

DISCLAIMER

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Day 2: Tuesday 25 January 2017

9:00am

▪ GOVERNMENT ORDERS OF THE DAY continued – Reading of Bills.S

1. Constitution Amendment (No.1) 2016 – Second Reading.

The Hon PRIME MINISTER moved a motion for *the Constitution Amendment (No.1) Bill 2016* to be second read; the motion was carried and the Hon PRIME MINISTER proceeded to clarify the objectives of the bill.

The Hon PRIME MINISTER stated that the bill will return the office and duties of the National Prosecution Office (NPO) to the Office of the Attorney General, as was the case before the *National Prosecution Act 2015* was enacted. The Hon PRIME MINISTER noted that at the time of enactment, the Government had firmly believed the establishment of the NPO was ‘the right move’; however, it has become evident that it was not, and therefore the Government proposes to return the functions and powers currently vested with the NPO back to the Attorney General. The Hon PRIME MINISTER then provided examples of past cases where well intentioned Government actions later became regrettable. One such example arose out of the issue of electoral

registrations. In the past, it was discovered that many voters were in fact registering people who had long been deceased, for the purpose of casting additional votes. The Government attempted to remedy this issue by legislating the compulsory issuance and use of 'Identification Cards' (IDs); however, the Hon PRIME MINISTER noted that the introduction and use of IDs brought with it additional issues which had not been foreseen. Hon TUILAEPA stated that this analogy is applicable to the case at hand because the establishment of the NPO was well intentioned, however it has inadvertently caused problems which now require the Act to be repealed, and the Office's functions to be returned to the Attorney General.

i. OLO Fiti Afoa Vaai, Member for Salega East.

The Member noted his support for any Constitutional Amendments which are proposed for the betterment of the nation; however, he was of the opinion that perhaps this particular amendment was premature. Furthermore, he stated that it is important to leave the prosecution duties separate from, and independent of the Attorney General. The Member then queried whether the Attorney General would be responsible for prosecuting a person who was charged with a crime, based on advice he or she had given (conflict of interest issue). The Hon PRIME MINISTER stated that in such cases overseas counsel would be utilised instead of the Attorney General. Finally, the Member noted that the case of the NPO was due to the inexperience and youth of the Director. He stated that this was an issue which should have been addressed by the Government at the recruitment stage, which may have saved the Office as opposed to later resorting to repealing the Act.

ii. Hon FONOTOE Nuafesili Pierre Laufofo, Member for Anoamaa West.

The Member noted that historically, since Independence, the power of prosecution has always been vested in the Attorney General. In 2015, this was changed with these powers redirected to the Director of the NPO. The Member stated that perhaps a reason for the separation in 2015 was due to issues of conflicts of interests which arose with previous Attorney Generals. He then provided specific examples of past cases of conflicts of interest. The Member then stated that this amendment will not limit the ability of the public to instigate private proceedings.

iii. FAUMUINA Asi Pauli Wayne Fong, Member for Urban West.

The Member noted that the issues which arose from the NPO in the past year seems to have been due to internal conflicts, an issue he asserted was not limited to the NPO. He therefore suggested that the same actions be taken with other Ministries which are experiencing similar problems.

iv. ALAIASA Moefaaouou Malagaitutogiaai Sepulona Moananu, Member for Anoamaa East.

The Member for Anoamaa East noted his support for the bill, and stated that perhaps the issues which arose within the NPO were a result of poor recruitment. ALAIASA further stated that sometimes, circumstances call for changes in law, and the Government must act accordingly to rectify issues which revealed themselves upon enactment of certain laws. He also noted that it appears that laws enacted to govern legal practitioners are easily manipulated by lawyers, given their extensive knowledge of the law. He then recommended that the Government focus on recruiting more qualified and experienced people, and again noted his support for the repeal of the NPO Act.

v. Hon PRIME MINISTER

The Hon PRIME MINISTER stated the the Government's decision to repeal the NPO Act was not done so in haste; however, given issues which arose from the NPO last year, the tabled changes are unavoidable. He stated that perhaps the Act could be reconsidered some time in the future, but at this present time, this change is what is best for the public.

The Hon PRIME MINISTER moved a motion for the bill to be second read; the motion was carried and the bill stands referred to the Standing Orders, Electoral, Petitions and Constitutional Offices Committee.

2. Constitution Amendment Bill (No.2) – Second Reading.

The Hon PRIME MINISTER moved a motion for the bill to be second read; the motion was carried and the Hon PRIME MINISTER spoke to clarify the bill's objectives.

The Hon PRIME MINISTER stated that currently, reference to Christianity is limited to the 'Preamble' of the Constitution and therefore has no legal force. The Hon PRIME MINISTER stated that despite Samoa's obvious Christian affiliations, this is not reflected in the body of the Constitution which prompted Cabinet to propose an amendment to clearly define the State's religion. Furthermore, providing a State religion definition in the body of the Constitution will give it the legal force that it requires. Finally, religious wars are a common occurrence throughout the world, and it is the Government's duty to legislate accordingly, in efforts to avoid religious tensions in the future.

i. OLO Fiti Afoa Vaai, Member for Salega East

The Member for Salega East noted his support for the bill, but proposed that the definition of the Holy Trinity be defined even further.

