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TUESDAY, 15 DECEMBER 2020

The Clerk took his Seat at 9:35am pursuant to Parliamentary Sitting Programme 2020/2021.

Prayer.

MR SPEAKER: I announce that Proceedings of the Legislative Assembly have resumed.

MESSAGE FROM THE LE AO O LE MALO

MEMORANDUM for:

Mr Speaker:

Pursuant to Article 59 of the Constitution of the Independent State of Samoa, I hereby give consent to the Legislative Assembly to review the following Bill hereunder:

1. Supplementary Appropriation Bill (No.1) 2020/2021.

GIVEN under my Hand on this day 14th of December 2020.

Signed: Tuimalealiifano Vaaletoa Sualauvi II

O LE AO O LE MALO.

OTHER ANNOUNCEMENTS BY MR SPEAKER

MR SPEAKER: Parliament and Samoa are now made aware of the outcome of the judicial review regarding the member of Salega East, the orator Olo Fiti Vaai and the member for the Urban Seat West, Afioga Faumuina Wayne.

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Presentation of Parliamentary Committee Reports

In personal view in accordance with policies given the relationship of the independent pillars of Government, I trust that we have separate interpretations considering the Judiciary and myself as the Speaker. I have thought of the status of recognition with regards to upholding the dignity of Parliament pursuant to its Standing Orders to guide our callings, however, *ua le ogatasi le futia ma le umele* given the Judicial's review. Nevertheless, only God bears righteousness.

I am also of the view and in relation to our morning devotion, we have made it to this part of the year for us to connect and bear the spirit of forgiveness. I have the same sentiment, let us bear the spirit of the birth of our Lord Jesus, the Baby of Christmas.

This is the notice with the intent for us to move forward as we are near the end of this Term. I therefore ask with respect to all the members of Parliament that you forbid from mentioning this matter again.

PRESENTATION OF PARLIAMENTARY COMMITTEE REPORTS

The Clerk read out the list of Parliamentary Reports pursuant to S.O.52(5).

1. P.P.2020/2021 No.80, Standing Orders Committee Report on the Immigration Bill 2020.
2. P.P.2020/2021 No.82, Finance and Expenditure Committee Report on P.P.2020/2021 No.54, Statement of Corporate Objectives of the Samoa Post 2021-2024.
3. P.P.2020/2021 No.83, Finance and Expenditure Committee Report on P.P.2020/2021 No.58, Statement of Corporate Objectives of the Samoa Qualifications Authority 2021-2024.
4. P.P.2020/2021 No.84, Social Sector Committee Report on P.P.2019/2020 No.162, Samoa Law Reform Commission Annual Report 2018/2019.
5. P.P.2020/2021 No.85, Social Sector Committee Report on P.P.2019/2020 No.167, Ministry of Women, Community and Social Development Annual Report 2018/2019.
6. P.P.2020/2021 No.86, Social Sector Committee Report on P.P.2019/2020 No.215, Ministry of Police Annual Report 2018/2019.
7. P.P.2020/2021 No.87, Social Sector Committee Report on P.P.2020/2021 No.2, Prisons and Corrections Annual Report 2018/2019.
8. P.P.2020/2021 No.88, Social Sector Committee Report on P.P.2020/2021 No.30, Accident Compensation Annual Report 2019.
9. P.P.2020/2021 No.89, Social Sector Committee Report on S.R.2020/3, Teachers Act 2020 – Notice of Commencement.

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**Supplementary Appropriation Bill (No.1) 2020/2021
– first reading**

10. P.P.2020/2021 No.90, Infrastructural Committee Report on P.P.2019/2020 No.155, Electric Power Corporation Annual Report 2018/2019.
11. P.P.2020/2021 No.91, Infrastructural Sector Committee Report on P.P.2019/2020 No.156, Land Transport Authority Annual Report 2018/2019.
12. P.P.2020/2021 No.92, Infrastructural Sector Committee Report on P.P.2019/2020 No.204, Samoa Water Authority Annual Report 2018/2019.
13. P.P.2020/2021 No.24, Special Parliamentary Committee Report on the Constitution Amendment Bill 2020.
14. P.P.2020/2021 No.25, Special Parliamentary Committee Report on the Judicature Bill 2020.
15. P.P.2020/2021 No.26, Special Parliamentary Committee Report on Lands and Titles Bill 2020.

**SUPPLEMENTARY APPROPRIATION BILL (No.1) 2020/2021
– first reading**

MR SPEAKER: I call upon the Hon Minister of Finance.

Afioga Hon SILI EPA TUIOTI (Minister of Finance): Mr Speaker I move, *That the Supplementary Appropriation Bill (No.1) 2020/2021 be now read a first time.*

Secinded by the Minister of Education, Sports and Culture and the Minister for Revenue.

Motion was approved and the Supplementary Appropriation Bill (No.1) 2020/2021 was read a first time.

**SUPPLEMENTARY ESTIMATES (NO.1) 2020/2021
- tabling**

MR SPEAKER: With respect I call upon the Hon Minister of Finance.

The Hon Minister of Finance Afioga Hon Sili Epa Tuioti tabled the Supplementary Estimates (No.1) 2020/2021.

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**SUPPLEMENTARY APPROPRIATION BILL (NO.1) 2020/2021
– motion for second reading**

MR SPEAKER: I call upon the Minister.

Afioga Hon SILI EPA TUIOTI: Mr Speaker I move the motion, *That the Supplementary Appropriation Bill (No.1) 2020/2021 be now read a second time.*

Secinded by the Minister for Revenue and the Minister of Education, Sports and Culture.

MR SPEAKER: I call upon the Hon Minister of Finance for his statement.

FIRST SUPPLEMENTARY BUDGET ADDRESS 2020/2021

Mr Speaker and Honorable Members of Parliament,

With great respect I wish to table before Parliament the First Supplementary Budget 2020/2021 that is currently in progress.

Mr Speaker,

Our voyage of the past 12 months has now come to an end as we draw close to many of the priorities, we had set out to achieve at the start of the current calendar year.

Throughout this year, Samoa and the globe have borne witness to the devastating effects of the Covid19 pandemic which has claimed millions of lives worldwide. It has indeed been a trialing year to the economies of the world who experienced the effects of global lockdowns; the loss of millions of jobs; industry closures; shortages in goods and services; as well as recessions in many of the developed nations of the world who will be the leaders in ensuring the return of the global economy to pre-crisis levels.

Mr Speaker,

The implementation of the Main Estimates for the current fiscal year, laid before Parliament in May 2020 continues to progress well to meet their respective end of the year targets. The additional requests presented within the supplementary budget before you however have been compiled to ensure the continued injection of resources into the economy and includes key development projects that are critical to strong economic growth. These efforts are not dissimilar to those being actioned by many economies of the world as Governments intervene to ensure sustained growth in light of the effects of the COVID pandemic.

*15 DECEMBER 2020***First Supplementary Budget Address 2020/2021****Mr Speaker,**

The original projections for the fiscal year 2019/2020, had anticipated a high economic growth to be driven primarily by the hosting of the Pacific Games as well as other planned regional and international meetings. However, these projections were greatly affected by the Measles epidemic of end 2019 and the Coronavirus pandemic at the beginning of 2020.

By the end of June 2020, the economy of Samoa had instead registered a contraction of -3.5%. however, when compared to other large economies as well as the rest of the Pacific which saw contractions ranging from as low as -5% to as high as -21.7% the effect of the pandemic on the economy of Samoa was in fact minimal.

There remains the confidence that the efforts of the Government through the reshuffling of its priorities towards its set of response policies are successful in ensuring that the state of the economy remains stable during these difficult times. As you are aware, two phases of the Government of Samoa's Stimulus Package Assistance totaling \$150 million were laid before Parliament in April and May this year. The majority of these assistance policies have been successfully completed.

There is no doubt that countries across the globe have been greatly affected by the pandemic and Samoa has been no exception. While we await the re-opening of borders upon which our Tourism Sector relies heavily on - one of our key pillars economic growth – there are 3 areas which the Government's efforts are focused on as implemented by the Ministry of Finance to ensure a quick economic recovery and they include:

- 1) Ensuring the successful implementation of all policies under both phases of the Government's stimulus package which totals \$150 million aimed at enabling the private sector; ensuring preparedness and prevention through the health sector; ensuring food security as well as support for other sectors and departments of Government who provide essential services to the country.
- 2) Securing budget support from development partners to support priority services and developments of Government. Dialogues continue with Samoa's key development partners who remain confident in Samoa's ability due to past high performances as noted through an increase in budget support over the course of the past fiscal years continuing largely to Samoa's economic growth.

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First Supplementary Budget Address 2020/2021

- 3) A key contributor to continue growth within the economy are the large infrastructural projects of Government financed through grants from its development partners. The Government of Samoa has requested that these projects continue to ensure job security and income generation opportunities for many but to also drive business activities that rely heavily on Government transactions. I am happy to report that the Government has concluded dialogues with the Asian Development Bank and the World Bank to initiate key development projects that will contribute greatly to Samoa's economic growth. These include:
- Rehabilitation and expansion of the Cross Island Road at the start of the New Year;
 - Continue extension and improved resilience of the West Coast Road also at the start of the new year;
 - Commence preparations of a Major Project, the Alaoa Multipurpose Dam sometimes in the new year;
 - As well as other current projects affected by border restrictions which has put a stop to some of these projects.

Sir, it is the intention of the Government currently at the helm of this nation to place priority upon key developments that are conducive to high economic growth which should secure an improved quality of life for its citizens. I therefore take the opportunity to thank the nation for their support over the course of the past 12 months during which time the Government and its public servants worked towards the achievement of its core priorities. I would also like to thank all development partners of Government for their continued support particular during these trialing times while the country grapples to cope with the effects of the COVID19 pandemic.

Mr Speaker,

I would like to outline some of the key strategies behind this First Supplementary Budget which include:

- 1) To continue to raise efforts towards protecting Samoa from any and all pandemics and epidemics as well as the effects of any disaster and to ensure the security of all its citizens;
- 2) To raise the quality of and access to education for all children of Samoa;
- 3) To secure resourcing for key projects which support economic development in Samoa;
- 4) Ensure the climate resilience of key infrastructures;
- 5) Ensure employment creation not only to raise the quality of Government services but to secure income generating opportunities;
- 6) Strengthening partnerships with key donors through the successful implementation of development projects;

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First Supplementary Budget Address 2020/2021**First Supplementary Budget Estimates:****Mr Speaker,**

I would now like to present the details of the First Supplementary Budget Estimates for the current fiscal 2020/21.

The aggregated total expenditures proposed under this First Supplementary Budget is \$42.21million tala and will be financed as follow:

Firstly, through additional Ordinary Receipts of \$4,497,508 tala. For those who contributed to this revenue earning:-

1. Ministry of Finance – (\$10,000)

This represents a donation for the measles efforts from the EFKS Congregation of Vaitele which was presented in June 2020.

2. Ministry of Public Enterprises - (\$4,528,009)

These are additional dividends received from Corporations of Government which include \$2,089,020 from the Central Bank of Samoa to assist with financing the First Supplementary Budget.

3. Ministry of Education, Sports and Culture – a net reduction in revenues \$40,501

This is a result of a reshuffling of non-tax revenues collected by the Ministry due to the current SOE restrictions and the enforcement of advance communications for children’s education.

Secondly, an increase in grant financed development projects which are detailed under expenditure programs - \$6,259,615 tala:

Thirdly, a reshuffling of existing expenditure programs of Ministries - \$31,448,017 which include the following:

1. Statutory Expenditures - \$24,511,518

In line with the most powerful countries the G20 Debt Servicing Suspension Initiative, Samoa has qualified for debt relief through a 12-month suspension on its debt servicing for the following loans:

- People’s Republic of China \$21,906,085
- Government of Japan \$2,592,393
- European Economic Community \$13,039

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- 2. Ministry of Agriculture and Fisheries - \$1,564,215**
This represents appropriation for the Crops Research Unit being transferred under the Scientific Research Organisation of Samoa as well as funds originally allocated for regional meetings now reprioritized to fund other priority operations of the Ministry.
- 3. Ministry of Finance - \$539,988**
This represents savings from operations of building maintenance due to a change in contract services which are now back under the oversight of the Ministry as well as travel costs being reappropriated.
- 4. Ministry of Justice - \$335,422**
These funds are savings pertaining to unspent travel costs for the Ministry as well as remaining funds from completed contracts.
- 5. Office of the Legislative Assembly - \$200,000**
These funds are the appropriation for political parties which the HRPP requested to be returned to reallocate to finance the priorities under the First Supplementary as well as additional Covid19 preparedness and prevention efforts.
- 6. Land Transport Authority - \$1,025,967**
This represents the budget for motor vehicle registration services now transferred to the Ministry of Police and Prisons.
- 7. Public Service Commission - \$89,574**
These are savings identified for efforts that did not eventuate due to the effects of the Covid 19.
- 8. Ministry of the Prime Minister and Cabinet - \$417,039**
These are savings identified as a result of a restructure of the Ministry as well as from travel costs to assist in financing the additional requests of the Ministry under this First Supplementary budget.
- 9. Ministry of Education, Sports and Culture - \$187,954**
This represents savings of the Ministry which include sports development efforts affected by the pandemic as well as travel costs.

In addition, all costs allocated to the following Government Ministries have been removed and reallocated to finance the priorities under the First Supplementary which include:

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• Office of the Auditor General	-	\$199,642
• Samoa Bureau of Statistics	-	\$36,653
• Ministry of Commerce, Industry and Labour	-	\$153,065
• Ministry of Communications	-	\$91,362
• Ministry of Foreign Affairs	-	\$744,532
• Ministry of Health	-	\$332,357
• Law Reform Commission	-	\$12,351
• Ministry of Natural Resources	-	\$259,970
• Office of the Ombudsman	-	\$22,080
• Prisons	-	\$58,714
• Ministry of Public Enterprises	-	\$83,148
• Ministry of Police	-	\$91,023
• Ministry for Revenue	-	\$261,050
• Ministry of Works, Transport and Infrastructure		\$92,369
• Ministry of Women	-	\$138,024

Mr. Speaker, I will now provide the details for the additional expenditures of \$42,205,140 tala (including taxes and development projects) and they are:

1) Ministry of Agriculture and Fisheries - \$849,090

The Ministry's additional requests include equipment that are critical to their services to the public and include provisions for the Crops division to raise efforts and supply during these trialing times.

2) Ministry of Commerce, Industry & Labour - \$63,798

The Ministry's requests are for priority new posts that have been approved by the Public Service Commission and Cabinet which require a reshuffling of provisions to finance them.

3) Ministry of Education, Sports and Culture - \$2,784,092

The provision is to accommodate teaching positions as well as a \$1million tala provision for the maintenance and upkeep of existing district schools.

4) Ministry of Health - \$3,000,000

The provisions is to accommodate the anticipated increase in overtimes for clinical staff who are servicing the nation during the pandemic.

5) Ministry of Justice - \$389,795

The Ministry request pertains to repairs required for their building's air conditioning as well as for purchases of office equipment.

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First Supplementary Budget Address 2020/2021**6) Ministry of Police and Prisons - \$2,734,137**

The request pertains to additional executives required to support the improved services of the Ministry. This includes Deputy Commissioners for Savaii and Prisons. The transfer of the registration services for motor vehicles from the Land Transport Authority is also included in this provision as well as an allocation to begin works for the Ministry's new headquarters in Salelologa in Savaii.

7) Public Service Commission - \$71,468

The provision is to finance a new senior position for the Office critical to the achievement of their KPI's as well as resources for long service benefits of some of the staff which are now due.

8) Office of the Ombudsman - \$56,291

This represents a request for a cleaner now required due to the relocation of the office to the NPF Plaza as well as a top-up to finance their new lease arrangements. O le a faaopoopoina se avanoa faigaluega fou mo le tausiga o le Ofisa i lona nofoaga tutotonu fou fa'atasi ai ma se vaegatupe fa'aopo'opo mo le togotiina atoa o le lisi i le NPF Plaza.

9) Ministry of the Prime Minister and Cabinet - \$110,248

The request is to finance new team leader positions for the Ministry as part and parcel of their restructure which have been approved by the Public Service Commission targeting more efficient service provision to the public.

10) Ministry of Finance - \$13,337,461

These pertain to: 1) new positions created for securities at the TATTE as well as building technicians required to service the building which has reduced contract costs as well as created employment opportunities for the country; 2) an additional \$6m provision to continue preparedness and prevention efforts against 10 10 the COVID19; 3) land compensations for rolling out key GCF initiatives, the Cross Island road as well as other counterpart costs to development projects.

11) Ministry for Public Enterprises - 51,700

The request is to finance the recruitment of a consultant to assist in the evaluation of proposals pertaining to the privatization of the Samoa Post in 2021.

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First Supplementary Budget Address 2020/2021**12) Ministry of Works, Transport and Infrastructure - \$84,247**

This is to finance the contract extension for the Waterfront Development Coordinator.

13) Scientific Research Organisation of Samoa - \$680,797

This pertains to the resourcing of the new Crops Research Division of the Organisation and includes personnel, operating and capital expenditures.

14) Samoa Sports Facility Authority - \$103,910

The Authority's request is to finance the relocation of one of its transformers at the Apia Park to free up space for the development of a new soccer field to be financed entirely by the FIFA which is expected to raise the development of the sport within the country.

15) Land Transport Authority - \$5,876,999

The Authority's request is to finance the continuation of road developments from Vaiaata to Patamea in Savaii, the new Flea Market Road at Sogi as well as rolling out the street naming project.

16) Samoa Water Authority - \$4,000,000

These funds represent additional rural water works that are part of the Authority's workplan to roll out access to clean water for the country.

17) National University of Samoa - \$1,751,492

O se talosaga mo avanoa faigaluega e le'i fa'atupeina ile Tala Fa'atatau The request is for newly established positions of the University which have already been recruited as well as to offset a reduction in their estimated revenues due to the effects of the COVID19.

