

DISCLAIMER

This report provides a brief of the proceedings of Parliament of Tuesday, 11th August 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, 11th August 2015 you should consult the Official Hansard or seek assistance from the Office of the Clerk of the Legislative Assembly.

DAY 1: TUESDAY 11th AUGUST 2015

TIME: 9:10am

I. GOVERNMENT ORDERS OF THE DAY

1. FOREIGN INVESTMENT AMENDMENT BILL 2015 – first reading

Hon FONOTOE Nuafesili Pierre Lauofo, Deputy Prime Minister, Minister for Commerce, Industry & Labour and Member for Anoamaa East.

The Hon Deputy Prime Minister moved a motion for the Foreign Investment Amendment Bill 2015 to be first read; the motion was approved and the Bill was first read by the Clerk.

2. SENTENCING BILL 2015 – first reading

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

The Hon FIAME Naomi Mataafa moved a motion for the Sentencing Bill 2015 to be first read; the motion was approved and the Bill was first read by the Clerk.

3. EVIDENCE BILL 2015 – first reading

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

The Hon Minister moved a motion for the *Evidence Bill 2015* to be first read; the motion was approved and the Bill was first read by the Clerk.

4. FISHERIES MANAGEMENT BILL 2015 – first reading

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

Hon LE MAMEA Ropati moved a motion for the *Fisheries Management Bill 2015* to be first read; the motion was approved and the Bill was first read by the Clerk.

5. LANDS, SURVEYS and ENVIRONMENT AMENDMENT BILL 2015 – first reading

Hon FAAMOETAULOA Ulaitino Faale Tumaalii, Minister for Natural Resources & Environment and Member for Gagaemauga No.3

The Hon Minister moved a motion for the *Lands, Surveys and Environment Amendment Bill 2015* to be first read; the motion was approved and the Bill was first read by the Clerk.

6. LAND, TITLES REGISTRATION AMENDMENT BILL 2015 – first reading

Hon FAAMOETAULOA Ulaitino Faale Tumaalii, Minister for Natural Resources and Environment and Member for Gagaemauga No.3

The Hon Minister moved a motion for the *Land, Titles Registration Amendment Bill 2015* to be first read; the motion was approved and the Bill was first read by the Clerk.

7. COMPETITION AND CONSUMER BILL 2015 – first reading

Hon FONOTOE Nuafesili Pierre Lauofo, Deputy Prime Minister, Minister for Commerce, Industry & Labour and Member for Anoamaa East.

The Hon Deputy Prime Minister moved a motion for the *Competition and Consumer Bill 2015* to be first read; the motion was approved and the Bill was first read by the Clerk.

8. ELECTORAL AMENDMENT BILL (No.3) 2015 – first reading

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

The Hon Minister moved a motion for the *Electoral Amendment Bill (No.3) 2015* to be first read; the motion was approved and the Bill was first read by the Clerk.

9. ELECTORAL AMENDMENT BILL (No.3) 2015 – second reading

Hon FIAME Naomi Mataafa, Minister for Justice and Member for Lotofaga.

The Hon FIAME Naomi Mataafa moved a motion for the *Electoral Amendment Bill (No.3) 2015* to be second read; the motion was approved. The Hon Minister then delivered a Ministerial Speech outlining the overall purpose and objectives of the Bill. Hon FIAME then stated that the Bill has 6 clauses which will amend the Principal Act. The second clause will amend the timeframe within which village services must be performed. The 3rd Clause will amend the period of imprisonment which renders a candidate ineligible to run for elections; the current period is 2 years which will now be increased 4 years to be in line with previous subsection 5(5) of the principal Act. References to “American Samoa” will be removed and replaced with “any other country”. Clause 4 outlines the authority vested in the Electoral Commissioner to re-take photographs of registered voters. Other amendments are made to the Schedule and Forms as outlined in the Principal Act.

i. AVEAU Tuala Lepale Nikotem Palamo, Member for Faleata East.

