



**April
2020**

PARLIAMENTARY SITTING SUMMARY

DISCLAIMER

This Report provides a brief of the Proceedings of Parliament on Tuesday 28th April 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 28th April 2020, you should consult the official Hansard or seek assistance from the Office of the Clerk of the Legislative Assembly.

Tuesday 28th April 2020

9:09am

PRESENTATION OF PAPERS

A total of 13 Parliamentary Papers were tabled; 2 Regulations and 11 Annual Reports.

PARLIAMENTARY COMMITTEE REPORTS TABLED

A total of 4 Parliamentary Committee reports were tabled; 3 reports from the Finance and Expenditure Committee and 1 report from the Standing Orders, Electoral, Petitions and Constitutional Offices Committee.

MINISTERIAL STATEMENT

The Hon Prime Minister stood to clarify and explain certain Government policies which need to be addressed. Before commencing on his statement, the Hon PM acknowledged God's grace and favour upon Samoa. As the world tries to combat the devastating impacts and challenges of the COVID-19 pandemic; it is a living testimony that Samoa is indeed a nation founded on God as Samoa is one of the few nations free from this pandemic.

The Hon Prime Minister acknowledged Clergy and the nation as a whole for the effective implementation and adherence to the State of Emergency orders. He made reference to the Preamble of Samoa's Constitution which highlights that Samoa is founded on God the Father, the Son and the Holy Spirit and iterated that this is the guiding principle whereby Parliament operates on.

The Hon PM touched upon the individual rights which the Constitution currently provides for, and elaborated that the Constitution amendment will recognise the communal rights of the ‘Village Fono’ which is the paramount change the amendment provides for.

Hon PM asserted that the proposed Constitution amendment Bill 2020, Land and Titles Bill 2020, and the Judicature Bill 2020 is with the Special Parliamentary Committee which the public are welcome to participate through verbal and written submissions. Hon TUILAEPa reiterated the aforementioned practice is an indicator of the strength of the rule of law in Samoa.

The Hon PM expressed concerns on the incorrect dissemination of information by those whom do not agree with the proposed Amendments and Bills; and noted that there are no major amendments. He asserted that the main amendment is in the recognition of Communal rights (Communal Rights will be incorporated). He elaborated that the Bill aims to incorporate the Village Fono ‘Pulega a Alii ma Faipule’ and their rights and decisions to be recognised under the new amendment. Hon TUILAEPa further clarified the differences between the Court (Criminal and Civil Matters) and LTC (Samoan Land Issues).

Hon TUILAEPa clarified that in the past Samoa's justice system always had one Chief Justice (CJ) that overlooked both the European Courts and the Land and Titles Court. The Hon Prime Minister recalled an amendment made to the Principal act in 2004 – to establish the position of President of Land and Titles Court (LTC) to deal with its matters as the Chief Justice at the time was unable to effectively execute his roles in the LTC. The Hon PM clarified that consultation between the CJ and himself which spawned the idea of the incorporation of a President to oversee matters pertaining to LTC. The Hon PM continued by stating that although the amendment at the time seemed ludicrous, it proved effective; noted that the aforementioned changes are an indicator of the proactive approach of the HRPP Party. He then put forth the question whether there were any complaints when the CJ and LTC amendment in 2004 was enacted; there were no complaints recorded. He then commended the former CJ in being a visionary and his foresight in relation to the proposed amendments with Parliament.

Hon TUILAEPa negated concerns raised by some, stating that the Bill will create 4 branches of Government instead of 3; he asserted that there will always be only 3 branches of Government (as he has numerously stated in previous weekly programs.) The Hon PM touched upon the roles of the 3 arms of Government and posed a rhetorical question whether the role of the Ao o le Malo (HoS) was overtaken by Parliament, which the Hon PM answered “NO”. He then asserted that the laws made by European colonisers and overseas judges at the time do not reflect the essence of the Samoan culture and reflect the Samoan Way of Life or the opinion of Parliament. The Hon PM utilised the Native Lands and Titles Protection Ordinance 1934 (NZ) as an example to further clarify his point. He noted that the Act was repealed in 1981 with the new amendment taking precedent. He again emphasised that the Supreme Court of New Zealand has no jurisdiction in overturning decisions by the LTC of NZ.

In 1934-1981 noted that the original Act governing the Land and Titles Court of Samoa in 1934 was based on the New Zealand Administration interpretations of the Act. In 1960 the Constitution was debated and formulated with limited input from our past Samoan leaders. The Hon PM stated that it was the intention of our founding fathers wanted to incorporate the Faa-Samoa into the Constitution. The PM paid homage to the founding fathers whom drafted the Constitution and invited the individuals whom oppose the Bill to liaise with Government Lawyers for further clarification. Hon TUILAEPa noted other concerns regarding the Judicial Review (JR) process being absent to the public; to which the Hon PM stated that he is uncertain whether such concerns was a result of ignorance of lack of understanding. He then clarified that the JR process will still be made available but it will be conducted by our own people as opposed to summoning overseas lawyers which prolong the process.