Mr. Speaker, other than the additional expenditure programs of Government Ministries and Corporations, the First Supplementary Budget also includes additional projects and programs financed directly through grants from our development partners as follows;

Additional Grant financed development projects - \$6,259,615;**1) Community Development & NGO Sector**

- Capacity Building Measles Outbreak Response - \$130,886
- COVID Spotlight Initiative Project - \$160,875
- WHO Community Response to COVID19 - \$129,150
- Risk Communication & Community Engagement - \$150,300

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- 2) Education Sector:
 - COVID19 Response to MESC - \$210,725
 - Development of Learning Resources - \$53,835
- 3) Law & Justice Sector:
 - Spotlight Initiative Phase 1 to Law & Justice - \$45,772
- 4) Agriculture and Fisheries Sector:
 - US Treaty on Economic Development Fund - \$846,564
 - Fisheries COVID19 Pandemic Stimulus - \$231,266
- 5) Communications and IT Sector:
 - ICT Digital Solutions Project - \$138,003
 - Sub Regional Localization Initiation Plan - \$16,300
 - Enhancing National ICT capacity to support National Commitments - \$55,401
- 6) Environment Sector;
 - Pacific Adaptation to Climate Change and Resilience – 183,576
- 7) Finance Sector;
 - COVID19 Emergency Response Project (APDRF) \$3,906,962

Conclusion:**Mr. Speaker and Honourable Members of Parliament,**

The First Supplementary Budget Estimates currently laid before you have been compiled with the confidence that the preparations of Government are relevant and appropriate for these trialing times and continues to support the theme of “Weaving a prosperous and secure future for Samoa together”. We have received good news that scientists have been successful in trialing vaccines for the COVID19, and it is without a doubt that soon this will reach our region and we can begin to work towards returning to pre-pandemic conditions. The Government of Samoa remains vigilant in ensuring that Samoa remains prepared for any eventuality so that we can adapt to what the future may hold and therefore secure our resilience. I am happy to report that the current additional requests laid before you will have no effect on the deficit as represented in the usual budget framework.

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**Constitution Amendment Bill 2020
– consideration in detail**

Ensuring that prudence is maintained in this regard will allow the Government sufficient fiscal space to continuously reshuffle its priorities in the 13 future should any other disaster affect our nation requiring swift resourcing of immediate needs for the people of Samoa.

Mr. Speaker and Honourable Members of Parliament,

On behalf of Cabinet and the Government of Samoa, I would like to wish you and the Honourable members as well as every citizen of Samoa a joyful Christmas and Prosperous New Year.

Soifua.

MR SPEAKER: Well done. Pursuant to Standing Orders, the Supplementary Appropriation Bill (No 1) 2020/2021 will be referred to the Revenue and Expenditure Committee for review in no less than 14 days, and report back to the Assembly in a future sitting.

**CONSTITUTION AMENDMENT BILL 2020
– consideration in detail**

MR SPEAKER: I call upon the particular Hon Minister for this Bill.

Afioga Hon FAAOLESA KATOPAU T. AINUU (Minister of Justice and Court Administration): Mr Speaker, because of the importance of this Bill together with the next 2. I implore for your approval for me to make a ministerial statement pursuant to article 63 of Standing Orders.

MR SPEAKER: Go ahead.

**MINISTERIAL STATEMENT BY THE HON MINISTER OF JUSTICE
AND COURT ADMINISTRATION**

Afioga Hon FAAOLESA KATOPAU T. AINUU (Minister of Justice and Court Administration): Mr Speaker, thank you for the chance. I trust all have read this report. This morning our prayers by your honorable Speaker have already been delivered to the Divine Mercy. I acknowledge the presence of the dignity of the House, the Leader of the House the Hon Prime Minister, Cabinet, and Associate Ministers. Greetings to that side of the Chambers, Chairpersons of Committees, male and female members of the Parliament.

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Ministerial Statement by the Hon Minister of Justice and Court Administration

I further greet His Highness Le Ao ole Malo, member of the Council of Deputies and Chief Justice and the Judiciary. Lest I forget the prayerful warriors the Church Leaders who are praying for Samoa's wellbeing. Your cultural addresses are now in the hands of Tumua ma Pule, ma le tausí vaatele. May I also take this opportunity to greet the Government Ministries and Public Enterprises who are gathered here today. Well done on your determination and your diligence.

I especially wish to acknowledge the constituency of Vaimauga le Sagauga, *i le afio o Alosina ia Seumanutafa ma Toomalatai faapea le fuaifale o Salevalasi ia Tamaseu ma Faualo. Afifio usoalii tainane le afifio o matua ma aiga sa Malietoa, faapea le fetalaiga a le faletolu ma le Vaigalelepa, ma upu ia te oe Tuisamau. Tainane le loaloa o le paia ma le mamalu o Samoa o lo o papa-aa i lo tatou itumalo.*

Mr Speaker, I firstly wish to extend gratitude to the Chairperson and deputy Chairperson and the Committee for the complete work presented before us. Well done to your perseverance and commitment in fulfilling this important task. May God bless your Committee.

This was the work tasked by the Committee, it was not done yesterday, no it was proposed from many years ago.

Whilst Samoa was preparing for its self-governance, which means, it was all planned in accordance to this work, before its independence in 1962. And the long term vision of our ancestors in their dream is that there will be a time for Samoan warriors to rise with in depth prudence and wisdom, to manage wisely the nation of Samoa. To reflect Samoa's full administration of its treasures based on her custom, tradition and culture.

Records of the Constitutional Convention 1960 raised a motion by the member of Palauli, Toluono Lama to incorporate the Pulega a Alii & Faipule in the Constitution. Although there were heated discussions for all members of the Constitutional Convention, the motion was supported however, Professor Davidson Aikman, an Advisor from New Zealand said, that it is best to leave matter until Parliament comes into a decision in the future, citing that the United Nations would not agree thus delaying the process of self- governance for Samoa.

The professor avowed that they did not understand the views of the members, about the importance of the Faa-Samoa, nonetheless, the members also did not understand that a decision will be made whether Samoa will be independent or not due to the complexities of this issue.

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In the Votes and Proceedings of the Constitutional Convention 1960 Volume 3 Page 1283, Hon Fiame Mataafa Faumuina Mulino II and Hon Tupua Tamasese Meaola pleaded to the members of the Constitutional Convention, to recognize and support the recommendation of professor. That is to leave this matter aside until the Constitution is passed in order for Samoa to gain its independence. Samoa will find a fitting time in the future to incorporate this vital change in the Constitution to reflect and achieve the will of Samoa as stressed in the views of the members.

Mr Speaker and respectable members of the House, the Independent State of Samoa is heading towards 60 years maturity. In 2016, the Commission of Inquiry was established to look into the various raising issues of the public with regards to the administration of works and decisions of the Lands and Titles Court. Findings from this inquiry found that close to 100% of village members had their views being recorded regarding the matters raised by the Committee. It further pushed the significance of recognizing the Pulega a Alii ma Faipule in the Constitution before Legislations are allowed to be introduced to remedy the various conflicting views as shared by the public to the Committee. For instance the Village Fono Act 1990. This Act recognizes the Pulega a Alii and Faipule which is not stipulated clearly in any Part of the Constitution. So whatever existing Law there is that recognizes the Authority of Alii & Faipule, the authority is therefore not whole if there is no Part of the Constitution that anchors it. This is the entire reason for amending the Constitution so that there is firm Part to strengthen and validate this Legislation.

Mr Speaker, is this not the time for us to take significance of our culture? The Authority of Alii ma Faipule, make a response and firm remedy to counter the challenges raised in the Report of the Commission of Inquiry in 2016, regarding our Culture, the matter which our ancestors had dreamt about. Such is the main intent of these 3 Bills given in its third reading.

I extend appreciation to the Law Society and the Supreme Court, for being diligent and for raising very beneficial views in relation to these 3 Bills. The country is aware of your broadcastings on air and in newspapers about your objections of these 3 Bills on the belief that issues could arise from it. Well done to you for your keenness in seeking things that provides great benefit for Samoa. We all have similar view, there is dissimilar views for each individual who are aiming for something constructive. I further trust, no one wants to do something that will harm their families, village, district especially the country. In addition, no country wants to create a law that is dishonest and immoral which can ruin the State as publicized in newspapers by some members of this House, to show their objection of these Bills. I am very shocked with these broadcasts.

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Ministerial Statement by the Hon Minister of Justice and Court Administration

The question that begs, does it mean, that the dream of our ancestors was unrighteous and faithless. They viewed that generations to come would fulfill this dream. However, they have prioritized the Rule of Law based on Common Law and Equity disregarding our Samoan custom and tradition. I quote from the statement of Professor Aikmen in the Constitutional Convention 1960 which says, I trust that there will be several laws that will be approved and applied by Samoa acquiring the Rule of Law, this statement is founded in the Proceedings Transcript Volume 3 Page 1253 of the Constitutional Convention 1960. Therefore there was intent of the European Advisor that a time will come when we have the view of the Samoan Parliament. Samoa will no longer seek the Rule of Law instead use the Laws passed from within this Parliament of Samoa for the future.

Mr Speaker, Samoa is getting matured, and this is one Law the Government trusts will bring harmony and peace in recognition of the Pulega a Alii ma Faipule in the Constitution. So do take into account the various concerns of the public on these Bills. Government had to open up another opportunity through the Parliamentary Committee to seek the opinion of the public on these Bills which was not normal procedure, this is the first time in Parliament history that the works of Parliamentary Committee have gone out to conduct public consultations around each village regarding these Bills.

The aim is to thoroughly consult the public about these Bills. Now that the entire Samoa has responded in its honorifics, *i le usoga a Tumua ma Pule, Ituuu ma Alataua, Aiga i le Tai ma le Vaa o Fonoti. O Tama ma o latou Aiga, Aiga o Nofu Aiga o Tupu, Aiga o Papa, Aiga Tafa'ifa.*

The threshold stated by the Parliamentary Committee Chairpeson after consultations conducted with the entire country. 84% of the country expressed great support for the 3 Bills, together with their recommendations upon amendments for further improvement. It is therefore fitting for me to say, that majority of the people are in support of this Bill. 3% of the population are just uncertain although they do have recommendations on areas for improvement and that majority of those who had input did not agree with the 5 Sa'o as proposed. However, 13% disagree with these 3 Bills saying that these Bills should be cancelled. If there is no peace, or an option for a way forward in response to the demands of the country in relation to no recognition of Pulega a Alii ma Faipule in the Constitution. In essence to the 13% that are objecting, on the overall I can divide this into 4 reasons for their objection.

1. There is concern over the removal of individual rights as stipulated in the Constitution.

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Ministerial Statement by the Hon Minister of Justice and Court Administration

2. They said there will no longer be Three Pillars of the Samoan Government, instead, it will be four. There will be 2 heads of the Court, one being the Chief Justice and the other is the President.
3. Concern to grant permission again for judicial review upon the decisions that have already been made.
4. Issue regarding whether customary lands will be affected and will be taken over by other people, because of these Bills.

So I wish to clarify that, 1. Mr Speaker, there is no plan for these 3 Bills, to change nor omit individual rights as stated in the Constitution. The Constitutional rights or fundamental rights was one reason for the recognition of the United Nations of our 1960 Constitution which enabled us to become independent. Hence, no country can ever take that away from us as stipulated in our Constitution. The main purpose for this Amendment was to insert and recognize the Authority of Alii and Faipule which currently does not exist in the Constitution of Samoa.

Nevertheless, the central point here is our culture and treasures and the protection of our environment, which does not affect our rights. It also does not replace the Authority of Alii and Faipule from individual rights. That said if the Lands and Titles were to conduct a review, the Court will not look at individual rights alone as it is with the current process. However, the review will be based on 2 sides, which are individual rights as well as communal rights involving the Alii and Faipule. The entire House here is aware that the police cannot in their power control during their protection of Samoa as they rely solely on the assistance of the village councils in implementing their job.

With regards to the issue involving the Three Pillars of Government that is still maintained. But since the Authority of the Supreme Court and the Lands and Titles Court is now separated, it seems that there are 2 now. However, that is not so, the Head of the Judiciary is still one, it is the Chief Justice.

With the issue regarding permission granted again to the Lands and Titles for their judicial review upon the decisions they have already laid down, let me just say that this initiative is not easy, it is difficult to achieve and satisfy the conditions to recognize it.

The final topic is in relation to the taking of customary lands. May I clarify it again, there is no such provision stipulated in this Legislation that affects customary lands. There is also no evidence in their objections on examples nor things that have occurred in the past to specify the taking of customary lands. Their accusations are based on doubts. In addition, the Chief Justice had also provided clarity on this matter. This is the response on this matter for the sake of those who are objecting these Bills.

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Ministerial Statement by the Hon Minister of Justice and Court Administration

After the hard work of the Parliamentary Committee, the Government gave the Independent Legal Panel the chance to look into the 3 Bills, together with the views of the public as collected by the Committee so that there is a good reflection of recommendations and concerns submitted to improving these Bills.

The Independent Legal Panel was chaired by the Former Chief Justice and former President of the Law Society for several years, and former Director of Legal Division Commonwealth Secretariat.

In the review of the Independent Legal Panel, they noted the complexities that come if we try to include custom and usage in the Constitution during the 1960 Constitutional Convention debates since it is not properly set out in the democratic practice in accordance with our culture and that of the United Nations Charter. The same concern was raised by Professor Davidson Eikman during the Constitutional Convention lest this complexity adjourns the freedom and independence of our Samoan nation in 1962. Then our ancestors resorted to give Parliament the authority to establish the Lands and Titles Court pursuant to existing Section 9 of the Constitution. This attempt was implemented to meet the United Nations Charter and the Independence of Samoa.

This will be considered forward-looking, as Parliament will be aware of a fitting time to confirm the Authority of Village Councils in the Samoan Constitution. Mr Speaker, the summary is vital as presented above, from the start of this sentence. This is the rightful time to implement your dream, in response to our ancestors, in accordance with their questions directed to Village Councils which is laid before Parliament from several years ago. Mr Speaker, this is the main reason why this Amendment was made in the Constitutional Amendment Bill 2020 together with the Lands and Titles 2020. As this amendment can be incorporated into the Constitution. Mr Speaker, we cannot confirm serious doubts and accusations made against the State about this Legislation, unless this Bill is passed and implemented. As this will only reveal the truth whether these complaints, doubts and objections are true or not.

As of the current, the worth of objected views, will be thought provoking for the future. It is not new for any Government to have objections from the public on Bills. The role will not avoid its role in proposing Bills that are beneficial for the country in accordance with its long-term vision. An example is the introducing of the road switch law. Majority had objected and a lot of writings and complaints were made against the State on this matter. We all knew the result of this matter. During the implementation of this Law and when things were back to normal a lot of our people were benefitting from it.

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Ministerial Statement by the Hon Minister of Justice and Court Administration

Mr Speaker, I hope the listeners of this House and Samoa are satisfied on the contribution in assistance to the clarification of the main objectives for these 3 Bills.

If you had not taken it too well anything from this presentation. *E poto lava le tautai ae le atoa i'a i liu o lona sa.* Although I trust you will find forgiveness in your heart, as the growth of Samoa is done collectively.

May I take this opportunity to extend our sincere love to your honourable Mr Speaker and the dignity of the House as well as the listening Samoa. We are nearing the commemoration of the birth of our Lord and Saviour. I therefore wish you a very merry Christmas and a prosperous New Year. Bless the Sitting of Samoa. Soifua.

MR SPEAKER: Well done. I salute the respective Hon Minister for this Bill. I call upon the member for... Hon Fiaame...

Afioga Hon FAUMUINA TIATIA FAAOLATANE LIUGA (Palauli le Falefa): Mr Speaker, before we have the Sao Faapito, I move. *To lay on the table the statement of the Hon Minister.*

With respect.

Seconded by the member of Anoamaa West.

Motion approved and the Ministerial Statement of the Hon Minister is now laid on the Table.

MR SPEAKER: Because we need to progress our work, I therefore ask lest I am again being blamed for not giving chances.

Go ahead Fiaame on what...

Afioga Hon Fiaame Naomi Mataafa (Lotofaga): Yes, thank you very much Mr Speaker. I greet the House this new morning.

I rise with respect regarding the orders of our work. In relation to the 3 proposed Bills and the Committee's report. I see that the Report is now scheduled in the Order Paper and is not numbered which is something new in our normal procedures.

I wish to implore your honour, as we have just received the Committee's assessment report from our Office. Given the orders here there is hope that we will proceed with the consideration and the third reading.

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**Constitution Amendment Bill 2020
– consideration in detail**

Pursuant to Standing Order honorable Speaker, I implore a chance for us to read this Report carefully, and that we have just received the Ministerial Statement in relation to these Bills, and as observed I think there have been 4 Ministerial Statements from the Prime Minister on these Bills. As such I request a chance in accordance with Standing Orders for us to read and gain clarity on this Report which has just been tabled.

MR SPEAKER: Very well. Thank for the comment by the Sao Faapito, as I have thought that we have worked together in Parliament for quite some time now, also during the time I had undertaken the Ministerial post of the Cabinet, and these processes are nothing new and the submission of documents in order to implement our works. And so the processes and procedures with regards to our services for Parliament, these are the normal practices which happens almost for all Sittings and therefore, there are still chances given, and clarifications are still made, not only with Ministerial Statements, and perhaps when we have the Chairperson or whenever there is the need to gain insight on some of the matters, for the awareness of the House.

As such, we will set aside the proceedings of the Legislative Assembly and resume when we return. I announce the setting aside of Parliament Proceedings for normal recess.

I therefore announce with respect, that breakfast is prepared at the Maota o Tofilau Alesana as the tents are problematic due to bad weather conditions. With respect thank you.

Proceedings of the Legislative Assembly set aside at 10:58am and resumed at 11:40am.

MR SPEAKER: I declare that Proceedings of the Legislative Assembly resumed, I trust we have been re-energized from our morning break for us to recommence our work.

Pursuant to Standing Order, the Legislative Assembly must first approve the report of the Committee on the Bill before proceeding with the consideration.

I respectfully call upon the Chairperson of the Special Parliamentary Committee for this Bill.

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**Constitution Amendment Bill 2020
– consideration in detail**

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA GIDLOW (Chairperson of the Special Parliamentary Committee): Thank you honorable Speaker for the opportunity. I plead for a small...before the motion, just a few words in addition to the delightful speech of the Hon Minister to highlight the works that was engaged by the Committee the last couples of months.

MR SPEAKER: Very well. Go ahead honorable Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Thank you. Honorable Speaker and respectable members of the House, the listening Samoa in your honorifics and your support and prayers upon your Parliament.

This new morning I rise with great respect to table before the Speaker and the House the Report of the Special Parliamentary Committee which was selected to review the Bill that was proposed by the State to raise and improve the court. Your honorific salutations are now complete with the presence of the Speaker and the dignity of the House, Leader of the House, Ministers of Cabinet, Associate Ministers and that side of the House, the presence of Chairpersons and members of Parliamentary Committees.

Lest I do not forget the support of His Highness Le Ao o le Malo and Samoa in all your honorifics, Le usoga a Pule ma Tumua Ituau ma Alataua, Aiga i le Tai ma le Vaa o Fonoti. I also greet the Church Leaders of Samoa for your prayers and gospel preached for our salvation. Honorable Speaker, we have in our presence the Heads of Government Ministries and Public Enterprises who are serving the Government and Samoa.

