

DISCLAIMER

This Summary provides a brief of the Proceedings of Parliament of Tuesday 30th June 2015. While all efforts have been made to provide an informative brief, this information must not be relied upon as an alternative to the official Hansard record of proceedings of Parliament. If you have any specific questions about the Proceedings of Parliament on Tuesday 30th June 2015, you should consult the official Hansard or seek assistance from the Office of the Clerk of the Legislative Assembly.

DAY 7: TUESDAY 30th JUNE 2015**TIME: 9:25pm****I. GOVERNMENT ORDERS OF THE DAY****1. COMMUNITY LAW CENTRE BILL 2014 – Third Reading**

The Hon PRIME MINISTER moved a motion for the Community Law Centre Bill 2015 to be read a third time; the motion was approved. The Question was put and was approved; the Bill was then read a third time and passed the Assembly.

2. MEDIA COUNCIL BILL 2015 – Third Reading

The Hon PRIME MINISTER moved a motion for the Media Council Bill 2015 to be third read; the motion was approved. The Question was put and was approved; the Bill was then read a third time and passed the Assembly.

3. GENEVA CONVENTIONS BILL 2015 – Third Reading

The Hon PRIME MINISTER moved a motion for the Geneva Conventions Bill 2015 to be third read; the motion was approved. The Question was put and was approved; the Bill third read and passed the Assembly.

4. NATIONAL PROSECUTION OFFICE BILL 2015 – Second Reading

The Hon PRIME MINISTER moved a motion for the National Prosecution Office Bill to be second read; the motion was approved.

i. Hon PRIME MINISTER

The Hon PRIME MINISTER stated that the National Prosecution Office Bill correlates directly with the Constitutional Amendment Bill 2015. The Bill establishes a prosecution office separate from the Attorney General's office. The separation of duties is integral as it demonstrates an adherence to good governance. The Attorney General represents the Government; therefore a clear separation of duties for these two offices will also separate the Government's interest in these [criminal] cases.

ii. LEALAILEPULE Rimoni Aiafi, Faleata West

The Member voiced his support for the Bill but noted whether or not Samoa has the capacity to support the proposed office. He also recommended that there should be a tribunal to oversee management level positions and to address management issues.

iii. TAEFU Lemi, Falelatai & Samatau

The Member stated that during his parliamentary term, two major offices have since been established; namely the Public Enterprises and the National Prosecution Office. He stated that the separation of these legal functions was long overdue.

He emphasised that these two offices (the AG and the NPO) should remain independent from other government Ministries.

iv. LEVAOPOLO Talatonu, Gagaemauga No.2

The Member advised the Government that the new appointments should be clearly defined; particularly in terms of their “titles” (Attorney General, Director General and so forth).

Members discussed “supporter colours” for the national rugby team, the Manu Samoa. This was a result of an instruction given by Mr Speaker on Monday 29th June that all in attendance at today’s sitting should wear blue to show their support for the upcoming All Blacks v Manu Samoa game.

v. Hon PALUSALUE Faapo II, Safata, Leader of the Opposition

The Leader of the Opposition expressed his gratitude for the provisions proposed in the Bill. He stated that this is something [the establishment of the Office] which the Opposition has been requesting for some time.

vi. Hon PRIME MINISTER

The Hon PRIME MINISTER noted that neither the Leader of the Opposition nor any other opposition member has mentioned such a request at any time.

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

Hon PALUSALUE stated that his primary concern is the continual amending of the Constitution. He noted that as the Supreme Law of the land, which was fought for by our (Samoan) ancestors, it has been amended too many times.¹

¹ The *Constitution Amendment Bill (No.2) 2015* will be the 18th amendment to the Constitution since Samoa’s independence.

viii. Hon PRIME MINISTER

The Hon PRIME MINISTER stated that for the National Prosecutor's Office to be established, amendments to the Constitution are necessary. Currently, the Constitution only provides for the appointment of an Attorney General. He noted that the Constitution is a "living document" which permits the implementation of necessary changes. He also noted that it is not practical for a country to be guided by old or outdated law. Furthermore, he stated the US Constitution has been amended more than one hundred times.

