th>
<th>%</th>
<th>(Kina millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The State</td>
<td>22.5</td>
<td>21.9</td>
</tr>
<tr>
<td>landowners</td>
<td>6.0</td>
<td>5.9</td>
</tr>
<tr>
<td>provincial governments</td>
<td>5.1</td>
<td>5.0</td>
</tr>
<tr>
<td>national insurance and</td>
<td>9.8</td>
<td>9.6</td>
</tr>
<tr>
<td>superannuation funds</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monticello</td>
<td>4.1</td>
<td>4.0</td>
</tr>
<tr>
<td>super-national institutions</td>
<td>25.0</td>
<td>24.4</td>
</tr>
<tr>
<td>institutions in Europe/Japan</td>
<td>19.3</td>
<td>18.7</td>
</tr>
<tr>
<td>Kutubu Joint Venture</td>
<td>8.2</td>
<td>8.0</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>97.5</td>
</tr>
</tbody>
</table>

Source: Times of Papua New Guinea, 19 July 1990, p.2
The Struggle for the Pipeline in PNG

The 4.1 percent share allocated to Monticello was open to criticism. Although it was only a small portion of the total ownership, it would have made the Monticello directors millionaires (some of them being either well on the way, or millionaires already). Nevertheless, the possibility of huge profits accruing to such a small group of national entrepreneurs was easily popularised as an unjust enrichment.

On 16 May 1990, the Southern Highlands Minister for Provincial Finance and Planning, Pawa Kombea, supporting the idea of a separately owned pipeline, called for an adjournment in discussions between Chevron, the national government, and the Southern Highlands Provincial Government. He was concerned that provincial politicians would not address the pipeline issue fairly as they had election campaign concerns. He suggested that discussions be deferred until July 1990 (Post-Courier, 16 May 1990). However, this request was ignored. Prime Minister, Rabbie Namaliu, had obviously made his mind up, at least on a provisional basis, because he reaffirmed that the Kutubu project would go ahead under existing laws and gave his personal assurance to this effect to the Managing Director of Chevron Niugini, Morley Dupre (Post-Courier, 16-17 May 1990). Despite this move, the idea of a socially-owned pipeline was very much alive amongst the people of Papua New Guinea.

Gulf Provincial Government Supports Separate Ownership

On 17 May 1990, the premier of Gulf Province was reported as saying that he had initiated a meeting between his government, Chevron Niugini, the Southern Highlands Provincial Government, the Department of Minerals and Energy, the landowners and Monticello Enterprises. The meeting was to be held in Kerema to discuss the separate ownership of the pipeline, benefits to landowners, amendment of existing petroleum development laws, water resources exploitation, and the oil refinery. It appears that the Monticello directors had explained their proposals to the Gulf Provincial Government around 10 May 1990. Although the premier approved of the proposal in principle, the provincial Cabinet deferred further discussion, after it was received with mixed reactions. The premier of Southern Highlands, Yaungtine Koromba, was thought to support the Monticello proposal, particularly if there was to be no major oil refinery involved with the Kutubu project. The Monticello proposal had not been presented to or discussed by the National Executive Council at this time (Post-Courier, 17 May 1990).

Southern Highlands Provincial Government Supports Separate Ownership

By 31 May 1990, support for separate ownership of the pipeline was thought to be forthcoming from at least one Cabinet Minister — the Minister for Trade and Industry, John Gilheno. The Southern Highlands Provincial Government had held discussions with a German financier to secure funding for the proposal. The proposal was for the pipeline to be owned in the following way:
<table>
<thead>
<tr>
<th>Proposed Owner</th>
<th>Share (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southern Highlands Provincial Government</td>
<td>20</td>
</tr>
<tr>
<td>Gulf Provincial Government</td>
<td>20</td>
</tr>
<tr>
<td>foreign investors</td>
<td>20</td>
</tr>
<tr>
<td>Monticello Enterprises and national institutions</td>
<td>10</td>
</tr>
<tr>
<td>provincial landowners</td>
<td>10</td>
</tr>
<tr>
<td>provincial investors</td>
<td>5</td>
</tr>
<tr>
<td>other Papua New Guinean investors</td>
<td>15</td>
</tr>
</tbody>
</table>

Source: Post-Courier, 31 May 1990

Law Reform Commission Considers Separate Ownership

In May 1990, the Law Reform Commission held a workshop on ‘Resources Management in Papua New Guinea’. The workshop sought to follow on from the Papua New Guinea Law Society’s Conference in November 1989 entitled, ‘The Exploitation of Resources in the Pacific’. At that conference, in which national lawyers were in the majority, there was a clear indication of a desire to move to greater national control over investment and the environment. The Law Reform Commission workshop (May 1990) brought together a group of lawyers, officials, and academics. It avoided the proponents of foreign investment-led growth, and conducted its business under Chatham House Rules. In this atmosphere a completely new view of resources law began to emerge, and is published in the Law Reform Commission’s Occasional Paper No. 20 of 1990, New Directions in Resources Management for Papua New Guinea.

The workshop recommended that the petroleum extraction regime in Papua New Guinea should move from a concession model to a production-sharing model. The Indonesian influence was apparent. Indonesian resource lawyers specialising in petroleum law had been guest speakers at the November 1989 Law Society conference, and had created a favourable impression. An environmental lawyer from South Australia, and a land use consultant from New Zealand also attended the conference. They also made a significant impact upon the thinking of the Commission’s personnel. The May 1990 workshop recommendations were:

“(a)... to move now to production sharing

The developer takes the risk of exploration, and on discovery, the State automatically gets 50 percent equity. This may apportion one-third each to the State, the provincial government and the landowners (cf, the South Australian Aboriginal land’s model). This should be built into governing legislation, not incorporated as just part of the individual agreement.”
(b) The Kutubu Oil Development Pipeline

Premise: This is a matter of control of a strategic resource. Control of the pipeline controls grade and return, who has access, and what the toll charges are. It is vital that this not be in foreign hands. By raising toll charges, it is possible to make a profitable oil reserve unprofitable. If the matter is in State hands, it is possible to develop an otherwise less profitable resource by subsidising the toll charge.

Recommendation: Oil pipelines should be nationally owned. The proposal put forward by the Southern Highlands premier (Post-Courier, 31 May 1990) provides a viable model for the national ownership of the Kutubu pipeline.

There is ambiguity between sections 48 and 49 of the Petroleum Act. The Minister appears bound to issue a pipeline licence to a gazetted applicant.

Recommendation: That this area of the legislation be reviewed as a matter of urgency.

In late May, Prime Minister, Rabbie Namaliu, visited Washington and California. In Washington, he found that the International Finance Corporation was keen to finance the Kutubu Petroleum Development Project. He held discussions with officials, commerce leaders, and multi-lateral and commercial bankers. On 6 June 1990, he returned from Washington and assured Chevron that it would be granted its development licence in accordance with the Petroleum Act. This guarantee was given in an address to the Port Moresby Chamber of Commerce. The Executive Officer of the Papua New Guinea Chamber of Mines and Petroleum, Greg Anderson, by implication, criticised the Monticello proposal on the basis that it would discourage investment. Also the proposal placed a question mark on the Kutubu project, and was of 'great concern to the whole of the exploration industry' (Post-Courier, 7 June 1990).

The Struggle

During the six weeks that followed, the ideological battle to secure the Kutubu Joint Venture's ownership took place. The intensity of the debate had not been seen before in Papua New Guinean politics. Those who took the view that ownership should stay with the Kutubu Joint Venture partners were obviously mindful that the commitment of the Prime Minister was not enough. They saw that it was necessary to bolster their case, and his position.

On 7 June 1990, the first of a series of media interventions, attacking the Monticello proposal, were made on behalf of the case for Kutubu Joint Venture ownership. The Times of Papua New Guinea attacked the proponents of Monticello implying that it was not a 'national company', that it was 'backed by prominent Papua New Guinean businessmen, lawyers, and others who were faceless'. It also accused the backers of unethical behaviour.
The nature of the unethical behaviour was to be seen in their suggestion that the petroleum legislation should be changed to allow local participation in the pipeline. The article implied that the proposers were not real Papua New Guineans, and that they had access to privileged information and power. They were quite distinguishable from other Papua New Guineans, were elitist, and lived in Papua New Guinea. The article also asserted that the beneficiaries of development should be the local people. The oil companies had been exploring for seventy years, but now 'thinking Papua New Guineans were demanding' a piece of the cake under cover of national participation without spending a toea in exploration (Times of Papua New Guinea, 7 June 1990). The arguments which sometimes slandered the proponents of an increased social ownership of the pipeline, and supported the position of the Kus...bu Joint Venture were to reach a frenzy during the following weeks.

The second pro-Kutubu Joint Venture intervention was made by Wera Mori, a mining company public relations employee (Post-Courier, 11 June 1990). The thrust of Mori's argument was that national entrepreneurs such as the backers of Monticello were not to be trusted, and that multinational corporations such as Chevron could be trusted. Mori pointed out that the spin-off benefits from the Bougainville copper mine did not benefit the landowners, because the real profits were 'ripped-off by some well-to-do Bougainvilleans, thus denying (the profits) to the simple landowners whose land was destroyed by the mining activities.

The 'rip-off merchants' now had to live overseas in fear for their lives, to avoid coming within reach of the Bougainville Revolutionary Army (BRA). There was some truth in Mori's argument when he alleged that the Monticello proposal would allow the profits from the pipeline to fall into the hands of a few privileged individuals, and thus deny the majority of Papua New Guineans the benefits from the venture. However, this was not an accurate assessment of the proposal, because Monticello would have owned only about four percent of the pipeline, with the bulk of the remaining equity going to Papua New Guineans or to Papua New Guinean institutions. Mori chose to ignore this aspect of the alternatives and repeated the assertions put forward by the Times of Papua New Guinea, that the Kutubu Joint Venture had a right to the pipeline because of its exploration expenditure, and that the landowners would benefit best if Kutubu Joint Venture owned the pipeline. Mori urged John Giheno to give up any support for Monticello, in Cabinet (Post-Courier, 11 June 1990).