Lastly, I wish to acknowledge the Clerk of Parliament and the Legislative Assembly whom the Speaker and members of Parliament are relying on.

Before I come to the Bill, the prayer prepared by Mr Speaker is now before our Lord, this is our never-ending prayer before Him for not forsaking us, our lives are nurtured by him for a safe journey which is the living proof. Such is our thanksgiving to the Divine Father for his goodness and Mercy, for not leaving our side considering the impact of this pandemic disease faced by the world today, even with the most powerful developed countries around the globe, that power cannot counter the effects of this virus. As for Samoa alone, it is the loving guidance of God that we can rely on for our protection. This is proof, Samoa is a blessed country, and our faith is in the corner stones, which is our living God, which our descendants had paved success and foundation for our country which we now embrace.

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Mr Speaker, this assignment referred to the Committee was not small, and the faith of the House upon the Committee was not light, particularly these Bills which provides matters that pertains to cultural aspects, the measina or the assets that are dear to any Samoan and Samoan families.

The objective which the committee had conducted before the country, to question the views of the public as it is easier and cheaper to go to the country, rather than them coming here in Tiafau.

The House had passed the motion to set up a Special Parliamentary Committee on the 27th of June 2016 to review and put forth recommendations before the House on ways to improve and raise the status of the Lands and Titles Court, and observation of these recommendations was reason for some of the arrangements provided within these Bills.

Recommendation 1 is to rearrange the Lands and Titles Court, so that the importance and recognition is provided similar as that of the Supreme Court.

Recommendation 15 may the President hold the power to review decisions that are errors and omissions if requested. The response of the Court upon the letter which had their joint signatures together with the Chief Justice and the President.

Recommendation 1, the response goes like this; the advice is very important; however it is necessary to take deep consideration of arrangement in order to achieve the purpose of the recommendation.

Recommendation 15, the response, it is vital to have a review of error decisions of recommendations. However, it is vital to look deeply into a fitting arrangement as sorted in the kind of issue they are eligible under.

Mr Speaker and the House, this is the response of the Court on the two recommendations by the Special Committee that is implemented through some of the arrangements made in these Bills that was reviewed by the Special Committee. The end result for this review by the Special Committee and Parliament in 2016, is to raise and improve the Lands and Titles Court through your recommendation that was passed in the House. But that is the story of this work that commenced in the first year of this Term received by the House at the final year of this Term this morning.

It is delightful to the hearing the reasons for the raising concern by the State on the various complaints about the Lands and Titles Court which was put forth to the State, however it binds it due to the separation of powers for Government branches and also, there were several statements made by the Government Leader on reasons it aims to upgrade and improve the Lands and Titles Court, particularly with regards to the severity of decisions made to family treasures particularly when they are wrong judgements.

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This is well clarified for some of us here in Parliament who do go to court for these matters especially the members of the general public.

Mr Speaker and the respectable members, regardless of the addressing views on these Bills, the Committee takes it that the views shown is a good image to witness and reflect a healthy democratic nation on opportunities and aim for the people to showcase their views on matters discussed in Parliament in contribution to the decision-making process for the betterment of the country as we move forward.

This is the overall view of these Bills, these 2 elements must be kept in mind; Ae o se vaaiga aoao i nei Tulafono Tau Faaofi, e ao lava ina manatua itu taua nei e 2;

(1) there is reason for raising these Bills e i ai mafuaaga na afua lalaga ai nei Tulafono Tau Faaofi.

(2) there is good purpose for these Bills. For reasons to witness the issues faced by the country who go to the Court as well as the challenges faced within the services delivered internally.

The essence and entirety of the purpose for these Bills, relates to the mindset it was implemented, it provides clarity to the issues and to the remedy this Bill intends to make. The importance of cultural values plus the push and recognition of our cultural authority is in the hands of the village councils. The core element for these Bills relates well with the improvement and raising of the Lands and Titles Court. This is the relationship of reasons and objects for these Bills. Furthermore it aims to bring good purposes which are central to changes made towards our Lands and Titles Court. The overall intent of these Bills is a measure set out by the State to counter the issues faced by our struggling people who are heading towards this Court.

To encourage and recognize the authority of the village councils, is a matter that is clearly recorded as also identified by the Hon Minister, in a debate of the Constitutional Council 1960. It was recognized and supported. Therefore, it is not a view that has just risen from the Leaders of Samoa just now, it was laid out in the past. Sometime in the future as clearly indicated by advisor Dr James Davidson Maidment, the authority of the State is still available to plan necessary action in the future. And since the many problems and issues engaged by many Nations these days, such is reason for not meeting this issue together as raised by Tofa Toluono within the Constitution. We all have this feeling, and because of the issues we are facing today, this is likely the issue why this is not incorporated in the Constitution, the reason being, it because of our faamatai and our culture.

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The honorable Chairperson, Afioga Tupua Tamasese said; to ask the dignity of the Legislative Assembly what their view is so that the recommendations are written in preparation of an urgent time to swiftly implement the authority of the village councils in a Law which has the support of advisor Collin Campbell Aikman as follows:

If there is view on this authority to legally recognize it, then a recommendation is necessary to advise the Legislative Assembly to legalize the authority of the village councils before it is incorporated into the Constitution.

Those are some of the evidences we aimed to bring, the focus of the Legislation and these objectives, it was not done accidentally from the start in 1960 the planning of our Constitution as raised again in 2016, where we aim to implement this purpose.

In the statistics population report 2016, 64% of households lived on customary lands, 28% lived on private lands. The importance of these statistics has identified the increase in number of populations that existed under the authority of village councils. Additionally, this increase in population has specified those that existed every day within our culture and in the village communities under the authority of village councils. This also signifies and recognizes the status of village councils as their authority is one which the State relies on for the development of village and country particularly in keeping the peace.

For these Bills when passed, the Court will be available to look similarly to likely debates that will arise between individuals as well as village councils within the communities under the authority of the Lands and Titles, for as of the current, the firmness and good foundation of the village councils decision for the wellbeing and harmonious living of a village, if there is rejection and rights of individuals provided in the Constitution, the decision of the village council will be useless. Although it does not mean that the approval of this Bill will mean that the authority/decision of the village council will correct all the time. No. It will mean that the Court will consider the rights of both individuals and communal/groups and prioritize appropriate reasons for the wellbeing of the people in villages. Subject to the rights and freedom of anybody on the rights and freedom of other people, hence it is necessary.

There was a matter which was spoken loudly, I wish to make a mention of some of the matters that were made during our review of these Bills Mr Speaker since the time this Bill came into Parliament, and during the works of the Committee.

The first thing is the constant change of the Constitution. There were views that were implemented on this continual change such as the one made on the Constitution Amendment Bill 2020.

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I wish to read out part of the Ministerial Statement of the Leader of the Government on the 27th of June 2016, which he said; this is the reason why we had changed the Constitution, because it is not a Constitution brought by our ancestors to be treasured in a glass box and treasure lest someone touches it. Therefore, it is best to plan well in accordance with the Constitution and change in our lifestyle. Nothing is worse than protecting something that is not fitting with our lifestyle moving forward, and policies that are used to guide us which are suitable for the passing days and if expired, our descendants that were facing those issues are now gone. The journey of Samoa depends on God, and wise knowledge bestowed upon its Leaders to plan wisely, not only lest it is blown away or discarded, rather use the wind and our power to move on so that our journey reaches the end safely. This is the meaning of wise planned life, if the internal affairs are planned properly, it will be firm and hard for outside enemies to attack us, this was the Ministerial Statement of the Leader of the Government in June 2016. If you look into it honorable Speaker and members of the House, there were 4 Constitutional Amendments made during the 2006-2011 XII Parliamentary Term. There was one in the 2001-2006 XIII Parliamentary Term, 3 in the XIV Parliamentary Term in 2006-2011, and 5 in the existing XVI Parliamentary Term 2016-2021 which we are in. That is the farsighted wisdom by the Leader of the House that has amended our Constitution from one time to another, do so appropriately in accordance with the demands and suitability of seasons.

Another area that was addressed is the separation and the independence of the Lands and Titles Court. There were views that had questioned the reason for the separation of the Lands and Titles Court. The Committee trusts, that the Supreme Court is different from the Lands and Titles Court from the time the Lands and Titles was set up during colonial rule by the Germans as well as the New Zealand administration, these two courts are different until today.

The justification of this view honorable Speaker, it is the Lands and Titles Protection Ordinance 1934, it was created by the New Zealand Government which provided special authority of the Lands and Titles on customary lands and titles which cannot be interfered by any other court.

The 1934 Law, 47 years from 1934 to 1981, and it was not long since we had one Ministry to serve this Court, when it has taken 100 years since there were separate offices to serve these two courts. The only connection here was, the Chief Justice who was also the President, it was affordable at that time. But it was amended during the 2004 Act amendment, the Chief Justice cannot afford to take over the role of the President which is reason for this separation.

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Such is reason for the strong recommendation from the Committee through its report for a new Ministry to be set up pertaining to serving the Lands and Titles Court so that the division and services of this Court is complete particularly for the sake of the members of the public going there. The words of the Bible, you cannot serve 2 masters for you will hate one and love the other. Such is the entirety of this separation for the Lands and Titles Court which has further improved this court so that the treasures of the people are settled.

Another area for the customary lands that the Hon Minister had commented on, I trust that regardless, I will not talk about it, the Hon Minister's statement is enough to discuss this issue on customary lands. This does not matter with regards to these 3 Legislations. The division of the court which says that there will be two Chiefs. There is also view that there will be 4 pillars of Government as discussed by the Hon Minister. Mr Speaker and the dignity of the House, the Court has only one branch, whether 2, 3 or 10 courts, there will only be one pillar and all will be under the Judiciary pillar. Like this Parliament, Mr Speaker we are members of Parliament separated from Parliament which comprises of the Le Ao o le Malo, and the Legislative Assembly all under one pillar which is the Parliament, it is no difference. The court of New Zealand, there is a chief justice and one for the district court, there is also a separate one for the Maori Court, and another one for the Appellate Court. However, there is only one chief, it is the chief justice of Supreme Court who is similar to the Prime Minister and the Speaker of Parliament. This is the supremacy of the Three Separation of Powers, which provides unfounded view about the four branches of Government.

Additional vacancies for the Appellate Court, there are also view this other area for the Appeal Court. The Committee completely trusts that the Lands and Titles Court is now on the right track. And the 2 important chances for us not to forget, is the eternal of the Lands and Titles Court decisions binds the youth that are yet to come. This severity is totally fitting for these 2 arranged chances, to see whether the decision is fully correct, plus the new chance for the Appeal Court.

There are also views that the State is interfering with the court. There is no such provision in this Bill. All positions for judges of the Lands and Titles Court are done by the Le Ao o le Malo based on the advice of the Lands and Titles Commission. And the independence of the court is protected, and the making of its decisions without the interference of the State or Parliament. This is another arrangement with chief title honourable Speaker. This very matter had the view of the majority, so that families are free to select a number of paramount chiefs (Sao) for their families.

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Although the view of the State is well clarified in accordance with this change due to issues observed by paramount chiefs residing in the families. There is also the duty of the Lands and Titles Court, to protect the treasures of the country, so that they are not abused, as majority of... vitality is not being put on these treasures. With the increase in the number of chiefs thus lessens the cultural values on the faamatai which we are treasuring. Such is the change and amendment by the Committee on this clause.

Mr Speaker, a few amendments, the House has heard the review of the Special Committee, which is the summary of verbal and written views submitted. Now only with public consultations, but also matters recorded under our Constitution 1960 and the Special Committee established in 2016. All these had the thorough assessment of this Committee, together with the help from the Government advisors, the collaborating efforts of Lawyers and Government Ministries, which resulted in the amendments and recommendations put forth.

Mr Speaker, I will conclude with words of acknowledgement. This was no easy task directed to us. However, it was achievable because of the guidance from God, thank you to the Master above.

I also wish to thank the country who came to Tiafau and had contributed to our work. The general public from the various communities. The Committee had observed that not despite your different views, the main focus is for our treasures to be protected, improve our Court for the benefit of the country. Whatever feelings we had, let us forget and move forward for Samoa who are in support.

Turning on this Side, thank you Mr Speaker and all the members of the House for your support. Thank you, Leader of the House, for all the good things for the betterment of Samoa, and the faith of the House and the work that was tasked to us.

The Committee also wish to appreciate the various efforts from behind, which supported the Committee from the start until the completion of this work. Particularly the Office of the Attorney General, Law Reform Commission, Ministry of Justice, and the Clerk of the Legislative Assembly. Your work was not easy to implement, even though, you did not agonize, although you still assist and supported the work of our Committee.

I therefore wish to acknowledge the members of the Committee. To the honourable Chairperson and members of the Committee. Well done to you, you were indeed chosen members of the House. Because the boys are visible on the rock. Mr Speaker and the House that is the end result from this selected Committee. Let us celebrate, whatever comes back, have a look into it for improvement and completion for these Bills.

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Mr Speaker, I move, *That the Legislative Assembly approves the Report of the Committee to recommend the progress of the Constitutional Amendment Bill 2020 together with Amendments.*

Seconded by the member of Aleipata Itupa i Lalo and the member of Falealili East.

Afioga Hon FIAME NAOMI MATAAFA (Lotofaga): Mr Speaker is there a chance please.

MR SPEAKER: Let us proceed our work in accordance to normal practice please.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker pursuant to our Standing Orders, 107 (3). I rise with respect to amend the motion of the honourable Chairperson of the Committee. To add on to the motion, words under Section 3 of 107, subject to the review of report by the Assembly. Therefore, consultation is requested on the report of the Committee in accordance to Standing Orders 109(3). Thank you.

MR SPEAKER: I believe the Committee is not requesting any other change to this motion. For the Legislative Assembly to approve the report of the Committee. As such, pardon the member, I will come back to you, after the question is put forth.

Afioga Hon FIAME NAOMI MATAAFA: Your honor...

MR SPEAKER: I will come back to your matter Fiame.

Afioga Hon FIAME NAOMI MATAAFA: If we do not come back, you are not approving my amendment. Where will this amendment stand, please?

MR SPEAKER: Because the motion must come from the Committee.

Afioga Hon FIAME NAOMI MATAAFA: Yes, it is the motion of the Committee, please Mr Speaker.

MR SPEAKER: I call upon the Chairperson of the Committee.

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Afioga Hon FIAME NAOMI MATAAFA: Please honourable Speaker, have a look at 107.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: The motion put forth is the entire motion. With due respect.

MR SPEAKER: That's it.

Afioga Hon FIAME NAOMI MATAAFA: Faamolemole lau Afioga...

MR SPEAKER: Pardon the member, our Standing Order, whenever the Chair speaks, pardon the member...the Chair is respected when it has your support. As such I beg tolerance of the member, it is good that we proceed with our work, and I will get back to you.

Afioga Hon FIAME NAOMI MATAAFA: Please, it must be recorded, as it seems that the motion for the Committee cannot be amended. For under 107, a member can stand up to amend the motion, which is the plea here. Approving it or not that is the will of the House.

MR SPEAKER: I beg forbearance as that is my decision. Pardon the member, I have made my decision.

Afioga Hon FIAME NAOMI MATAAFA: Fine I recognize your will, but please let this be recorded in our records.

Motion approved.

The Report of the Committee is approved.

MR SPEAKER: The Legislative Assembly has approved the report of the Committee and will now proceed to consider the Bill. And I wish to remind that there is opportunity available. To the Hon Sao Faapito, there is chance for you to make your comments. But I have thought, that is your own interpretation of the Bill, but that I my own view. As such, let us proceed....

Afioga Hon FIAME NAOMI MATAAFA: did you speak your honour, after the motion then you will get back to my topic. That was your statement.

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MR SPEAKER: Since you are not creating my decision, therefore I have said it, I have made my decision.

Afioga Hon FIAME NAOMI MATAAFA: Your decision is such that there is no chance to discuss the report of the Committee other than the consideration. Is that correct?

MR SPEAKER: That is what I am saying...the report of the Committee is recommending that, it is also recommending the consideration. All these are considered in the report. As such I beg your pardon that is your own view. But we can proceed forward with our work with your will so that we are clear. As we will now go into item by item then you can speak. There are two chances for each item.

Afioga Hon FIAME NAOMI MATAAFA: Please your honor, so that is it, the report of the Committee cannot be discussed. This is the Committee's report on the change of the Constitution. Where it contains all information that we have all read, and majority of the Chairperson's statement is not contained in here. How then is this matter dealt with?

MR SPEAKER: I beg tolerance, as I said, all these are covered in the consideration of the Bill. As the report contains all the recommendations and findings as submitted.

As such, let us proceed with our orders as per usual.

The Legislative Assembly will proceed with the Consideration of the Amendment to the Constitution.

Pursuant to Standing Order, the Consideration will commence with Clause 2.

CLAUSE 2: Article 4 amended.

MR SPEAKER: The Committee has an Amendment to Clause 2. I call upon the Chairperson of the Committee, to speak on the Amendment.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Thank you honourable Speaker, I move the amendment to Clause 2 as follows:-

“AMENDMENT:

To substitute the word in the beginning “binds” to “Unless”

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Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker, I wish to take this chance to extend gratitude, the report is now passed as tasked by the Committee on this Legislation. Well done to the honorable Chairperson and the members of the Committee that was undertaking this work. And we have observed, the Chairperson's statement is true. It is no light work; it is quick work. Especially on this side, this report has longed been received, consultations were conducted within 244 villages. With regards to this particular clause since we are on to the consideration process. There is reason for this change. Because it seems that this change was implemented so that the response is made clear to false issues like this. It is subject to the individual rights. Mr Speaker, I am looking at the report of the Committee.

MR SPEAKER: I beg tolerance to the member speaking; I call the Chairperson of the Committee.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA–GIDLOW: Mr Speaker, I am referring to the current Amendment which we are discussing, insert Clause 2 at the end of Clause 2, subject to. Fiame is now saying that we proceed with Clause 2 underneath it. The reason for this Amendment is to make aware the effective day for this Bill together with Clause 3. I am therefore not yet coming to that reason which the member is talking about, there is that reason underneath Clause 2.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker. You manage it your honor, I have thought when we came to clause 2 and the remaining amendment it brings, the reason is there, to bring clarification to these false concerns, such as: Subject to individual right.

Mr Speaker and the respectable House, it is stated in the report and statement of the Chairperson, that individual right will not be removed. That is also the same with the Constitution. However, the connection with the protection of individual rights in terms of process, this is the new judgement for the Lands and Titles Court. There is concern in that area for individual rights. Because in truth, if the aim is for this entire change. To pave significance for communal rights. What about the individual rights of people. That said honourable Speaker, in the progress of matters of the Lands and Titles Court at this time. There is still chance for people to take their cases directly to the Supreme Court, when their individual rights are affected.

