

DISCLAIMER

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DAY 1: THURSDAY 27th AUGUST 2015

TIME: 9:10am

[PART A]

- The Hon Prime Minister moved a motion for the suspension of Standing Orders 106 and 107(4) to permit the consideration in detail and third reading of Bills on the same sitting day.

I. GOVERNMENT ORDERS OF THE DAY

1. ELECTORAL AMENDMENT BILL (No.5) 2015 – first reading.

The Hon Minister Fiame Naomi Mataafa moved a motion for the first reading of the Electoral Amendment Bill (No.5) 2015; the motion was approved and the Clerk read out the Title of the Bill.

2. Electoral Amendment Bill (No.5) - second reading

The Hon Minister for Justice and Courts Administration, FIAME Naomi Mataafa moved a motion for the Electoral Amendment Bill (No.5) to be second read; the motion was approved. The Hon Minister then delivered her Ministerial speech to elaborate as to the purpose and objective of the Bill. The Hon Minister stated that the amendments are a result of discussions during the debates on the Electoral Amendment Bill (No.4) 2015; specifically in regards to clarification of "village service". The overall objective of the bill (No. 5) is the clarification of the relevant

provision.

i. LEFAU Harry Schuster, Member for Vaimauga West

The Member for Vaimauga West spoke in regards to Article 15 of the Constitution. Under this Article discriminatory legislation is prohibited; each citizen should have the freedom to vote. In terms of monotaga, this is specific to "matai" and does not include their families; it is the service a matai affords to his village. The provision in the Bill, which states that village service must be no less than 3 years, applies only to those candidates for the Territorial Constituencies. As for the Urban Constituency, service is gauged differently as even the provision of funds or enactment of community service may be construed as 'monotaga' for Urban candidates. LEFAU stated that the 3-year provision in Clause 4 is an obstacle for potential candidates; the Bill is essentially unfair.

ii. LEALAILEPULE Rimoni Aiafi, Member for Faleata West

The Member for Faleata West sought to clarify what the Member for Vaimauga West meant when he stated that the Bill has "just one eye" (mata ivi).

iii. Hon FAUMUINA Tiatia Faaolatane Liuga, Member for Palauli le Falefa

The Member stated that the comments had nothing to do with the human body.

- **Point of Order: Mr Speaker** directed Members to rephrase their statements, as they could potentially be offensive to some.

iv. Hon AEAU Peniamina Leavaiseeta, Member for Falealupo

Hon AEAU stated that the metaphoric phrase under discussion is important and should be considered by Mr Speaker.

v. LEFAU Harry Schuster, Member for Vaimauga West

LEFAU noted that there are almost 6 months until the General Elections in 2016 and amendments are still being made to the Electoral Act 1963. He stated that he would lend his support to the numerous amendments if the provisions were not biased. LEFAU asserted that the amendments are lenient to one particular group while leaving others at a disadvantage.

vi. TAFUA Maluelue Tafua, Member for Aleipata Itupa i Lalo

The Member queried the effects if the same provisions were imposed on Matai from both the Territorial Constituencies and the Urban Constituency?

vii. LEFAU Harry Schuster, Member for Vaimauga West

The Member stated that if the word "monotaga" were addressed in depth, it would reveal that there is indeed a difference when practically applied. A matai in the Territorial Constituencies would have a heavier burden in terms of service as compared to Matai in the Urban Constituency; this is where the unfairness lies.

viii. Hon PRIME MINISTER

The Hon Prime Minister stated that the Member's comments were unfounded and incorrect. He stated that service cannot be transferred from when one was a taule'ale'a, to satisfy the necessary requirements for becoming a Matai. In the Assembly's previous debates, many Members asked that the phrase "village service" be clarified. Some even suggested that monotaga be included in the definition and now it appears there is a change of heart. The Hon Prime Minister acknowledged the Hon Minister's attempts at clarifying the phrase "village service".