Three days later Damien Arabagali, Chairman of the Hela Cultural Association, wrote a letter to the Post-Courier from Tarl in Southern Highlands Province, supporting the Kutubu Joint Venture position. Arabagali used an ethnocentric argument to smear the Monticello proposal; the Southern Highlanders were capable of looking after their own interests. He suggested that Monticello should wait until oil was found along the Sepik River. He affirmed that the K300 million spent by the Kutubu Joint Venture on exploration gave it a right to the pipeline, and that the Petroleum Act should not be amended. In an obvious warning to Giheno and Ramoi, he asserted that government Ministers and parliamentarians should not force the Prime Minister 'to entertain their own interests' (Post-Courier, 14 June 1990).
On 19 June 1990, it was disclosed that forty companies had registered with Chevron, showing their willingness to participate in the development of the oilfield. Most of them were from Southern Highlands Province, some were from adjoining Highlands provinces, and several were foreign companies. The announcement was made by Tony Power, Chevron's business development manager. Power was previously an academic, who became provincial planner for the East Sepik Provincial Government and is a recognised authority on customary land tenure and the integration of traditional groupings into business organisations. This was a public indication of what was privately known, that Chevron was carrying out serious field work to get on side with the villagers in its area of operation.

In June 1990, Chevron initiated a landowner school scholarship program. Brad Le Du, Kutubu Joint Venture's land and government relations manager, donated K6 800 to the Nipa, Mendi, Margarima and Mongol High Schools to subsidise the school fees of thirty-four students. School fees are a tremendous burden on villagers in Papua New Guinea, particularly in isolated and undeveloped provinces such as Southern Highlands. If a family cannot raise the school fees then a child will be expelled from school, and that is the end to his or her formal education. The Kutubu Joint Venture donations were as astute as they were undoubtedly welcomed by the landowner recipients (Post-Courier, 10 July 1990).

On 21 June 1990, an advertisement placed by the Fafoki Landowners' Association, appeared in the Times of Papua New Guinea. It was endorsed by five other landowning associations, and supported Chevron's ownership of the pipeline. In an open letter to the Prime Minister, dated 20 June 1990, the Fafoki Landowners' Association claimed to represent landowners in the Pima District of Southern Highlands Province, and the Kikori district of Gulf Province. The landowners' associations that endorsed the advertisement were the Foi Association, the Namai'apor Association, the Sumastasi Association, the Rumu Association, and the Goaribari Association. The associations claimed membership of some 10,000 persons from the Fasu, Foi, Ikobi-Kaifi, Kaifi and Goaribari-Kibiri landowners. The message carried by the advertisement emphasised that the associations fully supported Chevron and its joint venture partners, and opposed the pipeline being given to any third party. To introduce a third party now would be a 'breach of faith' and cause delay at a time when the landowners were about to experience development.

The sentiments of the advertisement were repeated in the Times of Papua New Guinea (28 June 1990). The same paper, published a two-part article by Joe Tavusa, one of the directors of Monticello, stressing that the Monticello proposal supported public participation in the pipeline, and that the Papua New Guinea pipeline company would be substantially owned by Papua New Guineans. His voice appeared to be lost in the weight of sentiment to the contrary.

Despite the media campaign, the landowners were by no means united. On 23 June 1990, Mr. Justice Sheenan, in the National Court, refused to grant an interim injunction against the Minister for Minerals and Energy, to prevent
him from issuing a pipeline licence to Kutubu Joint Venture. The application had been made by three landowners on behalf of the Kikori Landowners' Association. The application was brought by Akai Waima, Chairman of the Rumu Association, and Bagi Oni and Douglas Bumo of the Gouribari Association. The Rumu and Gouribari Associations were signatories to the open letter to the Prime Minister on 20 June 1990, supporting the Kutubu Joint Venture. However, they changed their minds and were suing to prevent Chevron from getting the licence. According to press reports, the application was dismissed because it was not the function of the courts to prevent the Minister from issuing a licence (Post-Courier, 27 June 1990). On 26 June 1990, another letter appeared in the Post-Courier supporting the Kutubu Joint Venture. Clement Nele Tap of Mendi urged the people to opt for the services and infrastructure that would flow from Chevron's control of the pipeline, rather than equity and ownership, which he claimed would be less beneficial because of the limited life of the project.

On 28 June 1990, the drafting of the Petroleum (Amendment) Bill was completed in the Law Reform Commission. It had been prepared as a Private Members Bill because there was no way in which the Bill could be put before Parliament, using the constitutional and statutory mechanisms available to the Commission. Any attempt to follow that course would have been blocked within the Attorney-General's Department, or by the National Executive Council. The Bill was developed after consultations with sympathetic Members of Parliament and provincial politicians. The move was essentially a technical exercise inspired by the Montecello proposal, but not otherwise linked to it. The Commission saw the Montecello proposal as a progressive initiative on the part of a small group of national businessmen. The benefits to this group from the pipeline would be considerable. However, this was to be balanced against the immense benefits likely to accrue from the social ownership and control of the pipeline by the national government, provincial governments, the landowners, the superannuation and provident funds. Although the Montecello proposal did not meet all the requirements of socialised ownership and control of the pipeline, it was a major step towards that goal.

The Law Reform Commission's drafting exercise was not a vehicle for Montecello; rather it was an attempt to hold in check the power of the multinationals, and to spread the profits, power and control as widely as possible amongst Papua New Guineans. The constitutional imperative was that Papua New Guineans should benefit from all natural resources. The issue was not confined to profit-splitting, because it had to take into account meaningful participation by all those affected, and had to provide for adequate control of the pipeline. The Law Reform Commission obtained its technical advice from within and outside the country. It was appreciated that there was little likelihood of the Bill being passed by Parliament. However, it was considered to be necessary, in order to raise consciousness amongst Papua New Guineans, through the struggle to get the Bill onto the floor of Parliament.

The only Member of Parliament with the necessary nationalistic dedication, political skill, and inclination for this task was the Honourable Member for Atape-Lumi, Gabriel Ramoi. I first got to know Gabriel Ramoi when he was a law student. In the early 1980s, together with Professor Aki Sawyerr, we bailed
him out of Bomana Jail, when he was remanded in custody by a District Court, after being accused of harbouring a West Papuan refugee. He was eventually acquitted. Although not without failings, both ideologically and materially, Ramoi was knowledgeable, astute, and a freedom fighter. Importantly, Ramoi could be characterised as a true Melanesian who would not sell out his people to foreign investment without a struggle. He did not need to be convinced about the strategic nature of the national ownership of the Iagifu pipeline; that was self-evident to him, and he was prepared to sponsor an amendment to the Petroleum Act. Although characterised by the media as a radical — perhaps the only radical in a Parliament of conservatives — he was by no means so. He was better characterised as a nationalist — a Third World Marxist — with a strong commitment to pragmatism.

When the Petroleum Act was first passed into law in 1978, the Minister for Minerals and Energy had no discretion to issue a pipeline licence. As a matter of law, the holder of a Petroleum Development Licence was entitled to build and operate a pipeline. The proposals in the Petroleum (Amendment) Bill 1990, which can now be referred to as Ramoi’s Bill, restricted the right to apply to the Minister for Minerals and Energy for a pipeline licence to citizens, or corporate bodies that were substantially citizens. The amendment stipulated that in order for a corporation to be eligible to apply for a pipeline licence, it had to be a public company incorporated in Papua New Guinea. Also, it had to have its principal place of business in Papua New Guinea and have no less than forty percent of its shares owned by a government body (national, provincial government, parastatal) or by an incorporated customary landowner group.

A corporate applicant could not have more than fifty percent of its shares (either by vote or value) beneficially owned by non-citizens. An application was to be in proper form detailing:

- the technical specifications of the pipeline;
- the capability of the applicant;
- the details of the supply agreement by which the petroleum resource would be obtained;
- the corporate structure of the applicant;
- a scale plan;
- an environmental plan;
- other matters which the applicant wished the Minister to consider; and
- a fee of K10 000.

The Minister was required to publish a notice of the application in the National Gazette. The Bill required the Minister to consider an application within two months of its receipt.
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In exercising his discretion on whether or not to issue a licence, the Minister was required by the Bill to take into account:

- the merits of the applicant;
- the merits of the applicant's corporate structure in relation to representation;
- the interests of the landowners affected along the route;
- the merits of any environmental plan;
- the level of meaningful participation in the pipeline construction by the affected landowners, provincial governments, and the State;
- the financial resources of the applicant; and
- in the case of an application from the registered holder of a Petroleum Development Licence, whether there had been compliance with that licence.

If the Minister refused to issue a licence, there was the right of an appeal to Cabinet. A successful applicant would be required to take out a security to ensure compliance with the licence and the Act. Unless the licensee was also the only producer, then the pipeline licensee was designated a common carrier, although such a producer could be so designated by the Minister. Common carriers had to charge tariffs determined by a statutory Pipeline Tariff Board. The Board was bound to charge a tariff which would ensure that the pipeline licensee would earn no more than a reasonable return on investment. Provincial government royalties from the petroleum resource were to increase from 1.25 percent to five percent.

This Bill was far more sophisticated in its approach than the existing provisions of the Petroleum Act, it complied more closely with the National Goals and Directive Principles in the Constitution, and was consistent with the economic framework set by other Third World countries. Although it restricted foreign ownership, it did not prohibit it. It was fair and provided checks and balances to all interested parties. Under this proposal, Chevron and its joint partners would have forty-nine percent equity in the pipeline. History will determine whether, by insisting that they retain an extra 28.5 percent, Chevron's directors have looked after the proper interests of their shareholders.

It was not until well after the Bill had been drafted, that informal contact was made by Peter Donigi with Law Reform Commission staff. It was Donigi who went to the Commission, not the other way about. Later, the author talked with Frank Kramer and obtained his view of the technical aspects of the Monticello proposal. Although there is no denying that the inspiration for the Law Reform Commission's proposal came from Monticello, the substance of the draft Bill and its policy objectives were quite distinct. However, one other matter is worth noting.
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The Papua New Guineans who supported Monticello were not greedy or money-hungry as they had been characterised. That was an unfair slander on them. They were nationalists — people of substance in their own right — and all of a conservative disposition. They had made it clear to the National Executive Council that if their proposal was rejected, then the pipeline should be given to another Papua New Guinean entity. As one of the proponents revealed to me, ‘We begged them not to give it to Chevron’.