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With regards to the new change now, there is chance, because it now stipulates, that there will be a third pillar, the Appeal Court that will now be the Lands and Titles Court. That court will implement the normal works of the Supreme Court, in terms of reviewing the matters regarding individual rights.

The question I wish to make, how is the Constitution. The Supreme Court guards the Constitution. It interprets the Constitution. That is the question, if the Appeal Court has a different opinion or the Lands and Titles Court from the view of the Supreme Court, its role is to interpret the Constitution, particularly the situation with human rights. With the differences between these 2 things, and whether this causes the rising concern? That is the first thing. Your honor is the time 15 minutes?

MR SPEAKER: On each item.

Afioga Hon FIAME NAOMI MATAAFA: Each item. As such your honor, it is said that there will be no rights of people and will be omitted. It is true, but the connection of these new court processes, with emphasis placed on it, to look into communal rights. Where is the surety in the people when the Lands and Titles Court will progress given its rights as individuals to engage with communal rights? That is the matter I wish to put forth on this Clause.

MR SPEAKER: Well, done thanks. I call upon the Chairperson.

Tofa OLO FITI AFOA VAAI: Mr Speaker, before the Chairperson replies. The thought is short.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA–GIDLOW: Mr Speaker, can I respond so that this part is made clear.

MR SPEAKER: I beg forbearance, I have thought that you did not want to speak, because Fiame has long sat down, when you have just stood up. Go ahead Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA–GIDLOW: Thank very much you Mr Speaker and the respectable members for the question. This question is vital to me so that a clarification is made. The question is, where then is the individual rights? It is stipulated in Section 4 of the Constitution of Samoa. A person cannot be omitted in regard to this amendment that unless, for your information Mr Speaker, the Lands and Titles Court will be independent.

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Therefore, all things pertaining to the Lands and Titles is contained in here. The rights regardless how many whether it is 10 as there are 10 individual rights within the Constitution. Although you can still go to the Supreme Court, you still have a chance there. It is therefore not removed, unless there is a land right for the Lands and Titles of Samoa, then it will all be dealt with by the Lands and Titles Court. Other rights will be warranted under Part 4 of the Constitution. We still have the Supreme Court for us to go. Thank you.

Afioga Hon FIAME NAOMI MATAAFA: Your honor it is my second chance. To follow up the response of the honourable Chairperson. If I am correct about that, it seems that within the Lands and Titles Court, and in relation to matters pertaining to lands and titles there is no individual rights in here. Mr Speaker, it is a pity, if I am hearing right the response of the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA–GIDLOW: Let me correct that please. All my rights in terms of lands and titles belongs to me. Your right in relation to customary lands, I will go to the Lands and Titles Court, as for your other rights, the Supreme Court is waiting for me. Thank you.

Afioga Hon FIAME NAOMI MATAAFA: Because the Chairperson has stood up before I finished.

MR SPEAKER: Are you still not satisfied Fiame?

Afioga Hon FIAME NAOMI MATAAFA: No. What I am saying, is this right for the Lands and Titles Court, that there will be no individual right. As that is what the Chairperson is saying.

MR SPEAKER: The worrisome with me is it seems that are arguing as if though we are judges. You state your view based on what you know. Not that you borrow someone else's view seeing that it fits...whether right or wrong. In my belief, this will mean that we will finish our meeting in no time pardon the listening Samoa. I am aware that you are intending to drag our Sitting. However, I beg lenience, let us bear farsighted wisdom. You Sao Faapito is one Faaletele whereby Parliament finds wisdom in. Samoa has heard you that is your own view, which is dissimilar with the view of the Chairperson. There are many that have contributed to this Act and its amendments. If we are to press forward and seek who is right on this pardon me.

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Therefore, not only for Parliament but also with the court. It is only one and that is God that is God's judgement upon all of us. The duty of one person to another is to advice. My recommendation, bring forth the advice before us as we have longed...you are the next Prime Minister if you had not moved there, let us reduce the burden upon our work. I beg tolerance, have pity on me.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker, it be best if we work on the line. Pardon me we do not intend to drag our Sitting. We do not have a chance to speak generally on the report. So that is now applied here now, as this is our only chance.

Pardon your will, as for what you are referring to with regards to Prime Minister. I do not think that what you are saying is fitting as you are about to retire.

MR SPEAKER: Well done thanks. May I remind you that we must have a break every now and then as there is a saying, *E nofo magalafu e iloga malala ola*. It is easy to identify your farsighted wisdom in Parliament. Who else wants to speak? It is you Sao Faapito. You are another person which this Cabinet, Prime Minister and Parliament particularly me rely on. Therefore, let us have Olo to see what...as I see that each of you have comments on each item. Let us proceed as is...

Tofa OLO FITI AFOA VAAI (Salega East): Greetings to the dignity of Parliament. You may think that I will make a maiden speech on each item as there is...Mr Speaker, although in accordance to Standing Order 108, which disallows deliberations on a Committee's Report on a time and day given, and due to your will, I will be brief, I do not intend to drag our meeting as I have great respect. The rights of the country are now apparent in terms of lands and titles and all these things, it will no longer go to the Supreme Court pursuant to Part 4 of the Constitution. It is now limited down here and so there will be no adherence of this court to the court up there.

Mr Speaker, another question which I wish to find clarity on, where is these communal rights based on as specified in the Lands and Titles Legislation. Where in the Constitution does it instruct that communal rights must be included? That is the query with respect.

Susuga Hon LAAULI POLATAIVAO LEUATEA: Mr Speaker may I speak please.

MR SPEAKER: I call upon the Leader of the House.

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Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker, point of order, it is done...we have longed spoken on our Bills before it was referred to the Committee. Now that it has come back from the Committee, and is before us and is in progress, and we have just...we were all given equal time to look into this Report. It is now considered in detail, and I am trying to understand the difference between consideration and discussion. So we are talking about the Legislation, and it is fitting to consider in relation to the Bill than what we are about to receive. So, we are discussing and reviewing this, Bill.

With regards to rights, the legislation speaks on boundaries. If then the Bill approves that this court plays this role and that, then so be it. The Bill will enhance the division to regulate the works of the Supreme Court and the Lands and Titles Court. It is simple; however we are still receiving queries about where and how. These Laws are passed from within this House which sets the boundaries to separate the roles of each court.

MR SPEAKER: Well done thanks.

Susuga Hon LAAULI POLATAIVAO LEUATEA: Can I be allowed to speak your honor.

MR SPEAKER: I see that there seems to be a difference between the members of Parliament with regards to member Faumuina Wayne Fong and the member for Vaimauga East.

I have instructed the change to the seat of the member to the Urban Seat West so that our works progresses smoothly, as there is situation like this occurring. These matters should never have happened pardon the listening Samoa. If Samoa is hearing what is happening in Parliament? Yes. Suddenly we have this gap otherwise let us proceed with this and see what happens.

The Minister has mentioned the fuss over vehicles. I was Minister of Police at the time and speculations were that people in Samoa will die. What now? People are finding it awkward to avoid the massive number of cars that have been gifted from relatives in New Zealand. Yet Samoans here are saying that people will die, what happened to that? It is why I advise you being a veteran member and Fiame understands what I am talking about as we are senior members of this House. We go out to implement projects for the betterment of the people.

I will allow the opportunity to Laauli.

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Susuga Hon LAAULI POLATAIVAO LEUATEA: Thank you Mr Speaker for the opportunity to share my modest views on behalf of my constituency. I will not take up our time by reflecting on the prayers you have offered from the outset of our proceedings. I applaud the Minister for his address on the Legislation. In the same token I applaud the Chairperson for the report from their Committee. Mr Speaker my only concern hence my desire to take the floor earlier is because the Legislation now before us has only been 2 to 3 hours since I have laid my eyes on the product of the task in which the Committee had spent considerable amount of effort and time on it during the course of 6 to 7 months before submitting this report before Parliament. Considering the intention to speed up the course of this Legislation which contains more than a hundred amendments. I do not know, but it is just that it is the way this law is being done in haste Mr Speaker.

So I do beg tolerance for sharing this view but this is all the opportunity we have to query this matter which the Chairman has talked about. This is the vision of Samoa presented in this law. We all understand what is going on and we are not remaining silent but voicing our opinion and suggestions to ensure that the legislation is perfect. You have all heard the Ministry of Justice and their stance, the view of International Organisations throughout the United Nation and democratic societies we are partners with.

Mr Speaker that is how we feel, who could we turn to with our opinions? I have said earlier that it is difficult for me personally to fathom the situation with more than 100 amendments. How can we speed up this process? It is impossible to find an intelligent mind to consider such a thick report like the Bible. We have only covered one provision and you are accusing me of being in the way. I aspire to clear matters and to voice the opinions of those who cannot be here to do so.

MR SPEAKER: I beg tolerance of Laauli whilst I allow the Chairperson of the Committee.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker I wish to respond to the statement from the member for Gagaifomauga No.3. I guess the maximum number of amendments does not reach a 100 plus. If you are to refer to the amendments to the Constitution, there are only 3 amendments contained there. With the Judicature Bill I think there are also 3 amendments.

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The Land and Titles Legislation however does contain a lot of amendments mainly because it is in its proposing stage. The longer we took to consider the report goes to show the emphasis that went into the consideration, and we did not take it lightly and we wanted to make it a point that we would be unanimous on a constructive purpose for these Legislations.

Mr Speaker that is the objective with our committee that the legislations are complete without any legal responsibility for the sake of our people and the public service that will be enforcing the law. The member Olo asked the question, where in the law contains our communal rights? The distinguish member from Salega is correct since this wording communal rights is actually not contained in the legislation. Why? Because every village has their own unique protocols and traditions being incorporated inside the legislation. The newly established Land and Titles Court will broaden our traditions and culture with regards to the protocols of each individual village community. So it is difficult to put these down on print as opposed to the individual rights. After all our personal rights are equal and can be enacted. But with our cultural and communal rights you all understand that every village community has their own unique traditions. So we now have this opportunity with this Land and Titles Bill to put our Samoan culture and traditions on a very imposing place. Thank you.

Tofa OLO FITI AFOA VAAI: Mr Speaker I do have a second opportunity when considering individual items.

MR SPEAKER: Very well finish up your second opportunity.

Tofa OLO FITI AFOA VAAI: I want to applaud the chairperson and the committee for now I know that the legislation contradicts the constitution. Furthermore, the chairperson has also stated that this is not in the constitutions as very little focus is placed on it. So why did you do it in the first place? Why was this communal right put in there when everyone has their own rights?

MR SPEAKER: If I may assist by saying that you should voice your own opinion and not counter or to point your finger as it will not be taken lightly by the respective member and the respond from the Chairperson will be the same as the opinion of the Government. That will be the final straw when clarifying their amendments.

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So I do beg tolerance of the member, who is someone that we also seek his opinion on matters concerning our debates. I call upon the Prime Minister, the Leader of the House.

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker let me make this point of order on that member. When you speak of communal rights you are talking about parliamentarians. The problem is you are speaking in English hence missing the fact that chiefs and orators is mentioned. That is referring to more than one person. The member does not understand so I am explaining it to him now.

Tofa OLO FITI AFOA VAAI: Mr Speaker I understand completely. Communal rights refers to church groups, organisations, and parliamentarians now trying to insert into it through the strong hand of Government.

MR SPEAKER: It seems that the member will only become satisfied with a response from the Prime Minister. You are very difficult during our Proceedings.

Amendment Approved.

Clause 2 approved as Amended.

CLAUSE 3: Article 32 amended.

Approved.

CLAUSE 4: Part 6 substituted.

MR SPEAKER: There is an amendment from the committee on Clause 4. The chairperson will take the floor.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA GIDLOW: Mr Speaker I move the amendment to Clause 4 as follow:

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“AMENDMENT:

1. To remove these words from Article 65: - except for Part IX of the Land and Titles Act as the Head of the Bench”.

That is the amendment. The reason being is to confirm Part 6 of the Constitution which does have bearing to the other pillars of the triangle.

Susuga Hon LAAULI POLATAIVAO LEUATEA: Mr Speaker with all due respect I seek an opportunity.

MR SPEAKER: The member for Gagaifomauga No.3 will take the floor. Hon Laauli.

Susuga Hon LAAULI POLATAIVAO LEUATEA: Thank you. Yes, that is the reason of my pursuing the matter although I very much respect your ruling. The fact is that we are in the situation of submitting our views in a rush yet there are so many amendments now before us. Mr Speaker it is why I am saying that it is not fair that there are only a few of us cross-examining the Legislation to clear up every single amendment.

Mr Speaker we will continue to say that although embarrassing to constantly asking for clarification due to the limited time given to us to query the amendments from the Committee. It is our responsibility after all, but the authority is there with you Mr Speaker, it is with the Prime Minister and the Chairperson of the Committee. Why do we not just simply pass the Legislation?

Susuga Hon TUILAEPA AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker no one understands what the member is saying. What exactly is he trying to say? I ask this as we all deliberated this Legislation. The amendment currently before us is rather simple, yet he raves on without presenting reasons for his argument. The Committee is all ears as they are the ones responsible and are wanting to know where exactly he is getting at.

Susuga Hon LAAULI POLATAIVAO LEUATEA: Mr Speaker I have no desire to pick a fight as you do have the full power to pass the Legislation. All we are saying is the Legislation must be read and clarified please since the public are tuning in and following our Proceedings and also those that gave submissions before the committee.

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Are their recommendations accurately address? That is all we are trying to pursue, and the view that we do not understand well I beg the difference. We are simply trying to present our views as quickly as we can since the process is going at a very fast pace.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker I seek an opportunity...

MR SPEAKER: I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker this Legislation was tabled around March or perhaps before that. I do believe that members have had ample time to review it. So when an amendment is presented members should automatically realise where we are at that point and the purpose of the amendment.

These are merely to strengthen the former contents of the Legislation. If you would refer to 15years provision in which one must have been a judge for that period of time to be eligible to become a Chief Justice to deal with the country's issues concerning our cultural treasures. So if you can closely follow that our deliberations will be smooth.

Afioga Hon FIAME NAOMI MATAAFA: Please Mr Speaker I rise on a point of clarification. My take is that we are on Clause 4 of Article 65 in which the Chairperson has said that Clause 4 Article 66 (2b). I do wish to speak on clause 4 as we were earlier progressing.

MR SPEAKER: Clause 4 is quite lengthy, but it is good that you have shared your views on the amendment. I am also about to put the question on Clause 4. Does Afioga Sao Faapito comprehend?

Afioga Hon FIAME NAOMI MATAAFA: Yes, I do and I would like to make a statement on clause 4 Article 65.

MR SPEAKER: Very well you may have the floor.

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Afioga Hon FIAME NAOMI MATAAFA: My take after reading the clarification on the amendment is saying that, the Chief Justice shall be Chief Justice of the Supreme Court. That is the clarification we are seeing here, the Chief Justice and whichever court the Chief Justice is delegated to shall become the figure head there.

Sir, the relationship between the Chief Justice and whomever shall be the figure head of the Land and Titles Court begs the question when an issue arises on matters of law or particularly issues of rights. Who shall be responsible for making that decision. After all you are saying that there is nothing to worry about since there still a Chief Justice. The fact is the authority and capacity of the Chief Justice under the new provisions now stipulated by this legislation right now with the establishing of the Land and Titles Court to become independent is somehow different than before.

MR SPEAKER: I beg tolerance of the member whilst I allow the Leader of the House.

Susuga Hon TUILAEPA AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker I rise to assist by saying that there should not be a rift between the Chief Justice and the President. The important fact to realise is that the possibility of a rift would stem from one overstepping the other's responsibilities.

That is the kind of situation which would cause such but the responsibilities of the Chief Justice, is clearly provided and the same applies to the Court of Appeal which is paramount. That is my assistance and there is no reason why there should be a possible rift. The law is now in place which gives direction on all party's rightful place. The reason for such is when one assumes the other's function.

MR SPEAKER: Thank you. Afioga Sao Faapito this is your second opportunity.

Afioga Hon FIAME NAOMI MATAAFA: Thank you sir for my second opportunity on this very Clause. I appreciate the additional explanation from the Prime Minister. Despite your statement that we are the cause of intervention to the progress of our orders. But the legislation is a very important one.

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Now that the Prime Minister has stated that each appointment must follow its own course, I understand that as long as each one's jurisdiction is understood. What is not clear, and this is the point we are pressing. That is the right of the individual as it seems that it is something that the Land and Titles Court does put much focus on. There are people that take their matters to the Land and Titles Court on the basis of their individual rights. Let's say that a person goes to court and is not satisfied with the outcome and that group informs him that he is correct as they protect individual rights. Which is stronger? The Land and Titles Court is stronger as it is now stipulated in law to ignore the individual's right provided in the Constitution.

MR SPEAKER: Well said.

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETEELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker, a point of order.

MR SPEAKER: I hear you. The Leader of the House will take the floor.

Afioga Hon FIAME NAOMI MATAAFA: No, that is the question. These are the issues that are a blur in the drafting of the Legislation.

MR SPEAKER: It will now be explained.

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETEELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Allow me to explain. Be is it collective rights or individual rights, as long as it is to do with land and titles matters, well this is the place where it will be sorted. Do you get it? That is the answer.

Amendment approved.

Clause 4 approved as Amended.

CLAUSE 5: Article 103 substituted.

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Approved.

CLAUSE 6: Article 104 substituted.

MR SPEAKER: There is an amendment from the Committee on Clause 6. I call upon the Chairperson of the Committee please.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Thank you Mr Speaker, I move that the amendment for clause 6 as follows:

“AMENDMENT:

Article 104 – Customary Land and Titles Protection

To substitute sub-clause (1) as follows:

“(1) There shall be a Land and Titles Court to include appointments and its proper administration relating to matters concerning titles and customary land provided for within Part IX of the Land and Titles” of the Constitution or an Act of Parliament.

In sub-clause (2), substitute; “and has supreme authority over the subject of Samoan customs and usage.” with the following:

And has special individual jurisdiction on Samoan customs and usage relating to matai titles and customary land.”

Sir the reason for these changes with the additional wording is to highlight that these court cases under Section 9 of the Land and Titles Act. As we have gathered the Land and Titles Court seems vague but with this amendment it now clearly provides for the 3 courts, the First Court, the Land and Titles High Court and the Court of Appeal and Review. That is the amendment to Article 104.

Thank you Mr Speaker.