AVEAU spoke in reference to the amendment of the 3 year period of imprisonment and stated that there have been candidates that have been imprisoned for at least 2 years yet have been conferred matai titles. This clause seemingly undermines this group of people, which renders the Bill too harsh. It also appears as if the Bill has been amended to favour the Government in the upcoming General Elections. *The Constitutional Amendment Bill (No.2) 2014* was enacted to increase the participation of women in Parliament; in contrast, this Bill will limit the pool of potential candidates. The Hon Member suggested that this clause be removed.

The Member then queried the timeframe for the performance of village service and queried why it was now included in the Bill. He also noted the issue of de-facto relationships by questioning whether there would be an opportunity for mothers and children to register to vote in Faleata East despite their ties being through kinship. He gave the example of a person who has resided in Vaivase for over 10 years but is ineligible to vote for that particular constituency; he stated that in such cases voting should be permitted despite not having any familial ties with the village. AVEAU then noted that the electoral boundaries are not outlined in the Bill and queried the reasons as to why a voter may not register to vote for the place in which he or she resides. In terms of restricting voters whose spouse is to run for elections from voting, the Member suggested that this be reconsidered. Finally, AVEAU queried the transfer of registrations despite some registrations already existing on the electoral roll.

ii. LEALAILEPULE Rimoni Aiafi, Member for Faleata West.

LEALAILEPULE noted that despite the imminence of the General Elections, the Government is still attempting to introduce amendments. The Member stated that the continued introduction of amendments is confusing and therefore not beneficial to anyone. The Member also stated that Commission of Inquiries that take place after every General Election should be removed and that this review be given to a Parliamentary Committee.

iii. Hon Prime Minister

The Hon PRIME MINISTER stated that there is sufficient time for amendments to be introduced and enacted. He noted that the responsible Minister is following Cabinet instructions by introducing these amendments. Hon PM commented that these amendments were a result of the comments from the members during the consideration of the last electoral amendment and the recommendations and comments were considered thus the current amendment bill.

iv. Hon FIAME Naomi Mataafa, Minister for Justice and Member for Lotofaga.

Responded to the recommendation by the member for Faleata West to refer the review of the electoral matters to a Parliamentary committee instead of a Commission of Inquiry. Under Standing Orders, the Business Committee has the power to review the Electoral Act as is known by the Speaker who is the Chair of the Committee. The Committee made a recommendation during the consideration of a previous amendment that the Principal Act be reviewed.

v. LEALAILEPULE Rimoni Aiafi, Member for Faleata West.

The Member noted that the intended restrictions should be removed and that emphasis should be placed on a person's rights. He noted that post General Elections, there is a Commission of Inquiry which tends to render the "general process" (in regards to Elections) redundant as positive outcomes were yet to

materialise from the amendments made by previous Commissions. In terms of ineligibility requirements, the Member stated that emphasis should not be placed on the length of time served but rather the maximum sentencing time handed down by the Courts as this reflects the severity of the crime committed as opposed to actual time served.

LEALAILEPULE raised the issue of the Electoral Commissioner's discretionary powers, noting voters had transferred; that the change to the registration process should be justified because any change should have come about as a result of electoral issues arising. If this was the case, there should be figures or statistics to justify the change, particularly if the change to the process of registration was as a result of issues arising from the previous elections.

vi. Hon TUISUGALETAUA Sofara Aveau, Minister for Works and Member for Vaimauga East.

The Hon Minister stated that registered voters who have not updated their voter photos should do so as a person's features can change dramatically over the years.

vii. MAUALAIVAO Pat Ah Him, Individual Voters.

The Member noted his disagreement with the Minister's comments.

viii. LEALAILEPULE Rimoni Aiafi, Member for Faleata West.

Noting again the importance of granting voters the freedom to register where they choose, the Member stated that the current practice and intended practices are confusing for the general public. He referred to the case of voters residing in Faleata and Vaimauga, noting that these voters were once registered on the Individual Voter's Roll and have yet to transfer to the roll pertaining to their current place of residence. Other voters should also be eligible to register at their place of

residence so long as they meet the requirements that they reside on freehold land and have done so for at least 6 months.

ix. MAUALAIVAO Pat Ah Him, Individual Voters.