Gulf Provincial Government and Landowners Lobby for Separate Ownership

On 26 June 1990, the Gulf Provincial Government objected to the application made by Kutubu Joint Venture for a Petroleum Development Licence and a Pipeline Licence. It sought to make alternative proposals which would enhance the interests of the landowners and the province. It also drew attention to the likely costs of the provincial government in monitoring the project, and to the fact that the provincial government did not have the funding for the travel and accommodation of its officials who were responsible for the project (Post-Courier, 2 July 1990).

A week later it was reported that the Gulf Provincial Government could ‘count itself the luckiest of provincial administrations not to have been suspended’. Fiscal irregularities and bungling dating as far back as 1982 were listed in an indictment of bureaucratic incompetency and implied dishonesty. Although unstated, the message was clear. The experience of the suspended Morobe Provincial Government was all too fresh for provincial politicians to miss (Post-Courier, 5 July 1990).

During that week, the Gulf provincial delegation, including Kikori landowners, visited Port Moresby and held discussions with the Minister for Minerals and Energy, Patterson Lowa. The delegation wanted the pipeline to be owned separately. According to press reports the delegation wanted part of the state ownership of the project (22.5 percent), to be divided amongst the provincial governments (2.5 percent each) and the landowners (three percent each) leaving the national government with a twelve percent equity. They also pressed environmental issues, land tenure issues, infrastructure benefits, pipeline and marine terminal benefits, safety and contingency plans, local business development, and project scheduling. The Minister for Minerals and Energy assured the Gulf provincial delegation that the national government would not issue Chevron Niugini a development licence until all the parties involved agreed to the Kutubu Joint Venture proposals (Post-Courier, 11 July 1980).

In the same edition of the Post-Courier, was the story on the Gulf provincial delegation’s opposition to the pipeline. Andrew Lakau’s article on social inequality in Papua New Guinea characterised the Monticello proposal as part of the petite bourgeoisie push for economic liberalisation and privatisation. He described several classes in Papua New Guinea — the peasantry, the village big-men, the urban working class, and the petite bourgeoisie.
The petite bourgeoisie he identified as the politicians, departmental heads and businessmen. According to Lakau, the Monticello proposal was part of the petite bourgeoisie's ambition to command and direct society.

Ramoil Introduces His Bill into Parliament

On 5 July 1990, Ramoi introduced the Petroleum (Amendment) Bill 1990 into Parliament. In his speech to Parliament he stated:

They (Chevron) insist that any changes in the rules would threaten the future of the private investment in this country, as well as cause substantial delay in the start of the production in the Kutubu oilfields. On the other hand, proponents of the national ownership proposal, have expressed strong opposition to giving foreign companies a privileged position while at the same time freezing out, local landowners and provincial governments. Proponents of both options raise valid concerns. Recent experience in Bougainville, Porgera and elsewhere suggest that if local landowners come to believe that there has been an unfair deal, they inevitably will do serious disruption to the project at some stage in the future.

The government gave an undertaking not to issue a pipeline licence to anybody, including Chevron Niugini until the ownership issue was discussed in the National Executive Council.

On 6 July 1990 in Parliament, during the grievance debate, the Monticello proposal was backed by the Minister for Foreign Affairs, Sir Michael Somare. Somare began by generally castigating bureaucrats and foreigners who stood in the way of national entrepreneurs. The opposition which faced Monticello was a classic example of the phenomena. The Monticello proposal had merits and encouraged greater participation by Papua New Guineans, including the two provincial governments and the landowners. What Somare perhaps did not see was that it would also link the urban working class to the ownership and control of the pipeline through the participation of the Investment Corporation of Papua New Guinea, the Public Officers Superannuation Fund, and the National Provident Fund. Nevertheless, Somare put the case well:

I know we cannot build the pipeline ourselves, but I'm pretty sure that if we give our support to such groups as Monticello or other Papua New Guinean groups, we can strike something where our people can benefit. I'm sure the Investment Corporation, Superannuation Fund, National Provident Fund, Gulf and Southern Highlands Provincial Governments and other groups can put the money together to develop the pipeline with Chevron Niugini (Post-Courier, 9 July 1990).

At about the same time as Somare was lambasting the bureaucrats in Parliament, the investment adviser to the Department of Finance and Planning, Timothy Curtain, was reported to have addressed a seminar on the 'Effects of the
BCL Closure and Mining Prospects in Papua New Guinea. Curtain reportedly stated that the nationalisation of mines was dangerous, because it could stop developers from entering the country to invest in new ventures, (Post-Courier, 6 July 1990). This was one of the points that Chevron was developing in its campaign to circumvent the Monticello proposal. The confluence of ideology between bureaucratic thought and foreign investors was all too apparent, and was the nub of Somare's speech in Parliament. Somare had not excluded foreign investment; he had wanted to see a joint investment initiative with national equity in predominance.

Soso Tomu, the Member for Kagua-Brave, Southern Highlands Province, used question time to probe the Prime Minister on the environmental effects of the pipeline. Tomu asked if it was true that Chevron planned to lay the pipeline along the Mopi and Paia riverbeds, and that a track was to be built rather than a proper road to access the construction of the pipeline. Prime Minister Namaliu replied that the pipeline was to be laid underground, and would run fifty kilometres offshore to tankers, in order to minimise any risk of pollution. A road, not a track, was to be built and the pipeline was to be subjected to the government's guidelines on the environment.

When Ramoi received a written undertaking from the Minister for Minerals and Energy, Patterson Lowa, that a pipeline licence would not be issued until Cabinet, the Development Forum, and Ramoi had discussed the ownership of the pipeline, he withdrew the Bill, on 6 July 1990. A similar undertaking had been given to the Gulf provincial delegation at about the same time (Post-Courier, 11 July 1990). Ramoi confirmed to Parliament that he would reintroduce the Bill, with an amendment. The withdrawal and the amendment were necessary, because the Bill was technically defective. It had included provision for a licence fee. The licence fee had been present in the existing Act, but fees under the Papua New Guinea Constitution are taxes, and by virtue of the Constitution and Standing Orders, taxation legislation can only be introduced onto the floor of Parliament with the consent of the National Executive Council. The Bill — a Private Members Bill — not sponsored by the NEC could therefore be rejected by the Clerk of Parliament because it did not comply with Standing Orders.

Ramoi advised Parliament of his determination to press the ownership issue. Referring to the Bill he said:

If this fails, I will be introducing another Bill which will limit foreign ownership of oilfields to 50 percent, leaving the remainder for the State to take up free of charge. This will bring Papua New Guinea in line with the acceptable practices of the oil-producing European communities. If Chevron and their partners opt to pull out then their motives are questionable. Why haven't they accepted provincial government and landowner participation in the project? If the laws are not changed it would mean that the Minister for Minerals and Energy, by law, would have no choice but to grant a licence to Chevron. My proposal is to seek Parliament's approval for
80 percent ownership by Papua New Guineans, including at least 10 percent by landowners along the pipeline route (*Post-Courier*, 10 July 1990).

The events in Parliament had shown that there was support for the amendment to the *Petroleum Act*. Ramoi had forced a concession from the Minister for Minerals and Energy and had an undertaking that the National Executive Council would formally address the pipeline issue.

On the same day as Ramoi made his speech promising to reintroduce his Bill, Chevron’s Morley Dupre stated that if the Bill went through, the investors would re-assess their position, and that could put the project in jeopardy (*Post-Courier*, 10 July 1990). Chevron’s allies within the government quickly began to put their case together. The pro-Chevron forces were based around a group of expatriate civil servants within the Department of Minerals and Energy and the Department of Finance and Planning. It is seldom that these people reveal themselves publicly. The Bank of Papua New Guinea, in particular, its Foreign Exchange Control Division, was also against any change to existing pipeline arrangements.

In June, in a submission to the Minister for Finance and Planning, the Bank of Papua New Guinea had stated that Monticello would damage the image of Papua New Guinea amongst international investors. It warned that Chevron would pull out of the project if left with only an eight percent equity in the pipeline, and indeed, under the existing agreement, it could rescind the whole Kutubu Joint Venture; that the Bank could withhold approval of foreign currency borrowings by the pipeline company, and approval of any share issues to non-residents; and that Monticello would ‘get virtually risk-free participation in a major development, and management control over a pipeline company with no expertise and a significant part of the KJV profits, without risking any exploration money’ (*Times of Papua New Guinea*, 19 July 1990, p.1).

It also cautioned that world oil prices were weakening, Saddam Hussein had just issued his first threat against those OPEC members who he considered were cooperating with the United States in keeping energy costs down and prices were already on the way up (*Post-Courier*, 19 July 1990).

The submission was defective in that it did not address the benefits that could flow from greater national participation and control over the pipeline, not only in terms of the recent experience in Bougainville and the need for the diversification of ownership and control throughout the community, but in terms of the proposal being consistent with the National Goals and Directive Principles in the Constitution. Furthermore it distorted the Bank of Papua New Guinea’s own role by implying that foreign currency approval could be withheld in the face of a National Executive Council decision, and amending legislation in order to give greater control of the pipeline to Papua New Guineans.

It failed to assess adequately and in a rational manner, the options open to Chevron and the other joint venture investors, should the pipeline be
nationalised. It did not address dispassionately, whether, in the final analysis, they would just walk away leaving millions of barrels of crude oil for some other contractor to extract.

It inaccurately portrayed Monticello as lacking expertise, when Prank Kramer was in partnership with one of the leading groups of consulting engineers in Australasia, Kinhills. It denigrated the Ramoi Bill by improperly linking Ramoi’s proposals to Monticello and implying that the Monticello directors were attempting to unjustly enrich themselves. The predictions about world oil prices were inaccurate and misleading in that they addressed short-term trends rather than the secular, long-term rise in oil prices. Also it failed to acknowledge that under Ramoi’s Bill, the Kutubu Joint Venture would have acquired forty-nine percent ownership of the pipeline.