MR SPEAKER: I call upon Afioga Sao Faapito.

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Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker after quickly reading Clause 6 of Article 104 where it states and there was a lot of criticisms arguing to elaborate on the meaning of customary right or collective rights. Although it has been mentioned by a fellow member, we cannot leave it at that since we do discuss the purpose of the legislation and the intentions of the government. But at the end of the day the actual wording of the legislation is where we look into.

The question is, since we are right on this particular clause where they are saying that emphasis is place on customary right or collective rights. I want to ask again the chairperson with all due respect, since they are responsible for this legislation. There is nothing wrong with stating and with us speaking out about collective rights, but it is written in the law. In case I may have poor eyesight or that I can't read properly but I did not see in the legislation such, stating that collective rights being recognise. The other point Mr Speaker here we are discussing collective rights and the village councils of chiefs and orators but what about other organisations? What about the extended family? What about church groups? And all the other organisations within Samoan society. We will categorise them using this law to see which collective right is stronger. The village is paramount before the extended family and the church after that. Where do they belong? This is what you call collective rights.

Mr Speaker that is the question. Where in the law does it state that, it is recognised in the Act or the Constitution or within the Land and Titles Court does it state this. The second thing Mr Speaker is that, if we are placing emphasis on the authority of alii and faipule I would think that it is in the content of this legislation already. The question is where is the Village Fono Act? If we are discussing authority well it is in this act, yet nothing is done about it.

With respect.

Tofa OLO FITI AFOA VAAI: Mr Speaker to save time I do have a brief matter.

MR SPEAKER: Patience, since it is short, make it brief.

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Motion to Extend Sitting Hours

Tofa OLO FITI AFOA VAAI: Your boy does things in a flash. Mr Speaker this is one area of the law the public are anxious to hear about. Since the Parliamentary Committee travelled around the country holding forums on this topic. With regards to 5 paramount chiefs or matai sa'o. The people are listening, and it was declared by the committee that they will change this matter and have families decide how many matais they should have. Looking at the amendment it is not being done.

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: We have yet to consider that Legislation. This is what you call jumping in at the wrong time. There is quite a lot to cover before we get to that. Once we do so, we will consider it.

MR SPEAKER: Bravo, If I may remind you that it is only when you give an explanation that will satisfy Olo as he is not an easy member to handle. With respect to the Leader of the House, if you would move a motion since we have passed our usual adjournment hour. We have here a very diligent Parliament.

Pardon the Leader of the House, may we have the motion, we are way beyond our adjourning time as we are still here working. This Parliament is very hardworking. I call upon the Hon Prime Minister.

MOTION TO EXTEND SITTING HOURS

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker and members as the House is considering the following Bills. I move that, *the detailed consideration of the Bill in the Order Paper be continued together with its third reading before adjournment of our Proceedings until next month.* That is the motion for the sake of the Assembly.

Seconded by the Minister of Women, Community and Social Development and the Minister of Commerce, Industries and Labour.

Motion was approved.

Debate continued over the detailed consideration of the Constitutional Amendment Bill 2020.

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MR SPEAKER: We shall continue with our orders, Olo and your group. Until we have covered the whole Bill then we will then adjourn. I call upon the Chairperson of the Committee.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Thank you Mr Speaker. I will respond to Olo as the Prime Minister has already clarified the point raised by Afioga Fiame. The question from Olo was where about in the legislation and the Constitution does it mention communal rights? I have said that the rights of groups of people cannot be all noted on paper particularly the authority of chiefs and orators as every village community is unique with their own respective traditions. Every village community has their own protocols. The establishing of the Land and Titles Court will have the opportunity to show case the individual villages' traditions. It was also asked what different types of collective rights were? They are talking about the collective rights of alii and faipule. What about the rights of the church, what about the rights of the extended family? As we all have huge families that is your right being included in there. That also applies to women group or the un-title men, extended families, village councils, church congregations all are covered under this area. They now have the opportunity to voice or argue their argument and exercising their collective right in court. Currently that does not exist. This right always loses no matter how strong the evidence is it is always defeated. Why? It is not in the Constitution. It is now introduced through this legislation of Land and Titles. That is my response Mr Speaker.

Susuga Hon LAAULI POLATAIVAO LEUATEA: Mr Speaker.

MR SPEAKER: Afioga Laauli will take the floor for his final opportunity.

Susuga Hon LAAULI POLATAIVAO LEUATEA: Mr Speaker this will be short. I am thinking back at the numerous speeches made on this legislation placing emphasis on what was delivered in this House for the sake of the public following our Proceedings that the Legislation will enforce the authority of alii and faipule and that is the point I am pursuing. The Committee's programme that went around the country was eagerly awaited by the people with the one thing they were interested in and that was the rights of Alii and Faipule of Samoa that it will be strengthened. We were trying to argue that communal right is quite an expansive interpretation within the country. As the Afioga Sao Faapito was saying churches, organisations of 10 or 20 people represent communal right.

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MR SPEAKER: I beg tolerance of the member.

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETEELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Give us the actual clauses you are talking about. Where about in the report are you referring to? What does it actually state in the report?

Susuga Hon LAAULI POLATAIVAO LEUATEA: Your honor...

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETEELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: That is too broad...

MR SPEAKER: Let me say to the member for Gagaifomauga No.3 that the Prime Minister has clarified this point on a number of occasions. On the other hand, you also have a point so that organisations and these rights are separated. The statement from the chairperson is also understood that different groups of people are related when one group can call themselves the church or youth group or even Sunday school. But you cannot identify them as equal when trying to put them together.

Susuga Hon LAAULI POLATAIVAO LEUATEA: To conclude my remarks the truth must be known by the people. That it is not the authority of Alii and Faipule that is strengthen here but the rights of the masses. That is what I want, that the public are hearing this.

MR SPEAKER: I beg tolerance of the member whilst the Leader of the House takes the floor.

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETEELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker we have read the legislation and we are currently considering the Committee's report. Where in the report does it say this and what wording are you actually querying? We have yet to consider the Land and Titles Court when we do, we will discuss the authority of Alii and Faipule we will be analysing the Land and Titles Court since that is the heart of where the differences over the exercising of rights is regulated. That is where my focus is at, but where in the report are you addressing> since you are all over the place.

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MR SPEAKER: I beg tolerance of Laauli but allow me to assist again and you have used up all your opportunities. With regards to the question from the Prime Minister, I will allow you 3 opportunities the usual 2 and an extra one from me as the Prime Minister has asked this question when you have used up your chances, I also realise that the matter is understood.

Approved.

Clause 6 approved as amended.

CLAUSE 7: New Articles inserted.

MR SPEAKER: The committee have an amendment to Clause 7. The Chairperson will take the floor.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
 Thank you Mr Speaker, with article 104A to propose the following:

- In sub-clause (2)(a), substitute “Vice President to Deputy President.”
- In sub-clause (2)(b), substitute the words and number “two (2) to two (2) or more”
- Insert the word ”First” after the word “Court” before the words “Land and Titles” as to read “The Land and Titles First Court” anywhere this clause appears, and section
 104A. The Land and Titles First Court: A sitting of the Land and Titles First Court shall consist of:
 - (a) The Assistant President on behalf of the President as the Presiding Judge, and
 - (b) Two (2) or more Land and Titles Judges
 - (c) For clause 104(4) A

Remove the words appellate jurisdiction petition parties, and thereby substitute the word “such” with “the.”

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For Clause 104 A 6 (a)
Substitute the first principal Act.

Omit subclause (8):

(8) The English Common Law and Equity does not apply in the Lands and Titles Court.

This clause is now omitted, as the Common Law and Equity is now applied within the Lands and Titles Court, and we now have the Judicial Review.

Omit sub-clause (9):

(9) In any matter before it, the Lands and Titles Court may reserve for consideration by the High Court of the Lands and Titles Court.

- a. a petition presented, or
- b. a presented case.

To renumber clause 10, 11 and 12 as 8, 9 and 10.

For subclause (10), substitute as follows:

“(10) The decision of the Lands and Titles Court may be reviewed through an appeal to the Lands and Titles High Court.”

The reason for its removal Mr Speaker is due to the prevailing usage of Common Law and Equity as I have said and is stipulated in the Land and Titles Appeals and Review Court.

The other reason as covered in the following clauses. Where sub-clauses are presented as provisions in the Land and Titles Bill meaning it need not be in the Constitution. This ascertains that decisions from the Land and Titles First Court can be reviewed after a petition to the High Court.

The following is omitted; “there are decisions under article 104B, as they are unnecessary, the provision is precise, article 104B, brings forth power.”

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It is up to you to review it and make it simpler to avoid any frictions. It seems difficult but if you engage all your knowledge the objective of this purpose shall be understood. Mr Speaker that is it.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker.

MR SPEAKER: Afioga Sao Faapito will take the floor.

Afioga Hon FIAME NAOMI MATAAFA: I beg your pardon but am still continuing browsing clause 8 which has been removed. The clarification given for its removal is due to the application of Communal Law and Equity within the Land and Titles Court of Appeal and Review which has deemed this clause unnecessary.

Mr Speaker this is an example of a 100% or 360% turn around. Since when initially presented Common Law and Equity is not applied within Land and Titles Court yet this time it has completely done a turn around. Mr Speaker the notion that we will no longer apply this law begs the question. What will we provide as a substitute? The answer is nothing other than the power delegated to the court to makes its own decisions. So there will be no application of legal provisions done here. As this is a complete turnaround. What happened to opposing sides? Using the fundamental basics of Common Law and the objective between the individual right and collective right after hearing the view that it shall be done according to our culture and traditions. Are these compatible?

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Thank you Mr Speaker...

MR SPEAKER: The member will take the floor...

Afioga Hon FIAME NAOMI MATAAFA: Sir I have not finished my statement using my first golden opportunity.

MR SPEAKER: I beg tolerance of the Chairperson but the statement from the fellow member is yet to complete. If a member of the Committee needs encouragement, then rise to indicate so.

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Afioga Hon FIAME NAOMI MATAAFA: This indicates that the initial objective of Government is plucked right out to be replaced by a law that is based on our traditions and culture. Yet being substitute once again. What is the point of pursuing this law if we are back to square one? Mr Speaker the amendment differs from what I am saying about totally removing the fundamental ground in which the government based its concept. Now I am not saying it was an ill thought as we do regard with importance our traditions and culture. But the chairperson responding by saying that it will be up to the court to apply our traditions and culture of those respective villages. I am certainly not comfortable with that Mr Speaker with that system as I do not get it. So if a person turns up and goes on about its traditions and culture yet we are there to argue on the principles of law which does give one a sense of hope. But the reality here is the mat so to speak in which the law is based on has been pulled out by removing the principles of common law and Equity only to say that it will be reintroduce once again.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker...

MR SPEAKER: Either of you may take the floor. The Minister will speak.

Afioga Hon FAAOLESA KATOPAU T. AINUU: If I may assist with the view of the member for Lotofaga. Common Law and Equity will still be applied at this stage to develop our jurisprudence. Sometime in future it will be remove but currently with the early developing stage of our court and this law. But in due course we will sort out an arrangement for it.

MR SPEAKER: Thank you.

Susuga Hon LAAULI POLATAIVAO LEUATEA: Mr Speaker, I seek an opportunity.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker I will just...

MR SPEAKER: I beg tolerance of Laauli but I will allow the additional information from the Chairperson.

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Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker let me clarify the notion that the whole objective of the legislation is changed. Mr Speaker this Bill is to be amended and consider what flaws there may be to be corrected. Before passing it in the House to become law. It will not pass as long as there are flaws. So they are merely draft bills with amendments being proposed through the House. The Minister has spoken about the usage and removal of common law and equity. There is now a judicial review done in the Court of Appeal and Review and is where this concept is needed. The Minister has also said it is in its developing stage and we are trying to build our own common law and equity in relations to our Samoan traditions and culture. The other thing Mr Speaker...

MR SPEAKER: Thank you. The Leader of the House will take the floor.

Susuga Hon TUILAEPA AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: I note that members of the committee are indicating their desire to further elaborate. All I want to say, is that it is to confirm here discrediting some of the lame and silly opinions voiced that this House has passed these laws and there is no point of taking them to the public because whatever will be said when it is viewed by the public would be pointless as it has been passed. There have been changes done already and that is the beauty of dialogue as a lot of bright ideas would eventuate from it. We have just recently passed our electoral law and it is amazing with the high number of people that do not comprehend the service of monotaga. Even members of this House. Mr Speaker that is the progress taken for legislations when going through their stages. When you do take it to the people for consideration a lot of good ideas will come from it which are inserted into the amendments. But the view that have been publicised particularly from lawyers that it is a waste of time to the public as it has already been passed. But that is the reason the committee took the legislations to the people, so the point made by the chairperson is vital as it does elaborate on the purpose of dialogue. Where thought provoking concepts are embraced in order to amend the law. That is my assistance.

MR SPEAKER: Thank you and let me say this to clarify the matter further. As you all understand, this particular law was made known to the general public through public consultations. Normally, a legislation when after having gone through the second reading would be considered for a period of 3 months.

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I thought I would remind you all of the huge amount of time taken to circulate this for the people to discuss. I call upon Namulauulu from Faasaleleaga No.2 let us hear your assistance on the matter, since the statement from the Leader of the House has been very good.

Tofa NAMULAUULU SAMI LEOTA: Thank you I guess the objective is understood. This is what you call a healthy debate, and this is the purpose of our discussion. We are in dialogue not arguing. These laws do get to the heart of our culture and traditions. You will have heard from the Minister and the Chairperson with the view that our court must become independent. The English word to describe this is autonomist meaning that at this stage with the First Court when an appeal is lodge it will go straight to the Judicial Review. Where is this done? In the Supreme Court. The purpose is and the parties that will be arguing the matter will be lawyers. As they have the expertise to argue such matters. So the Laws that are now in place allows for the Judicial Review process to be introduced into the Land and Titles Court. May I remind you that the Judicial Review is under consideration, and the Common Law and Equity is now applied.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker, a point of order.

MR SPEAKER: I beg tolerance of the member for Faasaleleaga No.2 whilst I allow the Sao Faapito to utilise her final opportunity.

Afioga Hon FIAME NAOMI MATAAFA: The matter I wish to raise my point of order in our debate.

MR SPEAKER: It is covered within your 2 opportunities.

Afioga Hon FIAME NAOMI MATAAFA: I like your Standing Order Sir. The first thing is the report on the findings of Parliament on Land and Titles Court matters in 2016. It was mentioned in this report the recommendation that was given which is to maintain the Judicial Review. Which the member currently speaking is talking about. Secondly the Judicial Review talked about deals with two things which are, whether the procedure in which a matter was handled was correct and whether a right was affected. The Supreme Court do not consider the actual matter itself as considered by the Land and Titles Court. These two factors must be understood. This must not be forgotten and that is the recommendation from Lopao'os Committee which is to maintain the Judicial Review.

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MR SPEAKER: I guess this is now clear.

Tofa NAMULAUULU SAMI LEOTA: We must understand this in case another question may come up on this very note. The Judicial Review currently practised in the Supreme Court before the legislation becomes law is presided by a single judge. Three further steps have now been implemented with additional judges. Who are they? A retired Supreme Court Judge and they are all lawyers.

This is now introduced into the Land and Titles Court. What will be considered in this Judicial Review shall be the process in which a matter was carried out but not the merits of a matter. It is now done here by three exceptional legal minds which makes it really outstanding. What area of law that guides it? Common Law which is argued that it must be remove. But the recommendation of the law society and some members of the public that gave evidence during consultations was to maintain it. It is apparently the objective of the Committee to maintain common law within our law. With respect thank you.

MR SPEAKER: Thank you.

Tofa OLO FITI AFOA VAAI: Mr Speaker...

Amendment approved.

Clause approved as amended.

Tofa OLO FITI AFOA VAAI: Mr Speaker I have been standing for some time indicating....

MR SPEAKER: We are getting to that point which you are taking the floor on.

Tofa OLO FITI AFOA VAAI: No, it has passed.

MR SPEAKER: We can go back to it until... But we must progress as I have gone ahead of myself.

Approved.

Clause 7 approved as amended.

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CLAUSE 8: Consequential amendment.

MR SPEAKER: Olo will take the floor, and I am wondering whether this is the point you initially wanted to make.

Tofa OLO FITI AFOA VAAI: Yes exactly. Although the clause has now lost its meaning, I will speak on it regardless. I will remind you Mr Speaker as the progression of the numerous amendments does strikes me somehow. Right throughout clause 1 to the current clauses which does show a lot of confusion. Mr Speaker as far as I am concern, I do place emphasis on Standing Order 103 of this House. In my opinion the objective of this Standing Order has been changed. If this maybe the case, I say that it be reviewed again before submitting it to the House. With due respect.

MR SPEAKER: Thank you. I do applaud the reminder for the Minister and Chairperson. There is an amendment to clause 8. I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker the amendment is on 94(4)(a),

“AMENDMENT:

Substitute the number “69” with “81” This change is due to the additional matters which has made 69 to be 81.”

Thank you.

MR SPEAKER: Well done.

Approved as amended.

Clause 8 approved as amended.

CLAUSE 9: Savings and transitional.

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MR SPEAKER: The Committee proposes amendments to Clause 9. The chairperson will take the floor.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker I move the amendment to clause 9 as follow:

“AMENDMENT:

To insert subclause (2) and renumber the following in correct order:

“(2) Any right under Part II of this Constitution that was in force before the passing of this Act shall be recognised, implemented and to continue in force.”

The clarification your honor is to confirm that the right enacted before the passing of this legislation remains. This is the clarification of rights your honour. Thank you.

Amendment approved.

Clause 9 approved as Amended.

CLAUSE 1 & TITLE

CLAUSE 1: Short Title and commencement.

TITLE: Constitutional Amendment Bill 2020.

Approved.

The Constitutional Amendment Bill 2020 progressed with Amendments.

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JUDICATURE BILL 2020
– consideration in detail

MR SPEAKER: In pursuant to Standing Order the Assembly must give its approval to the Committee report before the detail consideration of the Bill. I call upon the Chairperson of the Parliamentary Special Committee.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker, I move, *That, the Assembly approves the Committee Report recommending the Judicature Amendment Bill 2020 be progressed with Amendments.*

Thank you.

Seconded by the member for Vaimauga East, the member for Falealili East and the member for Safata West.

Motion was approved.

MR SPEAKER: The Assembly has approved the report of the Committee and will now proceed to consider the Bill in detail.

Pursuant to Standing Order the consideration commences with Clause 2.

CLAUSE 2: Interpretation.