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

The Member acknowledged Cabinet for its initiative in proposing the amendment, which will emphasize to the rest of the world that Samoa is truly founded on God. The Member then noted various reasons why the proposed bill will be beneficial for the country; particularly due to the fact that Samoa has always been, and remains to be a "Christian" country, despite it not having been legislated to date. GATOLOAIFAANA then suggested that perhaps the definition of "Christianity" could be expanded to include other Christian doctrines, such as the crucial belief that Jesus Christ was crucified and was later resurrected. The Member then stated that to declare a State religion would be beneficial in encouraging the populace to put God at the forefront of their lives, and to sway from non-Christian acts such as the commission of crimes and so forth. In short, the Member fully supported the bill.

iii. LOPAOO Natanielu Mua, Member for Vaisigano No.1.

The Member stated that the proposed amendment does not support the principles of human rights, which Samoa is obliged to respect under international laws, including its obligations to the United Nations. He stated that God would provide a way to assist Samoa if we are to choose to be an exclusively Christian nation.

iv. Hon LAUOFO FONOTOE Nuafesili Pierre Laufofo, Member for Anoamaa West.

The Member noted his support for the bill and further stated that the bill will not restrict other denominations from their religious practices, nor restrict them from entering the country. The Member noted that in reality, it is difficult for any State to regulate its people's religious inclinations given the ability of various denominations to easily reach the public through various technological means, and indoctrinate people. The Member noted his support for the bill.

v. ALIIMALEMAU Alofa Tuuau, Member for Alataua West.

ALIIMALEMANU noted her support for the bill, but noted her concern over the possible influx of religious fanatics into the country. The Member therefore stated that the proposed amendment is insufficient as it apparently lacks real 'power' to limit the spread of potentially fanatical denominations within the country. The Member proposed to either amend the proposed Article or include an additional Article which would restrict the denominations in Samoa to 'Christian' denominations only.

vi. FAUMUINA Asi Pauli Wayne Fong, Member for Urban West.

The Member suggested to include 'terms and conditions' which emphasise that Samoa is founded on God, and possibly an Article restricting other religious denominations within the country which are not Christian.

- Hon PRIME MINISTER

The Hon PRIME MINISTER responded by stating that Papua New Guinea had similar restrictions, however, they did not operate to restrict the influx of other religious denominations. The Hon PRIME MINISTER noted that the only feasible way to achieve what the Member was requesting, would be to assert that only denominations which recognise the Holy Trinity may practice their religious beliefs in Samoa.

vii. NAFOITOA Talaimanu Ketu, Deputy Speaker and Member for Gagaemauga No.3.

The Deputy Speaker thanked the Hon PRIME MINISTER for the bill, stressing that in order for the citizens to peacefully co-exist with each other, the Government must address contentious religious issues now so that they may not cause disruption in the future. The Member then emphasised the importance of the 'Holy Trinity' in Christian doctrine, as is provided for in the amendment.

viii. LEALAILEPULE Rimoni Aiafi, Member for Faleata West.

In noting his support for the bill and its objectives, the Member stated that Samoa is a progressive country, and that the move towards declaring a State religion is an affirmation of this. The Member then stated however, that attempts to restrict non-Christian denominations within Samoa does not correlate with overarching Christian principles; Christians, in his opinion, would not attempt do do such things. The Member touched on the importance of the State defining its religion, in that it will showcase to the world its religioius beliefs and will in turn inform foreigners as to what behaviours are acceptable in Samoa.

ix. FAAULUSAU Rosa Duffy Stowers, Women's Reserved Seat

The Member noted her support for the bill.

x. Hon FAUMUNA Tiatia Faaolatane Liuga, Member for Palauli le Falefa.

The Member noted his support for the bill, but stated that the provision 'as is' is insufficient.

Proceedings were suspended at 10:43am

Proceedings resumed at 11:20am.

- ***Hon FAUMUNA Tiatia Faaolatane Liuga, Member for Palauli le Falefa – continued**

The Member stated that according to information he received from Muslim colleagues, Islam does not accept Christian doctrine because they believe in God as three separate personas; namely, the Father, the Son and the Holy Spirit.

xi. TAEFU Lemi, Member for Falelatai and Samatau.

The Member for Falelatai and Samatau stated that Islam was not officially established until the turn of the 6th Century. He further stated that religious wars are resulted in the most number of casualties than any other wars. Finally, he noted his support for the bill.

xii. FUIMAONO Teo Samuelu Teo, Member for Falealili East.

The Member noted his support for the amendment, as he believed it does not pose any obstacles to non-Christian denominations, nor will it affect human rights. He further stated that there are other 'Christian' denominations which do not believe in the 'Holy Trinity', such as the Baha'i who believe in the the 'Glory of God'.

xiii. LEAANA Ronnie Posini, Member for Safata West.