The Member stated that voters who reside within the areas referred to by LEALAILEPULE are in fact able to decide where they register to vote. He continued by stating that such voters may register for the urban seats or under the Constituency in which they hold their respective matai title(s).

x. LEALAILEPULE Rimoni Aiafi, Member for Faleata West.

The Member agreed with MAUALAIVAO and noted that the real issue is of voters registering on one roll then transferring their registration to another roll. He stated that the Office of the Electoral Commissioner should look into these practices and provide that registrations may only be transferred after a period of 5 years. This is a preventative measure which will counter the current problems faced with voter registrations. Furthermore, the Member stated that information that is being given to the public through television and radio programmes are only confusing the public more and that this needs to be changed immediately. He urged the Minister to consider these recommendations.

xi. TOEOLESULUSULU Cedric Pose Salesa Schuster, Member for Aana Alofi No.

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The Member supported the amendments put forward by the Bill and noted its importance. He stated that the OEC must implement these amendments as soon as practicable. He then stated that the current processes and mediums for the registration of voters, particularly in terms of identification, is too complex. He suggested that the OEC use alternative forms of registration such as online forms for registration. This would be an easier and more accessible means for voter

registration particularly for those citizens who are absent from the country for work or education purposes. The government was suggested to put in place a “National Identification Card” system which may be utilised by all Government employees and Ministries which can then be used for a variety of purposes such as voter registration, NPF entitlements and the Pension scheme. This will promote consistency of identification mediums throughout all Government Ministries and for all personnel.

xii. LEVAOPOLO Talatonu, Member for Gagaemauga No.2

The difficulty in enacting these types of legislation lies in the imbalance between European practices and Samoan custom and traditions; such a task is complex and difficult to achieve.

- **Speaker (AGAFILI Patisela Eteuati Tolovaa):** Point of order: The Speaker reminded the Member that under the Standing Orders, only merits of the Bill may be discussed during second reading debates. Comments at this point, made by Members, are open to interpretation therefore it is required that Members speak only on the Merits of the Amendment Bill.

xiii. LEVAOPOLO Talatonu, Member for Gagaemauga No.2

The Member stated that the proposed requirement that village service (including church obligations or monotaga) must be registered is controversial. He noted the apparent discrepancies within the relevant clauses stating that it does not account for all possible scenarios, for example, in situations where one contributes to the village but resides overseas. The Member suggested that limitations to the years of service not be limited and that this clause be removed completely.

xiv. PESETA Vaifou Tevaga – Member for Faasaleleaga No.4

PESETA noted that there are those who have received titles without village service or monotaga. This is a common issue amongst those matai who reside in the Apia area. He noted that the Bill states that monotaga must be carried out, however, villages must also consider a person's *tautua*; the imbalance is that monotaga is given greater emphasis in the Bill. The Member suggested that monotaga be included in the definition of "village services" so as to give full recognition to a person's total service.

The Member suggested that nominations should close on the same day as registrations as this could possibly affect those Members already in Parliament. He noted again that registrations should be changed to November [instead of January] for candidates as church and village *fa'alavelaves* are normally during the Christmas period which requires matai contributions. This will be disadvantageous to existing Members of Parliament in that they cannot contribute due to electoral restrictions.

Proceedings were suspended at 10:45am

Proceedings reconvened at 11:40am

**** Second Reading Debates on the Electoral Amendment Bill (No.3) 2015 continued****

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

The Member compared General Elections to the "Superbowl" whereby in the last few minutes of the game, the Coach tells his team that "everything must go".

xvi. Hon FIAME Naomi Mataafa, Minister for Justice and Member for Lotofaga

The Hon Minister stated that as Members of Parliament, they must uphold the laws they enact. Therefore, statements such as those made by the Member for

Faasaleleaga No.4 are inappropriate, particularly when the public are listening. The Member implies that we encourage disobedience of the laws, which is incorrect and misleading. The Speaker should make a statement to correct the Member's comments.

xvii. Hon PRIME MINISTER

The Hon Prime Minister moved a motion that the Member for Faasaleleaga No.4's previous speech be struck from official records. As Parliamentarians, they must be seen to enforce and uphold the laws they introduce and enact. The Member's comments will reflect negatively on Parliament if they are included in the official records.