The Hon Prime Minister stated that the "unfairness" referred to by the Member for Vaimauga West, was created by our ancestors as a result of constitutional boundaries within Samoa. The Hon Prime Minister asserted that the Government was merely maintaining the long established culture as was established by our ancestors; the amendments are a means for paving the way for the upcoming General Elections.

ix. Hon PALUSALUE Faapo II, Leader of the Opposition and Member for Safata

The Leader of the Opposition stated that the Member's comments were clear; you must be a candidate for the village in which you rendered service.

x. Hon PRIME MINISTER

The Hon Prime Minister stated that if the Member for Vaimauga wishes were to be actioned, this would in fact create unfairness. However, what the Government is attempting to achieve is a temporary measure to deal with the issues, which have been raised. Matai titles are not conferred on freehold land; they are attached to customary land. It is therefore "common sense" that the definitions for village service for Territorial Constituencies and the Urban Constituency differ accordingly.

xi. LEFAU Harry Schuster, Member for Vaimauga West

LEFAU clarified that candidates for the Territorial Constituencies are to run for the village in which they have rendered service. On the other hand, candidates for the Urban Constituency are only required to have resided within the Constituency for 6 months to be eligible as an electoral candidate. He again emphasised that there

should be equality for all candidates, regardless of their Constituency.

xii. Hon PRIME MINISTER

The Hon PRIME MINISTER stated that the requirements for the Territorial Constituencies and the Urban Constituency cannot be the same. The requirements detailed in the Bill accurately reflect the current cultural practices in villages.

xiii. LEFAU Harry Schuster, Member for Vaimauga West

The Member for Vaimauga West requested an additional 20 minutes for his speech; Mr Speaker declined the request on the grounds that the Bill is still at the second reading stage. LEFAU stated that the use of the word *monotaga* should reflect equality in terms of its meaning for candidates for both the Territorial Constituencies and the Urban Constituency. For example, if the donation of money to rugby teams and pastors are considered as "service" for Urban Constituency candidates, the same should apply to Territorial Constituency candidates. The definitions of service for the different Constituencies are not the same. Furthermore, for overseas candidates who meet the residency requirement, the timeframe for the rendering of service is not enough.

xiv. Hon TOLOFUAIVALELEI Falemoe Leiatua, Minister for Women, Community and Social Development and Member for Aana Alofi No. 2

The Hon Minister stated that the Bill has been drafted with the Samoan culture in mind. He stated that the Government advised the Attorney General's office that this is the best approach for the time being as it reflects the normal processes currently being practiced in the villages.

xv. LEFAU Harry Schuster, Member for Vaimauga West

The Member for Vaimauga West noted his respect for both the responsible Minister and the Attorney General. However, he noted that to assume that due to one's status they are more knowledgeable is incorrect. LEFAU stated that there are different kinds of lawyers, and that there is no law in the legal profession that says one lawyer is more knowledgeable than the other. LEFAU noted others practice different fields for example, legal practice in the court rooms in court proceedings up to the level of the Court of Appeal.

- **Point of Order: Mr SPEAKER** reminded the House of Standing Order 18 must be observed by Members.

xvi. Hon LEAUPEPE Toleafoa Apulu Faafisi, Member for Aana Alofi No.1

Hon LEAUPEPE stated that he had begun today's session on the assumption that he would oppose the Bill however, after it was clarified, he now supports it. He stated

that he supported the Hon Prime Minister's comments that it is inappropriate and unacceptable for a candidate to run for a village in which she or he did not render service. In reference to the Hon Prime Minister's comments about "common sense" and the use of the practices laid down by our forefathers, the Hon LEAUEPEPE stated that this same common sense should be utilised to support and effect change.

vii. Hon PALUSALUE Faapo II, Leader of the Opposition and Member for Safata

The Leader of the Opposition, disagreed with comments made that the Opposition did not understand the Bill. He asserted that they fully comprehended the contents of the Bill. It is for this very reason that they oppose some of the provisions, as they understand its negative effects on the country.

xviii. LEVAOPOLO Talatonu, Member for Gagaemauga No.2

The Member stated that if the Member supports the use of "common sense" then perhaps he would consider that it be drafted in to the Bill. He emphasised that legislation should not be biased, general or ambiguous.