The Hon PM continued that if the Law Society attended Village Council meetings, perhaps they would obtain a broader understanding to think outside the box in regards to the proposed amendments. He then suggested that those opposing the Bill observe and learn from Village Council as most of the LTC Judges are those seated in Village Councils. Furthermore, the Hon PM clarified that the communal rights has always been the way of life for the Samoan people as Village Council and Village Fono takes precedent over individual rights, whereas Courts on the other hand had always took individual rights as precedent over all rights. The proposed amendment will ensure that both rights (individual and communal) will be levelled the same by court interpretation.

The Hon PM commented on the letter by the Acting Chief Justice and asserted that Samoan Judges should be proficient in the Samoan language rather than English. It was then noted that the ability of the Law Society and Judiciary to voice their opposition towards the Bill is an indication that the Rule of Law is indeed alive and well in Samoa. Hon TUILAEPa reiterated the expensive fees charged by Legal Officers which resulted in the inception of the proposed amendments. Further clarified, that it was due to the complaints of the nation to their MP's which resulted in the Proposed Amendments. He then discarded the opinions of the Law Society in TV and Newspapers as "fear-mongering".

The Hon PM stated that the responsible Parliamentary Committee will commence consultations the following day (Wednesday) and urged members of the public especially those in opposition of the Bill attend and express concerns and raise issues for clarification and accurate explanations. He then advised those against the amendment to read the article by the Former Attorney General Lemalu Herman Retzlaff which further affirmed that the amendments and Bills aim to protect family "measina" and not the other way as suggested by Newspapers and social media.

The Hon PM further restated the proposed amendments encompasses the beliefs and manifesto of the "H.R.P.P" ie., the protection of Human Rights.

Hon TUILAEPa then noted the following amendments made to the Constitution by the HRPP since it came into power:

- Amended the number of Ministerial Seats to cater for the growing population of Samoa. The Hon PM commented and further clarified the amendment to add two more Ministers to Cabinet; this is to enable proficient and effective overseeing of Government Ministries and SOE's.
- The Hon PM also noted the amendment made to increase the years for parliamentary terms from 3 years to 5 years as this was sufficient time to complete major developments.
- The Office of the Deputy Prime Minister was established to consolidate the office of the Deputy to ensure it can take over in times when the Prime Minister is absent.
- The removal of the term Western from the name Western Samoa; this also signified the emancipation of Samoa from Colonial Rule.
- The amendment to prohibit party hopping; as well as providing a definite number for members of a party to be officially recognised as a political party and to stem the practice of party hopping to ensure party policies were effectively implemented.
- In 2013 an amendment to cater for the 10% quota of women representation in Parliament
- The 3% from total budget to be utilised by Government during the State of Emergency.

The Hon PM rejected the notion that the Rule-of-Law is not practiced in Samoa and criticized the individuals whom push this notion as having no basis to stake their claims on.

MR SPEAKER:

Mr Speaker also elaborated the process of action for Parliamentary Committees, and urged the public especially those in opposition to the Bills to come and voice their concerns and issues to the Committee. Mr Speaker also reminded the House of 'law making function' as Parliament (law making body of the nation), and then advised Members that it is their duty as Parliamentarians to clarify to and make their constituents understand the laws passed by Parliament to uphold the peace within Samoa.

MOTION

The Hon Member for Palauli le Falefa, Afioga FAUMUINA Tiatia Faaolatane Liuga moved a motion to lay the Ministerial Statement of the Hon Prime Minister on the table for future reference;

Motion seconded and approved.

I. GOVERNMENT ORDERS OF THE DAY – Reading of Bills**1. ELECTORAL AMENDMENT BILL 2020 – consideration in detail**

- I. Tofa NAFOITOA Talaimanu Ketii, Member for Gagaemauga No.3 and Chairperson of the Standing Orders, Electoral, Petitions and Constitutional Offices Committee**

The Chairperson moved the consideration of the Committee's report on the Electoral Amendment Bill 2020 together with amendments; motion seconded and approved.

CONSIDERATION IN DETAIL:

Clause 2 – Approved as amended

Clause 3 – Approved as amended

**i. LAAULI Leuatea Polataivao Fosi Schmidt, Member for Gagaifomauga No.3
- interjection**

The Member raised concern in regards to the removal of the religious contributions from eligibility to qualify as a candidate in the General Elections. He made reference to a petition signed by certain Church leaders who were against this amendment and queried why it was not brought to the House for tabling as required under Standing Order 57 of Parliament.

