

DISCLAIMER

This Report provides a brief of the Proceedings of Parliament of Wednesday, 21st March 2018. 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 Wednesday, 21st March 2018, you should consult the official Hansard or seek assistance from the Office of the Clerk of the Legislative Assembly.

Wednesday 21st March 2018
9:30am

Day 2

I. **MESSAGE FROM O LE AO O LE MALO:**

Pursuant to Article 59 of the Constitution, the Message from O Le Ao o le Malo to permit the introduction of the following bill:

1. Tax Information Exchange Amendment Bill 2018

II. **NOTICE FROM THE LEADER OF THE HOUSE:**

Pursuant to Standing Order 76 the Notice by the Hon PM to allow the passage of the following Bill under Certificate of Urgency:

1. Tax Information Exchange Amendment Bill 2018

III. **GOVERNMENT ORDERS OF THE DAY – Reading of Bills**

1. Fire and Emergency Services Amendment Bill 2018 – third reading

The Hon Prime Minister, TUILAEPA Auelua Fatialofa Lupesoliai Dr Sailele Malielegaoi moved a motion for the third reading of the Fire and Emergency Services Authority Amendment Bill 2018; the motion was seconded and approved. The Bill was read a third time and passed the Legislative Assembly.

2. Honours and Awards Amendment Bill 2018 – third reading

The Hon Prime Minister, TUILAEPA Auelua Fatialofa Lupesoliai Dr Sailele Malielegaoi moved a motion to have the Honours and Awards Amendment Bill 2018 read a third time; the motion was seconded and approved. The Bill was read a third time and passed the Legislative Assembly.

3. Casino and Gambling Control Amendment Bill 2018 - third reading

The Hon Minister for the Gambling Control Authority, LAUTAFI Fio Selafi Purcell, moved a motion for the Bill to be read a third time; the motion was seconded and approved. The bill was read a third time and passed the Legislative Assembly.

4. Alienation of Customary Land Amendment Bill 2017 – second reading debate continued

i. LEALAILEPULE Rimoni Aiafi, Associate Minister of Communication and Information Technology

The Member spoke in his attempt to clarify the bill, noting that members of Parliament should endeavour to understand the context and objects of the Bill in its entirety to ensure its constituents are better informed and made aware of the intentions and benefits of the Bill. The Member elaborated that if Members were accepting and open minded about the benefits which the amendment proposed, then the constituents will easily accept the amendment. The Member then referred to a statement in the House in 2008 when he was a member of the Opposition, whereby he noted that approximately 25% - 30% of Faleata lands were leased to a businessman who established a golf-course, the member noted that 10 years later, although the businessman has discontinued the lease, the land still remains property of Faleata.

The Member emphasised one of the benefits proposed by the bill is providing economic gains to its people. However, the ignorance of some members has clouded their judgement to see the positive factors of the bill thus affecting their role to act in the best interest of its people.

ii. OLO Fiti Afoa Vaai, Member for Salega East

The Member stated that in his interpretation of the merits of the bill, it was contradictory to the fundamental principles of the Constitution, specifically in regards to conducting lease agreements or mortgage of customary land. He further stated that the frequency of amendments proposed to the Constitution is worrisome given that it is the Supreme Law of the nation.

- The Hon Prime Minister interjected to express his disappointment towards the member who refused to understand the explanation provided by the CEO and management of the (MNRE) Ministry administering the proposed bill, and assured the Member that there was no possible way for customary land to be sold.

POINT OF ORDER

The Hon. Speaker, LEAUPEPE Toleafoa Apulu Faafisi advised the Member for Salega East to refrain from voicing his personal interpretations and opinions of the bill.

OLO Fiti Afoa Vaai, Member for Salega East

The Member stated that although Parliament is the law making body, members should understand that being a parliamentarian is not a lifetime calling. Therefore, amendments proposed today should be considerate of the future generation.

