

DISCLAIMER

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PART B

Tuesday 15th February 2022

2:04pm

- **Afioga MASINALUPE Makesi Masinalupe - Member for Lefaga & Faleaseela**

The Member expressed disappointment with remarks made by the Member for Vaimauga No.1 therefore moved a motion to remove the words “o ai oe?” from parliamentary records; motion seconded and approved

Mr Speaker ruled to remove the words from official parliamentary records.

GOVERNMENT RESPONSE:

Afioga Hon TUALA Tevaga Iosefo Ponifasio - Deputy Prime Minister:

The Hon Minister asserted that proposing the amendment was not an intention to undermine or to point out the previous government’s errors but it was to simply clarify and rectify what was missing. He further accentuated that the 1977 Customs Act provided for the establishment of an Investment Committee; this provision was also included in the 2010 Regulation. However, there was no authority provided for the aforementioned committee when the 2014 Act repealed the 1977 Act. It is in this regard, the Government pondered that the amendment was necessary to align the Principal Act with the Regulation.

- **Tofa LEALAILEPULE Rimoni Aiafi – Member for Faleata 3**

The Member highlighted section 344 (3) (Savings and transitional) of the Principal Act which justifies the continuation of regulations from 1977; Tourism and Manufacturing.

MR SPEAKER - RULING:

Mr Speaker ruled to leave the interpretation of the laws to the Judiciary to reflect the independent and separate roles of the Three Arms of Government. He reiterated to the Member and all Members that the Government and the responsible Minister have responded on the issue and should not be mentioned again.

- **Tofa Hon LAUOFO Fonotoe Nuafesili Pierre Laufo - Member for Anoamaa 2**

The Hon Member queried that if the 1977 Act established the investment committee which was then repealed by the 2014 Act. He then read out section 344 of the principal act which provides for transitions.

Afioga Hon TUALA Tevaga Iosefo Ponifasio – Deputy Prime Minister (cont.)

The Hon Minister commended the recommendations put forward by Members and iterated the need to provide in the Principal Act the Investment Committee. Hon Minister further reiterated that the Act does not provide for the establishment of the Investment Committee, also in the 2010 regulation, there was no specific provision which establishes an Investment Committee. Investment Committee was only mentioned in the Interpretations section of the Regulations 2010. While most of the 2010 Regulation was referred to defining qualified products/projects.

Hon Prime Minister – Point of Clarification:

Hon PM differentiates between the Principal Act and Regulation and asserted that the Regulation has limited powers. The Hon Prime Minister urged the opposition Members to refrain from raising the integrity of Parliament and implying that the current government is blaming the previous government for wrong doing. The Hon PM asserted that the Government is making necessary amendment as it is its role to ensure the Act to improve it and not implying anything else.

- **Afioga PESETA Vaifou Tevagaena – Member for Faasaleleaga No.5**

The Member suggested to add in the Bill limitations to the concessions put forth by the Bill to ensure the incentive has an expiry term.

Afioga Hon TUALA Tevaga Iosefo Ponifasio – Deputy Prime Minister (cont.)

The Hon Minister acknowledged the advice given by the Member and asserted that limitations will be included in the revised regulation. Furthermore, the Hon Minister noted that all concerns raised will be considered appropriately.

The question was put and the Customs Amendment Bill 2022 was second read

3. Customs Amendment Bill 2022 - consideration in details

Clause 2 - *approved*

Clause 3 - *approved*

Clause 1 and short title - *approved*

4. Customs Amendment Bill 2022 - third reading

The Hon Minister for Customs and Revenue, TUALA Tevaga Iosefo Ponifasio moved a motion for the bill to be read a third time; motion seconded and approved

The Customs Amendment Bill 2022 was third read and officially passed the Legislative Assembly

5. Income Tax Amendment Bill 2021 - second reading

The Hon Minister for Customs and Revenue, TUALA Tevaga Iosefo Ponifasio moved the motion for the second reading of the Bill and to clarify on it; motion seconded.