MR SPEAKER: The Committee have an amendment to clause 2. The chairperson will take the floor.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker I move for an amendment to clause 2 as follows:

“AMENDMENT:

With the interpretation of “Judicial Service Commission” substitute the number “80” with “79”.

Amendment Approved.

Clause 2 Approved as Amended.

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Judicature Bill 2020
– consideration in detail

CLAUSE 3: Concurrent Administration of Law and Equity.

Approved.

CLAUSE 4: Resitara.

Approved.

CLAUSE 5: Deputy Registrars.

MR SPEAKER: The Committee have an amendment to Clause 5. I call on the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA GIDLOW:
Mr Speaker I move an amendment to clause 5 as follow:

“AMENDMENT:

Substitute the word “Minister” with the word “Registrar” of Justice in Clause 5(1).”

Reason being is selecting the Deputy Registrar to be done by the Registrar.

Amendment Approved.

Clause 5 Approved as Amended.

CLAUSE 6: Court Administrative Officers.

Approved.

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CLAUSE 7: Seal of the Court.

MR SPEAKER: The Committee has an Amendment to Clause 7. I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker I move the Amendment to Clause 7 as follow:

“AMENDMENT:

Insert new clause 7 as follows:

- 7. Senior Judge of the Supreme Court:** The Senior Judge of the Supreme Court shall have the authority under confirmation from the Chief Justice to execute all or any of the following matters;
- (a) Delegate any functions, duty or responsibility to a Judge of the Supreme Court, or to authorise a Judge of the Supreme Court to carry out any necessary actions for the smooth operations or managing of the Supreme Court;
 - (b) Ensure capacity building for senior Judges of the Supreme Court and the need for Supreme Court Judges to execute any educational programs or directives;
 - (c) Ensure that any procedure or arrangement of functions are suitable for Judges of the Supreme Court;

Thank you.

Amendment Approved.

Clause 7 approved as Amended.

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CLAUSE 8: Practice and Procedure.

MR SPEAKER: The Committee has an Amendment to Clause 8. I call on the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA GIDLOW: Mr Speaker I move an amendment to Clause 8 as follows: The insertion of the Clause on salaries and Allowances will be in the Judicature Amendment Bill. The reason for its omission from the Constitution is the constant changes in the administration. So in 8 then-

“AMENDMENT:

Insert new clause 8 as follows:

8. Salaries and Allowances: (1) Pursuant to Article 81 of the Constitution salaries of Judges of the Supreme Court shall be appropriated by the Legislative Assembly and to be paid out of the Treasury Funds.

(2) The salaries of Judges shall not be diminished during their period of office, unless as part of a general reduction of salaries applied proportionately to all persons whose salaries are determined by Act.

(3) There shall be paid to the Chief Justice and Judges of the Supreme Court from money appropriated for the purpose by the Legislative Assembly, such additional amounts by way of travelling allowances and expenses and other allowances as may be fixed by the Head of State, acting on the advice of the Judicial Commission.

(4) For the purpose of sub-clause (3) there shall be charged on and payable out of the Treasury Fund as statutory expenditure, effective from the date of appointment as Chief Justice, an allowance of \$12,000 a year to be paid to the Chief Justice.

(5) Payments made under sub-clause (4) and the value of benefits shall unless the Head of State by order otherwise directs be exempt from taxation and the Income Tax Act 2012 applies accordingly.

Thank you Mr Speaker.

MR SPEAKER: Thank you Madam Chairperson.

Amendment Approved.

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Clause 8 Approved as Amended.

CLAUSE 9: Rules of Court.

Approved.

CLAUSE 10: Officers.

Approved.

CLAUSE 11: Appeals in Civil Cases.

Approved.

CLAUSE 12: Questions of Law may be reserved for decision of Court of Appeal.

Approved.

CLAUSE 13: Proceedings in the Supreme Court may be removed into the Court of Appeal.

Approved.

CLAUSE 14: Order granting leave for Appeal.

Approved.

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CLAUSE 15: No stay of executions unless court orders.

Approved.

CLAUSE 16: Evidence on appeal.

Approved.

CLAUSE 17: Power of court regarding judgement.

Approved.

CLAUSE 18: Court may order new trial.

Approved.

CLAUSE 19: Non-prosecution of appeal.

Approved.

CLAUSE 20: Execution of Order.

Approved.

CLAUSE 21: No appeal on appeals from District Court without leave.

Approved.

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CLAUSE 22: Special leave to appeal may be granted by the Court of Appeal.

Approved.

CLAUSE 23: Court Seal.

Approved.

CLAUSE 24: Rules of Practise.

Approved.

CLAUSE 25: Regulations.

Approved.

CLAUSE 26: Repeal, savings and transitional.

Approved.

CLAUSE 1 & TITLE:

CLAUSE 1: Short title and commencement.

TITLE: Judicature Amendment Bill 2020.

Approved.

The Judicature Amendment Bill 2020 progressed with amendments.

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LANDS AND TITLES BILL 2020
– consideration in detail

MR SPEAKER: Pursuant to Standing Orders the Assembly must initially approve the Committee Report before the detail consideration of the Bill. I call on the chairperson of the Special Parliamentary Committee.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker I move, *That the Assembly approves the Committee Report recommending that the Land and Titles Bill 2020 progress with amendments.*

Seconded by the member for Vaimauga East, member for Falealili East and the member for Aana Alofi No.3.

Motion was approved.

MR SPEAKER: The Assembly have now approved the Committee Report and so the Bill will now go into detail consideration.

Pursuant to Standing Order the detail consideration begins with Clause 2

CLAUSE 2: Interpretation.

MR SPEAKER: The Committee have an amendment to Clause 2. I call on the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Thank you Mr Speaker.

“AMENDMENT:

Clause 1

(a) in subclause (2), substitute “This” to “Except for clause 43 and 44, this”;

(b) insert clause (3):

“(3) Clause 43 and 44 to commence on a different date to be nominated by the Minister.”

Amendment Approved.

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Clause 2 Approved as Amended.

CLAUSE 3: Ministry responsible for the administration of this Act.

MR SPEAKER: The committee have an amendment to clause 3. I call on the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker the Ministry responsible for the administration of this legislation, the amendment–

“AMENDMENT:

In clause (2), substitute the word “Registrar” with the word “Chief Executive Officer of the Ministry” also known as the Court Registrar.”

With due respect.

Amendment Approved.

Clause 3 Approved as Amended.

CLAUSE 4: Registrar.

MR SPEAKER: There is an amendment from the committee on clause 4. I call on the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker –

“AMENDMENT:

(a) In sub-clause (1): remove the words “person appointed.

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- (b) In sub-clause (1): Insert after the words “Land and Titles First Court,” a comma and the words “Land and Titles High Court and Land and Titles Court of Appeal and Review.

Amendment Approved.

Clause 4 Approved as Amended.

CLAUSE 5: Appointment of other officers and employees.

Approved.

CLAUSE 6: Records of the Court.

MR SPEAKER: There is an amendment from the committee on clause 6. I call on the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Thank you Mr Speaker.

“AMENDMENT:

Clause 6 (a) for sub-clause (3), insert the words “unless permission has been granted by the President of the Court for Court matter.” after the words “Court”

(b) insert new sub-clause (4)

(4) Any person who breaches sub-clause (3) shall be liable to fine not exceeding 56 penalty units or to an imprisonment term not exceeding (3) years, or both.

Thank you.

Amendment Approved.

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Clause 6 Approved as Amended.

CLAUSE 7: Seal.

Approved.

CLAUSE 8: Land deemed or declared Customary Land.

Approved.

CLAUSE 9: Declaration of certain land to be customary land.

MR SPEAKER: There is an amendment from the Committee on Clause 9.
Madam Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker:

“AMENDMENT:

In sub-clause (2), substitute “5” with “3” and “6” with “4”.

In subclause (4):

Substitute the words “Samoan Land Registration Order 1920” with words
“Land Titles Registration Act 2008”.

In subclause (5):

Insert before the word “Commission” the words “Land and Titles
Investigation”.

In sub-clause (8) remove the words “who shall make such amendments
in the Land Register as necessary.

Thank you.

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Amendment Approved.

Clause 9 Approved as Amended.

CLAUSE 10: Faasee atu o faaiuga i mataupu tau fanua faaleaganuu.

MR SPEAKER: There is an amendment from the committee for Clause 10.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker:

“AMENDMENT:

Clause 10:

At the beginning of the clause, substitute the words “The Registrar” with the words “Upon the request of the Land Registrar, the Registrar.”

Thank you.

Amendment Approved.

Clause 10 Approved as Amended.

CLAUSE 11: Surveys, sketch plans and aerial images.

MR SPEAKER: There is an amendment from the Committee concerning Clause 11.

I call upon the Chairperson.

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Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker:

“AMENDMENT:

Clause 11:

Substitute new clause 11:

“11. Surveys, sketch plans and aerial images – (1) Where a petition seeks the accuracy of customary land boundary, the court may order the petitioner to provide a sketch plan or aerial image of the customary land and its boundaries.

(2) Sketch plans and aerial images in accordance with clause (1), must be submitted with a response to a petition so it may be heard before the Court.

(3) The cost of any sketch plan or aerial image ordered under subsection (1), or survey under section (2) shall be paid as ordered by the court.

Thank you.

Amendment Approved.

Clause 11 approved as amended.

CLAUSE 12: Eligibility to hold a Chief title.

MR SPEAKER: There is an amendment from the Committee concerning Clause 12. I call on the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker...

AMENDMENT:

Clause 12:

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In subclause (2):

- (a) Substitute the phrase “A person convicted of a charge carrying a maximum sentence of (7) years imprisonment or more cannot be eligible,” to the phrase “A person convicted of a charge and served a prison sentence.”; and
- (b) To insert the word “unanimously” with the words “by majority”

Thank you.

Amendment Approved.

Clause 12 Approved as Amended.

CLAUSE 13: Matai Sa’o.

MR SPEAKER: There is an amendment from the committee on Clause 13.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker:

“AMENDMENT:

Clause 13:

Substitute new Clause 13:

“13. Matai Sa’o – To maintain the integrity of the institution of the Matai Sa’o the following shall apply:

- (a) The selection and the number of Matai Sa’o should not diminish the essence and importance of the Matai Sa’o; and
- (b) The bestowment ceremony of a matai Sa’o shall comply with Clause 15; and

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- (c) The Matai Sa’o given the responsibility of serving the extended family should be domiciled in Samoa and be present in the family and village to carry out duties expected of a Matai Sa’o.”

Tofa OLO FITI AFOA VAAI: Mr Speaker...

MR SPEAKER: The member may take the floor...

Tofa OLO FITI AFOA VAAI: Thank you. Since we are now exactly up to the part in which I raised my question earlier. The statement from the Minister concerning giving a percentage figure to those who supported his statement and those 80% who did not give a response to his Ministerial statement.

Mr Speaker, I do question whether those individual villages with the actual percentage accordingly to Assembly records. We do require actual facts to be presented in Parliament. So the situation with this 83%, it was...

Susuga Hon Tuilaepa Auelua Fatialofa Lupesoliai Lolofietele Neioti Aiono Galumalemana Dr Sailele Malielegaoui: Mr Speaker...

MR SPEAKER: I beg tolerance of the member for Salega whilst I allow the interruption from...

Susuga Hon Tuilaepa Auelua Fatialofa Lupesoliai Lolofietele Neioti Aiono Galumalemana Dr. Sailele Malielegaoui: A point of clarification. A motion was made to consider the Minister’s statement in its entirety. Until we get to the Ministerial statement we will then discuss it in detail.

Tofa OLO FITI AFOA VAAI: Mr Speaker this particular point hugely relates to the matter in which I was seeking clarification from the Chairperson in terms of support. The public are listening in to the decision of the chairperson and its committee concerning what was said back then. It is the reason there was huge support for the legislation after the committee declared that they will amend this and do away with the 5. The government will no longer have the authority as to how many paramount chiefs or matai Sa’o will there be. We now understand that they have not done that.

The other thing Mr Speaker that I would like to ask. I do appreciate the fact that they are acknowledging the titles with the Sa’o status, but I wonder whether their vision and knowledge considered the cordial relationships of families under this law.

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As I have said before there are 7 Matai Sa’o within my family. Once this legislation becomes law and we are not the only family under such circumstances. It will be chaos to discuss which 2 matais to strike off. This is the reason I say this.

MR SPEAKER: The chairperson will assist I had thought the member had understood. He is a very difficult member.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker you are quite correct. I had thought that the member had understood. That there is a number applied to those that must register. It has been removed and we have stipulated some conditions for the extended families to focus on as to ensure the integrity of the selection of matais. But the matter that was of concerned to the member is no longer there.

Olo! I beg tolerance of you but we are not deceiving the public. Thank you.

MR SPEAKER: Well done.

Amendment Approved.

Clause 13 Approved as Amended.

CLAUSE 14: Removal of Matai title.

MR SPEAKER: The Committee has an Amendment to Clause 14.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker under clause 14:

“AMENDMENT:

In clause 1 paragraph c, substitute the phrase “that is punishable by imprisonment for seven (7) years or more” to the words “and served an imprisonment sentence”.

Amendment Approved.

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Clause 14 approved as amended.

Afioga TAPULESATELE MAUTENI TAMASONE METULI II ESERA (Vaisigano No.2): Mr Speaker, there is a minor matter I wish to discuss.

MR SPEAKER: You may take the floor. I did not quite get you.

Afioga TAPULESATELE MAUTENI TAMASONE METULI II ESERA: I wish to draw your attention to clause 14 and 13a. We are saying that we must uphold and maintain the integrity of our culture and traditions. But if you really look into this part, it really is removing the authority of a Sa'o. It is a matter of concern to me as our traditions does include the authority of Sa'o. Whatever issues to be discussed within families everyone voices its opinion, but the final decision comes from the authority of the Sa'o. My view of this proposes change influence this, for whatever matter that is discussed within the families, everyone's opinion matters before a decision is made, which is made through wise distribution. I see that this is not the case due to this consequence. With the observations from us and the public, this change reflects our culture.

MR SPEAKER: Well, I will respond...I call upon the member for Faleata West.

Tofa LEALAILEPULE RIMONI AIAFI (Faleata West): Well, thank you for the opportunity. I would like to ask a question concerning clause (b). I am concern for this because it cannot define this consideration in detail on the duties of the chiefly system. Your matai title can be removed if you do not perform your chiefly duties.

Regarding the Chairperson and the Committee with their inquiry, it seems a bit too general. But we also do not know what the chiefly duties are. Since the duties of the matai vary from village to village. Similar to the case in which we are disputing over the *monotaga*. But from that perspective, it is becoming easier to remove the matai title from these people. With all due respect.

MR SPEAKER: I call upon...is there another member from the Committee while the Chairman takes a break. At least one of you should stand instead of sitting idly.

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Afioga FUIMAONO TEO SAMUELU TEO (Falealili East): Well thank you, I will respond on behalf of the member. This is perhaps one of the issues that have been the subject of much debate in the country. According to the Committee, the public has accepted the suggestion of limiting the matai sao, as for the duties, they are aware of their duties.

What is the role of the matai sao? To look after the family, they uphold the family heritage because that is their duty. A serving matai does not come to argue for your heritage, while you, the matai sao just sit idly. You are the head chief who looks after the lands, the titles and everything owned by the family.

Even when there are adversities, since some families are different. So their way of doing things is also different. There are some *sao* who would just sit with their shoulders raised and do nothing. While the family serves him, but it is his duty, to give suggestions. As long as he does not handle valuables that are given to the family, but his only duty is to advocate and to take care of the family, this is your duty.

So, if you do not conduct those duties, then why are you still a *matai sao* when it should be removed. That is the only reason why you were bestowed the *matai sao* title, those are the duties you must perform, with all due respect.

Tofa LEALAILEPULE RIMONI AIAFI: Mr Speaker, this is why I asked because the members of the Committee have wanted to respond but they did not. The response given was spot on. The only thing is respectable member of the Committee, I am talking about matais. I did not mention *matai sao*. But it does not matter, for this is enough as I am contempt with your loud response, thank you.

Afioga Hon FIAME NAOMI MATAAFA (Lotofaga): Mr Speaker...

MR SPEAKER: I call upon the Sao Faapito.

Afioga Hon FIAME NAOMI MATAAFA: I apologise if the response was too loud for the member. But for the same Clause 14, because there is an existing Amendment, in regard to the person who has committed a crime. And there is a penalty of 7 years.

I implore the honourable Chairman and the members of the Committee, I am still unclear, whether the Amendment is in place, if his sentence is pursued, and then he will be pardoned, because it says, a person who has been penalised is unqualified. But now you have an Amendment, as it seems that his punishment was served in prison. What is the.... I still do not understand, what is the meaning of this? Because the qualifications, which makes his eligible here....

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But what I am trying to say, if the sentence is being served, then he should be pardoned. So, I want to understand this matter.

MR SPEAKER: I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA GIDLOW: Well, Mr Speaker, now Fiame has clearly stated that these other sections are offenses as we have already passed section 13. We are now on section 14. So now I will respond to the question posed by the Sao Faapito.

In the terms of the Act, if you have been convicted for 7 years, you are not qualified to become a chief, unless there is a unanimous decision or a consensus. Unless there was a consensus by your family for you to become a chief no matter how serious of a crime you have committed, and that is exactly what is being explained in Section 14. Whether you have been imprisoned for 2 months, or 2 years, or 7 years, or how long, but if your family agrees to bestow you with a chiefly title, then it is acceptable. This decision is left to the family. That is the definition of this section Afioga Sao Faapito.

MR SPEAKER: Very well. I call upon the Sao Faapito to rise again.

Afioga Hon FIAME NAOMI MATAAFA: Thank you very much. Well, I was trying to read out the readings, which looks at the original Act that was presented, it looks at the Amendment, I humbly ask, where in here does it say that the decision is left to the discretion of the family?

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: It is in 14 (3) (b). Removal of a matai title.... No 14 (1) (c). If a holder of a matai title is convicted of an offense it is punishable by imprisonment of 7 years or more, the matai title and other suli will be removed before (b) can be applied, as for 3b, removal of the matai title of a Sa'o can be made by the consensus suli. That is where it is applied.

MR SPEAKER: Very well.

Amendment approved.

Clause 14 Amended as Approved.

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CLAUSE 15: Validity of the bestowment of a Matai Title.

MR SPEAKER: There is an Amendment by the Committee for Clause 15. I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: In subsection 1 (c), paragraph (1), to be inserted after the word ‘person’, in words to which a matai title is conferred. But in the same clause 15, clause 2 is to be substituted for a new clause 2, and the purpose of this clause, a representative of the village, must attend the ceremony for the bestowment of a matai title, to perform their designated duties, under this Act. And if his attendance is unnecessary, the village representative may perform his or her duties, together with his written approval, if there are less than 5 matai’s present at the ceremony.