On 8 July 1990, an unnamed ‘senior government adviser’, in a brief to the Prime Minister, accused Monticello’s financial advisers, Rintoul-Schroders of Australia, of fraud and false accounting. Schroders of Australia, is an established merchant bank. The Rintoul element was Sandy Rintoul of Robertson Australia. Rintoul put together the Monticello proposal and then approached Schroders for detailed financial advice. The criticism of Rintoul-Schroders’ advice may safely be attributed to persons either within the Department of Finance and Planning, or within the policy advisory section of the Prime Minister’s Department. Historically, both have been dominated by foreign advisers, much to the resentment of national economists. The government was advised to sue Rintoul-Schroders:

The unstated and unexplained but fraudulent assumption in the cash flows presented by Monticello’s financial advisers has no basis. Their presentation exaggerates the financing requirement of the overall project on the KJV basis since it falsely represents that the State’s carried equity implies an increase in both the total capital cost and the total financing requirement of the project. Rintoul-Schroders’ method, whether intentionally or not, is fraudulent in its effects and thereby amounts to false accounting (Times of Papua New Guinea, 19 July 1990).

This is a naive mistake: the carry is nothing less than a loan to be arranged on behalf of the State by the KJV. And so it will not add either to the capital cost of the project or to the overall financing requirement. The carry does increase the debt service charges on the project as compared with the case where the State’s share of equity was subscribed in cash, but in practice the State would borrow to pay for its equity if it was not being carried, so from the state’s point of view the only issue is whether the KJV can borrow more cheaply on its behalf than it can itself (Times of Papua New Guinea, 19 July 1990, p.4).

According to Monticello the capital cost of just the pipeline is US$341.5 million — this is equivalent to nearly half of the total bank credit in Papua New Guinea’s economy and exceeds the
average level of foreign exchange reserves for the Bank of Papua New Guinea. It is evident that neither the government nor Papua New Guinea's citizens have the cash resources to pay for the pipeline 'out of pocket'.

There is no way Monticello with or without government guarantees will be able to borrow the financing required to construct the pipeline. As far as the government guarantees are concerned, it would be wrong in principle to mortgage all taxpayers' contributions to national revenue in order to guarantee borrowing on behalf of a self-appointed group of beneficiaries. The present post-Bougainville credit rating of the government is not such that it would be easy, let alone cheap, for offshore finance to be arranged for a third party on the basis of its guarantee, which is already constrained by the overall indebtedness of the country relative to the reserves of the Bank of Papua New Guinea. The fact is the government is already mortgaged to the hilt, and one-third of the Bank of Papua New Guinea's reserves have already been borrowed from the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD) and these are not therefore "free reserves". There is little to be gained and much to be lost by foregoing KJV's offer to finance the total project including the State's equity (Times of Papua New Guinea, 19 July 1990, p.2).

The report of this leaked briefing in the Times of Papua New Guinea, was edited. It was not clear how the allegations of fraud and false accounting, which related to the total financing of the KJV, were connected to Rintoul-Schroders' advice about the financing of the pipeline. On the face of things they are not connected, and functioned as a red herring. In essence, Rintoul-Schroders' estimate of the cost of constructing the pipeline did not differ greatly from that of the KJV-US$341.5 million as against K300 million (remembering that Monticello also included another US$100 million for the port facility). The total Kutubu Joint Venture development package was to cost US$1 100 million; the Monticello proposal would have taken US$400 million out of the total project leaving the KJV with a project worth about US$600. The KJV would have been offered an 8.2 percent equity in the pipeline costing about US$10 million. The attack on Rintoul-Schroders' cashflow predictions was really an argument that if the KJV did not control the pipeline then the truncated project would not be sustainable at all.

The public did not have the benefit of the figures to support this argument one way or the other, but as a matter of principle, if exporting crude oil from lagoon was profitable for the KJV, it would be profitable, regardless of who owned the pipeline. The real issues were not whether a truncated lagoon was profitable, but how large was to be the profit-take of the Kutubu Joint Venture, whether greater control over a national resource was possible, and whether profits could be distributed widely within Papua New Guinea.
The advice was overly concerned about any increase in the total cost of the project. It did not seriously evaluate, the social and political costs of leaving the pipeline in the hands of foreigners, and of failing to be seen to distribute the profits and control of the pipeline amongst a wider selection of interested Papua New Guineans. The model of a concession, in which the State carries equity, failed on Bougainville. The advice did not account for the cost of guarding the pipeline or the wider costs to Papua New Guinea as a whole, should there be civil unrest of the type seen on Bougainville, in the future.

The personal attack on the Monticello directors as self-appointed beneficiaries, seeking taxpayers' funding to bolster their enrichment was unnecessary. In their submissions to Cabinet, the directors had begged the politicians to ensure that the pipeline stayed under Papua New Guinean control, even if their own proposal was rejected. Under the Monticello proposal, its directors would hold 4.1 percent of the equity, as against 8.2 percent allocated to the Kutubu Joint Venture, and 43.4 percent to institutions ultimately controlled by the State.

The concern of the critique over Papua New Guinea's indebtedness was not misplaced. The loss of revenue from the Bougainville mine had put a strain on foreign reserves but the fiscal and monetary consequences of the Bougainville rebellion were under control. In fact the Department of Finance and Planning had used the Bougainville crisis as an opportunity for implementing some of the more stringent measures of macro-economic reform, such as continuing to allow the kina to devalue, and cutting back on social services. More importantly, the advice did not address the obvious — that the revenues from Bougainville Copper Limited were lost, in part, because of the nature of the concession. Furthermore, the critique did not seek to explain why, if the pipeline was bankable to the KJV, it was not bankable to other owners, including the State. Was it really true that the Papua New Guinean Government could not guarantee a loan of US$400 million?

Multinational corporations historically have their own preferential bankers. Third World countries have no such privileges when developing their own petroleum resources. The multilateral banks, controlled by the United States and other First World Countries, tend not to lend to the Third World for oil projects. The difference between the cost of loan capital for the multinational corporations and for the Third World countries is the cost those countries have to pay if they want to have more control over their own destinies. Such costs are not just economic, but need to account for the political, social, and environmental costs of independence. These fundamental issues were not addressed by the advice.

The advice given to the National Executive Council was defective for another reason. It said nothing of the huge tax losses that would flow if the Kutubu Joint Venture owned the pipeline. There was nothing in the public domain to suggest that the politicians knew about the tax implications, although it is difficult to imagine that the Ministers for Finance and Planning, and Minerals and Energy did not understand this issue; if they did not know, they should have known.
Indeed, they must have known. In 1987, the *Income Tax Act* was amended to allow for the accelerated depreciation of plant and articles used in petroleum operations.\(^1\) This would not necessarily have included all pipelines, because as a matter of law a separate pipeline licence was needed under the *Petroleum Act*, and the pipeline was not automatically part of the prescribed petroleum operations of a taxpayer.\(^2\) However, this was changed in 1988 to include the pipeline within the scope of the petroleum project for tax purposes.\(^3\) With a pipeline costing around K400 million, the effect of this is to delay the payment of income tax. Tax delayed is money saved — a benefit to the Kutubu Joint Venture and a detriment to Papua New Guinea.

Further, there was an impact on Additional Profits Tax. Under Papua New Guinea's tax laws an investor is entitled to a reasonable rate of return, but super-profits are taxed heavily. Additional Profits Tax is levied by a formula which takes into account a rate of return of twenty-seven percent, fluctuations in the kina against the United States dollar, and the accumulated value of the net cash receipts of the project.\(^4\) The crucial element here is the 'net cash receipts'. They are calculated by subtracting the outgoings of the operation (deductions, allowable capital and exploration expenditures, etc.) from the incoming (assessable income and other proceeds received by the taxpayer, etc.).\(^5\) Allowable capital expenditure includes the cost of providing a pipeline.\(^6\)

The effect of including capital expenditure on pipelines in the calculation of Additional Profits Tax may well be to wipe out completely, or at least significantly, the payment of this tax during the early years of production.

Two points can be made. It can be inferred that as early as 1988 the government and Chevron had agreed that Chevron would own the pipeline, that the tax regime should be fixed in Chevron's favour, and that what happened in 1990 was a matter of managing the political fallout from this decision.

The second point is obvious. If the Kutubu Joint Venture did not own the pipeline, it would not get relief from ordinary company tax, and it would have to pay the Additional Profits Tax. Separate ownership would have meant more money for Papua New Guineans through their direct participation in the pipeline, and more money through taxation.

The fiscal consequences to the nation could well have been enormous, but they were not addressed at all by the politicians. The Kutubu Joint Venture was allowed to negate the whole purpose of the tax regime. As a taxpayer it was entitled to a reasonable rate of return, but not to untaxed super-profits. The law

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1. *Income Tax Act* s.164H.
4. *Income Tax Act* s.168(1).
5. *Income Tax Act* s.165(1).
allows taxpayers to arrange their affairs to attract the minimal amount of tax, within the letter of the law. Consequently, there was nothing improper in what the Kutubu Joint Venture did in that sense. However, the fact that the government amended the Income Tax Act to allow them to do it is extraordinary. Politically, it amounted to a monumental sell-out.

Within the National Executive Council, Chevron could rely on the Prime Minister, Rabbie Namaliu, the Minister for Minerals and Energy, Patterson Lowa, the Minister for Finance and Planning, Paul Pora, and the Minister for Forests, Karl Stack. The Minister for Foreign affairs, Michael Somare had spoken on the floor of Parliament in favour of the separate ownership of the pipeline. The Minister for Trade and Industry, John Giheno, was thought to be supportive of a greater national involvement in the pipeline, as was Akoka Doi. So there was hope of having some of the real issues addressed in Cabinet.

On 10 July 1990, the Minister for Finance and Planning, Paul Pora, prepared a submission to Cabinet attacking both Monticello and Ramoi’s Bill. Pora’s submission followed that of the Bank of Papua New Guinea and of his department. The Department of Minerals and Energy had a similar perspective, (Times of Papua New Guinea, 1 July 1990, p.1).

The submission to Cabinet, which was leaked to the press, was in terms that: Ramoi’s Bill and Monticello’s proposal threatened the KJV; Chevron would pull-out, or defer development; project costs would increase; tax revenues would be lost; the KJV could sue the State; and the State should sue Rintoul-Schroders for ‘injurious misrepresentation amounting to fraud’. As the law stood, if the KJV applied for a pipeline licence, it must as a matter of law be granted the licence, (by implication if the law is changed the KJV could demand compensation). The Monticello proposal represented a break with existing policy and practice. The proposal was seriously flawed. When the errors were corrected, the cost benefits were minimal. Monticello could not raise the development capital within Papua New Guinea, because the market was not big enough, it would be unable to raise the money externally, without a government guarantee. A better alternative would be to have the KJV incorporate the pipeline as a separate company and increase Papua New Guinea’s participation, through direct equity investment. That was Ramoi’s point. This alternative was important; it suggested that the KJV be persuaded to incorporate the pipeline separately; but it was not pursued, nor does it appear to have been treated seriously. That was unfortunate, because it could have formed the basis of a meeting of minds between Ramoi, the provincial governments, the landowners and the national government.