POINT OF CLARIFICATION – Mr Speaker

Mr Speaker clarified that proper process was followed, that being submissions made to the Committee and then the Committee can present this to the House.

INTERJECTION - Hon Prime Minister

Quoted the biblical verse Mathew 6:3; when giving let your left hand know what your right hand is doing; so that your giving may be made in secret.

Proceedings were suspended at 10:54am

Proceedings reconvened at 11:46am.

Tofa NAFOITOA Talaimanu Ketu, Chairperson of the Standing Orders Committee

The Chairperson moved a motion to withdraw the statements made by the Member for Gagaifomauga No.3, claiming that a Petition signed by the respective clergies as there was no petition presented to the Committee during its deliberation.

LAAULI Leuatea Polataivao Fosi Schmidt – Member for Gagaifomauga No.3

The Member noted that he followed the process to matters pertaining to petitions and further stated that the petition was rejected.

SPEAKER'S RULING: Withdrawal of words

Mr Speaker ruled to remove statements made by member of Gagaifomauga No.3 pertaining to allegations of rejecting petition.

ii. OLO Fiti Afoa - Member for Salega East

- Queried Clause 8 (d)- candidacy eligibility is disqualified in light of a criminal conviction (noted that there is a stand down period of 8 years which the candidate has to go through to be eligible to contest in the elections).
- Health of the Candidate:
 - The Amendment states that the Candidate must be in good health;
 - Member jested that there are Members whom are sick post-elections;
 - Queried whether it is necessary for the OEC to monitor the validity of candidacy in respect to health.

In regards to petitions – the Member clarified it is not submitted to the Committee but to the Clerk of the Legislative Assembly.

iii. Afioga FAUMUINA Tiatia Faolatane Liuga - Member for Palauli Le Falefa

In regards to Clause 3 (d), the Member suggested to rephrase to minimum threshold for candidacy.

Tofa NAFOITOA Talaimanu Ketu – Committee Chairperson, and Member for Gagaemauga No.3

In response to the stand down period, the Chairperson noted that it has been amended to 4 years, on the issue of health – the Chairperson furthered himself from making comments as he is not a medical officer. He then noted that due process of submissions was executed and acknowledged those who contributed in regards to the Bill. In regards to the issue of Matai, the Chairperson noted that there is a due process to examine the validity of candidacy.

In response to the Candidacy for women as raised by Member for Salega, noted that there are measures in place to meet this issue.

Clause 4 – Approved as amended

Clause 5 – Approved

Clause 6 – The Chairperson moved an amendment

iv. Afioga FIAME Naomi Mataafa – Deputy Prime Minister and Minister for Natural Resources and Environment

The Hon Member voiced her concerns in regards to Clause 6 and queried whether the Candidate contesting be enforced to take residence in the Constituency he/she is contesting from. She then noted the disparity in the population spread of Samoa as there are more people in Upolu and less in Savaii. The Hon Minister noted that if the electoral system is truly reflective of the Matai System. Queried whether the proposed changes were not reflective of the Samoan Customs as stated by the PM in his Ministerial Speech. Queried the true definition of "residence" as stated in the Bill; and called for "residence" to be properly defined and not ambiguous.

Hon Prime Minister – Point of Clarification

The Hon PM stood to clarify that it is during Committee stages that Members, regardless of being Prime Minister or Deputy Prime Minister, it is during Committee stage that all are invited to voice their concerns and issues; however, we are here now in consideration in detail stage and we must progress. We each have individual issues and interpretation of the Bill but we must progress. The Hon PM stated that the Electoral Act is usually amended post-General Elections based on findings and recommendations of the Electoral Committee. He touched upon the amendments whereby there was 1 member per Constituency and not based on the ratio of voters roll to Candidate. The Hon PM iterated that this was amended to give a true reflection of the Constituency based on ratio. He then rejected the notion of corrupt and unjust as these changes are based on spiritual guidance and advice from those assigned with the task.

Afioga Hon FIAME Naomi Mataafa – Deputy Prime Minister and Minister for Natural Resources and Environment

Clarified that she does not reject or oppose the Bill and asserted that in her understanding this is a chance for her to voice her concerns on the Bill but it does not mean she rejects the Bill.

Hon Prime Minister – Point of Clarification

The Hon Prime Minister iterated that the Member attends Cabinet meetings where the Bill comes from; such issues should have been raised at the time as it reflects poor leadership when the work of Cabinet is questioned by Cabinet members.

v. Afioga Hon PAPALIITELE Niko Lee Hang - Minister for Works Transport and Infrastructure

The Hon Member queried the practice whereby constituents residing in the constituency cannot transfer their registration based on the law that prohibits the transfer of voters less than 10 years; the Hon Minister also queried the term residence and its definition.

