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Tuesday 30 June 2020

DAY 11

9:13

I. PRESENTATION OF COMMITTEE REPORTS

The Privileges and Ethics Committee tabled its report on the Member for Gagaifomauga No.3, Hon. LAAULI Leuatea Polataivao Fosi.

II. GOVERNMENT ORDERS OF THE DAY - READING OF BILLS

1. MISCELLANEOUS (SALARIES CONDITIONS UPON SUSPENSION) AMENDMENT BILL 2020 - first reading

Hon TUILAIPA Auelua Fatialofa Lupesoliai Neioti Aiono Dr Sailele Malielegaoi moved a motion for the Bill to be first read; *motion seconded and approved.*

2. AGRICULTURE AND FISHERIES BILL 2019 - consideration in detail

Hon. Laufo Fonotoe Nuafesili Pierre Laufo moved a motion to consider the Committee's Report together with amendments.

Clause 2 - 28: Approved

Schedule: Approved

Clause 1 and Short Title: Approved as amended.

Motion - Hon PRIME MINISTER

Hon PM moved to set aside Standing Orders 108(4) to permit the third reading of the Bill which was considered in detail on the same day; *motion seconded and approved.*

3. AGRICULTURE AND FISHERIES BILL 2020 - third reading

Hon LOPAOO Natanielu Mua moved a motion for the Bill to be third read; *motion seconded and approved.*

The Question was put and the ayes had it; the Agriculture and Fisheries Bill 2020 was third read and officially passed the Legislative Assembly.

4. CONSIDERATION OF PRIVILEGES AND ETHICS REPORT.

The Chairperson for the Privileges and Ethics Committee, NAFOITOA Talaimanu Ketu moved a motion to consider the Committee's Report on the Member for Gagaifomauga No.3 together with its Recommendation.

FAUMUINA Wayne Fong, Member for Urban East - Interjection

The Member noted a flaw in the report tabled by the Privileges and Ethics Committee, and asserted that the Freight Plus Company was a witness in the investigations of the Privileges and Ethics Committee only, rather than the Finance and Expenditure Committee as provided in the report.

LAAULIALEMALIE TOA Leuatea Polataivao Fosi, Member for Gagaifomauga No.3

The Hon Member requested for an opportunity to answer to the report provided by the Privileges and Ethics Committee on him; and stated that he should have been given sufficient time to read the report and prepare an answer.

Hon PRIME MINISTER - Clarification

The Hon PM clarified that parliamentary proceedings are conducted in accordance with Standing Orders, and that there was only one authority who interprets the Standing Order, i.e., Mr Speaker. He then reminded the Member for Gagaifomauga No.3 that it was his request to refer the matter to the Privileges and Ethics Committee and stated that if the Member was truthful, he should not fret.

MR SPEAKER – Point of Order

Mr. Speaker called on the Chairperson for the Privileges and Ethics Committee to continue stating the findings of the Committee. Furthermore, in an attempt to take control of the proceedings, Hon Mr. Speaker advised the Chairperson not to take his seat until he (Mr. Speaker) has asked him to do so, to avoid Members rising and voicing their opinions before the report has been considered.

CONSIDERATION OF PRIVILEGES AND ETHICS COMMITTEE REPORT:

The Chairperson for the Privileges and Ethics Committee (PEC) stated the finding of the Committee in regards to the Member for Gagaifomauga No.3, Hon LAAULI Leuatea Polataivao Fosi Schmidt.

On 18 March 2020, a motion was passed by the House to commence investigations on Papers presented by the Member of Gagaifomauga No.3.

Pursuant to SO 186 ‘Examples of Contempt’

The Chairperson stated that they proceeded to verify statements made by the Member for Gagaifomauga No.3 On 24 January 2020, the Member stated in Chambers that the generator for the new Prison was too expensive and therefore made claims that he recently purchased a generator at a much lesser cost "I bought a generator 200kva for \$100,000". page 981 Hansard. The date of purchase as noted by the Member in question was "Last year". The Chairperson stated that these claims were false.