The alternative conceded that the pipeline should be incorporated as a separate entity and that direct Papua New Guinean equity in the pipeline could occur. It went as far as suggesting ways of overcoming the deleterious effects on the macro-economy of the Monticello proposal.

The advice to Cabinet did not explain why, if the pipeline was bankable to Chevron, it was not bankable to anyone else. It merely asserted that this was so.
If the capacity gravity flow of the pipeline was 150,000 BOFD, the price of oil was about US$20 per barrel, and a toll was fixed at say US$3 per barrel, in a year the pipeline could make ($3 \times 150,000 \times 365) = US$164,250,000.

If the pipeline was capable of making US$164 million a year, why would the cost of building the pipeline at US$400 million not be bankable? To say that such a project is not bankable does not make commercial sense. It is a political statement which merely supported the view that only the KJV should own the pipeline. It did not explain why Papua New Guineans could not raise the money themselves to build the pipeline.

Ramoji reintroduced his amended Bill into Parliament just before the House rose on 10 July 1990. He told the press he was confident that the Bill would attract support from both sides of Parliament, and that it would be passed (Post-Courier, 11 July 1990). However, by that time he knew that Cabinet had accepted the KJV’s ownership of the pipeline. The dissenters in Cabinet would be silenced by Cabinet solidarity, and the Bill would have to be fought on the floor of Parliament.

The next day Ramoji lost an important ally. The provincial elections in the Southern Highlands saw the premier, Yaungtine Koromba, lose office. One reason attributed to his fall from office was the amount of time he put into the struggle for separate ownership of the pipeline; he was said to to have paid insufficient attention to the politics of his own province. Although re-elected, he became a backbencher. The new premier, was a former policeman, Albert Mokai (Post-Courier, 11 July 1990).

On 12 July 1990, a lengthy article written by two national lawyers, Moses Samboro and Pomalat Kisaku, appeared in the Times of Papua New Guinea. The article was a polemic in support of private foreign investment. The thrust of their argument was that colonialism and foreign investors had been bad in the past but things had changed and private foreign investors had abandoned the investor-biased concession agreements. What existed now was a sanitised concession. The new role of foreign investment was to create jobs, promote technological development and create new investment opportunities. Private foreign investment was the answer to job creation, economic growth, national unity and unemployed youth. Contrary to the views expressed by Samboro and Kisaku, Papua New Guinea’s population growth is such that school leavers are entering the work-force at about ten times the rate of the expansion of jobs. If foreign investors were to double their capital flows overnight Papua New Guinea would still have a monumental unemployment problem. In fact, most foreign investment flowed into the capital intensive resources sector, which does not create an abundance of jobs.

Samboro and Kisaku also proceeded to de-bunk socialism. The experience of the Third World was that they quickly learnt that socialism did not work....

the Chilean economy rapidly deteriorated; the masses revolted against the Allende regime and Allende himself was subsequently assassinated. Namalu was to be supported in his
push to relax and abolish the barriers to foreign investment. But the crisis in Bougainville has seen the start of a witch hunt against foreign capital, with CRA being singled out as the villain in the piece.

Akoka Doi, Bernard Narokobi and the rest of us must not forget that Allende was assassinated because the highly acclaimed nationalisation programme did not come good with its much heralded wonders to the Chilean people. Even Gorbachev has had to use private investment to reverse the disasters of nationalisation after the Revolution.

Now we are presented with the Monticello proposal, which educated Papua New Guineans do not find convincing. Monticello does not represent the interests of landowners. There is no question of Chevron interfering with Papua New Guinea's sovereignty, because Chevron and the Chamber of Mines and Petroleum are doing nothing more than complying with the existing law under the Mining Act. More compliance with the law cannot be construed as interference with sovereignty, and to say that it does, insults the intelligence of every Papua New Guinean. Then we come to the nub of Samboro and Kisakau's polemic:

*The Petroleum Act* must not be amended for two reasons. It would open the floodgates to other Papua New Guineans making similar demands, and secondly it would drive away foreign investors. Namalitu needs to stand firm and support the ownership of the pipeline by the Kutubu Joint Venture.

Foreign investment is able to dominate a country. Look at the United States and Australia, they are not doing so badly. Foreign investment will provide jobs for unemployed youth. This cannot be done by governments who will have to borrow, or get aid, which induces more dependence. Foreign investment will produce a viable balanced economy, and build respect in democracy through respect for private property. Foreign investors in Third World countries have changed; so must we. The future is with foreign investment led growth. Forward to the future, and a KJV owned pipeline (*Times of Papua New Guinea*, 12 July 1990).

On 13 July 1990, the *Post-Courier* published a long article by John Millet, Executive Officer of the Institute of National Affairs (INA), Papua New Guinea’s business sponsored, right-wing thinktank. Millet’s views tend towards the wet end of conservative thinking. He could not attack Monticello because some of its proposers have been or still are contributors to the INA (Peter Donigi, Cameron MacNamara and Kramer, etc.). Instead he attacked Ramoi’s Bill. Millet implied that Ramoi’s Bill would frighten away Chevron, the leading investor in the mining and petroleum sector, and the ‘sky would fall in on Papua New Guinea’. Ramoi was wrong because he had got his ideas from Kenneth
Kaunda, who had nationalised the Zambian copper mines. Zambia had $2-3 billion in external reserves in 1968, before nationalisation, and by 1990 was an economic basket case. That is where Ramoi will lead Papua New Guinea (Post-Courier, 13 July 1990).

In the same edition of the Post-Courier a former partner of Peter Donigi, Tom Reiner was reported as saying that the State would receive up to eighty percent of the returns from petroleum projects through existing taxation laws and the standard petroleum agreement. This was superior to the Ramoi proposal that the State should obtain a fifty percent share in production. Ramoi's Bill had not sought to disturb the KJV agreement in total, only the pipeline (Post-Courier, 13 July 1990). Although Reiner's point was misleading, nevertheless it was telling. It said, in effect, 'allow business freedom, but tax it heavily'. The problem with that argument was that the model failed politically on Bougainville. The issue was not just profit-split, but political control, and a host of other socio-political factors that cannot be satisfied by a sanitised concession.

Reiner was a director in Pacarc Niugini, a company which held a 45.83 percent interest in PPL 93, an adjoining oil prospect to the Kutubu Joint Venture. The other partners were Mobil Exploration Niugini (50 percent) and Cairn Energy Plc (4.17 percent). Donigi was the chairman of both Monticello and Pacarc Niugini. It had been alleged in Parliament that Pacarc was using Donigi and Monticello to get control of the Kutubu pipeline, and that Pacarc had no assets. Reiner denied these links, and added that he did not believe that the Monticello proposal was in the best interest of Papua New Guinea. Reiner was able to show that Pacarc was a strong junior partner in PPL 93 with cash assets of K2.4 million (Post-Courier, 12 July 1990). After a quarrel, Reiner resigned from the board of Pacarc. He was tragically injured in a motor vehicle accident in 1991.

On 17 July 1990, Peter Donigi replied to Samboro, Kisakiu and Millet in the Post-Courier. Donigi denied that the Monticello group was against foreign investment. That was obvious: Donigi was chairman of a company in a joint venture with Mobil; Kramer was a partner in the Papua New Guinean subsidiary of an international firm of consulting engineers, Kinhill Kramer, Cameron McNamara Kramer; Tavausa was a former manager of Shell in Papua New Guinea; and Morauta was the general manager of the Papua New Guinea Banking Corporation. But this needed to be said in the light of the campaign conducted against Monticello. Donigi also pointed out that the Monticello proposal was separate and different to Ramoi's Bill although they both had similar objectives — the removal of the favoured position given to foreign investors by ss 48 and 49 of the Petroleum Act.

Donigi argued for no less than an equality between multinational and national investors. He pointed out that when the Petroleum Act had been passed in Parliament there had been no debate on the issue of pipeline ownership. The fact that the Minister would have no discretion but to award the pipeline to the PPL holder was not appreciated by the then Minister, Karl Stack, or the Members of Parliament. The ground rules were determined by an ill-informed Parliament. As a consequence, they now ran against the wishes of the
Constitutional Planning Committee which had stipulated that foreign investors should not be given special privileges that were not open to Papua New Guineans. Donigl also argued that Papua New Guinea could afford to walk away from investors who did not agree to its investment regime, and that state and national investment should be maximised in natural resources projects (Post-Courier, 17 July 1990).

The Defeat of Ramol’s Bill

On 17 July 1990, the National Court dismissed the action by the Kikori Landowners’ Association for declarations and injunctions that would have effectively stopped the issuing of a pipeline licence to the Kutubu Joint Venture. The landowners had sought a declaration that the Minister did not have the power to issue a pipeline licence under s.49 of the Petroleum Act in respect of any customary land that was not leased, purchased or compulsorily acquired from its customary owner. The landowners asked the Court to hold that any action by the State to issue a pipeline licence in respect of customary land that had not been leased, purchased or compulsorily acquired, was illegal and unconstitutional, being a breach of s.53(1) of the Constitution which guarantees citizens the right to fair and reasonable compensation for compulsorily acquired land, and guarantees that property may only be taken from a citizen by due process of law (namely compulsory acquisition under the Land Act).

The landowners also sought an injunction restraining the State from issuing an instrument under s.49 of the Petroleum Act which would have informed the Kutubu Joint Venture that the State was prepared to grant it a licence in respect of its application for a pipeline (No. APPL 2), which the KJV had submitted to the Minister for approval. An interlocutory proceeding to restrain the Minister from issuing the pipeline licence had already been refused by Sheenan J. on 23 June 1990. On the hearing of the originating summons before Los J., on 6 July 1990, the lawyer for the applicants sought to have Los J. refer two questions of law to the Supreme Court for Constitutional interpretation. The questions were:

(i) Does the grant of rights to a petroleum pipeline licensee under Sections 50 and 75 of the Petroleum Act, Chapter 198, and the licensee’s consequent entry upon, use and occupation of private land owned or occupied by citizens, constitute a deprivation of the property of the lawful owner or occupier of the land, in violation of Section 53(1) of the Constitution?