Another addition to this same clause 3, after the words recognised village by inserting the words, meanings it is a registered village. Thank you very much.

MR SPEAKER: Very well.

Amendment approved.

Clause 15 amended as approved.

CLAUSE 16: Registrar to keep Matai Title Register.

MR SPEAKER: There is an Amendment by the Committee. I call upon...

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker, within the subsection.

“AMENDMENT:

In subsection (4) paragraph (a), substitute a new paragraph (a).

The holder or such title is the subject of an order of the Court under section 14(1).”

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In subsection (4) paragraph (b), paragraph (ii) the words “or a minister” be excised.

Amendment approved.

Clause 16 amended as approved.

CLAUSE 17: Objection to Registrar’s decision not to enter or delete Matai Title.

Approved.

CLAUSE 18: Intention to bestow matai title.

MR SPEAKER: There is an Amendment by the Committee to Clause 18. I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker...

“AMENDMENT:

In subsection (1):
After the word “faapogai” delete the word “Samoa”.

In subsection (3)
Replace the number “five (5) with the number “three (3)”.

In subsection (4) paragraph (a):
Replace the number “six (6) with the number “four (4)”.

Amendment approved.

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Clause 18 approved as amended.

CLAUSE 19: Objection may be filed against Notice of intention to bestow title.

MR SPEAKER: There is an Amendment by Committee on Clause 19, Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker...

“AMENDMENT:

Substitute the existing section with a new subsection (1) and (2):

“(1) a person may file an objection petition to the Court for determination against the notice published under section 18 and such objection shall provide:

- (a) The kinship connection of the person objecting to the Matai Title the subject of the Notice;
- (b) The reasons for objecting the intended Matai Title bestowment and the remedy sought; and
- (c) Any other prescribed requirements.

(2) The objections to a petition must be published providing the names of the parties, the reason for the objection and the remedy sought within 20 days before hearing of the matter.

Amendment Approved.

Clause 19 approved as amended.

CLAUSE 20: Procedure where no objection is filed.

Approved.

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CLAUSE 21: Jurisdiction where there is no objection.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker...

MR SPEAKER: I call upon Afioga Sao Faapito, Fiamē.

Afioga Hon FIAME NAOMI MATAAFA: Please, I do not have a Clause 21. Is the paper I am looking at wrong.

MR SPEAKER: Tofa Olo, could you take a look at Fiamē's paper please.

Tofa OLO FITI AFOA VAAI: We have the same papers, or maybe we were given different papers.

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: The Act was given to the two of you a long time ago. It is now 9 months old. That is what we are talking about. There is no Amendment in it.

MR SPEAKER: Well... When you take the papers home make sure to bring them with you to this House when the Assembly convenes.

Tofa OLO FITI AFOA VAAI: Mr Speaker, this means that the Chairman is wrong as there is no Amendment for 21, even though Clause 21 is being read out, with respect.

MR SPEAKER: Well...

CLAUSE 22: Notification after bestowment of Matai Title.

MR SPEAKER: There is an Amendment by the Committee, I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
In the Clause:

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“AMENDMENT:

- (a) In paragraph (a), the number “five (5) be changed to “three (3); and
- (b) In paragraph (b), the number “four (4) be changed to “three(3),

Amendment approved.

Clause 22 amended as approved.

CLAUSE 23: Objection to the Matai Title bestowed.

MR SPEAKER: There is an Amendment for Clause 23 by the Committee, I call upon the Chairman.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Thank you Mr Speaker. Clause 23...

AMENDMENT:

Insert a new subsection (2) and renumber the following subsections in the correct order:

- (2) An Appeal to be filed shall be made in accordance with section 19.”

Amendment approved.

Clause 23 amended as approved.

CLAUSE 24: Procedure after bestowment of Matai Title.

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MR SPEAKER: There is an Amendment by the Committee for Clause 24, I call on the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker...

“AMENDMENT:

In subsection (1):

Replace the words “Division 6” with the words “Division 5”

In subsection (2):

Delete paragraph (a),

Substitute subsection (4) with a new subsection (4):

“(4) If a Matai Title is bestowed in a village that does not have a Sui o le Nuu, and for the Matai Title to be registered, the faapogai may file a petition for the confirmation of the Court.

Amendment Approved.

Clause 24 amended as approved.

CLAUSE 25: False information and misleading.

MR SPEAKER: There is an Amendment by the Committee for Clause 25, I call the on Chairman.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker...

“AMENDMENT:

In the text of the verse:

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Replace the phrase “10 penalty unit” with the words “50 penalty units” and substitute “12 months” for “3 years”.

Amendment Approved

Clause 25 amended as approved.

CLAUSE 26: Wrongful user of a Matai Title.

MR SPEAKER: There is Amendment by Committee...

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker Clause 26...

“AMENDMENT:

In the title of the clause:
Replace the word “users” with the word use”.

Tofa LEALAILEPULE RIMONI AIAFI: Mr Speaker...

MR SPEAKER: I call upon the member of Faleata West.

Tofa LEALAILEPULE RIMONI AIAFI: The members of the prosecution have noted that for Clause 25, the offenses for 25 and 26 were the same. However, it is noted that a recommendation is given to change the penalty for 25 to be increased, while the penalty for 26 remains the same. In my opinion, they are the same as the only difference is the seriousness of these offenses. Perhaps the penalty should be increased for 26 so that it is the same as 25, with all due respect.

MR SPEAKER: Well done. It should be sent to the Chairman to examine, the recommendation. Let the Chairman stand to say a few words to satisfy the member of Faleata in case he thinks that we have been negligent to him.

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Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: The question on why Clause 26 was not changed. For... false information and misleading is much more serious than wrongfully claiming that you possess a Matai title. There are a lot of people who claim to be a matai, it does not matter. But for false information and misleading, these statements are utterly inaccurate. That is why these two Clauses are different.... thank you.

MR SPEAKER: Well, thank you very much. It is noteworthy that the member for Faleata is smiling in satisfaction.

Amendment Approved.

Clause 26 amended and approved.

CLAUSE 27: Registrar to reject filing of application.

MR SPEAKER: There is an Amendment for Clause 27 by the Committee. I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker...

“AMENDMENT:

Replace clause 27:

“27, Restrictions on filing of application – A petition must be filed for a matter on which a final decision of the Court has been made, except with leave of the President.”

Amendment Approved.

Clause 27 amended as approved.

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CLAUSE 28: Interim orders by President or Deputy President.

MR SPEAKER: There is an Amendment by the Committee for Clause 28.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker...

“AMENDMENT:

In subsection (1):

After the word “application” insert a comma and the words “permission to appeal the application, or “appeal”.

Amendment Approved.

Clause 28 amended as approved.

CLAUSE 29: Interim orders by Registrar.

Approved.

CLAUSE 30: Duration of interim order by Registrar.

Approved.

CLAUSE 31: Genuine effort to resolve the dispute.

MR SPEAKER: There is Amendment by Committee on Clause 31.

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Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker...

“AMENDMENT:

In the verse of the clause, replace the entire phrase:

“Each party to a matter in the Court is required to make a genuine effort to resolve the dispute before the commencement of a case by participating in mediation or Samoan conciliation.”

Amendment approved.

Clause 31 amended as approved.

CLAUSE 32: Registrar to conduct Samoan conciliation.

MR SPEAKER: There is an amendment by the Committee for Clause 32.
I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Clause 32 Mr Speaker...

“AMENDMENT:

(a) In subsection (1):
Substitute “proceedings, any dispute prior to a petition being filed under this Act in relation to that dispute” with the words “or any dispute prior to a petition being filed under this Act,”

(b) For subsection (4), be replaced as follows:

“(4) The Registrar may order costs for non-attendance under this section”.

Amendment Approved.

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Clause 32 approved as amended.

CLAUSE 33: Judicial Settlement Conference.

MR SPEAKER: There is an amendment by the Committee for Clause 33. I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker:

“AMENDMENT:

Clause 33:

- (a) Subsections (3) and (4) are substituted for subsections (3) and renumber the following subsections as follows:
“(3) A Judge that acts as facilitator must not sit as a Judge on any of the same issues.”
- (b) In subsection (4) to substitute the words “a decision” with the words “an order”.

Delete subsection (6).

In subsection (4) to be renumbered: To substitute the words “shall be treated” with the words “shall be called in Court for confirmation”.

Amendment approved.

Clause 33 amended as approved.

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CLAUSE 34: Dispute resolution processes.

MR SPEAKER: There is an amendment by the Committee for Clause 34. I call on the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker:

“AMENDMENT”

Clause 34:

Substitute subsection (1) and (2):
The Court may at any time it deems fit order the parties to use a dispute resolution process during the progression of a matter and where such order is made, the Court may adjourn the matter.”

Amendment Approved.

Clause 34 amended as approved.

CLAUSE 35: Sittings of the Court.

MR SPEAKER: There is an Amendment by the Committee for Clause 35. I call on the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker:

“AMENDMENT:

Clause 35:

Sections 35 to 62 are substituted for Sections 35 to 60.

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“35. Institution of proceedings – (1) Proceedings before the Land and Titles First Court must commence on the filings of the petition in the prescribed form.

(2) A petition filed must be published by the Registrar in three (3) consecutive issues of the monthly issue of the Savali.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker please, I do not want to interrupt the work of the Committee, but a point of clarification.

MR SPEAKER: I call upon the Sao Faapito to stand. You may speak.

Afioga Hon FIAME NAOMI MATAAFA: Notice in this section that there is a change in verses from 35 to 62. And it states that this verse will be changed, therefore a whole section of this Act has been altered in view of the precepts – 35 to 65. Mr Speaker, this means that this is not an amendment, as it is a complete Act. But now I have had the chance to read it. Mr Speaker, I am not sure about this kind of approach, those clauses have been completely changed and it is worth noting that this section deals with the procedures and work of the Land and Titles Court.

Well, Mr Speaker, these things are not minor amendments to the body of the Act that has been brought before the Legislative Assembly, the original has been completely removed and the new one has been asserted. I therefore pray, Mr Speaker, as to how such practices should be dealt with; whether it is right, or whether these sections can be removed and they should be brought in for re-evaluation but continue with each of the other sections we have agreed upon.

That is the reason for why I am upstanding, the practise that has emerged is significant, especially in the context of the Act, the procedures and the implementation of our Land and Titles Act. Well, that is all I wanted to ask Mr Speaker. With all due respect.

MR SPEAKER: Very well thank you. I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Thank you Mr Speaker, thank you for raising this issue so that I can provide an explanation. As I have already said before, the Land and Titles Act has just been clarified, whereas there is a Court 1, there is also the Supreme Court, and there is also the Court of Appeal.

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Those are all the different Courts, they all take different appeals, or their level of jurisdiction is different, and the classification from which they provide, it specifies the times when an opportunity is available for you to make an appeal. For example: an appeal to the High Court or the Supreme Court of the Land and Titles Court. That is how it has been, as they would disregard it, while you are waiting reluctantly for a reply from the Judge or the Court for a time when you can make an appeal, or when they can respond to your request for an appeal. It is a long wait, you are aware that I know, as others have not had an appeal or similar actions for 20 years.

Therefore sections 35 to 62, specifies the times when the Court or Court 1 must perform the part of the appeal that must be answered in order for your trial to take place. It has also been made clear by the Land and Titles and Supreme Court, when it will respond to your appeal, and when it will convene. It is the same for the Court of Appeal. Thus, why it says, the time will be made clear regarding this issue, and also responding to the concerns of our country. This is what was given, waiting for how many years, not only for the time when it will be conducted, but also the decisions, as it takes how many years for a decision to be made. In this regard, the timing of the implementation of all of these is mandated so that the judicial function is no longer excluded from the Ordinance from which the work of the judiciary is performed.

Well, Mr Speaker that is my response.

Afioga Hon FAAOLESA KATOPAU T. AINUU: Mr Speaker I just want to add on to the matter.

MR SPEAKER: I call upon the Hon Minister.

Afioga Hon FAAOLESA KATOPAU T. AINUU: You Mr Speaker and the Members of the House have also noted that the Land and Titles have changed from two levels to three. They also have different requirements.

And that is why this main part has been added to the amendment of the Act to clarify the aspects of each level. There are three levels on the implementation of the work, which vary. It is for this reason that these huge changes were made to the Act as stated by the Chairman. With all due respect.

MR SPEAKER: Well, I call upon a member for the Committee to assist...

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Tofa NAMULAUULU SAMI LEOTA: Mr Speaker, it is good that we understand these things. For clause 35 to 62, it is only the classification of the proceedings to distinguish each section differently. Remember also that the first trial, and then the second appeal, and then the third appeal. When we look at the old Act, it is in there. There were only clarifications of amendments so that it was made clear, because this is another concern brought up by the country, which it was the timing. So, we are now looking at shortening it, from 30 days to 21 days in order to expedite and thus respond to the needs of the nation so that our policies are as expeditious and clear as possible within the Judiciary structure to respond promptly to the needs of the country. Thus, for 35 to 62, it is the same framework, which is reflected in the old Act, but it is only arranged as if the numbering has changed like 38, which has now been moved up and changed to 35. It is only the numbering but everything else is the same. With all due respect.

MR SPEAKER: Well, perhaps this issue has been clearly explained. I call upon the member for the Urban West.

Afioga FAUMUINA ASI PAULI WAYNE FONG (Urban West): Thank you Mr Speaker. I only want to ask one question, regarding the section of the Standing Orders 108, which contains only corrections when there is something wrong, but now this part of the Act has been completely changed, whether it should be reconsidered by the Hon Minister and our Parliament, since it has been amended. It was said that no amendment can be made when it is completely changed. I therefore pray to the Hon Member, to clarify whether this change affects this part of Act 108. With all due respect.

MR SPEAKER: Well done. This issue has now been made clear as stated by a member of the Committee describing the situation of 35 to 62. Thank you very much. Well as the member for the Urban West, Afioga Faumuina was upstanding. Your opinion shown will be expressed when we get to the third reading, but we are currently conducting the consideration in detail. So now we will discuss the issue that you stated, as it is necessary to examine and negotiate and clarify these circumstances as presented in each section. That being said, there is no difference with the situation in which our work is progressing towards, but that section deals with the third reading of our Act.

And I believe that our work has been strenuous. So, we will have a 15 minute break.

I call upon the Leader of the Country.

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Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO NEIOTI GALUMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker before we take a break, there are not many changes. I am still looking at section 35, the term proceedings before the Court are written, but in the Amendment, the proceedings that are before the Court. For verse 2, the registrar must publish the application. But it is also written here, an application to a decision must be published by the Registrar. There are just a few of the changes. The wording is almost the same, but there are at least a few different meanings. In case something minor is made significant, but it is also good for us to have a break....

MR SPEAKER: Thank you very much. Hon Leader of the House, from my belief, I am guessing that you are also aware that our constituency also has Tutuila “*moemanatunatu, Apenamoemanatunatu*”. I believe that is the reason why that side was upstanding, as we are in need of a 15-minute break. Perhaps when we return, we will proceed with finishing our work faster.

I announce the adjournment of our....

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker, the reason for standing is the keenness to conduct our work as stated in the motion of the Hon Prime Minister. We do not want to rest, but we want to understand why we are doing such things.

MR SPEAKER: Thank you.

Afioga Hon FIAME NAOMI MATAAFA: And if the Committee understands, as they have been dealing with this issue for a long time, well done. But it has just only been brought here, where is the righteousness in that?

MR SPEAKER: Well, perhaps it will be worth reading our papers again during the break.

I announce that the work will be set aside for our recess so that side can read their papers.

Proceedings of the Legislative Assembly were set aside for recess at 2:55 pm and resumed at 3:40 pm.

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MR SPEAKER: I announce the resumption of the Proceedings of the Legislative Assembly.

Well, there is a belief that our work has been prolonged, but we have also gained additional strength. Well, we rely on God to give us the strength to continue our work for the prosperity of Samoa and its support.

The Proceedings of the Assembly were set aside following the amendments of the Committee as re-arranged in Sections 35 to 62. The question has been put forth for approval of the amendment. We have now come to Section 63.

I call upon Afioga Sao Faapito.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker the course of our work, it was left unclear on how this section of the Committee's Report was handled, the amendment of a whole section as presented.

I would like to remind the Hon Speaker that we have our Standing Orders, which are the ways our work should progress.

Therefore, I have noticed that the difference in the sections 35 to 62 is being given in a summary. So, with respect I want to ask a question, because as noted the Chairman of the Committee has started reading these changes. Or is this the way things will be. Because truthfully Mr Speaker, no one has seen this part of the Act before, it is not a re-amendment.

MR SPEAKER: Thank you very much. The opinion of the Sao Faapito has been noted, well, I apologise, that is the course of our work, and there are also things that can be overlooked. But I ask...I think that a chance should be given to the Committee to reiterate the changes from 35 to 62 and then the question will be put for an approval. I believe that this is the case as with the opinion of the Afioga Sao Faapito, and this is how it should be, but the Committee only made a statement on the aggregation of 35 to 62, for the understanding of the honourable members of Parliament as mentioned by the Sao Faapito and then a question be put for this whole section.

So, I...

Afioga Hon FIAME NAOMI MATAAFA: Thank you Mr Speaker, it is clear from your opinion, the desire to continue our work, well, we shall carry on like that Mr Speaker. But there is one thing, that although an amendment is introduced which covers a large part of the Act, whether the readings by the Chairperson of the Committee raise the issues in each clause as in the usual manner in which we used for the amendment of each of the other clauses. Do you get the meaning of the question?

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MR SPEAKER: I believe that the Chairperson of the Committee will now address the situation, but if there is anything that you and the honourable members of Parliament would like to raise, the opportunity will be given.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker, I have noted, before our recess we were up to 40 as we considered in detail each of these sections. The Committee is willing to go over each section individually as long as the work is not disrupted.

But when we went for recess, we were on section 40 and 35 to 62 was not addressed. It is limited to 40 or 41.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker, when we went for our recess, we were on page 15 of this Report which contains the sections which stated 35 to 62. Thus, when we had our break, we were debating on how this section will be handled, because it is uniquely set out. So no, we are not yet on 40, we are still at 35 where we started our discussion on this topic.

MR SPEAKER: I call upon the Leader of the House to stand.

Susuga Hon TUILAEPA AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker, it would probably be easier to go from 35 to 36 and so on. When the Act is scrutinized, it should be scrutinized with the advice given, there is not much difference. There is very little difference. I do not know if you brought with you your copies of the Act that were distributed to you 10 months ago.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker, we have our copies, but the only thing is that the amendment that has been brought is peculiar, so it is not in line with our old Act, because in fact, it is a whole new thing that has been introduced.