The Hon Deputy Prime Minister clarified that the Bill essentially removes the provision of tax imposed on church Ministers salary and wages which was enacted in 2017. Church Ministers sued government on this provision and was found by the courts that the Act was not clear on taxing church Ministers. Minister indicated that such provisions since its enactment has not been effective and have only gained a small amount of revenue for the Ministry. The Hon Deputy PM posed the question, what is the use of this provision and what was the rationale behind such a provision.

The Hon Deputy PM concludes that the advice given by a consultant that led to such provision was unfounded. Furthermore, the Hon Minister asserted that there are many other means of earning income and revenue for our country, such as outstanding taxes and revenues that must be paid. Then the Hon Minister read aloud all clauses of the amendment Bill.

i. Tofa ALE Vena Ale – Member for Faleata 4

The Member expressed appreciation and support for the Bill and suggested to remove all taxes imposed on all religious leaders, not just religious ministers serving in villages but all ordained church leaders.

ii. Tofa Hon TUUU Anasii Leota – Member for Siumu

The Hon Member noted that in order to gain the collective views of the public, it would be appropriate to hold a referendum and give the people the option to have a say on what they believe is the right thing to do.

iii. Afioga SEUAMULI Fasi Toma - Member for Gagaemauga 2

The Member expressed gratitude to the Government for the boldness to amend the act and affording the relevant privilege to our religious leaders.

iv. Afioga SULAMANAIA Fetaiai Tauilili Tuivasa – Member for Vaimauga 1

The Member emphasised that any law passed by Parliament should be abided by all citizens. He too, opposed the amendment when it was introduced in Parliament at the time; however, once the Bill was passed he learnt to accept it. Other religious leaders also followed and adhered to the law as it was the right thing to do. The Member further noted that one religion opposed the law; then raising his concern as this would possibly set a precedent for the public and implied that anyone can now oppose any law passed by the Parliament.

The Member further mentioned that when the taxation of religious leaders was brought into the House, it was also brought together with the taxation of the Head of State; he then queried why the new Government did not think to also remove the taxation of the Head of State. Furthermore Afioga SULAMANAIA queried what the Ministry intends to do with the taxes which were collected from church ministers who abided with the law and paid accordingly. The Member also queried the Minister on what powers he had to change the Act.

v. Afioga ALAIASA Moefaaouo Sepulona Moananu: Anoamaa 1

The Member noted that he too was against the proposed amendment when it was brought into the House and subsequently passed in Parliament, however, he eventually accepted the taxation as the ultimate aim was to develop our nation.

**Proceedings were set aside at 3:48pm;
and resumed at 4:23pm**

vi. Afioga LEAANA Ronnie Posini – Member for Safata 1

The Member noted that Samoa is a nation founded on God and explained that all Members and every Samoan affords special respect to religious leaders. Further noted that regardless of our different callings, there is a belief that God calls each of us in whatever field, therefore we are all servants of God. He then mentioned that the taxation was passed for development purposes, noting the challenges faced by the economy, such as the impacts of climate change as well as the pandemic which has impacted the world. He then echoed sentiments by the Minister whereby Jesus Christ also paid taxes and stated that a great lesson is provided by Christ's actions.

vii. Tofa FUIONO Tenina Crichton - Member for Falealupo

The Member noted his support for the Bill and implied that by passing the Bill, Members who are seeking treatment overseas will be recovered and well.

- **Tofa LEALAILEPULE Rimoni Aiafi – Member for Faleata 3**

The Member moved to have the statements retracted as it has dual meaning, as if to imply that the Leader of the Opposition has fallen ill because of the taxation of religious leaders.

- **Afioga SULAMANAIA Fetaiai Tuivilili Tuivasa – Member for Vaimauga 1**

The Member moved a motion to remove the words from parliamentary records; motion seconded and approved.