The Member noted his full support for the bill, however, he suggested a possible amendment which would include the special status of Samoan customs and traditions as well.

xiv. AUMUA Isaia Lameko, Member for Falealili West.

The Member for Falealili West acknowledged the efforts of the Hon PRIME MINISTER in proposing the bill. He suggested that the definition of 'Christianity' be expanded, and that Article 11 regarding 'Freedom of Religion' should be clearly stated to express that each person is free to determine his or her religious beliefs.

xv. ALAIASA Moefaauouo Malagaitutogiai Sepulona Moananu, Member for Anoamaa East.

The Member for Anoamaa East thanked the Hon PRIME MINISTER for the bill, noting that as is stated in Deuteronomy 28, a nation founded on God will be blessed, as is the case with Samoa which is founded on God.

xvi. MULIPOLA Leiatua Laki, Member for Aiga i le Tai.

MULIPOLA noted his full support for the bill, but suggested that the Samoan version of the definition be clarified/defined further.

xvii. SULUMANAIA Fetaiai Tuiliili Tuivasa, Member for Vaimauga East.

The Member expressed his support for the bill and reminded the House that Christianity is a full time commitment, and should be reflected in not only through your words, but through your actions.

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

The Member for Aleipata Itupa i Lalo suggested that the Samoan version of the proposed Article be worded as is stated in the Explanatory Memorandum of the bill (“O Samoa o se atunuu Kerisiano e faailoa ai le fulisia o le atunuu i le talitonuga”), not as it is stated in the body of the bill.

xix. Hon AEAU Peniamina Leavaiseeta, Member for Falealupo.

The Member for Falealupo queried whether there was a need to include the ‘Holy Trinity’ in the Article.

xx. TAPULESATELE Mauteni Tamasone Metuli II Esera, Member for Vaisigano No.2.

The Member noted his support for the bill and reminded Members and the public that the bill will be referred to a Parliamentary Committee, which will enable further discussion of the matter. The Member also noted that this amendment serves to further elaborate Article 11.

xxi. TUIFAASISINA Misa Lisati Leleisiuao Palemene, Member for Palauli East.

The Member noted his support for the bill.

xxii. SALAUSA John Ah Ching, Member for Faleata East.

The Member noted his support for the bill and stated that this provision should have been included in the Constitution in 1961.

xxiii. Hon PRIME MINISTER

The Hon PRIME MINISTER stated that the bill is straight forward, as it seeks to include in the body of the Constitution a definition of Christianity. The Hon PRIME MINISTER stated that when the issue of State religion was first brought to him, he sought advice from various people. Over time, different views were given and several lawyers noted the risk of such an amendment in regards to international obligations. He then stated that a Commission was set up to delve into the issue and the result of that Commission was the recommendation that the Constitution not be amended. However, in 2016, Cabinet decided to revisit the issue, and the amendment before the House is the result, with the intention that Samoa’s religious stance as a Christian nation be firmly enshrined in the body of the Constitution.

The Hon PRIME MINISTER moved a motion for the bill to be second read, the motion was carried and the bill stands referred to the Standing Orders, Electoral, Petitions and Constitutional Offices Committee.

3. Coroners Bill 2016 – Third Reading.

The Hon Minister for Justice, Courts and Administration, Hon FAAOLESA Katopau Ainuu, moved a motion for the bill to be third read. The motion was carried and the bill passed the Assembly.

4. Village Fono Amendment Bill 2016 – Third Reading.

The Hon Minister for Women, Culture and Social Development, FAIMALOTOA Kika Iemaima Stowers, moved a motion for the bill to be read thrid. The motion was carried and the bill passed the Assembly.

5. Police Service Amendment Bill 2016 – Consideration in Detail and Third Reading.

The Bill was considered together with its respective Committee Report, P.P.2016/2017 No.149, Report of the Social Sector Committee on the Police Service Amendment Bill 2016.

Hon GATOLOAIFAANA Alesana Amataga Gidlow moved a motion for the Assembly to consider the above report; the motion was approved.

- Clause 2 – approved.
- Clause 3 – approved.
- Clause 4 – approved.
- Clause 1 – correction to Clause 1 and Short Title : “to subsitute 2016 with 2017 to be read as Police Service Amendment Bill 2017.”
 - Clause 1 - approved as corrected.

A motion was moved by the Hon PRIME MINISTER to suspend Standing Order 108(4), to permit the bill to be third read; the motion was carried and the bill passed the Assembly.

The Hon PRIME MINISTER moved a motion to adjourn parliamentary proceedings until Tuesday, 7th March 2017.

- ALILAMELMANU Alofa Tuuau, Member for Alataua West.

The Member rose to remind the Government of its outstanding responses to referred Committee reports. The Hon PRIME MINISTER responded that a meeting will be held to discuss this issue, with relevant Members and the Clerk of the House.

Proceedings were adjourned at 12:45pm.

The House will reconvene at 9:00am on Tuesday, 7th March 2017.