

DISCLAIMER

This Report provides a brief of the Proceedings of Parliament on Tuesday 22nd September 2020. 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 22nd September 2020, you should consult the official Hansard or seek assistance from the Office of the Clerk of the Legislative Assembly.

Tuesday 22nd September

9:17am

I. WARRANT OF ELECTION

Pursuant to Section 84(2) of the Electoral Act 2019, the Head of State, Tuimalealiifano Vaaletoa Sualauvi II declared and issued the Warrant of Election to Laauli Polataivao Leuatea to serve as Member of Parliament of the Independent State of Samoa.

II. SWEARING IN OF MEMBER FOR GAGAIFOMAUGA NO.3

Mr Speaker declared occupancy of seat for Gagaifomauga No.3 who is also the successor of the recent by-election, Susuga Laauli Polataivao Leuatea.

Mr Speaker proceeded to set out the Code of Conduct to which Members of Parliament are to abide by, S.O 15 (Code of Parliamentary Ethics) and Susuga Laauli Polataivao Leuatea was sworn in as Member of Parliament for Gagaifomauga No.3.

Mr Speaker advised the Member as per Standing Orders and Ethics of the House, the Member has incorrectly stated his name in the Oath of Allegiance and demanded that he re-correct his name as per Warrant of Election as he would not accept his allegiance if he continues to use his unofficial name.

Member re-did the Oath of Allegiance and stated his official name as per Warrant of Election.

Hon AUELUA Fatialofa Lupesoliai Tuilaepa Dr Sailele Malielegaoi- Ministerial Statement

Hon PM congratulated the Member on his victory in the by-election. He further explained that the sitting is unprecedented and is convened due to the urgent matter pertaining to the upcoming General Elections- the Electoral Amendment (No.2) Bill 2020.

He noted that the occupancy of the Gagaifomauga No. 3 seat was conducted based on legislations that were passed in the Assembly. He re-echoed the importance of abiding by set laws in terms of changing allegiances (party-wise) and further noted that if these Acts were not in place it will result in an unstable Nation which detrimental to the nation. The PM stated that it is imperative that overseas nations see Samoa as an example of stability and peace; changing allegiance is not a healthy image for Samoa's politics especially from the views of foreign partners/donors.

He refuted claims that Acts in place are in favour of the ruling party but are measures put in place to ensure stability within government and in the nation. Legislation and government policies are made with the purpose of benefitting the majority but not to further the interests of a ruling party. The PM further acknowledged the Former Deputy PM in her role over the years and stated that she has had an immense contribution to the progress of Samoa and conveyed well wishes. He referred to these as the common practice for Democracies whereby disagreements will ensue from time to time and as such all are free to express their views.

He acknowledged the work of the Special Committee who are tasked with the consideration of the three (3) controversial Bill (i.e. Land and Titles Bill 2020, Judicature Bill 2020 and the Constitution Amendment Bill 2020). These proposed amendments are the by-product of people whom have turned to Cabinet to find solutions to rectify the limitations of the Land and Titles courts. It was difficult to turn a blind eye on these grievances and asked Members "is this not our role as legislators?" to formulate Bills and amendments which will benefit the nation. PM turned his attention to address those who stated that these amendments have the potential to alienate Customary lands and challenges them to present these views to the Attorney General (AG) and called out to the Office of the Attorney General (OAG) to stamp out these amendments if this is indeed the case.

PM explained that one of the purpose of the amendment was to separate the Land and Titles Court (LTC) from the Supreme Court which is government's vision to enhance the current LTC systems. The proposed amendments seek to incorporate aspects of the Samoan culture which in his opinion is slowly dying out. He shed light on the interdependence of Religion and Culture in Samoa and elaborated that religion relies on culture for security and vice versa. Those who reject the 3 Bills are most likely those that have not attended or sat in village council meetings and have no knowledge of Samoan life.

He advised the Assembly that the work of the Special Committee has come to an end and its report will be presented to Parliament for further deliberation and opinions of Members.

Minister for Ministry of Women Community and Social Development, Tuitama Talalelei Tuitama put forth a motion for the PM's Ministerial statement to be tabled in Parliament.

Motion approved.

