

DISCLAIMER

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Monday 26th March 2018**9:22am****Day 5****I. MINISTERIAL STATEMENT – HON PRIME MINISTER**

The Hon. Prime Minister, TUILAEPA Lupesoliai Fatialofa Dr Sailele Malielegaoi stood to give his Ministerial address to clarify the electoral bills before Parliament; *Electoral Commission Bill 2018* and the *Electoral Constituencies Bill 2018*. The Hon Prime Minister stated that the bills propose to alleviate the numerous electoral petitions filed after general elections, noting that the petition can defame the Member regardless of his/her innocence. The Hon PM asserted that the bills are for the betterment of all of Samoa. Hon PM explained that the bills also provide a means to eliminate the frequency of voters changing and transferring their registration, which was a hassle during past elections. The Hon Prime Minister noted that in 1991, two additional seats were introduced (1 for Salega, and 1 for Safata) the additional seats were to accommodate the increase of constituents. He made reference to a biblical scripture, James 4:17 “Therefore, whoever knows the right thing to do, yet fails to do it, is guilty of sin”

The Leader of the House informed Parliament that the Constitution is not set in stone, noting that our forefathers drafted the Constitution in the way they saw fit according to the trends of their time, it is our duty, to amend accordingly to provide for the ways of today. Hon PM affirmed that increase in constituents is inevitable; however this cannot be the underlying factor in determining the number of seats for a constituency. The Hon PM then referred to America, whereby there are only 2 representatives for the millions of constituents. Additionally, America has two Houses (Senate & Assembly) to counter the increase of constituents.

The Hon PM addressed the concerns of the possible effects of the amendment on the traditional honorific salutations (*faalupega*) of Samoa; the PM affirmed that there will be no impact of the electoral constituencies on traditional salutations, as it is proposed only for elections. He then

asserted that the proposed bill provides for 21 seats in Savaii, noting that Leauvaa will not be listed as part of the Gagaemauga No.1 constituency in Savaii, rather the constituency of Sagaga No.3 in Upolu. The Hon Prime Minister addressed Fagaloa and Faleapuna in all its honorific salutation, and explained that the two constituencies will merge. The Hon PM emphasised that the change in names from Territorial Constituencies to Electoral Constituencies is an attempt to encourage the younger generation to register in the constituency they reside.

The Hon Leader of the House, concluded by asserting that it is time for the *Electoral Bill 2018* to repeal the 1963 Electoral Act to ensure it aligns with the trends of today. Moreover, the PM noted that for the first time in Samoa's Parliament all MP's are Chiefs. The law which provides that all candidates contesting in the general elections must be a *matai*, has allowed only chiefs to be seated in the Parliament of Samoa. The PM further noted that the changes were possible due to the increase in Parliamentary Terms from 3 to 5 years since 1991 when HRPP became the ruling party (government) furthermore; he noted that the change was made due to 3 years not being feasible for developments to come to fruition. The Hon PM wished the Members well in their statements on the two electoral bills and sought God's guidance and blessings throughout Parliament's deliberations.

II. GOVERNMENT ORDERS OF THE DAY – Reading of Bills

1. ELECTORAL CONSTITUENCIES BILL 2018 – second reading

The Hon Minister for Justice, Courts and Administration, FAAOLESA Katopau Ainuu moved for the second reading of the Electoral Constituencies Bill 2018 and spoke to clarify the objects and merits of the Bill.

The Hon Minister stated that he will not delve deeply into the background of the Bill and the rationale behind its formulation as the Hon Prime Minister has elaborated and clarified this in detail; however, he stated that due to the Constituencies Act 1963 being out-dated, the proposed Electoral Constituencies Bill 2018 is befitting to accommodate the changes in time. The Hon Minister clarified that the Office of the Electoral Commissioner cannot heed some of recommendations made on the Bill in regards to justifying the seats in a constituency based on the number of its constituents, this is because the majority of registered voters and constituents reside in Upolu; if such a recommendation was considered the seats for Savaii would be reduced to 11. Case in point, the Gagaemauga Constituency has 1 representative for 804 constituents; Vaimauga West has 1 representative for 24,000 residents; while Falealupo has 1 seat for 1,000 constituents.