(ii) Does the compulsory acquisition of land under Section 83 of the Petroleum Act, for the purposes stated in that section, satisfy the requirements of Section 53(1) of the Constitution?

Instead of referring these important questions of Constitutional Law to the Supreme Court, Los J. used his powers to screen them out by declaring that they were hypothetical, that there was no factual basis established before him, that the questions were premature, and that they were vexatious. He refused to refer the questions to the Supreme Court. Judgment was given on 17 July 1990.
Those who watched the case said that the State’s arguments against the motion were poor. The landowner applicant’s case was ably presented. Indeed, it was hard to understand, as a matter of Papua New Guinean Constitutional Law, how questions of such importance could be torpedoed on a threshold argument which was so tenuous. It would appear that Los J. was clearly wrong to have disposed of the action in this way.

The credentials of the applicants as landowners were properly established; the fact that a licence was about to be issued in respect of their land was not only notorious, but the subject of a sworn statement on affidavit. The issues of land rights and constitutional power, were factors at large in the civil war on Bougainville. It was a question of supreme importance not only to these particular landowners but to all landowners in Papua New Guinea, as well as to the State and foreign investors. The issue was not hypothetical; the affidavit said the licence was about to be issued and that fact could not be denied; and the applicants could not be considered to be vexatious within the usual legal parameters of that concept. The effect of using a threshold argument to dispose of such a question was not just to defer its ultimate resolution, but to dispose of the action once and for all.

In the long-term, such decisions encourage, indeed force landowners to seek self-help remedies, as occurred in Bougainville, at Mt Kare, and will no doubt eventually occur amongst pipeline landowners. The immediate impact on a group of asples landowners was to deter them from pursuing the threshold issue on appeal into the Supreme Court. This would have been the most advisable course, if the landowners had enough money to pay for the appeal. The impact on the State and the investors was to clear the way for the issuing of the pipeline licence.

Donigi’s intervention in the press had been a case of too little too late. On 17 July 1990, it appeared in the Post-Courier. Ramoi withdrew his Bill for the last time. He was unable to cope with the pressure on him. He was concerned that his Bill had been confused with the Monticello proposal, and the allegation that there was a group of elite Papua New Guineans who were trying to make themselves multimillionaires. He was also stressed by the public attack on him by Karl Stack. Stack and Ramoi went back a long way; in Melanesian eyes Stack could be called Ramoi’s ‘small-father’. Ramoi felt Stack’s opposition not only politically, but personally. Also the loss in the Courts by the landowners was a major setback. He had already withdrawn the Bill once for procedural reasons.

On the afternoon of the day the decision was read out in the National Court a small forum was organised at the University of Papua New Guinea by a faction of the Southern Highlands Students’ Association, which called itself the Oil Pressure Group. About one hundred and fifty students attended many being geology students sponsored by oil and mining companies. They resolved to support Chevron’s application for the pipeline licence, and to vigorously oppose both Monticello’s involvement in the pipeline and the proposal in Ramoi’s Bill to restrict foreign ownership of the pipeline. They endorsed as valid, the existing contract between the State and Chevron Niugini, and planned to march on Parliament the next day (Post-Courier, 18 July 1990).
Chevron was also reported to have moved decisively. It threatened to pull out of Papua New Guinea. The Post-Courier reported:

Chevron has indicated it might pull out of Papua New Guinea if it does not get a licence for the pipeline, so senior government advisers view both Mr. Ramoi’s Bill and the Monticello proposals as having serious financial implications for the already fragile national economy. Both would put oilfield development at risk, resulting in indefinite delays in realisation of national benefits from the project. The government would also face a legal battle if Chevron and its joint venture partners decided to pull out of the country’s first multi-million kina oil project (Post-Courier, 18 July 1990).

In what was undoubtedly a calculated move to back up its position, Chevron halted all operations in the field. That act was to have a significant impact on landowners, who were already divided on the issue of ownership of the pipeline. Landowner groups polarised and violence was threatened.

On the same day as the adverse court decision against the Kikori Landowners’ Association, the Deputy Prime Minister, Ted Diro issued a statement indicating that the government would act to protect foreign investors. He was concerned about the country’s good record for investment. Without a good reputation it was extremely difficult to obtain further investment. He asked Chevron not to panic, and to view Ramoi’s Bill and the Monticello proposal as legitimate aspirations of the people to participate meaningfully in their own economy (Post-Courier, 18 July 1990).

The writing was on the wall for Ramoi:

- the landowners had been split, and the progressive elements had been routed in the courts;
- the weight of media opinion was in favour of the Kutubu Joint Venture’s ownership of the pipeline;
- support from the Southern Highlands Provincial Government had disappeared with the ousting from office of the premier Yaungrine Koromba following the provincial elections;
- the student body was split with a pro-Chevron minority in control and a demonstration threatened; and
- Cabinet was split (Times of Papua New Guinea, 19 July 1990, p.4).

Those in favour of Chevron’s ownership of the pipeline were in ascendancy. The government would vigorously oppose the Bill on the floor of Parliament.
With the media behind it, the students howling at the doors of Parliament in support of Chevron, and the members confused, the government was in a strong position, backed by what it would claim as a favourable decision of the National Court. Parliament was indeed split. Some members genuinely believed that Ramoi was a front for the Monticello group, and that there was an attempt by a very small group of wealthy Papua New Guineans to unjustly enrich themselves. As a matter of numbers, the Bill would likely fall on the floor. Ramoi retreated. He withdrew the Bill to allow more time to lobby the confused and wavering members. The notice of withdrawal was given to the Clerk of Parliament late on 17 July 1990. In effect, the Bill was dead.

6. AFTERMATH

On 18 July 1990, the day on which Ramoi's Bill was to be debated, Members of Parliament awoke to a Post-Courier telling them that the Bill had been withdrawn, that students would march, and that the whole of the economy was threatened by a withdrawal of a major foreign investor. There was also a lengthy review by an unnamed 'special reporter' that criticised the Monticello proposal, named the Monticello directors, linked them by inference with Ramoi's Bill, and purported to give a comprehensive chronological account of how events had evolved (Post-Courier, 18 July 1990).

The chronology was selective, and the main thrust of the article was scurrilous. It improperly linked Ramoi's Bill with the Monticello proposal, and muddled the water by implying that a small group of named Papua New Guineans would benefit from the Bill. The article was headed 'Monticello, loopholes and the Petroleum Act.' It reported that there were three substantial defects in the Monticello proposal. The first was that there was a drafting defect that foreign petroleum companies had been excluded from anything more than twenty percent equity participation, but other foreign companies could have a larger share. If this was so, then the issue could have been put right by a technical amendment. Second, it complained that Monticello had not made clear where the bulk of the money to finance the pipeline would come from. The article did not address the issue that if the pipeline was bankable to Chevron, why it was not bankable to other potential owners. Third, it complained that by restricting foreign petroleum companies to twenty percent equity, then the way was left open for other non-petroleum, foreign investors, in joint venture with national capital, to sneak in the back door.

This remark was aimed undoubtedly at Frank Kramer and Kinhill who were a joint venture. In short, the article used arguments of inequities in the Bill as they affected different factions of multinational capital. To suggest that the Monticello proposers would be the prime beneficiaries from Ramoi's Bill was wrong. Not only did this confuse Monticello with the Bill, but the bulk of benefits under the Bill would have gone to the people of Papua New Guinea, and as a result, Chevron's economic and political power in Papua New Guinea would have been reduced.

The rift amongst landowners was very clear. The Post-Courier, on the same day, carried a small article saying that four landowner groups in Gulf Province
supported Ramoi's amendments to the Petroleum Act. The landowners were reported to have said that they did not support either Chevron or Monticello, or the Gulf Provincial Government. They claimed to have arranged some US$40 million through German financiers (Post-Courier, 18 July 1990). Douglas Bauno of the Goaribari Association supported the amendments to the Petroleum Act to allow the pipeline to be granted to a third party (Times Papua New Guinea, 19 July 1990).

The following day there were several media interventions from landowners. However, the struggle for the ownership of the pipeline was far from the mind of Thomas Tibi, a village chief and landowner from Hedinia village, in Southern Highlands Province. He was more concerned that work on the promised road from Poroma to Moro airport had not begun, but construction had begun at Moro airport. From a village leader's perspective, the priority was wrong. Roads were vital to get children to school, and the lack of a road meant continued isolation — 'we are like prisoners covered by these mountains. A road is what we need at the moment'. Villagers in the Kutubu area were worried because they were not able to get jobs on the construction site. Payago Budufore of Wasami, Lake Kutubu complained that 'Chevron is a good company yet in the Lake Kutubu area, the young men are not employed' (Times of Papua New Guinea, 19 July 1990, p.2). He complained that the Jasu people had been blocked by the Fasu people from getting jobs at the site (Post-Courier, 19 July 1990). Chevron's capital strike was beginning to bite.

Foe landowner, and former Member of Parliament, Bai Waiba, accused the Monticello group of not representing the landowners or the provincial government. And implied that Monticello would cheat the people. He called on the nine Southern Highlands Members of Parliament to tell the people where they stood on the pipeline issue, and to be cautious how they voted. Although his remarks appeared balanced, they were nevertheless a veiled threat to the national politicians not to vote for Ramoi's Bill. Bai Waiba confused the issues quite successfully (Times of Papua New Guinea, 19 July 1990).

Sese Vage, chairman of the Foe Landowners' Association fully supported Chevron's ownership. At a meeting with reporters, villagers expressed hostility towards Monticello and threatened to physically disrupt work at the oilfields if the pipeline licence was given to a third party. Yet it appeared that there was a range of opinions at that meeting. Sese Vage thought that the 22.5 percent state equity in the total project was a good offer. However, other villagers were prepared to concede that, if the State was to grant the pipeline licence to a third party, then it should be to the landowners and the provincial governments (Times of Papua New Guinea, 19 July 1990, p.3). These views reflected the limited understanding of the people about the facts and issues at stake. Nevertheless, considering the isolation of the area and the preponderance of Chevron's field officers there, it is clear that opinion was by no means all in Chevron's favour.