The Chairperson noted that the papers presented to Parliament was a quote for a generator (200kva) which was proposed for a Generator for his constituency. The Chairperson noted that the Member for Gagaifomauga No.3 was aware that his facts presented did not justify the papers presented.

The Chairperson stated that the Member gave a statement on 7 May 2020 to which he stated, "I bought a standby generator 30kva and a 200kva was intended for my constituency". The Chairperson noted that the defense of the Member was that he wanted to accentuate his point during debates & he did not anticipate that his sentiments uttered in Parliament would have any substance in his investigation.

The Chairperson continued to note the findings of the Committee in regards to the Terms of Reference for the Privileges and Ethics Committee on the matter:

1. To determine contempt of parliament
2. To make an appropriate recommendation to the House.

21 February 2020- 27 December 2017 date of purchase of 30 KVA - valued at \$13500 NZD Invoice Number 1024. Upon enquiries of Freight Plus, it was found that the customs tax was not paid for the Generator and other items in the container.

The Chairperson noted they visited Maota o Samoa to validate whether there were differing Generators, and confirmed that this was still the 30KVA Generator. On 11 March 2020, the Q power company was able to verify that the Generator was 30kva and not 200kva. The Chairperson noted that the Member for Gagaifomauga No.3 confirmed that his Generator was indeed 30KVA.

The Chairperson accentuated that the Member made statement knowingly & with full awareness that his sentiments were false. Furthermore, the Chairperson noted that records were acquired from the following sources:

- Office of the Attorney General,
- Finance and Expenditure Committee,
- Ministry of Customs and Revenue,
- Freight Plus Limited,
- Ministry of Finance,
- Ministry of Police & Prisons,
- Electric Power Corporation; and
- Member for Gagaifomauga No.3

The Chairperson again noted Standing Order 186 "Examples of Contempt" and asserted that the Member violated SO 186.(b) deliberately by attempting to mislead the Assembly with the statements made, and evidence submitted to the House;

Legislative Ordinance 1960 Section 21

The Chairperson noted that the Act provides for two courses of Action which may be taken when a Member is found guilty of contempt of Parliament, that is.,

- 1) Reprimand; or
- 2) Suspend.

The Chairperson noted that the Committee's recommendation was based on examining the INTENTION of the Member upon the time the statements were made in the House. He also noted that precedent cases from New Zealand & Australia were also used as a gauge for Penance. The Chairperson noted that there were 3 elements which needed to be satisfied:

- Whether the Member's statements issued in parliament hold incorrect matter?
- Did the Member knowingly mislead Parliament when his facts were presented?
- Did the Member deliberately aim to mislead Parliament?

The Chairperson read out the recommendation of the Privileges and Ethics Committee:

RECOMMENDATION

In Accordance to S.O186(b) the Committee finds that the Member committed contempt of Parliament and therefore suspended the Member for Gagaifomauga No.3 from the service of the Legislative Assembly for three (3) months in accordance with section 21(4) of the Legislative Assembly Powers and Privileges Ordinance 1960. The suspension should commence on the date that the Legislative Assembly approves the recommendation put forth by the Privileges and Ethics committee towards the Member who is suspended, will not be entitled to any Parliamentary salary or allowances as per section 21 (5) of the Legislative Assembly Powers and Privileges Ordinance 1960.

Report seconded by Lefaga & Falesaeela, & Falealili.

Hon PRIME MINISTER – Clarification

The Hon PM clarified that in accordance with Standing Orders of the Accused Member of Gagaifomauga No.3 has a right of reply in light of facts presented in the report.

LAAULI Polataivao Fosi Leuatea- Member for Gagaifomauga No.3

The Member noted that he was deeply saddened as this whole issue began with his sole intention to save costs spent on government purchase (such as the generator for the Tanumalala Prison)

Hon PRIME MINISTER – Clarification

The Hon PM noted the importance of the report presented by Privileges and refuted claims by the Member for Gagaifomauga No.3 implying he was the culprit behind this investigation.