The Hon Minister iterated that the Bill encourages 'equal and fair representation' for the people of Samoa; it will increase the number of seats from 49 to 51; remove certain villages from other constituencies (such as Leauvaa) and to abolish Urban Seats.

i. Hon LAAULI Polataivao Leuatea Fosi, Member for Gagaifomauga No.3

The Member seconded the Hon PM's sentiments whereby the Bill will repeal the out-dated Constituencies Act 1963. The Member further noted that change is inevitable, especially with western influences, which has lead Samoa to adopting Democratic principles. He noted his support in the disestablishment of Urban Seats and restoring the seat to its rightful constituency 'Vaimauga'. The Member explained that there were 4 suggestions by his constituency which he will voice;

- He noted his agreement with the proposed names of the constituencies;
- The Member disagreed with naming the constituencies with the term 'Electoral', rather than 'Territorial' as is the appropriate term;
- Noted his disagreement in the removal of Leauvaa from Savaii disregarding the ancestral and cultural roots of the people of Leauvaa; and
- The Member expressed his concerns in regards to the Bill neglecting to acknowledge the individual's village, place of birth and upbringing, and valuing the place of residency.

ii. Hon FAUMUINA Tiatia Liuga, Member for Palauli le Falefa

The Member stood to inform the Member that the Bill debated is the Electoral Constituencies Bill, not the Electoral Bill as it seemed the Member for Gagaifomauga No.3 was speaking on both Bills simultaneously.

Hon Speaker of the House, LEAUPEPE Toleafoa Apulu Faafisi

The Hon Speaker reminded the Member for Gagaifomauga No.3 that it was the Electoral Constituencies Bill's second reading debates.

Hon Prime Minister, TUILAEPA Lupesoliai Fatialofa Dr Sailele Malielegaoi

The Hon Prime Minister clarified that it was the Electoral Constituency Bill 2018 currently being deliberated.

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

The Member continued conveying his constituency's opinion on the Bill; stating that disestablishing Special Voting booths in Upolu for Savaii constituents is costly to the public and the Member who will most likely fund the transportation costs for his voters. Finally, the Member noted his disapproval

of the removal of the seat for Saleaula; noting that Gagaifomauga and Gagaemauga are a family, intertwined in its cultural heritage. He concluded by requesting to the Minister for the Electoral Office to reconsider the amendment in regards to the seat for Gagaemauga No.3

iii. Hon Prime Minister, TUILAEPA Lupesoliai Fatialofa Dr Sailele Malielegaoi

The Hon Prime Minister clarified that the Bill was formulated by the recommendations of the Commission of Inquiry; highlighting the 'bigger picture' and the changes which needed to be implemented for the betterment of Samoa's electoral process. The Hon Prime Minister elaborated that the changes do not solely pertain to Savaii but that of Samoa. The PM clarified that Savaii constituents have also raised concerns and complaints in regards to the Special Voting Booths which entitle constituents residing in Upolu to be eligible voters for Savaii constituencies regardless of having limited knowledge of the affairs of the constituency. The Hon PM iterated that the removal of Special Votes was a recommendation by the Commission of Inquiry.

Hon Speaker of the House, LEAUPEPE Toleafoa Apulu Faafisi

On a point of clarification, the Hon Speaker spoke to remind the Member and the House that honorific salutation and cultural merits of constituencies will not be affected or violated by the Bill; the changes will only come to play during General Elections.

Proceedings were set aside at 10:55am and resumed at 11:32am

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

The Hon Member delivered an apology to the Leader of the House and stated that there was no malice intended in his statements; apologised to the Speaker of the House and asserted that his statements are the views of his constituency, which will not be changed or moved by any statement or clarification provided. He rebutted the claims made by the Hon Prime Minister stating that he won by the votes casted in his constituency and not reliant on the Special Votes.