On 19 July 1990 under the headline 'Pressure Mounts for Cabinet to Dump Monticello', the Times of Papua New Guinea published the leaked Cabinet documents detailing the positions taken by the Department of Finance and Planning, the Department of Minerals and Energy and the Bank of
Papua New Guinea. Alfred Kalbyabe, the Member for Komo-Margarima, announced that he was prepared to sponsor a revised amendment Bill. His proposal restricted foreign ownership to twenty percent, and distributed the balance between the national government, provincial governments, landowners and citizens. He claimed to have the support of other members from the Southern Highlands electorate (Post-Courier, 19 July 1990, p.2). Both Monticello and Chevron issued press statements to the effect that there had been no agreement between Ramoi and Chevron. Motley Dupre was reported to have said that 'Chevron had nothing to do with the debate before Parliament and would assess its position based on the actions of Parliament' (Post-Courier, 19 July 1990, p.2). About 150 students protested on the steps of Parliament. Their placards read 'Ramoi, don't sell Papua New Guinea'; 'We want Chevron'; 'Want another BCL Crisis? Answer me Ramoi'. Ramoi spoke to the demonstrators to explain that they had got it all wrong; his amendment would restrict foreign ownership of the pipeline to twenty percent, and put eighty percent of the control into the hands of the people of Papua New Guinea. However, no-one was listening. It was all over.

There was one event that was to prove quite remarkable, and occurred almost unnoticed. Tom Amaiu, the member for Kompiam in Enga Province was able to steer a Private Members Bill through Parliament (while everybody had their eyes on Ramoi) that improved landowners' rights to surface gold. Amaiu had in mind the Mount Kare deposits on the Enga — Southern Highlands border, the rights to which were jointly owned by CRA and the local landowners. The Mining (Amendment) Act 1990 gave exclusive rights to the mining of alluvial and surface gold to a depth of twenty metres to traditional landowners. This was a significant concession to traditional owners and irritated the Papua New Guinea Chamber of Mines and Petroleum which said that the new law would kill new investment in alluvial mining (Times of Papua New Guinea, 20 September 1990).

The Spin-off Benefits

On 20 September 1990, the Post-Courier reported that there had been a meeting between the government's Resources Management Committee and landowner groups. The landowner participants were Wama Sumila of the Sumatasi Landowners' Association, James Kaita for Rumu Landowners' Association, Douglas Bauno of the Goaribi Association and representatives of a Kikori group associated with former Member of Parliament, Roy Evara. The groups discussed with Wep Kana, the committee chairman, participation in the construction contracts associated with the pipeline. The landowners were unhappy with Chevron's tendering procedures. Chevron wanted the pipeline contract to be let on a competitive basis. The landowners wanted preference given to joint-venture companies in which the landowners were partners. Roy Evara's group had already formed a company called Niugini Minerals and Petroleum and had attracted the interest of a Singaporean firm, Sembawang (Post-Courier, 20 September 1990).

When it was clear that the pipeline issue had been resolved, those smaller investors, who were waiting in the wings, moved to take advantage of the
opportunities. Oil Search Ltd began to publicise its intent to sell twenty-four million shares to the public in Papua New Guinea at forty-two tkena a share, in July 1990. The float was a disaster. Out of twenty-four million shares only 11.9 million shares were taken up by the public, resulting in a shortfall of 12.7 million shares valued at K5.3 million. The government’s Investment Corporation had underwritten the float, and it approached the Public Officers’ Superannuation Fund and the National Provident Fund to subscribe to the remaining shares. The offers were refused and the Managing Director of the Investment Corporation, Eliakim ToBolton then hired an accounting firm, Maurice Pratley and Associates, to buy the shares using shelf companies and a loan of K5.3 million from the Papua New Guinea Banking Corporation. The Minister for Finance, Paul Pora, approved a guarantee to the Investment Corporation for this loan and the sales went through (Times of Papua New Guinea, 28 March 1991).

In the first weeks of March 1991, ToBolton was sacked by Pora who was reported to have said that the Investment Corporation broke the law when it signed the K10.3 million underwriting without seeking approval (Times of Papua New Guinea, 14 March 1991). One presumes in Mr. Pora’s favour that he approved the guarantee in order to avoid a lawsuit against the Corporation for breach of agreement with Maurice Pratley and Associates. Later, Pora appointed ToBolton as chief executive of the National Provident Fund. Pora stated that ToBolton had been removed because he had not sorted out the problems in the Investment Corporation, and not because of the Oil Search share float underwriting (Times of Papua New Guinea, 11 April 1991).

Following the loss of the main battle to control the pipeline, Southern Highlands' politicians turned to pursuing what could be done to secure spin-off benefits from the project. The provincial member for Aliya, Charles Luta, called for jobs to be made available to stop youth turning to crime. He was also looking for opportunities for small businesses such as security firms and vegetable growing, and he wanted to see sporting facilities provided for youth (Post-Courier, 31 October 1990). Landowners were concerned about the environmental impact of the Kutubu Joint Venture and called for a second independent environmental impact study. Four landowners’ associations — Goaribari, Rumu, Sumatasi, and Kibir — decided to boycott project forums, and Sese Vege of the Foe Association expressed disappointment about the way in which the government was handling the project (Post-Courier, 1 November 1990).

However, by this time, most of the export contracts had gone to outside firms. Chevron acknowledged that Papua New Guinea-based companies felt they had not been informed about the contracts, but the problem was unfortunate because of the lead times necessary for such critical work (Times of Papua New Guinea, November 1990). The desperation of the local people to get jobs broke out in a fight between landowners and Chevron workers in the first week of March 1991. Foi-Fasu villagers claimed that Chevron had promised them priority in job opportunities. They claimed that this promise had not been kept. Chevron’s Jim Jensen explained to the landowners that 105 Foi-Fasu people were employed on the project that another 154 Southern Highlanders were employed. He was not reported as giving the figures for other ethnic groups employed (Times of Papua New Guinea, 7 March 1991).
At the beginning of November 1990, provincial governments sought to improve their ability to control major resource projects. A paper reacting to draft proposals to change the Mining and Petroleum Acts was circulated to provincial governments calling for provinces with mining and petroleum activities to have representation on the proposed Mining Advisory Board and the Petroleum Advisory Board. The paper also called for a loosening of restrictions in the drafts over access to information (*Post-Courier*, 6 November 1990).

On 25 September 1990, Gabriel Ramoi resigned from Parliament. He did so to avoid prosecution by the Ombudsman Commission for alleged Leadership Code offences. The main allegations against him concerned the use of discretionary funds (National Development Funds) under his control (*Post-Courier*, 26 September 1990). The fall of Ramoi did not appear to be linked with his opposition to the ownership of the pipeline by the Kutubu Joint Venture. He had been under investigation by the Ombudsman Commission for some time, as had a number of leaders. On the whole, the independence of the Ombudsman Commission was not in doubt. Nevertheless, Ramoi’s removal from the political arena could only be considered a windfall for Chevron. He was the only person in the country who had the political inclination and ability to break the institutional hold over the pipeline at that time, and he came very close to succeeding.

Technical approval was granted for the pipeline in mid-October 1990 (*Post-Courier*, 12 November 1990). However, Chevron and the government were still trying to reach agreement at the end of October on the wording of the formal Petroleum Development Licence (PDL). Chevron flew in two lawyers, Charles McHugh, its corporate lawyer from San Francisco, and David Frecker from Australia (*Post-Courier*, 29 October 1990). Frecker had previously been with the State Solicitors’ Office working for the government on natural resources projects.

By 8 November 1990, the technical difficulties, according to Chevron’s Morley Dupre, were out of the way. He was concerned that the PDL had not been issued on 1 November (*Times of Papua New Guinea*, 8 November 1990). At first it was stated that the delay was caused by the national government having to negotiate with the provincial governments and the landowners. Landowners in Gulf Province wanted to be involved in the construction of the pipeline, while landowners in Southern Highlands Province wanted all the royalties which were to go to their provincial government, for themselves (*Post-Courier*, 12 November 1990).

Two days later, officials contradicted this by stating that the problem was with the lawyers. The government wanted to control any variations to the project with a system of ministerial approvals. However, Chevron found this too stringent (*Post-Courier*, 14 November 1990). Eventually, agreement was reached and the Petroleum Development Licence (PDL) was issued on 10 December 1990.

The Kutubu Joint Venture then earnestly set about the task of winning hearts and minds on the ground. Chevron’s approach to controlling social and political
pressure is sophisticated and very professional. The Land and Community Relations Officers (LACROS) provide the Kutubu Joint Venture with local intelligence and an ability to manage local politics. One of the prime tasks of the LACROS has been to establish clan genealogies and to systematise knowledge about land ownership. The staff employed for this task is a mixture of ex-patrol officers — mainly Australians — and Papua New Guineans who are all experienced field officers of a high calibre. Chevron had done what was political impossible for the government — brought back the kips. Closely associated with the LACROS was the Local Business Development Office (LBDO). This office was headed by Tony Power, a scholar, planner, land tenure expert, and experienced field worker. The LBDO had set up a web of landowning companies in Southern Highlands and Gulf Provinces.

In the Southern Highlands, the Tagifu Oil and Gas Company has been established for the Fasu people. Its shares were held by the members of forty-two clans. The Foe Digaso Oil Company was established for the Foe people. In the Gulf Province there was the Williwong Development Corporation representing the Gaaribari people, the Rumu Development Corporation was established for 15 clans of the Kikori/Kabri people, and the Ikekip Kasel Pera Company for the Ikekip/Kari people. Each of these companies comprised about fifteen business groups which elect members to a shelf company, Taile No.12 Pty Ltd. This company will wet-lease K1.5 million worth of heavy equipment to the pipeline contractor (Post-Courier, 29 January 1990), Kutubu Project Supplement, p.24).