III. NOTICE FROM THE LEADER OF THE HOUSE

Pursuant to S.O 76 Notice is given to permit the introduction of the following Bill:

- i) Electoral Amendment Bill (No.2) 2020

IV. CERTIFICATE OF URGENCY

Pursuant to S.O 100(2) the Leader of the House introduced the following Bill to be under Certificate of Urgency:

- (i) Electoral Amendment Bill (No.2) 2020

V. OTHER ANNOUNCEMENTS BY MR SPEAKER

- (i) **Amendment to State of Emergency (Covid-19)**

After deliberations by NEOC and Cabinet on the 4th September, Repatriation flights schedules are amended as follows:

- Domestic flights between Upolu and Savaii to be open on Sundays;

Furthermore, district hospitals remain open for the dispensing of Medicine. These changes are made in accordance with Article 38 (1) (c) of the Constitution.

VI. PRESENTATION OF PAPERS

- 3 Papers were presented to Parliament (2 Annual Reports and 1 SR).
- 3 Committee Reports were tabled; (all 3 reports were from the Infrastructure Sector Committee).

VII. GOVERNMENT ORDERS OF THE DAY

- i) **Electoral Amendment (No.2) Bill 2020- first reading**

Minister of Justice, Court and Administration (MJCA) moved a motion to have the Electoral Amendment Bill (No.2) 2020 to be first read.

Motion approved

ii) Electoral Amendment (No.2) Bill 2020- second reading

Minister of Justice, Court and Administration (MJCA) moved a motion to have the Electoral Amendment Bill (No.2) 2020 to be second read and speak on the merits on the Bill.

Motion approved

HON FAAOLESA KATOPAU T. AINUU, Minister of MJCA- Clarification on the Bill

The Hon Minister commenced by stating that the amendments will separate Traditional Constituencies from Electoral Constituencies only during elections (it has no bearings on the traditional salutation of the Constituency).

The Bill serves 4 purposes:

1. Provide for more fair application of the law to a person intending to contest for elections from constituencies affected in the re-defining of the electoral boundaries under the electoral under the Electoral Constituencies Act 2019;
2. Provide for fair application of the law to a person intending to contest in the general elections but has been impacted by the Corona Virus Disease 2019 (COVID-19) travel restrictions;
3. To address administrative gaps to improve the law that the Electoral Commission were faced with during by-elections since the Principal Act was passed; and
4. To ensure the integrity of Monotaga is intact for purpose of elections.

Proceedings were suspended at 10:23am

Proceedings reconvened at 11:12am.

Debate on the second reading of the Bill:

(a) LAAULI Polataivao Leuatea- Member for Gagaifomauga No.3

The Member acknowledged the 4 Chiefly families of Samoa, the Clergy, Cabinet, Traditional honorific salutations. He acknowledged the Speaker for protecting the integrity of the House and providing shelter during times when debates get heated in the Chamber.

He conveyed apologies to Members of the House for past disagreements and if any sentiments issued had cause offence. He noted that his return to the House is what's best for the nation. Acknowledged support of his independent Member colleagues in Parliament. He reiterated that he and the FAST party will not remain mum if they see policies are unfit for the Nation.

The Member stated that his objection to the three (3) Bills currently before Parliament resulted to him being removed from the ruling party. He expressed disappointment as he remains adamant that the amendments have significant bearing on hindering the validity of candidacy for elections. It is 7 months before the elections and these changes are being rushed, because the three Bills have implications on individual rights, authority of village Council and all who claim to the cultural land and titles (suli o fanua ma suafa).

Hon PM

PM asked the Speaker whether the statements made by the Member is a Maiden Speech; the Member is not eligible for one as he is a Senior Member of Parliament?

Hon LOPAOO Natanielu Mua- Minister, Ministry of Agriculture and Fisheries- Point of order

The Member sought to remove the statements made by Member for Gagaifomaug No.3 implying that it was these amendments that caused him to be ousted by the ruling party.

Hon PM

The PM clarified that the Member was ousted from HRPP on grounds of hypocrisy because the Member endorsed these Bills when he was in Cabinet and now that he is a backbencher he has rejected the Bills.

Speakers Ruling 1: It was out of respect that he afforded to Laauli 30 minutes to speak even though it was not a maiden speech.

Speakers Ruling 2: instructed to remove the words by the Member which implied that the Minister of Agriculture and Fisheries as 'osovale' (someone who inappropriately intervenes).

❖ Hon LAAULI Polataivao Leuatea- Member for Gagaifomauga No.3- (cont.)

In response to the PM, the Member stated that his rejection and disapproval of the Bill was issued in Parliament and not Cabinet. He noted that there is favouritism in Parliament but this will not stop them from voicing their concerns.

Hon PM

PM argued that the Member's accusation in regards to favouritism in Parliament is a severe accusation which has dual meanings which can imply nefarious motives. He asserted that matters of clarification is Government's role, maintaining order in the House vests in the Speaker.