Hon Prime Minister, TUILAEPA Lupesoliai Fatialofa Dr Sailele Malielegaoi

The Hon Prime Minister clarified to the Member for Gagaifomauga No.3 that he was not making specific reference to the Member's constituency; rather he was speaking generally in regards to the opinion expressed by the public during consultations of the Commission of Inquiry. The Hon Prime Minister expressed disappointment with the statements made by the Member for Gagaifomauga No.3, and expressed disappointment with the conduct of the Member.

MOTION: Hon. Prime Minister

The Hon Prime Minister, TUILAEPA Lupesoliai Fatialofa Dr Sailele Malielegaoi moved a motion to extend sitting hours until the Electoral Constituency Bill 2018 and the Electoral Bill 2018 was second read and referred to respective Committees; motion seconded and approved.

iv. NONU Lose Niumata, Member for Safata East

The Member read out the Schedule of the Bill, in relation to the Constituency 20 and 21 (Safata 1 and Safata 2); and agreed with the reclassification of villages in each constituency. The Member then queried whether there was a standard ratio to determine the number of constituencies; whether it required a certain number of constituents (1,000, 2,000 or 3,000).

v. ALIIMALEMANU Alofa Tuuau, Member for Alataua West

The Member understood the Bill was not new and cited a report from the Commission of Inquiry whereby the late Hon MALIETOA Tanumafili II was involved, the report stated “the Commission noted that peace and stability between Samoans is paramount”. The Member acknowledged the past efforts of *Tumua ma Pule* in building Samoa to its current status. She pointed out that change is inevitable; however it should be intertwined with Samoa’s culture. The Member expressed her opinion to maintain the 49 seats of Parliament as additional seats would not be cost effective and voiced two suggestions to the Office of the Electoral Commissioner; firstly to revisit the division of the 21 constituencies for Savaii, and secondly to assess genealogical ties of constituents giving them eligibility to vote.

vi. FAUMUINA Asi Pauli Wayne Fong, Member for Urban West

The Member commended the Minister for Justice and Courts Administration for introducing such a sensitive Bill and noted that the enactment date of the Bill when Parliament is dissolved is not feasible.

vii. TOOMATA Aki Tuipea, Member for Salega West

The Member expressed his support for the Bill in deliberation and noted his concern with the changing of the term Territorial Constituency to Electoral Constituency; stating that with time the likelihood of constituents forgetting or abandoning their cultural roots is possible. TOOMATA iterated the Member for Alataua West statement, whereby the 49 seats should remain as is without having to add seats while forsaking the seat for Gagaemauga No.3

Hon Speaker, LEAUEPE Toleafoa Apulu Faafisi

On a point of clarification the Hon Speaker informed the Member that the issue he has raised has already been addressed; stating that General Elections are for a period of 5 years while families are forever.

viii. NAFOITOA Talaimanu Keti, Member for Gagaemauga No.3

The Member addressed his fellow Parliamentarians, acknowledged the Ministry of Police in handling the disputes between the Luatuanuu and Falefa; commended the Committee of Inquiry and individuals who worked behind the scenes to draft the Bill. The Member noted his concern in repealing the Constituencies Act 1963 and expressed his disapproval towards the proposed removal of the seat for Gagaemauga No.3

Hon Speaker, LEAUEPE Toleafoa Apulu Faafisi

On a point of clarification the Hon Speaker informed the Member that the Bill will be referred to Parliamentary Committees whereby he will be afforded the opportunity to voice his opinions in regards to the Bill in deliberation.

ix. NAFOITOA Talaimanu Keti, Member for Gagaemauga No.3

The Member commended the responsible Minister for the Bill and spoke on the traditional ascribed salutations for his constituency Gagaemauga No.3

Hon Prime Minister, TUILAEPA Lupesoliai Fatialofa Dr Sailele Malielegaoi

The Hon PM clarified that the Bill does not affect the traditional ascribed salutations for the Constituency.

Hon Speaker, LEAUEPE Toleafoa Apulu Faafisi

The Hon Speaker advised the Member for Gagaemauga No.3 to take heed of Government's explanation.

x. OLO Fiti Afoa Vaai, Member for Salega East

The Member for Salega East acknowledged the Minister for the Bill and noted that the rationale behind the Bill is 'proper representation for the people'. The Member noted that the removal of the terms Territorial and replaced with the term Constituencies has stripped away the honours afforded to the Member.