xix. Hon LEAUEPEPE Toleafoa Apulu Faafisi, Member for Aana Alofi No.1

Hon LEAUEPEPE clarified that he believes it to be unfair that one can use service rendered in a Territorial Constituency as support for their candidacy for the Urban Constituency; this is what he opposed. However, upon hearing the clarifications given, he stated that he now understood the provisions of the Bill. Monotaga by one's family counts also as a Matai's monotaga, particularly if the Matai in question is the Sa'o (High Chief). It is common knowledge that other matai and the taule'ale'a serve the village on behalf of the Sa'o, particularly when the Sa'o is required to provide for major village commitments.

xx. Hon TUUU Anasii Leota, Member for Siumu

Hon TUUU stated that there is a difference between "tautua" and "monotaga" noting that tautua may be specific to the taule'ale'a only.

xxi. Hon LEAUEPEPE Toleafoa Apulu Faafisi, Member for Aana Alofi No.1:

Hon LEAUEPEPE again reiterated his support for the Bill.

xxii. LEALAILEPULE Rimoni Aiafi, Member for Faleata West

LEALAILEPULE acknowledged the efforts of our forefathers to make Samoa a democratic country, founded on freedom and rights. However, in reference to the Bill before the House, the Member likened it to a leaky ship whereby when one leak has been patched up, another part of the ship springs a leak.

xxiii. Hon PRIME MINISTER

The Hon PRIME MINISTER accused the Member for Faleata West of condemning the Bill without justification. He noted that the Member used the analogy of a "leaky ship" again, without justification. The Hon Prime Minister informed the House that LEALAILEPULE has done this before in previous sittings; that is putting forward unsupported accusations. He then urged the Member to be up front about the issues he is concerned about instead of making accusations and then "hiding".

xxiv. Hon TOLOFUAIVALELEI Falemoe Leiatua, Minister for Women, Community and Social Development and Member for Aana Alofi No.2

The Hon Minister corrected the adage referred to by the Member for Faleata West.

xxv. LEALAILEPULE Rimoni Aiafi, Member for Faleata West

LEALAILEPULE stated that legislation should be applicable to all citizens. However, the Bill appears to differentiate between service and monotaga, which does not have an English translation; there is only a definition. The Member then stated that there is no accurate English word to define monotaga however; he had hoped that one would be provided in the Bill.

xxvi. Hon PRIME MINISTER

The Hon PRIME MINISTER stated that the dictionaries used by LEALAILEPULE were written by people who do not sit in village fonos and therefore cannot comprehend the real practice. The author of these dictionaries, George Pratt, is an Englishman and is therefore unreliable in terms of definitions. He advised the Member against using such dictionaries again.

xxvii. LEALAILEPULE Rimoni Aiafi, Member for Faleata West

The Member noted that everyone appears to have their own definition of monotaga, which has been defined as one's contribution to the village. LEALAILEPULE noted that providing a definition for "compulsory" is useless.

xxviii. Hon PRIME MINISTER

The Hon PRIME MINISTER stated that a matai who does not fulfill his or her monotaga, is not a matai.

xxvix. Hon Le Mamea Ropati, Minister for Agriculture and Fisheries and Member for Lefaga & Faleaseela

The Hon Minister stated that a matai who does his monotaga reaps the benefits of his service whereas other matai do not.

xxx.LEVAOPOLO Talatonu, Member for Gagaemauga No.2

LEVAOPOLO stated that monotaga means "something which is put in the pocket". He asserted that that is an easier interpretation for Members.

xxxii LEALAILEPULE Rimoni Aiafi, Member for Faleata West

The Member stated that the recommendations for amendments proposed in a previous report were put on hold until after elections, however amendments are still being made at this time.

xxxii. Hon FIAME Naomi Mataafa, Minister of Justice & Courts Administration and Member for Lotofaga

The Hon Minister referred to page 243 of the Government Response to the Committee Report cited by the Member for Faleata West. She stated that the recommendations in the Report could not be actioned, however, other recommendations were accepted and have been incorporated in to the Bill.

xxxiii. LEALAILEPULE Rimoni Aiafi, Member for Faleata West

LEALAILEPUELE queried which amendments are available for public submissions and which are tabled without public input. He stated that if there is to be monotaga for the Territorial Constituencies there should also be a similar requirement for the Urban Constituency candidates. He referred to a Report on Women's Representation in Parliament prepared by the United Nations, which states that only 5% of women have matai titles in Samoa. According to the Member, the concern is therefore whether or not the Bill will make it even harder for Samoan women to run for elections.

