

**DISCLAIMER**

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**Tuesday 17<sup>th</sup> March 2020**

**9:30am**

**I. ANNOUNCEMENT BY MR SPEAKER**

The Hon Speaker said the Prayers then greeted the House and welcomed participants of the Parliamentary Program into the Chambers.

**II. NOTICE by the Leader of the House**

Mr Speaker read out a Notice to permit the introduction of the following Bills:

- Energy Management Bill 2020;
- Land and Titles Bill 2020;
- Judicature Bill 2020; and
- Constitution Amendment Bill 2020.

**III. PRESENTATION OF PAPERS**

A total of 13 papers (11 Annual Reports, 1 Delegation Report and 1 Report on the Measles Epidemic) and 27 Committee Reports (9 from the Standing Orders Committee, 12 Finance and Expenditure Committee reports, 3 Economic Sector reports, 2 Social Sector reports and 1 Infrastructure Sector report) were tabled in Parliament.

**MINISTERIAL STATEMENT – Hon Prime Minister**

The Hon Prime Minister spoke on the global health crisis of corona virus and its impacts which have affected thousands in numerous countries. Hon TUILAEPa elaborated on the efforts of Government to ensure this virus does not make its way into Samoa. He expressed the importance of clean hygiene and taking precautionary measures in the household to ensure safety.

He mentioned the importance of having a health centre near the International Airport at Faleolo to ensure suspected cases of corona virus have a nearby facility to isolate themselves rather than being transported to the national hospital and risk all other patients and vulnerable members of the public catching the virus. The Hon PM informed the nation that necessary measures have been

taken to ensure all borders are effectively controlled to ensure all passengers/visitors coming to Samoa are tested for symptoms of the virus. Self-hygiene is vital; we must ensure basic sanitary and preventative measures are taken, such as simply washing hands before meals, and refraining from public gatherings due to the pandemic.

He then commended the Ministry of Health on their efforts to implement the emergency plan for the safety and wellbeing of all Samoans. The Hon PM also explained that border controls and Health services are of the utmost importance these times as they go hand in hand; being the frontline responders for our nation to ensure the virus does not make its way into Samoa. In addition to border protection, the relevant Ministry has also taken measures to ensure operation of Samoa's trading routes continue to flow without restrictions, to ensure enough supply of essential goods are provided to cater for the needs of the public.

In regards to the Constitution Amendment Bill 2020 the Hon Prime Minister elaborated that the amendment came about from the 2016 Parliamentary Commission of Enquiry; from the report, Government envisaged to address 2 main issues:

- i. To incorporate into the Constitution, the belief that Samoa is a nation founded on God; this has been addressed by the Constitutional Amendment No.2 2017; and
- ii. Samoan laws to take into account the 'Tu ma Aga o Samoa'. The Constitution of 1960 only reflects individual rights and not collective rights; several cases have questioned the Constitution as being reflective of individual rights and not take into account rights of the community (Alii ma Faipule); Thus the move to amend the Constitution to reflect Samoan culture (tu ma aga).

#### **IV. MOTION TO WITHDRAW LAND AND TITLES BILL 2019**

The Minister for Ministry of Justice, Courts & Administration put forth a motion to withdraw the Land and Titles Bill 2019.

**Motion approved**

### **I. GOVERNMENT ORDERS OF THE DAY – Reading of Bills**

#### **1. CONSTITUTION AMENDMENT BILL 2020 – first reading**

Susuga Hon TUILAIPA Lupesoliai Neioti Sailele Malielegaoi moved a motion for the first reading of the Bill; motion seconded and approved.

#### **2. JUDICATURE BILL 2020 – first reading**

Afioga Hon FAAOLESA Katopau Ainuu moved a motion to have the Bill first read; motion seconded and approved.

#### **3. LAND AND TITLES BILL 2020 – first reading**

Afioga Hon FAAOLESA Katopau Ainuu moved a motion to have the Bill first read; motion seconded and approved.

**4. ENERGY MANAGEMENT BILL 2020 – first reading**

Afioga Hon SILI Epa Tuioti moved a motion to have the Bill first read; motion seconded and approved.

**MOTION TO SET ASIDE S.O 101(1)**

The Hon Prime Minister moved to set aside Standing Order 101(1) to permit the second reading of all bills first read on the same day; motion seconded and approved.