Hon Speaker, LEAUPEPE Toleafoa Apulu Faafisi

On a point of clarification the Hon Speaker reminded the Member to treat carefully on presented facts.

OLO Fiti Afoa Vaai, Member for Salega East

The Member expressed his concern for the removal of the seat for Gagaemauga No.3 noting that if a Salamumu gets elected, that Member will have no cultural salutation in his/her constituency.

Hon Prime Minister, TUILAEPA Lupesoliai Fatialofa Dr Sailele Malielegaoi

The Hon PM clarified that it is provided for in the Standing Orders of the Parliament of Samoa that all Members are addressed in their respective honorific salutations.

xi. ALAIASA Moefaauouo Sepulona Moananu, Member for Anoamaa East

The Member stated that he has conducted consultations with members of his constituency on the proposed bill and echoed sentiments by earlier members on the role of the Matai in Parliament. Furthermore, the integration of Faleapuna to be under Anoama'a is something that responsible Minister's should reconsider due to the traditional hierarchy of the Village of Falefa; noting his support for the integration of Faleapuna under the Constituency of Anoamaa East. The Member commented that some villages on the electoral roll are sub villages without Mayors and states that this should be re-examined.

xii. PESETA Vaifou Tevagaena, Member for Faasaleleaga No.4

The Member noted his support for the Electoral Constituencies Bill 2018.

xiii. LEAANA Ronnie Posini, Member for Safata West

The Member understands that his Constituency was divided based on the number of constituents and accepted that this would achieve "better representation". Additionally the Member noted

that when the Bill is enacted, he will consult with the villages added to his Constituency and strengthen his ties with the respective villages.

xiv. SULAMANAIA Fetaiai Tuiliili Tuivasa, Member for Vaimauga East

The Member commended the Minister for the Bill and requested that the Minister look into the number of constituents residing in the villages of Vailele Uta, Letogo, and Laulii, and queried the possibility of having an additional seat to factor the number of inhabitants in these villages. The Member noted his general support for the Bill.

xv. LEALAILEPULE Rimoni Aiafi, Associate Minister for Communication and Information Technology

The Member noted the motive behind the proposed bill was to achieve better representation. He further noted that the amendment to integrate Salega and Safata was due to this very reason of better representation, due to the increase in constituents. The Member reaffirmed that the Bill does not affect the traditionally ascribed salutations of the Constituency.

xvi. SALAUSA Dr John Ah Ching, Associate Minister for Health

The Member commended the Minister for Justice and Courts Administration for the Bill and elaborated that the pros of the Bill include, less petitions and a more harmonized Christianity and democracy principles.

xvii. TAPULESATELE Mauteni Tamasone Metuli II Esera, Member for Vaisigano No.2

The Member noted his support for the Bill and acknowledged the responsible Minister. The member then seconded the Hon PM's statements in regarding the authority of the Legislation to propose and amend laws when the need arises.

Proceedings were set aside at 1:45pm and resumed at 2:08pm

xviii. AUMUA Isaia Lameko, Member for Falealili West

The Member noted his support for the Bill, stating one request to remove the name Piu and just include Sapunaoa in the Schedule of the Bill; Constituency 23 – Falealili 1, noting that Piu is a sub-village of Sapunaoa.

xix. Ili Setefano Taateo Tafili, Member for Aana Alofi No.2

The Member noted his support for the Bill, and requested that the Minister look at the villages listed in the Constituency Aana Alofi No.3; which lists Leulumoega, Leulumoega Tuai and Nofaalii; the Member clarified that there are only 2 villages in the constituency; Leulumoega and Nofaalii.

xx. PAU Sefo Taumata Pau, Member for Faasaleleaga No.2

The member commented on the state of the bill whereby Savaii loses a seat, when in his statement in the House, he requested for an extra seat in his constituency to accommodate the growing number of constituents. The Member stated that after the 2016 elections, his constituency recorded one of the highest voters. The Member affirmed that with open arms that he would be open for Saleaula to be integrated in his constituency. He requested for a new Constituency (Faasaleleaga No.6) to include Saleaula.