Tofa NAFOITOA Talaimanu Keti, Committee Chairperson and Member for Gagaemauga No.3

The Chairperson stated that the underlying aim of the Bill is to strengthen the Principal Act and noted that people are still utilizing loopholes in the existing Act.

Afioga Hon PAPALIITELE Niko Lee Hang - Minister for Works Transport and Infrastructure

Hon Minister queried the stand down period in terms of transfer to another voter's roll and recommended the period to be removed.

Clause 6 – Approved as amended

Clause 7 – Amended

vi. LEALAILEPULE Rimoni Aiafi- Member for Faleata WEST

The Member commended the Prime Minister and Deputy PM and queried the clause which relates to campaigning – the Associate Minister does not agree with the translation of the term “fai ma faatosina” He then stated that the registration fee of \$1000 was unrealistic as this is almost 200% increase.

OLO Fiti Vaai- Member for Salega West

The member noted that the proposed amendment is basically an upheaval of the past Act.

MOTION – Hon Prime Minister

The Hon PM moved a motion to extend working hours of the Assembly until the 3rd reading of the Electoral Bill 2020 and then proceedings adjourn until May 26th 2020.

INTERJECTION - Hon PM: Tuilaepa Dr Sailele Malielegaoi

The Hon PM touched upon the amendments as stated by the Committee Chairperson and advised the Responsible Minister to implement public notices in public avenues so as to avoid confusion in terms of deadlines as stated by the Bill.

LAAULI Leauatea Polataivao Fosi Schmidt – Member for Gagaifomauga No.3

The Member noted his disagreement with the amendment which he felt did not value the voice of the Village Fono especially in the decision of selecting a nomination for the constituency. He

explained that it is customary for any nomination to seek the blessings and endorsement of the constituency before submitting a nomination of candidacy for the General Elections. In addition, he echoed sentiments made by the Member for Faleata whereby the registration of candidacy was \$1,000 was too much.

vii. SALAUSA Dr John Ah Ching, Member for Faleata East

The Member called for a consolidation of time and the removal of the phrase (totonu o le la) as it is unclear/too vague.

Tofa NAFOITOA Talaimanu Ketu, Committee Chairperson and Member for Gagaemauga No.3

The Chairperson dispelled queries by Members on the process executed by the Committee in the formation of the Amendments and reassured that it was well researched amendments. He then reiterated that the amendments made were well researched based on opinions raised by the public during Committees. He also reaffirmed that 6 months is sufficient time as this recommendation was formed on Public submissions. The Chairperson also highlighted the importance of the voters and noted that the timeframe of January to March suffices for individuals to choose who to vote for.

Afioga Hon FAAOLESA Katopau Ainuu - Minister for Justice Courts and Administration

In response, to the statements by the Member of Salega in regards to whether it was necessary to amend the constitution to implement the Proposed Bill. The Minister responded that it was advised by the Attorney General that such amendment was not necessary.

HON PRIME MINISTER – FURTHER CLARIFICATION

In response to the Member for gagaifomauga No.3, the Hon PM stated that candidates are declared before the dissolution of Parliament and quashed claims made by member. Furthermore, he also disregarded sentiments echoed by Gagaifomauga No 3, and stated that even before Parliament is dissolved, Constituencies are aware of their candidates. He then dispelled sentiments echoed by Members for Salega East and Gagaifomauga No.3 as nothing more than Political Points.

Afioga LEALAIPEULE Rimoni Aiafi – Associate Minister for MCIT and Member for Faleata West

Member wanted clarification on what grounds was regarded as "Bribery" and the timeframe which it is considered bribery; noting that the Bill stated a prohibition of bribery three days after elections; the Member believes this should be clarified.

Tofa NAFOITOA Talaimanu Ketu, Committee Chairperson and Member for Gagaemauga No.3

The Chairperson stated that the Campaign period is clearly stipulated in the Bill. In regards to the 3 days after elections, the Chairperson stated that this is activated when the roll has been final and the candidates have been identified.

Clause 7 - Approved with amendments

Clause 8 - Approved with amendments

Clause 9 - 11: Approved without amendments

Clause 12: Approved with amendments

Clause 13: Approved as amended

Clause 1 and Short Title – Approved.

MOTION – Hon Prime Minister

The Hon PM moved a motion to set aside S.O 198(4) to permit the third reading of the Bill on the same day it was considered in detail; motion seconded and approved.

2. ELECTORAL AMENDMENT BILL 2020 – third reading

The Hon Minister for Justice and Courts Administration, Hon FAAOLESA Katopau Ainuu moved a motion for the Bill to be third read; motion seconded and approved.

The Electoral Bill 2020 was third read and officially passed the Legislative Assembly.

**Proceedings were adjourned at 1:48pm;
and will reconvene on Tuesday 26 May 2020 at 9am.**