**5. CONSTITUTION AMENDMENT BILL 2020 – second reading**

The Hon Prime Minister moved a motion for the Constitution Amendment Bill 2020 to be second read and spoke to clarify the objects and intents of the amendment.

The Hon Prime Minister elaborated that the Samoa Law Reform Commission, Attorney General and the Ministry of Justice and Courts Administration were instructed to research and provide findings on ways to have Samoan culture better reflected in the Constitution. Therefore, the Bill strives to reflect the Tu ma Aga a Samoa in the Supreme law of the nation.

The Hon Prime Minister explained that the Constitution was drafted by our forefathers with western influence and reflected Samoa's colonial past, because of this it was becoming non-applicable to Samoa's current cultural practices therefore the change was needed. Hon TUILA EPA recalled that during Members induction for 2016 – 2021 parliamentary term a symposium was held as a refresher program; this symposium instigated the idea that Samoan laws needed to be reviewed so as to better reflect the Faa-Samoa and do away with the 'palagi' perspective from past colonial influence.

There were previous court cases which portrayed the individual rights taking precedence over communal rights as reflected in the Constitution; hence the need for appropriate changes to be made. In the Samoan culture, Alii ma Faipule decisions are important, therefore relevant changes must be made to better reflect that the communal rights are integral. The Hon Prime Minister asserted that balancing individual rights and 'tu ma aga' o Samoa is a complex matter which is why it has taken 5 years for the Bill to be complete.

There was specific mention to Clause 3 which provides for the increase in the number of Members of Parliament who will be appointed by the Ao o le Malo as Ministers thus increasing Cabinet Ministers from 12 to 14 (this will commence on the first day of the 17<sup>th</sup> Parliamentary Term 2021-2026). The Hon Prime Minister also touched upon Clause 6 of

the Bill which further clarifies Article 104 of the Constitution which ensures the independence of the Land and Titles Court.

**I. Afioga TAFUA Maluelue TAFUA, Member for Aleipata Itupa Lalo**

The member stated that in the 1800's and 1900's land was taken away from the people of Samoa, however the Bill provides the opportunity to protect the rights of families to their lands. The member was pleased to note that the Bill will help our people.

**II. Susuga Hon LAAULI Leuatea Polataivao Fosi, Member for Gagaifomauga No.3**

The Member acknowledged the amendment made to the Constitution and mentioned members from his constituency who were involved in the Constitutional Convention (our forefathers who deliberated on the constitution of Samoa). The Member noted the importance of upholding justice, making honest and truthful decisions especially when dealing with cultural lands and titles of families. LAAULI recalled the unjust decisions made by the court regarding certain lands and properties of families including his own, and asserted that the Bill will be the solution to fair and just practices and decisions made on cultural assets (measina) for families. The Member then spoke upon the amendment to increase Ministerial positions and suggested to increase Board Members instead, as the more Ministers equates to higher costs. The Member for Gagaifomauga No.3 mentioned the importance of Sustainable Government to Samoa as this portrays a positive image for our nation.

**Proceedings were suspended at 10:51am**

**Proceedings reconvened at 11:38am.**

**III. Hon LAUOFO FONOTOE, Member for Anoamaa West**

The Member noted his support for the Bill and recalled his time in the legal profession when the Magistrate Courts were administered by foreign judges. When matters were referred to Appeal, the only members seated in these courts were all European 'palagi'. He then noted that to date, there is an opportunity for Sui ole Nuu to be involved and also for locals to conduct court proceedings and to be seated in these courts. He emphasised the importance of having knowledgeable people chosen to be seated in all Courts (District, Supreme and Appellate Court) to ensure the flow of court proceeding and most importantly to ensure just and fair decisions are made. The member jested on the increase of cabinet ministers and suggested that the Ministers should utilise their associate ministers more effectively to share the workload as opposed to adding more seats.

**IV. OLO FITI Afoa Vaai, Member for Salega East**

The Member stated that the amendment of the Constitution should not be taken lightly as these are serious changes which should be made thoroughly but not sudden and haste.

**INTERJECTION – Hon Prime Minister**

The Hon Prime Minister reminded the Member that in his earlier statement, he explained that the Bill took 5 years to be complete which indicates that this amendment is not new but has been considered with the intention to incorporate Samoa's motto that 'Samoa is founded on God'

**OLO FITI Afoa Vaai, Member for Salega East cont...**

The Member spoke on the issue regarding the Faasamoa in the Bill and expressed his concern on the amendment where the Court has the authority to determine the amount of registered members for chiefly titles to only 5; the Member stated that this amendment goes against the Samoan culture.