xv. FUIMAONO Samuelu Teo, Member for Falealili East

The Member noted his support for the Bill

xvi. FONOTOE Pierre Laufofo, Member for Anoamaa West

The Member stood to express his support for the Bill and assured his constituency that his constituency remains the same, without any changes.

xx. FAUMUINA Faolatane Tiatia Liuga, Member for Palauli le Falefa

The Member noted that the proposed change in electoral divisions and stated that in the life of a Samoan, land markers and boundaries are a sensitive issue. The Member suggested that the name for the Electoral Constituencies remain the same, instead of being labelled using numbers. Furthermore, the Member requested that the Minister look into the eligibility of sub-villages to be called villages with the same village mayor.

Hon. FAAOLESA Katopau Ainuu, Minister for Justice and Courts Administration

The Hon. Minister acknowledged all the Members who spoke on the Bill and asserted that if Members looked at the bill for the purpose of benefiting their own constituencies then the object of the bill to achieve a “better representation” will not be achieved. He stated that all recommendations have been noted and reminding the Members that they are afforded another chance to voice their opinions through Parliamentary Committees.

Hon Prime Minister, TUILAEPA Lupesoliai Fatialofa Dr Sailele Malielegaoi

The Hon Prime Minister iterated that the purpose of Bill can easily be accepted if Samoa understands and appreciates that this is for the “bigger picture”.

The Electoral Constituencies Bill 2018 was read a second time and referred to the Standing Orders, Electoral, Petitions and Constitutional Offices Committee.

2. ELECTORAL BILL 2018 – Second reading

The Hon Minister for Justice and Courts Administration, FAAOLESA Katopau Ainuu moved for the second reading of the Electoral Bill 2018 and spoke to clarify the Bill.

The Hon Minister noted that the Bill seeks to replace the Electoral Act 1963 with the aim to provide a more clear process for the conduct of elections in Samoa. He further stated that the Electoral Bill 2018 is a rewrite of the Electoral Act in more simple terms to provide for easier interpretation and understanding of the provisions of the Bill. The Hon Minister generally spoke on the provisions for each of the 18 Parts of the Bill, with particular emphasis on the Parts with new clauses.

i. Hon Prime Minister, TUILAEPA Lupesoliai Fatialofa Dr Sailele Malielegaoi

The Hon Prime Minister elaborated on the clarification of the Minister for Justice noting that the Bill is proposed to alleviate election petitions filed after general elections. The Hon PM commented on the cons of establishing Special Voting Booths which the Bill will try and address ways to combat this recurring issue. The Hon PM simply stated that the Bill seeks to stamp out corrupt practices pertaining to Elections.

ii. Hon FONOTOE Luafesili Pierre Lauofo, Member for Anoamaa West

The Hon Member commented on Candidates running at the last minute (2 weeks prior elections). He noted that at first instance the Registrar and the Commissioner has to decide on this matter but the new amendment provides for this to be determined by the Courts. Therefore the Member called for a pre-qualification period (2 weeks) for the Electoral Commissioner to investigate the eligibility of an individual to run as a candidate.

In regards to Pre-Polling for those residing overseas, disabled, pensioners people who want to vote and requested that individuals from rural areas be afforded the same rights to pre-poll just as the disabled and pensioners. The Member cited time as the underlying factor, stating that this in his opinion is for convenience. In regards to the Petition- \$2,000 for security costs, the Member suggested to raise it to \$5000. The Member further requested the removal of telegrams and voting ID's as it no longer applies, rather update this to modern technology gadgets.

iii. FAUMUINA Tiatia Faaolatane Liuga, Member for Palauli le Falefa

The Member echoed sentiments by the Hon PM on the underlying motive to stamp out corrupt practices during General Elections. Furthermore, the Member called for the Electoral Commissioner be afforded the powers to determine the eligibility of a candidate to contest in the elections. The Member noted that members questioning each other's eligibility will only cause rifts in the Constituency. Moreover, the Member noted that this is not the duty of a candidate, rather the Electoral Commissioner. The Member commented on the Eligibility Criteria, (3 years minimum to reside in Samoa, A matai) and noted there was a loophole. Furthermore, the Member noted that there were loopholes in the eligibility criteria for candidates which can be self-interpreted and cause more complications in the future.