- The Hon Prime Minister interjected and clarified to the Member for Salega East that the Constitution does not prohibit the leasing of customary land and that there has never been a precedence set for selling customary land (it is unheard of) because the constitution does not provide for this. The Hon. PM reiterated that reference to New Zealand and Australia does not apply to Samoa (the loss of native Maori and Aboriginal land to foreigners). Once the lease expires, the land will remain property of the family.

OLO Fiti Afoa Vaai, Member for Salega East

The Member noted that currently 80% of lease agreements are overseen by the Government; he then queried the outcome of a disagreement between Government and the foreign investor in regards to not meeting the conditions of a lease agreement, what would happen to the land then?

- The Hon. Deputy Prime Minister and Minister for Natural Resources and Environment, FIAME Naomi Mataafa clarified to the member that if such an incident occurred, the matter would be referred to the Supreme Court for proper action, noting that any lease cannot be validated without the presentation of proper documentation.

OLO Fiti Afoa Vaai, Member for Salega East

The Member concluded his statement and went on record to say “we reject the bill”

POINT OF ORDER – withdrawal of words

The Hon. Speaker corrected the Member’s statement, noting that the Member for Salega East is speaking for himself and not other Parliamentarians. The Speaker then instructed the withdrawal of the word “we” ‘*matou*’ from the Hansard.

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

The Member expressed his support on the bill as it would benefit his constituents and all of Samoa. He further stated that the proposed bill will provide more employment opportunities for individuals to assist in developing their families and raising their living standards, which in turn will develop Samoa’s economy. The Member elaborated on his vision for a deurbanized Samoa, stating that having a deurbanised focus is the solution to the countless development requests from constituents for development and more opportunities, all in the hopes for a better life.

- The Hon Deputy Prime Minister clarified that the proposal by the Member is currently underway.

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

The Member spoke in regards to the concerns raised by the Member for Salega East who expressed his discernment on the frequency of amending the Constitution, and assured the

Member that the Constitution overrides all other laws. Furthermore, the Member voiced his opinion on the bill and stated that there should be 3 parties involved in any lease agreement, i.e., the owner, the buyer and the beneficiary (lessor, lessee and beneficiary). The Member then encouraged the establishment of a Trust to monitor and administer lease agreements of customary land. The Member concluded by reminder the House that the law does not force the leasing of lands; that is the prerogative of the individual/families. Another issue raised by the Member included the increasing of lease periods from 20 years to 50 years to attract foreign investors.

iv. TAPULESATELE Mauteni Tamasono Metuli II Esera, Member for Vaisigano No.2

The Member supported the bill, however queried clause 19(1)(b) which refers to the **Mortgages of leases of customary lands**. The bill stipulates that if a lease of a customary land is to be mortgaged, then the mortgage of any lease **should be registered under the Land Titles Registration Act 2008**. The Member then queried the validity of using the Torrens system.

- The Hon Prime Minister interjected to clarify to the Member speaking that the Torrens system is currently being used for the registration of freehold land. The Hon PM elaborated that the current system was introduced to replace an obsolete record keeping process and to avoid papers being misplaced and easily lost. The Hon. PM reminded the Member that there is only one lawyer which the government seeks advice from, the Attorney General (AG).

Proceedings were set aside at 11:03am and resumed at 11:44am.

v. AUMUA Isaia Lameko, Member for Falealili West

The Member spoke on the issue of mortgaging the lease of customary land; he noted that the Ministry should conduct more awareness programs on the Bill to ensure the people are made aware and become more accepting of this proposal (for the benefit of families). The Member stated that the Ministry for Natural Resources and Environment should formulate a policy in regards to the mortgage of customary land lease for easier interpretation of the process and to ensure the Ministry can intervene as a mediator in times when disagreement arises between the lessee and lessor.

vi. FUIMAONO Samuelu Teo, Member for Falealili East

The Member expressed his support on the bill and stated that in situations whereby the conditions of the lease are not followed or acted upon, it should be at the discretion of the family who hold the rights to the land, to discontinue the lease regardless of having the contract terminated. The member further requested that there should be a provision to entitle the family members who hold the rights to the customary land to utilise the land as a security/asset for financial development of families, as opposed to waiting for interested foreign investors to lease the land.