**INTERJECTION – Hon Prime Minister**

The Courts should be firm on their decisions in matters regarding Lands and Titles, this way there is a chance to do the right thing and change corrupt practices and decisions. The amendment seeks to achieve just and fair decisions to ensure peaceful co-existence of families and villages. Furthermore, the Hon PM emphasised the significance of proposing the Land and Titles Court to be independent. Hon PM elaborated that the recommendations put forward by the Land and Titles Commission has led to the preparation of the Bill to resolve numerous grievances made by the public on matters pertaining to Land and Titles.

**OLO FITI Afoa Vaai cont...**

The Member expressed concerns on the amendment which proposed to increase the number of Ministers, and stated that the current ministerial portfolios are sufficient, however he further added that there should be a minister assigned to the infrastructure sector given that its scale.

**INTERJECTION – Hon Prime Minister**

The Hon PM emphasised that Associate Ministers are not part of the Cabinet and clarified that Associate Ministers supports the Ministers but have no authority or power to direct or relay any order to the Ministry. Furthermore, the Member for Salega East has little understanding on the matter given that he has never been seated as an associate minister. Hon TUILAIPA asserted that with changes in time, the increase is befitting as Parliament will grow and therefore the increase is appropriate.

**V. LEALAILEPULE RIMONI Aiafi, Member for Faleata West**

The member stated that the amendment was important as government has developed and the increase is therefore needed. He further acknowledged the incorporation of Christianity into the Constitution and stated that western culture has greatly influenced our nation in numerous ways, hence the importance of such amendments to strengthen the Faasamoa in our lives. The member also spoke on the contractual terms for judges to be minimised to 10 years.

**VI. FAUMUINA WAYNE FONG, Member for Urban West**

The Member expressed his support for the Bill and thanked Cabinet for the development of the Vaimauga Primary School which will be the first School facility funded by the World Bank.

**VII. Hon FAUMUINA LIUGA, Member for Palauli le Falefa**

The Member commended Government for the Bill and expressed support for the amendment given the importance of the Samoan culture to its people (TU ma AGA). He then expressed full support on the independence of the Land and Titles Court, but was only concerned with the proper funding of such arrangement given that our Government is not a business.

FAUMUINA stated that with the independence of the Courts can possibly lead to timely decisions and no more delay for families/parties. He agreed with the increase in cabinet ministers. In regards to the 10 year contract for Judges, the Member suggested to change this term to ensure judges perform their duties accurately and therefore a term of 5 years is sufficient. FAUMUINA then commented on clause 5 of the Bill, where land below high-water mark is clarified but given the increase in the high sea levels, it has affected the dry areas therefore it may be considered together with land below high-water mark which is monitored by the Government

**VIII. Alaiasa Moefaauo Malagaitutiogi Sepulona Moananu, Member for Anoamaa East**

The Member expressed his appreciation and support for the Bill. He then acknowledged the Minister of Health and the Ministry for their efforts in protecting our nation from the impacts of the corona virus.

**IX. Hon GATOLOAIFAANA GIDLOW Member for Faasaleleaga 1. West**

The Hon Member noted her support for the Bill and stated that having a matai title is a requirement for any parliamentarian; Hon GATOLOAIFAANA supports this practice as this is another way to preserve and respect our FaaSamoa.

She then raised concerns in regards to the impacts of sea level rise which has covered some of the dry lands in low areas.

**X. NAFOITOA Talaimanu Ketii, Member for Gagaemauga No.3**

The Deputy Speaker made a point of order in regards to a typo in the Order Paper - Committee Report No. 21 should be corrected to Gagaifomauga No. 3 rather than Gagaemauga.

In regards to the Bill, the Member stated that there are reasons why the Land and Titles Court should be separate from the Palagi courts. He suggested to the government to look at families living on low land/areas (below high-water mark) as they are more vulnerable to the impacts of climate change. He then concluded his statement commending the Ministry of Health for their efforts to protect our nation from the virus.

**Proceedings were adjourned at 1:03pm;  
and will reconvene on Wednesday 18 March 2020 at 9am.**