iv. LEALAILEPULE Rimoni Aiafi, Associate Minister for Communication and Information Technology

The Hon Member commented on the issue of bribery, whereby he encourages stringent punishment to be enforced. The Member noted that \$10 is the same as \$100 and stated that the weighting of the Punishment be looked at. The Member cited the expensive legal fees he is aware of from personal experience, which amounted to \$5000. The Member emphasised punishments for bribery acts during election and campaign, stating at just \$10.00 a Member can stand to lose his Seat and his money.

v. Hon FONOTOE Luafesili Pierre Lauofo, Member for Anoamaa West

The Member clarified that legal fees were so high because the lawyer is given a constricted timeframe to work in, and he further stated that when petitions are filed the lawyer leaves all his work and addresses the petition.

vi. NAFOITOA Talaimanu Ketii, Member for Gagaemauga No.3

The Member commended the Minister for the Bill; noting that it potentially forbids individuals' rights and cited Article 13 of the Constitution. The Member suggested that an individual from Savaii migrating to Upolu for a better future should be afforded the rights to choose where to vote. The Member then called for a special committee to be in place to look into the list of the people from Savaii currently working in Apia to ensure they are not impacted by the Bill based on their residence. The Member also cited transportation and accessibility as an issue if people get to go back to vote in Savaii. He then asked for protections from the government over this people. The Member expressed his support for all the other provisions.

vii. OLO Fiti Afoa Vaai, Member for Salega East

The Member queried whether there were any provisions to alleviate individuals from Savaii to be criminalised if they cannot afford a fare to go to Savaii and vote.

viii. LEAANA Ronnie Posini, Member for Safata West

The member suggested that the Minister examine the weight of the penalty imposed on MP's as it is even with a plate of food that can result in a member losing their seat. Furthermore, he suggested that there be lawyers allocated for individuals whom are hit with election petitions. Moreover, the member noted that the law places power straight in the hand of individuals residing or have ties to the Constituency. The member called for RSE workers to be afforded the right to vote. Additionally, the Member commended the role of technology in making voting easier however it is susceptible to being hacked.

ix. AUMUA Isaia Lameko, Member for Falealili West

The Member queried whether there were any provisions for candidates who have declared bankruptcy; the Member noted that such people should not be allowed to run in the Election. The Member queried why the change of timeframe for petitions from 7 to 30 days.

x. FAUMUINA Wayne Fong, Member for Urban West

The Member commended the Minister for the Bill. He then recommended conducting the Election on Saturday, in this case it will allow the Savaii people to have time to go Savaii and cast their votes. The Member further stated that the increase of fees by 200% (300-1000) is unacceptable and recommends the responsible Minister to leave it as it is (\$300). The Member further noted his support for the Member for Safata West point to have lawyers allocated for individual Members involved in Petitions.

xi. SULAMANA Fetaiai Tuiliili Tuivasa, Member for Vaimauga East

The Member commended the Minister and the Commission of Inquiry and noted that the Bill will ensure fair competition between all Members, regardless of their financial status.

xii. FAAULUSAU Rosa Duffy Stowers, Member for Gagaifomauga No.3

The Member commended the responsible minister for the initiative to stamp out corruption, and noted that there was no monitoring body to enforce the law, Member called for the Electoral Commissioner to conduct site visits to the rural areas and monitor each constituency's practices during the period leading to elections.

Hon. Minister, FAAOLESA Katopau Ainuu

The Hon Minister acknowledged the Members who spoke on the Bill and reassured them that he has noted all their concerns and recommendation

The Electoral Bill 2018 was read a second time and referred to the Standing Orders, Electoral, Petitions and Constitutional Offices Committee.

**Proceedings were adjourned at 4:14pm.
The Assembly will reconvene at 9:00am on Tuesday 29th May 2018.**