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

Hon PALUSALUE stated that he supported the Bill but questioned the need to amend the Constitution.

x. Hon PRIME MINISTER

The Hon PRIME MINISTER stated that duties cannot be enacted without a guiding law, this would be illegal.

xi. Hon FONOTOE Nuafesili Pierre Laufofo, Anoamaa East, Deputy Prime Minister

The Hon Deputy Prime Minister stated that there cannot be a duplication of duties. He stated that the National Prosecutor's duties will be provided for in the Constitution, similar to the Attorney General. If, for example, the Attorney General's duties were to be taken away from him, the Constitution would have to be amended.

xii. Hon PALUSALUE Faapo II, Safata, Leader of the Opposition

Hon PALUSALUE insisted that the Bill should be passed without amending the Constitution.

xiii. LEFAU Harry Schuster, Vaimauga West

LEFAU expressed his gratitude for the work of the Attorney General and noted that it is a position of authority. He stated that he was grateful that the Attorney General is willing to delegate his powers and duties of prosecution. He noted that the prosecution duties were only transferred to the Attorney General's office in 1996; prior to that, the police were responsible for prosecutions. He also noted the importance of the prosecutors' duties; about 75% of all cases brought before the Court are criminal in nature.

xiv. TOEOLESULUSULU Cedric Pose Salesa Schuster, Aana Alofi No.3

The Member noted his support for the Bill. He suggested that the Director of Public Prosecutions should be a Judge from the Supreme Court. He also suggested that there should be a time limit for the appointment. He also stated that the Minister which will appoint the Director of Prosecution should be specifically named in the Bill.

xv. Hon PRIME MINISTER

In response to queries about recruitment, the Hon PRIME MINISTER stated that the Management will be responsible for recruitment and selection of the Director of Prosecutions. The candidate must have the requisite capacity to carry out the duties of the position. In regards to a tribunal, the Hon PRIME MINISTER stated that the Bill deals with establishing the requisite salary grades for those who will be appointed to the Office, subject to the provisions of the Remuneration Tribunal Act 2003.

He also noted that there are other tribunals which were established by Parliament in 2001 to solve various issues encountered by the SASNOC and Soccer Federation. That tribunal was established to settle issues outside of the court; a form of

mediation. He stated that a Cabinet Minister or the Prime Minister (in the relevant Minister's absence) approve appointments.

The Question was put and approved; the Bill was then second read. The Bill now stands referred to the Foreign Affairs, Trade and Revenue Committee.

5. BROADCASTING AMENDMENT BILL 2015 – Second Reading

The Minister for Communication, Information and Technology, Hon TUISUGALETAUA Sofara Aveau, moved a motion for the Bill to be second read; the motion was approved.

xvi. Hon TUISUGALETAUA Sofara Aveau, Vaimauga West, Minister for Communication, Information and Technology

The Hon Minister stated that the Bill will amend the 2010 Principal At. Its objectives include an improvement to the administrations framework for the broadcasting sector. It also seeks to clarify which specific services may be classified as “broadcasting”. He noted that all ex ante references which are not relevant to the broadcasting sector will be removed. PART III of the Act, which establishes a separate broadcasting tribunal will be removed and replaced with a tribunal as accounted for in the Telecommunications Act 2005. Other changes include an extension to the objectives of the Act and a merging of the responsibilities of the Regulator under the Telecommunications Act and the Principal Act.

xvii. LEALAILEPULE Rimoni Aiafi, Faleata West

The Member queried whether there would be a change to the appointment of the Regulator. Also, in reference to Clause 16, the Member queried why the universal access policy is to be removed as it is essential. He stated that the policy is important due to appropriated funds being set aside to improve services to the

rural areas. If this is removed, broadcasting companies are not obligated to provide services in these rural areas.

xviii. Hon TUISUGALETAUA Sofara Aveau, Vaimauga West, Minister for Communication, Information and Technology

The Hon Minister confirmed the removal of the universal access policy for television and radio and noted that this was due to the fact these services are currently free. He noted the unfairness of imposing fees on services which are currently free for public use.

xix. LEALAILEPULE Rimoni Aiafi, Faleata West

LEALAILEPULE noted that coverage is poor in the rural areas. Therefore, as a consequence of this particular amendment, extra fees imposed on broadcasting companies will make it difficult to provide efficient services for the public.

xx. LAFATELE Patrick Leiatualesa, Alataua West

The Member stated that for residents within his constituency have not been able to access television coverage for 12 years.

xxi. Hon TUISUGALETAUA Sofara Aveau, Vaimauga West, Minister for Communication, Information and Technology

The Hon Minister noted that funds allocated for the universal access policy are still available. He stated that where a service provider is unable to provide adequate coverage, the Ministry takes away its licence. The concern however, is who will provide these services to the public.