❖ Hon LAAULI Polataivao Leuatea- Member for Gagaifomauga No.3- (cont.)

Concluded his statement by acknowledging members of the FAST party, family and friends for their support. Particular acknowledgement was relayed to his constituency.

(b) PESETA Vaifou Tevagaena- Member for Faasaleleaga No.4

The Member supports the overall intents and objects of the Bill. He queried the amendment which allows the Member to contest in the upcoming elections using a Matai title from another village to run in another Electoral Constituency.

Hon FAAOLESA Katopau Ainuu- Minister, MJCA

Noted that the concerns raised by the Member had been addressed at Pre-sitting and further elaborated that the proposed amendment ensures consistency in terms of chances afforded and to ensure the monotaga requirements for candidacy is satisfied.

OLO Fiti Afoa Vaai- Member for Salega East

Jested that the Bill pertains to the PM and Peseta is the Associate for Tuilaepa yet it seems that they did not liaise on the Bill.

Hon PM

Hon PM clarified that it is the Minister of MJCA that owns the Bill not the PM and Associate Minister.

❖ **PESETA Vaifou Tevagaena- Member for Faasaleleaga No.4- (cont.)**

The Member stated that there is potential loophole in the instance of Gagaemauga No.1 (i.e. if you are a matai at Leauvaa and at Samalaeulu then the candidate is eligible to run from Gagaemauga No.1 even though he does not have a Monotaga at Samalaeulu).

Hon FAAOLESA Katopau Ainuu- Minister, MJCA

The Minister clarified that the Bill stipulates that in the instance presented, the Candidate is eligible to run where he/she can use his Matai at Samalaeulu and utilise his Monotaga at Leauvaa which declares his candidacy valid.

❖ **PESETA Vaifou Tevagaena- Member for Faasaleleaga No.4- (cont.)**

He further accentuated that the Pulenuu at Samalaeulu will then be forced to lie on the Candidcay papers in terms of Monotaga rendered.

Hon FAAOLESA Katopau Ainuu- Minister, MJCA

In the case of Gagaemauga No. 1, the monotaga is transferrable from Leauvaa and Samalaeulu.

Hon PM

Clarified that the Monotaga is transferrable for Gagaemauga No.1 and the Pulenuu of Leauvaa will confirm the valid candidacy and the monotaga of the candidate to run for Gagaemauga No.1 if the 3 years for his monotaga has not been met.

❖ **PESETA Vaifou Tevagaena- Member for Faasaleleaga No.4- (cont.)**

Recommended to Government to consolidate the law to stipulate those who wish to run from Savaii to be bearers of Matais from Savaii.

(c) **FAASOOTAULOA Pati Taulapapa- Member for Gagaemauga No.2**

Noted that the Constituency of which he hails from is not an Electoral Constituency rather than a Traditional Constituency. He remained adamant that in his own interpretation is that his traditional pule- Saleaula is being removed.

Hon PM

Noted that the amendment seeks to ensure proper representation per population.

(d) **LEALAILEPULE Rimoni Aiafi- Member for Faleata West**

The member noted that changing with the times are a MUST and Samoa must be adaptable so as to be practical. He also noted that his Constituency will also be affected because of the new amendments (i.e. there will be 4 Faleata districts in the next election). He stated that the number of people in his electoral roll has increased.

The member refuted claims made by members implying that the amendments are a safeguard to guarantee re-election for the ruling party; Samoa's democracy is unique in its own way. Democracy has its variations, New Zealand for instance is unique in its own way by having a coalition government due to the MMP electoral system they use. Samoa's democracy is also unique- he relays practices such as Members having Committees that would pick up voters; service to the Church as a means of Monotaga.

(e) **OLO Fiti Afoa Vaai- Member for Salega East**

The Member quoted the Constitution affording protection for Human Rights for all. Religious freedom is also afforded to all. He then queried whether this could be afforded to those who wish to switch their political party allegiance within the Parliamentary term.

LEALAILEPULE Rimoni Aiafi- Member for Faleata West

The Member accentuated that the changes seek to ensure that there is proper representation for constituents.

❖ **OLO Fiti Afoa Vaai- Member for Salega East- (cont.)**

There are two major conditions that permits an individual to vote; (1) where the individual is a Matai or (2) the village in which the voter resides in. However, for Vaitele Uta's case, Lealailepule seem to be an established Member for this seat, this is a hindrance for people to freely vote.