The Hon PM clarified that the cost of 300,000 for the generator was inclusive of the House to store the generator. The Hon Prime Minister justified that a tender process was conducted for a generator and all other supplements were factored into the allocations of \$300,000. The PM asserted that he sought to clarify Government's position as it was portrayed in a bad light by the Hon Member for Gagaifomauga No.3. Hon PM explained that records were sought for justification purposes (to justify the claims made by the Member)

FAASOOTAULOA Pati Taulapapa - Member for Gagaemauga No.2

The Member acknowledged the Executive & called to forgo the recommendation made by the Committee in regards to the 3 month suspension without allowances and benefits for the Member for Gagaifomauga No.3

Hon PRIME MINISTER – Clarification

The Hon PM clarified to the Member of Saleaula that Cabinet has not reached a consensus on the matter as he has implied and reiterated that the reason the issue was referred to the Privileges and Ethics Committee was to maintain the integrity of Parliament. Hon PM stated that the claims made by the Member for Gagaifomauga No.3 led to him doubting the costing provided by the Prisons and Corrections Services.

MR. SPEAKER – POINT OF ORDER

Hon Mr. Speaker clarified to Members that the Leader of the House is following the procedures of Parliament whereby, when a Member is believes to have contempt of Parliament; the matter is referred to the Privileges and Ethics Committee for deliberations on the matter and report back to Parliament with Recommendation(s). The House then moves to approve or disregard the proposed recommendation provided in the Committee's Report.

**Proceedings were set aside at 10:55am; and
reconvened at 11:41am.**

FAASOOTAULOA Pati Taulapapa - Member for Gagaemauga No.2

The Member again called the Committee's recommendation to be disregarded and sought forgiveness of the House for the Member of Gagaifomauga No.3 and reminded the House that there is only one Judge and that is GOD.

FAUMUINA Wayne Fong - Member for Urban West.

The Member acknowledged the Speaker & the Leader of the House, as well as the Chairperson and Members of the Privileges & Ethics Committee. The Member clarified that he sought to speak on the matter before it was tabled to ensure relevant corrections were made to the report before consideration in the House. The member noted that he dispelled undertones of collusion between the accused & himself. He then clarified that his company is

under the jurisdiction of the Ministry of Customs & Revenue. Moreover, he stated his Company follows the set price as stipulated by the Ministry of Revenue & Customs. He addressed rumors that he was joining another political party and asserted that he was still a member for the HRPP.

Hon PRIME MINISTER - interjected on a point of order

The Hon PM clarified that he was aware that the Member is contradicting in his manner. Hon PM iterated to the Member for Urban West that he is free to form his own Party if he wishes to do so. The PM stated that the HRPP's opinion of the Member is that he seeks to undermine all the good works by the Party and operates with hidden motives which contradict his affiliation to the HRPP Party.

FAUMUINA Wayne Fong, Member for Urban West

The Member conveyed apologies to the Prime Minister; and moved that the Member for Gagaifomauga No.3 should be forgiven and for the House to move forward.

OLO Fiti Afoa Vaai, Member for Salega East

The Member sought the forgiveness of the House towards Laauli, and recommended that he be given a second chance as it is drawing near to the parliamentary term. The Member noted that in his opinion, the severity of the indictment of the Member for Gagaifomauga No.3 is light when compared to other serious matters.

SULAMANAIA Fetaiai Tauilili Tuivasa, Member for Vaimauga East

The matter being deliberated is unprecedented in the History of the House; he stated that Samoa is unique in her customs and traditions and queried the usage of cases from New Zealand and Australia as they have different customs to that of Samoa. The Member recommended to forgive the Member for Gagaifomauga No.3

NAMULAULU Sami Leota- Member for Faasaleleaga No.2

The Member displayed disappointment with statements issued by the Member of Gagaifomauga No.3 "He will clean up Samoa's politics" implying that Parliament operates with nefarious motives. He too recommended the Member to be forgiven and continue with the proceedings of Parliament.