xxxiv. Hon PRIME MINISTER

The Hon PRIME MINISTER stated that criticism is being given to those matai who do not practice monotaga but acts of monotaga are not inherently bad. He stated that the idea that there should be blanket rights for all candidates is an ideal. In reality, it is difficult to impart such an ideal for all candidates due to the cultural disparities in the different Constituencies. The Hon Prime Minister noted for example that owing to freedom of religion, different denominations have since been established in Samoa. He also stated that a Commission of Inquiry was established to address the issue and it was found that equality across the board is not practical given Samoa's unique cultural diversity.

xxxv. LEALAILEPULE Rimoni Aiafi, Member for Faleata West

The Member stated that he supported the fact that one should render service to his or her village before running for elections. However, he noted that the Bill requires

monotaga for matai in the Territorial Constituencies, and 'tautua' for those in the Urban Constituency. He queried why one was not used for all constituencies; either monotaga or tautua so long as it is the same for all candidates. He continued by stating that the Village Fono Act 1990 recognises and acknowledges those who reside in the villages on freehold land. He then queried why this is not the case for those who register as voters.

Proceedings were suspended at 10:43am
Proceedings resumed at 11:24am

ELECTORAL AMENDMENT BILL (No.5) 2015 – debates on the second reading of the Bill resumed.

xxxvi. Mr Speaker reminded Members to be cautious of statements made within the Chamber during debates.

xxxvii. TUILEUTU Alavaa Voi, Member for Faasaleleaga No.3

The Member for Faasaleleaga No.3 stated that he believed monotaga to be an act specific to matai, whereas tautua was more of a general term referring to the many possible variations of an act of service.

xxxviii. Hon GATOLOAIFAANA Amataga Alesana-Gidlow, Member for Faasaleleaga No.1

GATOLOAIFAANA stressed that the matai system is an integral part of the Samoan culture. She requested that earlier statements made by Members in previous speeches regarding the Bill, particularly those who questioned the integrity of the Attorney General, to be struck from official record. She stated that Samoa cannot afford to lose its faamatai system and noted that the Bill attempts to uphold the faamatai system. In regards to Clause 3(a)(b), GATOLOAIFAANA noted that the differences in the terms for service is necessary to address the current differences in candidate's circumstances, however, this is only a temporary measure.

xxxix. AVEAU Tuala Lepale Nikotemo Palamo, Member for Vaimauaga East

The Member stated that monotaga, as used in the Bill, refers to service of a matai to his or her village. Tautua on the other hand, is used in reference to one's tautua in the Urban Constituency. The Member then queried the definition of 'tautua faamalosiā' and suggested that instead of having two separate requirements, that there be a single requirement; all matai must render service to the village in which his or her matai is registered.

AVEAU noted that it appears as if the Bill permits a matai who is banished from a village to run as a candidate for the Urban Constituency if they are only permitted to render tautua to run as an Urban Constituency candidate. The Member urged the Government to reassess the relevant provision. The Bill should be re-drafted so as to ensure equality for all candidates in terms of services rendered.

xli. PESETA Vaifou Tevaga, Member for Faasaleleaga No.4

The Member stated that a person, who grows up in Samoa, begins his or her service at childhood. There is a difference in services carried out within the villages and that, which is defined in the Bill. Each contribution given by a matai or a resident of a village is "service"; however, for the purposes of elections, there needs to be a specific definition. This is made clear in the case of electoral petitions. If the definition of service and monotaga is not clearly defined, interpretations may differ. To provide a definition in the relevant Act will aid the Courts interpretative function. The Member noted his support for the Bill and recommended that a review be undertaken to ensure there is consistency for all candidates in terms of service.

xlii. LEALAILEPULE Rimoni Aiafi, Member for Faleata West

The Member stated that the adage "O le ala i le pule o le tautua" is now fitting for the Urban Constituency. Therefore the adage to be applied to the Territorial Constituencies should be changed to "O le ala i le pule o le monotaga".

xliii. PESETA Vaifou, Member for Faasaleleaga No.4

PESETA noted his support for the proposed amendments due to the imminence of the general elections; however, for the long run, the Member suggested that this provision be revised to ensure all candidates meet the same requirements.