Hon FAAOLESA Katopau Ainuu- Minister, MJCA

The Minister clarified that the amendment proposed by the Bill mirrors exactly what the Constitution provides, therefore if the point made by the Member for Salega East is considered, this would result to amending the Constitution which is the supreme law.

Hon PM- Point of clarification

The Hon PM clarified the rationale behind stopping Party hopping is to ensure that you consult with your Constituency before pledging allegiance to a new Party contrary to the Party the member entered Parliament in. This also protects the integrity of the Constituency.

The Hon PM clarified that a nation's political instability discourages assistance from foreign donors and asserted the importance of stable government and healthy politics. The Bill also emphasizes honesty, being dignified which protects the integrity of Parliament by holding Members to their word/declaration that was made in the beginning of the Parliamentary term. This declaration should be kept till the end of the Parliamentary term and not otherwise.

MOTION BY THE LEADER OF THE HOUSE

The Hon PM moved a motion for the sitting to continue on until the Electoral Amendment Bill is passed.

Motion approved**❖ OLO Fiti Afoa Vaai- Member for Salega East- (cont.)**

Refuted claims of instability issued by the Member for Faleata West of stability and cited Australia as an anomaly to the claims made by Lealailepule.

LEALAILEPULE Rimoni Aiafi- Member for Faleata West

The Member responded and cited Japan as an example of his statement. He recalled a conversation between he and the PM of Japan and the PM stated that he lives in constant fear of travelling due to the potential of a political coup. Furthermore, he stated that the PM of Japan commended Samoa on her political stability for many years.

❖ OLO Fiti Afoa Vaai- Member for Salega East- (cont.)

The member responded that there are other nations who have a stable Government but allow party hopping (there are no restrictions on individual rights). The Member further argued that the Office of the Electoral Commissioner does not look into the citizenship requirement; the Monotaga is determined by Statutory declarations made by Pulenuu and

2 other matai's, while citizenship seems to be overlooked. He then suggested proper monitoring of meeting citizenship requirement to determine candidacy eligibility.

Hon FAAOLESA Katopau Aiuu- Minister, MJCA

The Minister noted that the matters raised by the Member of Salega East is not affected under the Bill. As per Clause 8, stipulates that the length of citizenship is not a worry. The only requirement is to be a citizen.

OLO Fiti Afoa Vaai- Member for Salega East- (cont.')

He clarified to the Minister that only Matais have the right to citizenship hence why he is raising the matter. He pinpointed that there is a loophole in this issue.

(f) FAUMUINA Wayne Fong- Member for Urban West

The Member acknowledged Government for the changes proposed as a result of a matter that brought before the Court.

Hon FAAOLESA Katopau Aiuu- Minister, MJCA

Minister refuted the statement made by the Member for Urban West and stated that these amendments were not as a result of a court matter, it was government's own initiative.

❖ FAUMUINA Wayne Fong- Member for Urban West- (cont.')

Clarified that his intention of speaking today, is to convey his gratitude and support for the Bill. He also stated that he has every right to speak however it seems that the Ministers do not want him to speak.

Hon PM

The PM refuted the claims made by the Member for Urban West and stated that in his opinion the main reason the Member for Urban West speaks is to shed a negative light on Cabinet and Government. He then explained that the amendments address the current circumstances (i.e. Covid-19).

(g) FAAULUSAU Rosa Duffy Stowers- Member for Gagaifomauga No.3

The Member conveyed her support for the Bill. She noted that Samoa is progressing and as such so should our Laws be practical to accommodate the current circumstances. The Member acknowledged efforts made by relevant authorities to ensure the Bill aligns with fundamental rights provided in the Constitution. She mentioned the removal of Special polling booths for Savaii voters in Upolu and sought assistance for possible remedies to counter the challenges encountered by voters who have to travel to Savaii to vote. She also suggested that these booths should be placed far away from the Village Council Houses to ensure votes are individual and not influenced and pressured by village matais. He also suggested that the Office of the Electoral Commission should hold public

consultations and awareness programmes to better inform voters and individuals who wish to contest in elections of all requirements and criteria that need to be satisfied as voters and candidates; being better informed can avoid confusion and misinterpretation of provisions and policies which the legislation provides.

(h) ALIIMALEMANU Alofa Tuuau- Member for Alataua West

With reference to Monotaga, the Member suggested whether it is suitable to incorporate village by-laws for the values of monotaga in the Bill. The Member further explained that there are variances of value of Monotaga per Constituency and these should be officially stipulated.