xxii. Hon PRIME MINISTER

The Hon PRIME MINISTER stated that if the current companies are unable to provide services and coverage then we should consider contracting international companies. He noted that the government is attempting to strike a balance between the broadcasting companies and the services provided to the country. He then urged Members to be patient. If service providers are removed due to their inability to provide adequate coverage, the Hon PRIME MINISTER asked- then who would be providing these services?

xxiii. TAFUA Maluelue Tafua, Aleipata Itupa i Lalo

The Member expressed his gratitude for Clause 3 which inserts the words “encourage and preserve cultural diversity”.

xxiv. Hon TUISUGALETAUA Sofara Aveau, Vaimauga West, Minister for Communication, Information and Technology

The Hon Minister stated that broadcasts should be both respectful and sensitive to the various cultural aspects of Samoan society. He advised all relevant service providers to provide coverage to those areas which have yet to receive it. In reference to the issue raised by the Member for Aleipata Itupa i Lalo, the Hon Minister noted that this is accounted for in the Bill. He also stated that the penalty for a company which does not comply with broadcasting standards is the revocation of its licence. He then noted that this has yet to occur owing to the limited number of service providers in Samoa.

The Question was put and approved by the Assembly. The Bill was read a second time and now stands referred to the Primary Production Committee.

6. VILLAGE FONO AMENDMENT BILL 2015 – Second Reading

The Minister for Women, Culture and Social Development, Hon TOLOFUAIVALELEI Falemoe Leiatua, moved a motion that the Bill be read a second time; the motion was approved.

xxv. Hon TOLOFUAIVALELEI Falemoe Leiatua, Aana Alofi No.2

The Hon Minister stated that the Bill will amend the Principal Act 1990. He states that the overall objective of the Bill is to strengthen the role of the Village Fono while ensuring that its authority is exercised in accordance with the Constitution. He stated that the Bill will grant specific powers to village councils such as the ability to impose curfews and order banishments. However, the Village Fono's jurisdiction will be limited in terms of those residing on government, lease or freehold land within the village boundaries.

The Hon Minister also stated that there are provisions which enable the Village Fono to determine their own "*faiga faavae*" and "*iugafono*". He stated that for these to be recognised by the courts, they must be registered with the MWCD. There is also a requirement that one must first consult with and obtain the approval of the Village Fono before endeavouring to construct a building or undertake various activities within the village confines. The Bill also addressed the consequences of the breach of such requirements.

The Hon Minister stated that there is a report from the NUS Faculty of Samoan Studies which addressed the fact that some village do not acknowledge women in their village councils or permit women to be bestowed matai titles. These are issues which the Government will consider in the future. The intention is that the Bill will promote good governance within the village setting which will be reflected in village council decisions.

xxvi. Hon PRIME MINISTER

The Hon PRIME MINISTER stated that the proposed amendment is in alignment with current Government legislation. He then recounted the history of the Village Fono Act 1990 (Principal Act) noting that there was a lot of opposition, particularly from legal practitioners. It was asserted that Samoan culture should not be legislated; however, there are cultures with practices inconsistent with the Constitution, there are also village council decisions which breach international human rights. It has also been asserted that there exists various groups within a village, such as women and untitled men groups. However, according to the Hon PRIME MINISTER, the only relevant group is the “matai” council where the village decisions are made, then authority flows down to the rest of the other village groups.

It has also been asserted that when a decision is made by the council, it should not be questioned. However, with the advent of this new legislation, councils must practice natural justice and opportunity to be heard, and there is opportunity for council decisions to be reviewed or appealed in a Court of law. This will ensure that there is transparency in the decision making process.

xxvii. PAPALII Lio Faavaivaiomanu Taeu Masepau, Faasaleleaga No.2

The strengthening of the powers of the Village Fono is vital; particularly the power to establish village policies. The Member voiced his support for all 10 amendments. In terms of the issue of registering “iugafono” with the Ministry, the Member stated that despite this requirement, *iugafono* will always be revered. The practice is still similar to the Samoan oral traditions whereby information was not written but recorded in memory. He noted his concern of village internal matters (sensitive to the village) now requiring registration.

xxviii. Hon PRIME MINISTER

The Hon PRIME MINISTER stated that registration is not compulsory. If disputes arise however, there will be records which may be referred to by the Courts for information. He also noted that the registration of village *iugafono* will be encouraged if any such cases arise.