MULIPOLA Leiataua Laki - Member for Aiga ile Tai

The Member expressed disappointment with the Member of Gagaifomauga No.3 for portraying the Government in a negative light and touched upon the pillars of Christianity; Forgiveness, Love & turn the other cheek. He also recommended to forgive the Member.

Hon FIAME NAOMI Mataafa - Deputy Prime Minister of the Independent State of Samoa, Member for Lotofaga

The Hon Deputy Member endorses the facts presented by the Privileges Committee and stated that the Member himself confirmed his statements echoed were erroneous. She touched upon the intention which the Member issued his statements in the House [to save costs]; the Deputy PM stated that the Member's statements were made with the intention to save expenses specifically for the purchase of the Generator. Hon FIAME, noted the importance of mitigating factors; and suggested that the Member be pardoned.

She then moved an amendment to the original motion which was moved by the Chairperson for the Privileges and Ethics Committee to 'Reprimand' the Member rather than 'Suspend' as originally recommended by the Privileges and Ethics Committee.

FUIMAONO Teo Samuelu Teo, Member for Falealili East

The member noted that the case being deliberated is vital as it sets the precedent for future cases; he emphasized that this is also a good opportunity for all the Members and also the Parliament to learn and to strengthen trust within. FUIMAONO noted that he held the Member in High Esteem before entering politics especially during his tenure as the Speaker of Parliament and in upholding the integrity of Parliament. He then expressed disappointment that the Members tenure as a backbencher contradict his actions during his tenure as speaker.

FUIMAONO expressed disappointment with the Member's statements "I will clean up Samoa's politics" and advised the Member to ensure the validity of his statements before he speaks as Samoa is listening. The Member stated that LAAULI should directly address those in which he is speaking to rather than making vague and general statements which put the majority who continue to work with integrity in disrepute; FUIMAONO then concluded by recommending that the Member be pardoned.

Hon GATOLOAIFAANA Amataga Alesana-Gidlow, Member for Faasaleleaga West

The Hon Member conveyed apologies on behalf of her fellow Parliamentarians from Savaii. She also sought the forgiveness of the House for the Member and advised the Member for Gagaifomauga No.3 to take this as a lesson, then seconded the motion made by the Hon Deputy PM.

Hon LAUTAFI Fio Selafi Purcell, Minister for Commerce, Industry and Labour

The Hon Minister noted that the Legislative Powers and Privileges Ordinance 1960 protects the integrity of Parliament & stems the potential for dissemination of information. Furthermore, he noted that the Member for Gagaifomauga No.3 stated that he had good intentions. Clarified that if the Member for Gagaifomauga had stated that he can procure a generator for 100,000 rather than stating “he has in his possession a 200KVA Generator it would not have been an issue. Hon Minister also recommended the Member to be forgiven.

Hon PRIME MINISTER

The PM moved a motion to extend Parliamentary Proceedings until all Members who wish to speak have been afforded the opportunity and that he will also speak in due time when all Members have spoken. Hon PM asserted that as the Leader of the House, it is his duty to clarify all policies and Government’s position, it is also part of his role to ensure the integrity of Parliament is upheld.

The Hon PM pointed out that in the morning session, the Member in question showed no remorse, he continued to paint Parliament and his leadership negatively. wished to point out that even in the morning session, the Member still issued statements aimed at painting him in a negative light. The Hon PM noted that he sought to protect the integrity of Parliament. The Hon PM noted that the Member of Gagaifomauga No.3 based on his sentiments issued reflects how lowly he thinks of Parliament. Furthermore, the PM reiterated the importance of this case as it will set the precedence for cases in the future pertaining to parliament.