(i) NAMULAUULU Sami Leota- Member for Faasaleleaga No.2

The Member explained the discrepancies of the legislation, specifically in regards to those who provide statutory declaration to determine eligibility of candidacy (Pulenuu); the Member stated that 2 Village Mayors were fined by the Electoral Office, executing this provision thus 5 voters were removed from the voters roll due to illegal practices. The member went on to pose the rhetoric on what would have arise if these 5 voters were the determining voters and the potential unnecessary complications this would cause.

(j) Hon LAUOFO Fonotoe Pierre Laufo- Member for Anoamaa West

The Member reiterated that the Bill seeks to accommodate those whose candidacy is affected due to Covid-19 restrictions. He then posed the question in what happens to those whom have adhered to the Pre-amended Act in light of the days spent in Samoa and abroad, and upon the new proposed amendment disqualifies their candidacy. Does this not come into conflict with Article 15 of the Constitution which states that all people are equal before the law.

(k) Hon FIAME Naomi Mataafa- Member for Lotofaga

Fiame first acknowledged and conveyed her well wishes for Laauli. Acknowledged also the PM's well wishes on her tenure as an Independent Member and expressed her support for the Bill. She commended the Office of the Electoral Commission for the explanation during the Pre-sitting as she has fully understood the principles and intentions of the Bill.

The Hon Member then noted that the former Member touched upon issues which she wanted to speak on, such as the special treatment afforded to those who are stuck overseas due to covid19 restrictions. She then queried the amendment proposed by the Bill to move registration of candidacy from 3 months (as is currently) to 6 months before General Elections, querying the applicability to by-elections.

The Hon Member echoed sentiments made by the Member for Salega East in respect to the bill being one-sided and 'discriminatory' towards voters; specifically, for voters who cannot run in the constituency which they reside in and cast their vote. The Hon Member

acknowledged that changes must be made to ‘modernise’ legislations so that it is applicable with current times.

LEALAILEPULE Rimoni Aiafi- Member for Faleata West

The Member again iterated the uniqueness of Samoa’s form of democracy, and that the question was posed to his constituency on whether to open up the roll to all Matai's residing in Faleata to contest in elections which was rejected unanimously.

❖ **Hon FIAME Naomi Mataafa – Member for Lotofaga (cont.)**

The Hon Member stated that it is imperative that the independence of the OEC is free from nepotism, aristocrats, collusion and politics.

❖ **Hon FAAOLESA Katopau Ainuu- Minister of Justice and Courts Administration**

The Hon Minister acknowledged all Members who spoke on the Bill and stated that all concerns have been noted.

❖ **Hon AUELUA Fatialofa Lupesoliai Tuilaepa Dr Sailele Malielegaoi- PRIME MINISTER**

The Hon Prime Minister briefly commented and commended Members of the House for expressing views and concerns on the Bill. He reiterated that Cabinet will only stand on points-of-orders and clarifications on which is afforded to them under the Standing Orders. This in the opinion of the Prime Minister is misinterpreted by outside observers as being condescending which in fact is quite the opposite.

The PM noted that post dissolution of every Parliament, Commissions of Inquiries commence to gauge the necessities and most suitable courses of action for the next Parliament. He then conveyed apologies to the Public on the misinterpretation by overseas people and stated that their views have been heavily influenced by Politicians.

The Electoral Amendment Bill (No.2) 2017 was second read

iii) **Electoral Amendment Bill (No.2) 2020- consideration in detail**

Minister of Justice, Court and Administration (MJCA) moved a motion to have the Electoral Amendment Bill (No.2) 2020 to be second read and speak on the merits on the Bill.

Motion approved

Clauses 2 - 13

Approved

Clause 1 and Short title: *Approved*

The Electoral Amendment Bill (No.2) 2020 progressed through the House without an amendment.

iv) Electoral Amendment Bill (No.2) 2020- third reading

Minister of Justice, Court and Administration (MJCA) moved a motion to have the Electoral Amendment Bill (No.2) 2020 third read.

Motion approved

Bill was third read and officially passed the Legislative Assembly

MOTION BY THE LEADER OF THE HOUSE

The Hon PM moved a motion for proceedings to adjourn and reconvene on Tuesday, 17th November 2020. However, if the Parliament wishes to call for another urgent sitting then another session will be held to discuss any matter that the Parliament sees fit for discussion in the House;

Motion approved

**Proceedings were adjourned at 2:37pm;
and will reconvene on Tuesday 17th November 2020 at 9am.**