- Mr Speaker instructed the Clerk to strike the comments made by the Member for Faasaleleaga No. 4 from Parliament's official records.

xviii. LEALAILEPULE Rimoni Aiafi, Member for Faleata West

Prior to the Speaker's above order, LEALAILEPULE, in reference to "continuous village service" stated that candidates should not be discouraged from enacting long service. If one's nomination is queried as a consequence of continued service, the Courts have the discretion to interpret the particular circumstances. However, the Member noted that continuous service is common practice in Samoan culture, therefore the Courts should not be quick to define such acts as unlawful.

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

The Member apologised to the House and the Minister for Justice for his comments. In terms of declarations against nominees, the Member recommended that the Minister considers an alternative process whereby Nominee (1) may make a

declaration against Nominee (2) if an allegation has been put forward against Nominee (2).

xx. PAPANII Lio Faavaivaiomanu Taeu Masepau, Member for Faasaleleaga No.2

A declaration of service should be made and signed in front of a lawyer on a candidate's behalf. The declaration process for an elector or voter to register is clear; however, for candidates this process is unclear. In terms of the 3 year clause for service, the Member stated that "service is service". He stated that the onus is on villages to clarify their requirements for "village services".

xxi. Hon PAPANIIITELE Niko Lee hang, Individual Voters

The Hon PAPANIIITELE Niko Lee Hang noted his gratitude for the Minister of Justice and the OEC for the amendments proposed in the Bill. The Member spoke of the history of the Individual Voter seats and noted that there were no previous requirements for a candidate to hold a matai title or provide services to a village. Village service has now become an issue, as stated by LEVAOPOLO; this service should begin at the age of 5. In terms of the current "urban" arrangement, the Member noted that when a service is provided by an occupier of freehold land, this should be regarded as service regardless of whether the constituency is territorial or urban.

xxii. LEVAOPOLO Talatonu, Member for Gagaemauga No.2

The Member noted that he had no issue with contributions to the Church, however, he is concerned with village contributions. This is due to the fact that not all villages have or enforce such practices. For this reason, the Member asserted that it was necessary for the Minister to clarify the exact definition of "tautua".

xxiii. Hon PAPANIIITELE Niko Lee Hang, Individual Voters

The Member stated that a voter may decide whether to vote for a candidate representing a village in which his or her title is registered, or for a candidate representing his or her place of residence. The Member then attempted to clarify the various issues raised in regards to the transfer of the Individual Voters Roll to the Urban Roll. The Hon Member stated that for voters registered before this amendment, they should be permitted to transfer their registration. For all those who registered after the amendment, they will be required to register under the Urban Roll.

xxiv. AFUALO Wood Uti Salele, Member for Salega.

On the issue of “service”, the Member noted that there are various forms of service which the Government should consider and therefore clarify. The Member advised the Government should clarify the term “monotaga” as there is much controversy as to the meaning of this word. The Member also recommended that service should be determined by the Village Chiefs who will be able to determine which candidates have indeed provided village services. He noted that by imposing limitations on this requirement will in turn hinder the efforts of some potential candidates. He further recommended that the 3 year provision be removed and that candidacy be determined by the Pulenu’u as is the current practice. Each Pulenu’u are well informed as to their particular village circumstances and is aware of those matai who are rendering service.

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

The Member stated that he does not support the residency and service provision clause. He stated that because Samoa is a democracy, matai should be entitled to run from the Territorial Constituency in which he or she is a matai of, despite their normal place of residency. In terms of *tautua*, services may be “indirect” and “diluted” particularly for those matai who reside permanently in the Apia area.