xliiii. Hon FAUMUINA Tiatia Faaolatane Liuga, Member for Palauli i le Falefa

Hon FAUMUINA requested that the Bill be re-drafted to emphasize the connection between the words 'monotaga' and 'tautua'. He stated that the village cannot be separated from the Church, as Churches were established in the villages. The pastor has a convention with the village; therefore a candidate must also serve the Church.

xliv. LEALAILEPULE Rimoni Aiafi, Member for Faleata West

LEALAILEPULE noted his confusion as to the Member for Palauli i le Falefa's comments.

xlv. LEVAOPOLO Talatonu, Member for Gagaemauga No.2

LEVAOPOLO stated that Samoa is a country founded on God and Jesus Christ.

xlvi. TOEOLESULUSULU Cedric Pose Schuster, Member for Aana Alofi No.3

TOEOLESULUSULU noted that the Member for Palauli i le Falefa stated that any contribution for Church purposes in the form of monotaga should be counted.

xlvii. PESETA Vaifou Tevaga, Member for Faasaleleaga No.4

PESETA stated that monotaga only refers to those obligations a matai has in his or her village. However, if one does contribute to the Church, then this is not considered as monotaga but rather a 'matafale'.

xlviii. Hon FAUMUINA Tiatia Faaolatane Liuga, Member for Palauli i le Falefa

Hon FAUMUINA stated that religious service is also monotaga therefore it is appropriate that this is made compulsory. Hon FAUMUINA also noted that there are matai who are not bestowed titles within the villages and queried whether these people would be eligible to run as candidates. He stated that he supports the bill but recommends that some terms be amended.

xlix. MAUALAIVAO Pat Ah Him, Individual Voters

MAUALAIVAO stated that voters and residents in the Urban Constituency are able to either vote from the village of which they are a resident or for a Territorial Constituency in which their matai title is registered. In reply to the comments made by the Member for Palauli i le Falefa, MAUALAIVAO stated that he supports and values the rights of all Samoan citizens and in particular their freedom to choose a candidate to vote for and the freedom to vote.

xlx. Hon TUUU Anasii Leota, Member for Siumu

Hon TUUU spoke in agreement with MAUALAIVAO's speech and stated that rumours have been heard that there are some Members who are ineligible to run under the new seats. The Member informed the House that the rumour is untrue.

I. Hon FIAME Naomi Mataafa, Minister for Justice & Courts Administration and Member for Lotofaga

The Hon Minister stated that the Bill is straightforward; it details the requirements that must be met in order to be eligible to run for elections.

li. Hon FAUMUINA Faaolatane Tiatia Liuga, Member for Palauli le Falefa

Hon FAUMUINA stated that there are some public servants who are utilising their positions in government to promote their electoral prospects. For example, using their employees and government vehicles for campaigning purposes. He noted that there is existing legislation which governs the actions of public servants wishing to

run for elections. He then recommended that a provision be inserted that public servants be given 6 months leave to run for elections to ensure that government resources are not inappropriately used.

lii. Hon PRIME MINISTER

The Hon Prime Minister stated this applies to all candidates; current Members should not use government resources for personal electoral campaigns.

liii. TUSA Misi Tupuola, Member for Falealili

The Member for Falealili stated that each village has a different approach to and interpretation of "service" therefore he would refrain from commenting on this issue. He did however state that he was disappointed by comments made about the Attorney General and requested that they be withdrawn from the official record, as was suggested by GATOLOAIFAANA.

liv. Hon PALUSALUE Faapo II, Leader of the Opposition and Member for Safata

The Leader of the Opposition stated that the Member in question (regarding the Attorney General comments) responded to the issue that was at hand and meant no disrespect to the Attorney General.

- **Point of Order: Mr Speaker** stated that he would use his discretion to discern whether or not the comments made by the Member for Vaimauga West should be struck from official record.

Iv. TUSA Misi Tupuola, Member for Falealili

TUSA stated that the 1963 Principal Act has been amended several times to reflect the changes, which have occurred in today's society. He then noted his support for the Bill.