Chevron carried out a successful feasibility study for a sago refinery at Kikori in early 1991. The plan was to establish an 80,000 hectare sago farm, and refinery for both the domestic and export markets. Local participation was limited in the construction phase and Chevron's LACROS, Warren Bartlett, offered alternative opportunities including the factory itself, timber projects, cash cropping, and crocodile and poultry farming. Chevron undertook to establish a training centre at Kikori to teach basic mechanics and domestic skills (Times of Papua New Guinea, 4 April 1991). The Rumu Development Corporation, owned by nine landowner groups, won contracts to clear land and supply timber and skids using a wokabaut sawmill. Rumu was also leasing a banana boat to Chevron. Another group, the Willawong Business Group also had a wokabaut sawmill, was leasing a banana boat to Chevron and had won contracts to rebuild the Kikori wharf and upgrade a road (Times of Papua New Guinea, 4 April 1991, p.24).

The government made one million kina in interest-free loans available to landowner companies to help them establish their business groups. This money was divided equally between the Foi-Fasu groups in Southern Highlands Province, and five landowner companies in Gulf Province. A sum of K300 000 was lent to the Kikori Landowners' Development Corporation (KLDG). The landowning companies were Ikekip Kasera, Rumu, Kibiri, Ido Forest, and Otia. It was reported that KLDG had paid K145 000 to a team of consultants headed by Roy Evara, and that Evara claimed he was owed another K60 000. Further, KLDG's lawyers, Namaliu and Company (the Prime Minister's brother) were paid an interim amount of K140 550 (Times of Papua New Guinea, 28 March 1991, p.24).
The diversity of interests within the landowner groups and the size of monetary stakes which the Kutubu Joint Venture generated are likely to fuel a socio-political cauldron. Signs of that process are visible in the tensions over rival claims of entrepreneurs and so-called leaders to represent their people, or to resurrect old grievances and feuds to improve their positions in the scramble for the spin-off benefits from the project. As the people are desperately poor, this process is likely to intensify. However, there will also be bids on a much larger scale from people of the calibre of Monticello — the national bourgeoisie — who have access to experience and power. The defeat of Monticello will be remembered especially by those who unwilling played a part in Chevron's victory.

On a more positive basis, as the project progresses, the bargaining position of national interests increases. The KJV may not have heard the last of the claim that the pipeline should be socially owned. Certainly, few people in Papua New Guinea would deny the KJV the right to recoup its investment, and to make a profit but the argument is not about profit, it is about control. In the end, the pipeline will probably have to come under Papua New Guinean control. The only question then should be how that will come about — through a negotiated settlement as with the first Bougainville renegotiations, or through the type of social turmoil that destroyed the Panguna mine.

The policy adopted by Chevron and the Government of Papua New Guinea was acceptable on paper. As a matter of economics it appeared competent, but as a matter of political economy it is likely to prove inadequate. In essence, while the policy provided for a sharing of the surplus created by the venture, it failed to satisfy the need for a sharing of control over the project, and more ephemerally, it did not allow sufficient participation by different groups of Papua New Guineans that have emerged as significant elements since the policy was first drafted. In terms of political economy, the model adopted was static. It saw a stable social and political structure against which the economics would be allowed to play themselves out.

This is a worldview that has no regard for the articulation of national capital against multinational capital, or the struggle of different factions of multinational capitalists amongst themselves. It does not recognise or acknowledge the emergence of kulak-strata — traditional gardeners struggling to be peasants, peasants struggling to be kulaks, kulaks shaking themselves free of their traditional kinsmen and emerging as part of the national bourgeoisie. Neither would it recognise a national intelligentsia struggling to survive; one faction of it avidly taking the part of the Kutubu Joint Venture, and another aligning themselves with progressive elements within the national bourgeoisie, struggling against foreign capitalists.

The alliances formed with the KJV, and with national capitalists as protagonists, and with both sides attracting support from traditional landowners, kulaks, and intellectuals, the support of the traditional landowners was a crucial legitimising factor. Here the Kutubu Joint Venture had the advantage. It was in the field, and employed full-time lobbyists, ex-kiaip and other specialists in traditional land tenure. The people were desperately poor
and largely neglected by their own government. They had access to the most meagre of services which effectively meant that, for many, there was nothing.

The KJV brought hope and a way out of the isolation and monotony of rural life. The Kutubu Joint Venture also had the advantage of a single objective — to bring the project into production under its control. Its opponents were diverse — disaffected landowners, provincial politicians and provincial bureaucrats from two provinces, each part of a separate complex of political relationships. A few were national politicians with no common party bond. And there was a minor and rather ineffectual renegade bureaucratic institution — the Law Reform Commission.

Lakau’s class analysis of Papua New Guinea had been inaccurate. It had failed to recognise that entrepreneurs in the Third World can adopt progressive positions. The prime motivation of the Monticello proposers was to get the pipeline into Papua New Guinean hands. They had already told Cabinet that even if they were not involved in the pipeline themselves, then the government should make sure that it was put into the hands of other Papua New Guineans. The reality was that the directors of Monticello were the cream of the national entrepreneurs. There were no other Papua New Guineans who had access to the experience, technology, and financial resources to provide the management of the pipeline.

By 1990, there had been a qualitative change in the Papua New Guinean elite. They had been worn down by ten years of conservative economics and their ideology now closely matched that of the multinational corporations. The commitment to self-determination and self-reliance of the early post-independence years was now replaced with a recognition of Papua New Guinea’s role as a supplier of raw materials to the world economy. It was very clear that the 1980s produced a move to the right in Papua New Guinean politics. It was not just a matter of outside influences.

Political independence allowed conservative currents within indigenous politics to occupy a more central position and there was a tendency to jettison the liberalism of late colonialism. Externally, the world economy was reacting to the OPEC crisis, and other structural changes led to the grip on capital being tightened in Papua New Guinea. The options of playing off one company against another, or one country against another seemed to disappear as the decade wore on.

There had also been a change in those persons who advised the politicians. Key policy advice areas, in 1990, still remained the preserve of expatriate advisers, particularly in the Department of Finance and Planning and Department of Minerals and Energy. However, in contrast to the early 1970s, by 1990, the most important advisory positions were held by dry economists. Those advisers who had helped to achieve the early liberal and social democratic reforms at the time of independence had long gone. In their place were others who were the products of universities in North America, the United Kingdom, Australia, and Sri Lanka, and who appeared not to understand or have any affinity with the spirit of the Constitution or the National Goals
and Directive Principles. There was an alliance of conservatism between the multinationals and the national elite that was not dissimilar to what occurred in Saudi Arabia, and while that was good for Chevron in the short term it is not good for their stability in the long term. There was also evidence that many of the people who were now involved in the spin-off benefits from the project had opposed Chevron's ownership during the struggle.

People who change once may change again, although more likely changes in politics may be linked to generational disputes. A younger generation thwarted in their ambitions, motivated by greed, deprivation, or an environmental catastrophe, may be the catalyst. The shape of future struggles is difficult to predict. Because the surplus for distribution will be very large, and because of the experience of Bougainville, the effort to spread the wealth in order to neutralise discontent is, and will be, far more thorough than with other projects. However, if significant groups miss out on this largess then the antagonisms between rich and poor will intensify, and the resentment will reflect that intensity.

On the other hand Chevron's extension work appears to be much more sophisticated than what has been seen in the past. Its field operating models reflect much of the liberal thinking of the 1970s when the government was urged to win the hearts and minds of its own people by using traditional networks and good communication. While this may be seen as a success for Chevron, there are now those people who will identify it for what it really is. The people, having been abandoned by the night-watchman State to fend for themselves, at first become easy prey to the rapaciousness of the indigenous elite. Cynicism and disillusionment set in and the people become powerless because the State retains real power for itself and those interests for whom it acts. In these circumstances, the people become easy pickings for those who are well organised and well resourced to come in and win hearts and minds. All will be fine — until the people discover for themselves what has happened.

The withdrawal of Rami's Bill can be attributed to a wide range of political factors — pressure from the bureaucracy, from Cabinet, in Parliament, from students, in the press, and the adverse judicial decision against the landowners. More broadly, pressure came from Chevron, the United States Government, and multilateral bankers, and the Papua New Guinean business lobby, including the Papua New Guinean Chamber of Mines and Petroleum and the Institute of National Affairs. Overall, there was a pervasive fear of incurring the anger of the multinational oil companies. In this struggle, the Government of Papua New Guinea was pressured to secure the interests of a TNC. Yet the consequences of that pressure remained within the bounds of legality and constitutionalism. In Bougainville, pressure resulted in the use of extra-legal force and unconstitutional acts.

A letter published in the Post-Courier the day after Rami’s Bill had been withdrawn had urged the government not to back away from a nationally-owned pipeline. It was written by Stephen Zorn, one of the advisers who had been involved in the renegotiation of the Bougainville Copper Agreement in the 1970s. Zorn reminded readers that Papua New Guinea had stood up to
multinational corporations before. Bougainville had been successfully renegotiated, Kenncott had been thrown out of Ok Tedi, and BHP had come in. Kenncott (taken over by RioTinto Zinc) was now back at Lihir. Chevron was unlikely to walk away from so large an oilfield, and if it did, then others would reap the riches that Chevron would have foregone. Zorn stated:

Chevron’s position represents a blatant, and all-too-typical attempt by a big multinational corporation to frighten a Third World government into submission (Post-Courier, 20 July 1990)

In retrospect Zorn was right, but with an additional factor, because by 1990 Papua New Guinean leadership was so demoralised that it was incapable of fighting for the people. The 1980s had been the decade of the Right — the decade in which the critique of neocolonialism so prominent in the National Goals and Directive Principles of the 1975 Constitution, was buried by economic rationalism. Just as Jim Cairns and Rex Connor had fallen in 1975 to the first wave of dry economics, so those few nationalists who stood their ground in Papua New Guinea, were subsumed. Even nationalists like Michael Somare were swept aside.

The struggle by Papua New Guineans to free themselves from the shackles of history proceeds. Bougainville has been a sobering experience. Colin Filer has shown that the social structures underlying the BRA rebellion there are capable of replication anywhere in Papua New Guinea (Filer 1990: 97). The Right is already seeking military aid such as the training expertise to be provided by the French TSR, paramilitary police. It is no secret that the purpose of this aid is to secure the major natural resources projects. The Kutubu Joint Venture pipeline will run hundreds of kilometres through mountains, river-systems and swamps. The future is by no means assured.
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