Hon Papaliitele Niko Lee Hang - Minister for MWTI

- The Hon Minister stated that it is important to protect the integrity of Parliament & follow through with the recommendations made by Privileges. He then quoted the scriptures, which state that it is important to submit to the relevant Authority. In Parliament that authority vests in the Prime Minister and the Speaker. He then expressed disappointment with the Member as he does not seem to practice what he preaches.

Hon LOPAOO Natanielu Mua - Minister for Agriculture and Fisheries, Member for Vaisigano No.1

The Hon Minister recommended to reduce the suspension period to 30 days from 3 months as originally proposed in the Committee’s Report as well as suspending his benefits as a Member of Parliament.

ALIIMALEMANU Alofa Tuuau, Member for Alataua West

The Chairperson reiterated to take into account that the decision they make today will set the precedence for tomorrow; if the decision is to forgive the Member, the same should also be applied for the officer involved in the case who has been suspended from the Ministry of Customs and Revenue. Forgiveness does not imply the Member in question is correct, rather it will serve to set a precedence for a loophole in the future.

Aliimalemanu, stated that the Privileges and Ethics Committee is pointless if the recommendation is not heeded. If forgiveness is the course of action, the Member then called to repeal the Privileges Committee & just enforce reprimanding the Member if the same issue resurfaces.

TUIFAASISINA Misa Lisati- Member for Palauli East.

The Member expressed support for the recommendation put forth by the Privileges and Ethics Committee based on integrity. He then recalled the sentiments made by the Member for Gagaifomauga No.3 stating his blazer was older than the PM; the Member stated that this was a display of arrogance.

Hon. AFAMASAGA Toeolesulusulu Lepuiai Rico Tupai - Minister For Communications & Information Technology and Member for Aana Alofi No.3.

The Hon Minister noted that it was the Member in question who called for his case to be referred to the Privileges Committee. Hon Minister stated that the Member for Gagaifomauga No.3 does not show remorse and therefore he supports the report.

ALAIASA Moefaauouo Malagaitutogiai Sepulona Moananu, Member for Anoamaa East

- Committees decision has been made.

LAAULI Polataivao Fosi Leuatea- Member for Gagaifomauga No.3

The Member acknowledged Parliament and then asserted that he will step down from his seat and asserted that he will resign and vacate his seat.

Hon PRIME MINISTER – Clarification

The Hon PM explained that he planned to speak last and then seek the Assembly's pardon for the Member. However the Member has acted on his own intentions. Hon PM reiterated that it

was with the Members request to table his records and then clarified that the Member requested that it be moved to the Privileges Committee for an independent opinion.

Hon PM recalled a similar incident in 1989-1990 which transpired whereby there was debate between his predecessor & a member; the end result was suspension for the Member. The Hon PM commended the Committee and advised the House that the decision made by the Member for Gagaifomauga No.3 was his own choice and not the Assembly.

HON PRIME MINISTER - Motion

The Hon PM moved a motion that according to Article.46(2)(b) of the Constitution- a written resignation from the Member for Gagaifomauga No.3 is to be presented to the Speaker of the House in order for the resignation to be made official; *Motion seconded and approved.*

DEPUTY Prime Minister – Hon FIAME Naomi Mataafa

The Hon Member queried the relevancy of endorsing a report when the Member in question has resigned from Parliament and vacated his seat.

Mr SPEAKER – POINT OF ORDER

Hon Mr. Speaker informed the House that normal procedures are adhered for all Business of the Assembly (as stipulated in the Standing Orders) he clarified that a motion was moved by the Chairperson of the Privileges and Ethics Committee, therefore the question must be put to determine whether the motion is carried or not.

Motion – Hon PRIME MINISTER

Hon PM moved to adjourn proceedings until August 18th as provided in the Sitting calendar for Parliament; *motion seconded and approved.*

**Proceedings adjourned at 2:14pm;
and will reconvene at 9am on Tuesday 18 August 2020.**