Iv. LEVAOPOLO Talatonu, Member for Gagaemauga No.2

LEVAOPOLO stated that the Bill is unconstitutional given that not everyone is afforded the same rights and the term "compulsory" implies forced labour.

Ivii. Hon PRIME MINISTER

The Hon Prime Minister stated that the Government considers any Bill in depth, particularly to ensure its provisions are not in contravention of the Constitution. However, if a Bill is considered absolutely necessary, then the Constitution is also amended accordingly. The comments made by the Member for Gagaemauga No.2 demonstrates that he does not understand the relationship between amendments and the Constitution. A previous Constitutional amendment and subsequent electoral amendment allows the current provisions (qualifications of a

candidate) to be brought in the Bill. The Bill elicited support from the Member for Faleata West alone because he understands the relationship between amendments to the Electoral Act and the Constitution. It is because of this that the Member for Faleata West has not stated that the Bill is unconstitutional.

Iviii. Hon PALUSALUE Faapo II, Leader of the Opposition and Member for Safata

The Leader of the Opposition stated that the reason the Opposition are finding it hard to understand the numerous amendments is because they have been introduced at the same time, not as separate Bills.

lix. Hon PRIME MINISTER

The Hon Prime Minister stated that the amendments were tabled as separate Bills at different times.

lx. Hon Le Mamea Ropati, Minister for Agriculture & Fisheries and Member for Lefaga and Faleaseela

The Hon Minister stated that monotaga in his village is compulsory; if a matai fails to provide monotaga he or she is punished accordingly.

xi. Hon LAUTAUFU Fio Selafi, Minister for Public Enterprises and Member for Satupaitea

The Hon Minister stated that the Bill is not unconstitutional.

Ixii. LEALAILEPULE Rimoni Aiafi, Member for Faleata West

LEALAILEPULE clarified that he wanted to understand whether a person who has not rendered service (monotaga) is still eligible to run for elections.

Ixiii. Hon LE MAMEA Ropati, Minister for Agriculture and Fisheries and Member for Lefaga and Faleaseela

The Hon Minister stated that the only compulsory condition in the Bill is for monotaga; the Bill is clear and straightforward on that point.

- **There was a query from the Leader of the Opposition however Mr Speaker noted that it was of no relevance to the Bill and therefore dismissed it.**

Ixv. LEVAOPOLO Talatonu, Member for Gagaemauga No.2

LEVAOPOLO stated that there is a difference between previous amendments and the current one. He stated that he was shocked that both Cabinet and Associate Ministers had yet to notice the differences.

Ixvi. Hon TUISUGALETAUA Sofara Aveau, Minister for Communications and Information Technology and Member for Vaimauga East

The Hon Minister noted that the Member had to be corrected as he was speaking on the wrong Bill.

Ixvii. MOTUOPUAA Uifagasa Aisoli Vaai, Member for Vaisigano No.2

MOTUOPUAA asserted that the current dilemma is a result of the definitions for monotaga and tautua. He noted that Samoa is a democratic country that embraces human rights; processes may change but the foundation upon which Samoa is based remains the same. If matai do not serve and meet the requisite expectations of the family, his or her title can be revoked. Monotaga should be done away as it conflicts with the principles of democracy; the existing confusion results from the requirements that Samoan culture be acknowledged which in this case appears to supersede human rights. Human rights should be upheld in that people may decide who to vote for and where to run from as candidates; whether one has a matai title or not.

Ixviii. AFUALO Wood Uti Salele, Member for Salega

The Member for Salega urged the responsible Minister to reassess some of the provisions of the Bill. He noted that there are some words in the Samoan text that need to be corrected, for example the definition of monotaga, the word "kind" is translated as ituaiga but it should be "agalelei".

- **SPEAKER'S RULING:** Speaker ruling that the request to remove the comments of Lefau concerning the AG does not affect the AG and therefore will not be removed. The only statements removed are those regarding the Bill as a one eyed bill.
- **PRIME MINISTER'S MOTION:** The Hon Prime Minister moved a motion for the suspension of standing order 31 to permit the extension of sitting hours. The Assembly will reconvene at 7:00pm until 11:00pm.

**Proceedings were suspended at 1:00m and
will reconvene at 7:00pm, 27th August 2015.**