Mr Speaker ruled to remove the words with dual meaning from official parliamentary Hansard.

viii. Afioga PESETA Vaifou Tevagaena - Member for Faasaleleaga No. 5

The Member noted his support for the taxation of religious leaders at the time it was initially brought into Parliament, because no one is above the law; furthermore the Member noted that paying taxes enables people to be eligible to social benefits such as pension, social security, health insurance and others. Therefore, payment of tax is another means of generating revenues which are in turn for the development of Samoa.

ix. Afioga FALEOMAVAEGA Titimaea Tafua – Member for Aleipata Itupa i Lalo

The Member offered condolences to the bereaved family from his constituency on the loss of their son, and then noted his support for the Bill to cease taxation of religious leaders.

x. Tofa LEALAILEPULE Rimoni Aiafi - Member for Faleata 3

The Member asserted that it was only fair to return the taxes back to those church ministers who adhered to the law when it was enforced. Furthermore, the Member suggested to keep the Act as it is, noting that it promotes equality and fairness of all in the payment of income tax. The member further reflected on the government's taxation threshold which is earnings above 15k are taxed and asserted that those earning below 15,000 are exempt from paying any tax including church ministers.

xi. Afioga Maulolo Tavita Aмосa - Member for Sagaga 2

The Member stated that as Parliamentarians it is imperative that the laws made reflect the majority of views and interests of the people, rather than specifically cater for a minority group. The member emphasised on the importance of paying tax as this in turn helps with other government expenses such as the costs associated with quarantine isolation of citizens from overseas.

xii. Afioga VAELE Paiaaua Iona Paiaaua Sekuini - Member for Gagaifomauga 2

The Member noted his support for the Bill and recalled that in 2017 he wanted to become a Parliamentarian so that he can voice his concerns on the taxation of church ministers and queried whether the reasoning behind the enactment of this act was because the previous government had budget issues as he recalled the past parliamentary terms whereby the government never resorted to the taxation of church ministers despite a decline in government budget.

xiii. Susuga AIONO Tile Gafa – Member for Aana Alofa No 2

The Member explained that when the Act was passed their congregation looked at how to calculate the tax for their faifeau, noting that their congregation were willing to abide with the laws and explained that the Lord always provides. He then acknowledged the Minister for the cessation of taxing church ministers and noted his support.

xiv. Afioga FUAAVA Suluimalo Amataga - Member for Aleipata Itupa i lalo

The Member stressed the importance of understanding the 2017 Act it was just an amendment for the 2010 Act to include all ministers [faifeau tausinu]. Further noted that he was of the opinion that the Bill being deliberated was founded on the idea of equally sharing the load and contributing to developing our economy. The Member then noted the following concerns such as; whether church ministers were double taxed. He further queried whether the income tax amendment complies with Article 15 of the Constitution which provides for 'Freedom from discriminatory legislation' noting that all people are equal before the law and entitled to equal

protection under the law. The Member noted that it was in this regard he suggested that all church ministers should be taxable regardless of whether they are 'faifeau tausuu' or not.

xv. Tofa Hon FAIMALOTOA Kika Stowers Ah Kau – Member for Gagaifomauga No1

The Hon Member suggested to cease all taxes on church ministers and to return the taxes already paid by those law abiding church ministers as it is the just thing to do.

xvi. Afioga LUPEMATASILA Galumalemana Tologata Tile – Member for Falelatai and Samatau

The Member believes that all bills presented and passed in parliament are of good intentions, similarly to that of the Income Tax Amendment in 2017 which provided for the taxation of church ministers as it was based on the rationale that all should contribute to the development of the country. The Member noted his support for the amendment bill but advised that the act should include all ministers not just faifeau tausuu.