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

The Member noted his support for the bill and applauded the Government on taking this step to ensuring more opportunities for its people. The member then put forward his request for an additional 800 acres of land for his constituency's development as they do not have enough land.

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

The Member noted the benefits the bill entails such as the generation of more employment opportunities for the people of Samoa. Furthermore, the Member supported the vision of the Member for Palauli le Falefa in regards to a more focused approach on deurbanizing Samoa, as this will eventually lead to reducing migration from Savaii to Upolu and rural to urban, and traffic jams in the rural areas.

ix. ALIIMALEMANU Alofa Tuuau, Member for Alataua West

The Member spoke to acknowledge Government's initiative to adapt with change and modernisation, such as accommodating foreign investors to provide development projects and businesses in Samoa to boost opportunities for the people. She further commended Government on proposed plans to develop the Asau wharf as this will also be another means of income for the people of Asau.

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

The Member seconded the acknowledgement by her fellow Member from Alataua West in regards to Government's initiative to develop the Asau wharf. The Member then spoke to voice her suggestions on the bill, stating that the lessor should endeavour to formulate lease conditions which contain loopholes and exit clauses to ensure the power is vested with the lessor to determine the progress or termination of a lease agreement when and if conditions are not met. The Member suggested that the lessor should also specify the types of development projects allowed on the land to ensure there are no surprises or disagreement during or after the implementation of the project. She concluded her statement by requesting to the Government to fairly distribute different foreign investors to the different constituencies and island of Samoa to ensure the benefits are felt in all areas of the country.

xi. Hon. FIAME Naomi Mataafa, Deputy Prime Minister and Minister for Natural Resources and Environment

The Hon Deputy Prime Minister responded to the issues raised by Members; she acknowledged all her fellow parliamentarians who expressed their thoughts and made comments on the bill. She acknowledged the Hon. Speaker for his patience and granting Members the chance to voice their opinions on the bill, noting that although the second reading debates have consumed a lot of Parliament's time, it is understandable as the bill pertains to a sensitive issue for all Samoans. The Hon Minister explained that customary land is part of Samoa's culture and identity. She then assured Members that the bill does not have any hidden motive/agenda, other than providing another means to generate income and benefit the people, which will evidently lead to the development of Samoa. She clarified that the lease agreement is not singularly for foreign

investors but also local business people. She concluded her response by asserting to Parliament that the bill was not drafted overnight, rather it had thorough planning, consideration and consultation.

The Alienation of Customary Land Amendment Bill 2017 was read a second time and now stands referred to the Infrastructure Sector Committee with instructions from the House to report back its consideration and findings in the May Sitting.

5. Tax Information Exchange Amendment Bill 2018 – first reading (C.o.U)

The Hon Minister for Revenue, TIALAVEA Leniu Tionisio Hunt moved for the Bill to be first read; motion seconded and approved.

6. Tax Information Exchange Amendment Bill 2018 – second reading

The Hon Minister for Revenue, TIALAVEA Leniu Tionisio Hunt moved for the Bill to be second read and spoke to clarify the objects and intents of the Bill. The bill provides for the exchange of information in regards to financial statements/records (to determine the financial position of any company registered in Samoa). The Hon Minister specifically referred to the Samoa International Finance Authority (SIFA) records which this bill provides for the authority to exchange relevant information to foreign financial institutions in a timely manner.

The Bill was read a second time as there were no Members who spoke to express any concern or opinion on the Bill.

7. Tax Information Exchange Amendment Bill 2018 – Consideration in Detail

Clause 2 – 5: Approved

Clause 1: Approved

The Bill was approved without amendments.

8. Tax Information Exchange Amendment Bill 2018 – third reading

The Hon Minister for Revenue, TIALAVEA Leniu Tionisio Hunt moved for the Bill to be read a third time; motion seconded and approved.

The Bill was read a third time and passed the Legislative Assembly.

**Proceedings were adjourned at 1:00pm.
The Assembly will reconvene at 9:00am, Thursday 22nd March 2018.**