The Bill does not, however, recognise the efforts of town based matai who support their families and villages in the rural areas with various financial obligations for both village and church. He again reiterated the need to remove the clause regarding “residency”.

xxvi. TUSA Misi Tupuola, Member for Falealili

The Member voiced his support for the Bill and stated that the proposed amendments will ensure that the General Elections are enacted legally. He did, however, note concern over the lack of clarity of the word *tautua* in the Bill to enable the effective execution of provisions by the Courts. Furthermore, the Member queried the OEC’s efforts to photograph elderly citizens who may not be physically able to register in the Mulinuu Office.

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

Hon FAUMUINA noted that the current requirement that Individual Voters hold matai titles was heavily debated when proposed; however, it has now been enacted as law. He then stated that any matai who serves the village well would also provide service in the form of *monotaga*; he voiced his support for the village service provision. However, Hon FAUMUINA noted that the term *tautua* when used as “village services” tends to refer to general duties and obligations, not only to one’s village but to one’s family and church as well. If specific reference is made to “*monotaga*” then the same clarity should be given to “service”.

xxviii. LEFAU Harry Schuster, Member for Vaimauga West

LEFAU made several comments on the Bill and highlighted that one’s freedom to vote is an inalienable, God given right. He recommended that the procedures for candidates to run for elections should be simplified. The Member requested that

the Ministry and Minister provide a more accessible medium for registration in order to support the realisation of these human rights.

LEFAU stated that the current procedures for registration are so complex that interested voters tend to shun away from registering; particular in reference to the requirement for a photograph and birth certificate to complete registration. He noted that from a legal perspective, a birth certificate is a sufficient means of identification therefore there is no additional need for a photograph.

In terms of *tautua* the Member stated that it is a requirement for one's eligibility to run for elections and therefore supports previous recommendations that this term be properly defined. As it stands, the term is very vague and therefore leads to confusion. He stated that one's length of service can be proven via the date of title registration, whereas *tautua* is harder to measure. Another issue could possibly be the need for evidence to support one's claim that she or he has served for the requisite 3 years before nominations close. LEFAU noted that the definition of *tautua* is subjective which adds to its complexity in terms of one's ability to measure it. The Member noted that a voter may choose to vote in Vaimauga, for example, or a village in which his or her matai title is registered. However, those who reside on freehold land may choose between voting in Vaimauga or the Urban Roll, and one who has no kinship ties to Vaimauga will automatically be registered in the Urban Roll.

xxix. TUISA Tasi Patea, Member for Sagaga Le Falefa

The Member reminded the House of the Samoan adage "O le ala I le pule o le Tautua". TUISA stated that the 3 year provision for village services correlates with the provisions for the granting of citizenship. He noted that the definition of *tautua*, in the Bill is general but there are many different forms of *tautua*. In terms of

context, the Bill appears to refer to all forms of *tautua* and not specifically to the service rendered by matai. The Member voiced his support for the provision which provides 4 years (an increase from 2 in the Principal Act) as one of the grounds for the disqualification of candidates.

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

MOTUOPUAA requested the Member to clarify his comments which stated that *tautua* includes candidates who were not registered as matai.

xxx.i. LEALAILEPULE Rimoni Aiafi, Member for Faleata West

LEALAILEPULE noted that the period of 4 years may be sufficient for a candidate, but when one is appointed as a Member this is insufficient.

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

The Leader of the Opposition noted that *tautua* is determined by the people of the village and the Pulenu'u; for this reason he opposed its inclusion. He stated that the clause is biased towards Members who were already occupying parliamentary seats. Contrary to the intention behind the enactment of the Constitutional Amendment to encourage women to participate, this Bill may make it harder for women candidates to run in General Elections.

xxxiii. Hon TOLOFUAIVALELEI Falemoe Leiataua, Minister for Women, Community & Social Development and Member for Aana Alofi No.2

The Hon Minister stated his support for the 3 village service provisions and asked the Leader of the Opposition to refrain from making such comments as it could be misinterpreted, particularly by women.

** The Minister for Women and the Leader of the Opposition debated the effects of the Bill on possible women candidates **

Proceedings were adjourned at 12:56pm

Parliament will reconvene on Wednesday 12th August, 2015 at 9:00am.