**Proceedings were set aside at 6pm;
and resumed at 6:28pm**

xvii. Afioga FEPULEAI Faasavalu Faimata Sua – Member for Salega 1

The Member stated that the taxation of church ministers was one of the main reasons he chose to run for Parliament as he was against this provision and wanted to voice his concerns on such an amendment.

xviii. Afioga MAGELE Sekati Fiaui – Member for Faasaleleaga 2

The Member noted that initially when considering the economic benefits of the taxation of all he was supportive of the taxation of church ministers, however when considering all other factors such as the Christian beliefs of our nation, he therefore supports the amendment Bill to cease the taxation of church ministers.

xix. Afioga Hon LAUTAFI Fio Selafi Purcell – Member for Satupaitea

The Hon Member noted that the sole intention of the taxation of church ministers was to provide equality and fairness for all Samoans, thus providing a law that all income earners make a contribution to the development of Samoa. The Hon Member iterated that there have been other Members querying whether there were budget issues or whether the previous Government did not value the holistic contribution by church ministers, he asserted that this was not the case, the only intention of the previous government was to provide a law that equally binds all Samoans for fairness.

- **Hon TOEOLESULUSULU Cedric Pose Schuster - Interjection**

The Hon Minister for Natural Resources and Environment interjected to ask the Member for Satupaitea whether the equality he is referring to, also applied to the farmers and fishermen.

Afioga Hon LAUTAFI Fio Selafi Purcell – Member for Satupaitea (cont.)

The Hon Member asserted that as fishermen and farmers, all are subject to the law, however there is a taxation threshold which means that those who are above the threshold and can afford to pay taxes will pay, while those who cannot pay, will not.

- **Hon LAAULI Leuatea Polataivao Fosi – Interjection**

The Hon Minister for Agriculture and Fisheries clarified that all citizens pay taxes through VAGST. This is their contribution to the economy of Samoa.

Afioga Hon LAUTAFI Fio Selafi Purcell – Member for Satupaitea (cont.)

The Hon Member clarified that there was a difference between VAGST and Income Tax, the Bill provides for Income Tax and elaborated further that the rationale behind the introduction of taxing church minister was to align with the constitution which provides for the principle of fairness; whereby everyone is treated the same and follow the same rules.

xx. Tofa Hon LAUOFO Fonotoe Nuafesili Pierre Laufo - Member for Anoamaa 2

The Hon Member conveyed his support for the bill and raised 2 concerns which were also stated by previous Members; this included the impact of the public possibly refusing to abide by the laws in the future if it does not suit them; and secondly whether the Minister had the power to cease a certain provision of the act from being enacted. The Hon Member also sought the Minister to further clarify the definition of a 'faifeau tausuu' as there was no specific definition or distinction of church minister from a faifeau tausuu.

Afioga Hon TUALA Tevaga Iosefo Ponifasio – Deputy Prime Minister

The Hon Minister acknowledged all members who expressed their opinions regarding the income tax and noted that he will consider all issues and concerns raised by members. He then mentioned specific issues such as, the possibility of refunding taxes paid by ministers who abided by the previous act, or reconsidering the taxing of the HOS. The minister emphasised that this is not an easy process and it cannot be done all at once, it has to go through certain process which is to repeal the act then all other factors may be considered.

The Hon Minister confirmed that he as the Minister does not have the authority or power to change a law without going through Parliament. Further stated that nobody is above the law; however, you have a right to take any matter to court which is what the clergy did. Hon TUALA emphasised that they did not go against the law but only fought for individual rights as the act was not well prepared or written correctly, so this is why the church ministers took it to court because they saw that there was a lapse in the Income Tax 2017 which is why the Ministers succeeded in their case.

The Hon Minister stated that the issue faced by the ministry at the time was the implementation cost of the taxation of church ministers, noting that the Ministry unfortunately could not collect the amount perceived by Parliament at the time, from the taxes collected from church ministers. He again acknowledged the House for their interest and opinions expressed on the Bill and concluded his response.

*The **Income Tax Amendment Bill 2021** was read a second time and pursuant to Standing Order 102(2) the Bill was referred to the **Economic Sector Committee** for consideration and to report back to the Legislative Assembly in the next possible meeting*

**Proceedings adjourned at 7:47pm; and
will reconvene on Tuesday 29th March 2022 at 9:30am**