xxix. PAPANII Lio Faavaivaiomanu Taeu Masepau, Faasaleleaga No.2

The Member stated that the issue is the difficulties villagers may be faced with when *iugafono* must be registered and changed each time a decision is recorded. It would be hard work for many. To this, the Hon PRIME MINISTER noted that all *iugafono* should be recorded at one time. The Member again stated that individual village *iugafono* should not be public information.

xxx. Hon TOLOFUAIVALELEI Falemoe Leiatua, Aana Alofi No.2, Minister for Women, Culture and Social Development

The Hon Minister is a lawyer, and a former Police Commissioner but still appears ignorant. If a decision has been made that a resident's penalty shall be 20 taro, it is registered electronically at the Ministry for Women in case it is needed by the Courts.

xxxix. PAPANII Lio Faavaivaiomanu Taeu Masepau, Faasaleleaga No.2

If records are given to the Ministry for Justice, records will be accessible and available to the public. The Constitution is not being acknowledged.

xxxix. Hon TOLOFUAIVALELEI Falemoe Leiatua, Aana Alofi No.2, Minister for Women, Culture and Social Development

The Hon Minister clarified that he did not state that the new initiative would not acknowledge the Constitution. Hon TOLOFUAIVALELEI stated that he meant that the

Bill is consistent with the Constitution. To this, PAPALII responded that he had based his comments on the Bill that he had read. The Hon Minister stated that the Bill requires that *iugafono* of the Village Fono be consistent with the Articles of the Constitution.

xxxiii. PAPALII Lio Faavaivaiomanu Taeu Masepau, Faasaleleaga No.2

The Member queried the requirement that one consult or obtain the approval of the Village council before construction of a building. He noted that if there is a situation where the owner of freehold land wishes to lease his land for the construction of a retail store, the village has the authority to decide on this and put it on hold. The Member agreed that the village should have this authority but that it should be limited to the construction of halls and churches but not businesses.

xxxiv. Hon TOLOFUAIVALELEI Falemoe Leiatuaa, Aana Alofi No.2, Minister for Women, Culture and Social Development

The Hon Minister stated that the clause grants the authority to the Village Fono to approve usage of land for specific purposes. He stated that the use of land for community purposes requires the approval of the Village Fono only, not those which are to be used for individual purposes.

xxxv. Hon LEAUPEPE Toleafoa Apulu Faafisi,

The Member expressed his gratitude to the Minister for WCSD and requested that additional time be granted for the Minister to clarify the Bill for all Members of Parliament, at a later time.

xxxvi. PESETA Vaifou Tevaga, Faasaleleaga No.4

The Member queried whether the Bill may permit the return of land which was removed by village council decisions.

xxxvii. AVEAU Nikotemo Palamo, Faleata East

In regards to Clause 9, PUMA has policies in place regarding the building of structures. However, if there is an inconsistency, the question is which legislation should prevail? The Member also sought clarification of the definition of “land” used in the Bill.

The Member recommended that a programme be established to encourage young children to attend school. This may be a positive use of land under the Bill in terms of village lands to be used for community purposes. He also stated that the Bill makes no mention of violence against women and how the Village Council may address this issue, and he proposed this as another important issue for the Bill to address. The Minister mentioned a report from the NUS which highlighted that matais are chosen from within the family unit. Therefore, since Parliament recognises women in Parliament, the village council should also encourage women to sit in village councils.

xxxviii. Hon TOLOFUAIVALELEI Falemoe Leiatua, Aana Alofi No.2, Minister for Women, Culture and Social Development

In terms of the women issue raised by the Member, such issues are not intended to be addressed by this particular Bill. In terms of *iugafono* by the Village Fono, they are kept for the community’s benefit. It is for this reason that it is important to register *iugafono* with the Ministry so that Courts may refer to them where necessary.

Proceedings were suspended at 11:35am and reconvened at 12:13pm

xxxix. Hon TOLOFUAIVALELEI Falemoe Leiatua, Aana Alofi No.2, Minister for Women, Culture and Social Development

The Hon Minister expressed his gratitude for Mr Speaker's speech on behalf of Parliament to the Manu Samoa team as they prepare for their match against the All Blacks. He then reminded Members and the public that "ignorance of the law is no excuse".

The Question was put and approved. The Bill was then read a second time and now stands referred to the Government Administration Committee.

Proceedings were adjourned at 12:35pm

Parliament will reconvene at 9:00am, Tuesday 18th August 2015.