MR SPEAKER: Well, there is an idea; I implore the Hon Chairman for a few remarks on this matter as noted by the Sao Faapito so that the members who are upstanding are content. The Chair also considers the protection of the Act and the course of our Work so that the opinions of the members are fulfilled, and now we are considering in detail each section, and now the amendment of 35 has been combined in a summary of 35 to 62.

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Then I thought, you just need to give a little explanation to the combination of 35 which is given in the amendment, and then a question will be put forth, but let us move on to 63. Well....

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker, from what I have just heard in the opinion of the Hon Prime Minister, the Committee can be flexible if we are to cover each section individually as stated by the Hon Sao Faapito. But in the case of the sections 35 to 62, we are just going through the amendments that have already been made. There are no major amendments, but the reorganization, restructuring of the functions of each court, because some sectors are new such as the Court of Appeals that did exist before in our Land and Titles Court. Now it exists, so the restructure was to ensure these sectors are included. Just like the statement you made in the past, but the Committee is flexible, if these sections are to be considered in detail individually so that the work is not affected.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker, I would like to understand regarding what the Hon Chairman said that this was done because the plan set out in the Act was new. This is not to say that it was new here, it was new when the court system began to be restructured in its new court, with the addition of the Review Court or the Court of Appeals. I have a hard understanding what is being said that it has changed because it is new. No, the Act was new when it was introduced. In other words, the Act that was introduced was not fully prepared.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker, as I am trying to explain, our Legislation is a Bill. There are some areas that were looked at in the review that need to be clarified and explained in regard to our Land and Titles Court becoming independent. That is all. But the restructure and clarification and explanation of the process of jurisdiction of each court, while the spirit itself, it is the same thing. But as I have said, if you want us to go into detail on each section, it can be done. I have no comment unless a question is raised on this issue, please.

MR SPEAKER: Well, to simplify the matter, because it would mean that the desire of the Hon *Sao Faapito*, is for us to go back to detail the situation of 35, 36, 37, 38, until we reach 62. Is this your desire Fiamé?

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Afioga Hon FIAME NAOMI MATAAFA: No Mr Speaker, there is no other way to do it, this is a completely new matter, but it cannot be set aside for another time for the House to look at it again, because it is good that the Committee have seen it, but by the way of things, no one has ever seen it before.

MR SPEAKER: Very well, thank you.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker, please could you respectfully make a request to the Chairperson of the Committee, as I am attempting to read this report as it has only just been submitted. I also conversed with other members that our Assembly is in the progress while the Reports are still being distributed as they are currently being printed.

Furthermore Mr Speaker, what are these processes in which these issues are being submitted into the House? We did not get the opportunity to read it properly, as we are going to go over a major and extensive amendment like this. But there is a strong feeling that is arising to hasten the course of our issues.

MR SPEAKER: For your information Hon Sao Faapito, this is the process of our work as we go through each issue individually. It is therefore suggested that the desire for the combination of the amendments that the Chairman spoke about will be tabled due to the progress of the projects of the Tripartite Divisions which is the case with the Land and Titles Court and the Criminal Court. And so, I have been thinking, the opinion of the Hon lady MP will be fulfilled, we will proceed accordingly, it is also good so that there are no speculations that our work is being done in haste, no, this work is already known, no as it has been 10 months since this work was underway.

Amendment approved.

Clause 35 amended as approved.

CLAUSE 36: Registrar's functions and powers on conciliation and hearings.

MR SPEAKER: There is an Amendment by the Committee for Clause 36. I call upon the Chairperson of the Committee.

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Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker:

“AMENDMENT:

Clause 36:

36. Sittings of the Court – (1) the time and places of sittings of the Court are determined by the Registrar after consulting the President.

The Court while sitting to hear any matter, may adjourn the hearing to any other time or venue.

(3) A matter adjourned under subsection (2) must not be unreasonably delayed.

(4) Two (2) or more Courts constituted under this Act:

- (a) May sit at the same time in the same
- (b) Or different appointed venues; and
- (c) Have all the powers and jurisdiction of the Land and Titles First Court.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker...

MR SPEAKER: I call upon the Leader of the House.

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETEELE NEIOTI AIONO GALUAMALEMANA Dr. SAILELE MALIELEGAOI: Congratulations for this section, all I want to say is, the section 4 of our Constitution, which I will state. Two (2) or more Courts constituted under this Act. (a) May sit at the same time in the same or different appointed venues; and (b) have all the powers and jurisdiction of the Land and Titles First Court. I will now read out the amendments we have made. For Courts, it is all the same, the old Courts and the new ones, Two (2) Courts, or more than the old one, Two (2) or more Courts. And then we come to (a), can proceed, can combine (a) with the old, for the new, (e), has all the power (b) will have all the power. Mr Speaker, it is the same, but we will continue like this.

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MR SPEAKER: Perhaps the matter has been made clear as the Leader of the House has spoken.

Afioga Hon FIAME NAOMI MATAAFA: Thank you for the clarification from the Hon Prime Minister. There is only one thing I would like to ask the Chairman of the Committee. As under this section the reasons for making the following changes are explained. Near the end of the amendment there is a statement. It discusses not only a venue, but a decision that was made, before the Bill is enforced when it gets approved. So, I would like to ask the Chairman of the Committee, in the last section, a decision will not be made and the place where it is made, and the approval of this Act. This is based on the information contained herein. And from my own understanding, the decisions were made, before this Act was passed. We will continue with the old Act, or will there be another change, if that decision is made, but this Act in which we are discussing has already been passed. That is the only thing that I am unclear of, with this deliverance. But look at the reasons behind it, the decision that was made, before the Bill is approved and enforced. I want to understand the reason for this part.

MR SPEAKER: Is there an additional response, as the Leader of the House has now clearly stated the situation of the current process, which needed to be clarified. Unless there are any additional responses.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker, the aim of this amendment is to allow the trial to take place wherever the President wishes, and to make decisions in accordance with that court. When this Act is passed, whatever decisions that will be made in those places, those decisions will be used. But that does not mean that the decisions that have already been made will be re-discussed. While we still have intentions, that the court decisions are final. But now we are discussing the new courts, and new places, as they are given the jurisdiction from the First Court. It is up to the President where it is held, but he will also provide his terms and his jurisdiction, which should be applied, obeyed and implemented. Mr Speaker that is my response.

MR SPEAKER: Thank you very much.

Amendment Approved

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Clause 36 amended as approved.

CLAUSE 37: Disputes on right of way.

MR SPEAKER: There are Committee Amendments on Clause 37.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker:

“AMENDMENT:

Registrar’s functions and powers on hearings:

- (1) The function of the Court which may be exercised by the Registrar if ordered by the President or the Deputy President or Vice President includes adjournment of matters or other matters for administrative purposes.
- (2) A direction made by the Registrar under this section, is regards as a direction of the Court.
- (3) In preparation for a matter under this section, the Registrar may include certified copies of the faiga faavae referred to her or him under section 5A (3) of the Village Fono Act 1990.

Mr Speaker, these are the amendments.

Clause 37 Approved.

Clause 37 amended as approved.

CLAUSE 38: Institution of proceedings.

MR SPEAKER: There is an Amendment by Committee on Clause 38.

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Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
 Mr Speaker:

“AMENDMENT:

Disputes over rights of way: In addition to the jurisdiction of the Land and Titles First Court in Part IX of the Constitution, the Court shall determine disputes involving right of way or access on customary land.

Division 2 – Land and Titles High Court

Subdivision A – Appeal

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker, this Clause is a dispute on the right of way. And it is noted that this is something new compared to the old Act, as stated by the Prime Minister, the content of this new Act is almost similar to the old one. But I have noticed that this part is new. Also, by observation, in reference to the term amendment is stated as follows. It is a matter that can be dealt with by the Land and Titles Court. But it is not usual, Mr Speaker and Hon Members for the Courts to handle these matters. The only thing I would like to ask is to simply say that it has the power, however there are no provisions for the court to step up to perform the new statutory duties. Mr Speaker, there may be a situation on where customary land and freehold land lie, but the route taken may make it difficult for the Act to determine a solution. But perhaps the point of your opinion, since the legal authority has been given for the Courts to handle it. However, no conditions are provided to implement this work. But this is the Act, and perhaps this Land and Titles Act will be used to conduct the work of the court. Mr Speaker that is the case.

MR SPEAKER: I call upon the member of Committee.

Tofa NAMULAUULU SAMI LEOTA: Thank you for the opportunity. I would like to offer assistance to the Afioga *Sao Faapito*. Maybe this is the most confusing part of the reading of this Bill. If we recall the old section 38, we had, it is now moved up to 35, which is the Right of way or the dispute on the road which is 37. And so, 38 shifted to 35, and the same written terms were also moved. And now section 37 has become 38. In the old Act, the wording is the same, and this is my assistance to the *Sao Faapito*. With all due respect.

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Afioga Hon FIAME NAOMI MATAAFA: Thank you Mr Speaker for the opportunity. The crux of my opinion is that this is new. Whether the numbering is rearranged, but the Act itself... oh the question is, how it is done. It is not enough to say that it is handled by the Court. But since it has been brought, it is a whole new thing, if I may ask about it, so we can have a little discussion on this matter.

MR SPEAKER: I ask the Leader of the House for assistance.

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUAMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker, the only difference with our Bill that has been laid out, is the usage of the word, can. But for this Act, it says must. That word ‘can’ is in this Act for 10 weeks, but now the amendment has been made and it says the word ‘must’. The only difference is that one says ‘can’ and the other says ‘must’. This is very simple. As for these matters, they are matters that are handled by the courts. And then a condition is set. We are discussing the work of the Court, which is what they do. That is my assistance, the Committee is correct.

MR SPEAKER: Maybe these changes have been made clear as...in a simple way, as the member wanted to clarify whether a change is possible. Therefore, I apologize to the members of Parliament. However, we are still going to use the long way as the Afioga *Sao Faapito* wanted, with the conditions as it is. Even so, we will be taking the long way.

Clause 38 approved.

Clause 38 approved as amended.

CLAUSE 39: Discontinuance of proceedings.

MR SPEAKER: I call on the Committee for the amendments.

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Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker, Clause 39.

“AMENDMENT:

Grounds for Appeal: - Leave to appeal to the Land and Titles High Court may be granted on any of the following grounds.

- (a) That new and material evidence had been found since the hearing of the petition of which the applicant had no knowledge, or which could not reasonably have been adduced at the hearing of the petition.
- (b) That the successful party had been guilty of such misconduct in relation to the hearing of the petition as to affect the result of the case.
- (c) That a witness had been guilty of such misconduct in relation to the hearing of the petition as to affect the result of the case.
- (d) That a mistake has been identified and proven in relation to the hearing of the petition as to affect the result of the case.
- (e) That the Court did not have jurisdiction to make the decision or order.
- (f) That the decision or order is wrong in law or not in accordance with custom and usage.
- (g) (That the decision or order was manifestly against the weight of the evidence adduced at the hearing of the petition.
- (h) A substantial wrong or a miscarriage of justice has occurred.

Mr Speaker.

Clause 39 approved.

Clause 39 amended as approved.

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CLAUSE 40: Leave to appeal.

MR SPEAKER: There is Amendment to Clause 40.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker.

“AMENDMENT:

Leave to appeal application and response:

- (1) An appeal shall not be heard unless by leave of the Land and Titles High Court granted by the President or the Deputy President.
- (2) Within forty (40) days counting from the date of delivery of the decision of the Land and Titles First Court, a party may appeal a decision by filing:
 - (a) An application for leave to appeal detailing with support documentation the ground under section 39 relied for appeal; and
 - (b) The prescribed fee
- (3) A leave application filed under this section must be served on the respondent, who must file a response in the prescribed form, within 30 days from the date of receipt of the application.
- (4) The Registrar must not accept an application filed outside of the time specified under the subsection (2), or a response file outside of the time specified under subsection (3).

Clause 40 approved.

Clause 40 approved as amended.

CLAUSE 41: Hearing of application for leave to appeal.

MR SPEAKER: There is an Amendment. I call upon the Hon Chairperson.

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Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker:

“AMENDMENT:

Clause 41, Leave to appeal hearing:

- (1) The application for leave to appeal shall be heard before the President or Deputy President sitting alone on a date to be notified to each party by the Registrar in the prescribed form.
- (2) All parties may be heard and may make submissions.
- (3) The Land and Titles High Court may make such order on the application, as the President or Deputy President thinks fit.
- (4) The decision for leave to appeal must be made within 10 days from the date of the hearing.
- (5) In granting leave the Court:
 - (a) May order a stay of execution of the decision or order, pending the outcome of the appeal;
 - (b) May grant requests for joinder parties; and
 - (c) May direct parties to prepare for issues identified to be determined; and
 - (d) May set the time and place for the appeal hearing which must be within 21 days from the date leave is granted; and
 - (e) Must order the appellant to pay security for costs.

Amendment Approved.

Clause 41 approved as amended.

CLAUSE 42: Time for appeal.

MR SPEAKER: I call upon the Chairperson.

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Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker. Clause 42:

“AMENDMENT:

Appeal hearing:

- (1) An appeal must be by way of rehearing by the Land and Titles High Court as constituted in Article 104B of the Constitution.
- (2) The Court in its discretion may re-hear the whole or any part of the matter.

Amendment approved.

Clause 42 approved as amended.

CLAUSE 43: Grounds for appeal.

MR SPEAKER: I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker:

“AMENDMENT:

Clause 43: Grounds for Special leave appeal:-

- (1) A special appeal shall lie to the Land and Titles Court of Appeal and Review from a decision of the Land and Titles First Court and its appellate division in the repealed Act on the following grounds.
 - (a) The case involves a substantial question of the law in the interpretation or effect of clauses (5) and (6) of Article 104A; or

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- (b) The question involved is one which by reason of its general, customary or public importance or the magnitude of the interests affected, ought to be submitted to the Land and Titles Court of Appeal and Review.
- (2) An application in subsection (1) shall not be heard in the Land and Titles Court of Appeal and Review unless special leave is granted by the President.
- (3) This section applies to decisions made before the date of commencement of this Act.

Amendment Approved.

Clause 43 approved as amended.

CLAUSE 44: Response to application for appeal.

MR SPEAKER: I call upon the Chairperson. Let us work while the Parliament tune in.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
 Mr Speaker:-

“AMENDMENT:

Clause 44, Application for special leave and response:

- (1) An application for special leave under section 43, shall:
 - (a) Be made in the prescribed form.
 - (b) Be made within 12 months from the date of commencement of this Act.
 - (c) Include the following –
 - i. A copy of the notice of the appeal; and
 - ii. Certified copies of all relevant documents, records and evidence, to support the application; and
 - iii. The prescribed fee.

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- (2) Upon receipt of an application, the Registrar must serve respondents in person where practicable and by publication of the Notice in three (3) consecutive issues of the Savali.
- (3) A respondent must file a response within 40 days from the date of receipt of the special leave application.
- (4) The Registrar may reject any application filed under this section that is not in accordance with the prescribed requirements.
- (5) In granting leave, the President may direct parties to prepare for issues identified to be determined.
- (6) Where leave is granted, the Registrar shall consult the Chairperson of the Land and Titles Court of Appeal and Review to confirm the hearing date before notifying all parties.
- (7) Where a certificate is refused, the Land and Titles Court of Appeal and Review may, if it is satisfied that the case involves a substantial question of law as to the interpretation of or effect of clauses (4) and (5) of Article 104A, grant special leave to appeal from that decision.
- (8) An appeal must be by way of rehearing by the Land and Titles Court of Appeal and Review as constituted under Article 104C under the Constitution.

Amendment approved.

Clause 44 amended as approved.

CLAUSE 45: Appeal hearing.

MR SPEAKER: I call upon the Chairperson.

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Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker, Clause 45.

“AMENDMENT:

Case stated:

- (1) In any proceedings before the Land and Titles First Court, the Land and Titles First Court may reserve for consideration by the Land and Titles High Court, a case stated, and the Land and Titles High Court shall have the power to hear and determine such case stated.
- (2) In any proceedings before the Land and Titles High Court, the Land and Titles High Court may reserve for consideration by the Land and Titles Court of Appeal and Review, a case stated, and the Land and Titles Court of Appeal and Review shall have the power to hear and determine such case stated.

Amendments Approved.

Clause 45 amended as approved.

CLAUSE 46: President’s Certificate for special leave.

MR SPEAKER: There is Amendment, I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW:
Mr Speaker,

“AMENDMENT:

Clause 46: - Grounds for appeal:

- (1) The Land and Titles Court of Appeal and Review must not grant leave to appeal unless it is satisfied that it is necessary in the interests of justice for the court to hear and determine the appeal.

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- (2) It is necessary in the interests of justice for the Land and Titles Court of Appeal and Review to hear and determine a proposed appeal if:
- (a) The appeal involves a matter of general or public importance; or
 - (b) A substantial miscarriage of justice may have occurred, or may occur unless the appeal is heard; or
 - (c) The appeal involves a matter of general customary or cultural significance.

Amendments approved.

Clause 46 amended as approved.

CLAUSE 47: Leave to appeal.

MR SPEAKER: There is an amendment by the Committee to Clause 47. I ask the Deputy Chairperson to fill-in as the task is not easy.

Tofa NAMULAUULU SAMI LEOTA (Faasaleleaga No.2): Mr Speaker...

“AMENDMENT:

- (1) An appeal shall not be heard unless by leave for the Land and Titles Court of Appeal and Review granted by the Chairperson.
- (2) Within forty (40) days counting from the date of delivery of the decision of the Land and Titles High Court, an appellant may file:
 - (a) An application for leave to appeal in the prescribed form; and
 - (b) A Notice of Appeal in the prescribed form; and
 - (c) The prescribed fee.
- (3) The Respondent must file a response within 30 days counting from the date of receipt of the application.

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- (4) The Registrar must not accept an application filed outside of the time specified under subsection (2) or a response file outside of time under the subsection (3) unless otherwise directed by the President.

Amendments approved.

Clause 47 amended as approved.

CLAUSE 48: Leave to appeal hearing.

MR SPEAKER: There is an Amendment by the Committee. I call upon the Deputy Chairperson.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker Clause 48...

“AMENDMENT:

- (1) The application for leave to appeal shall be heard before the Chairperson sitting alone on a date to be notified to each party by the Registrar in the prescribed form.
- (2) All parties may be heard and may make submissions.
- (3) The Land and Titles Court of Appeal and Review may make such order on the application, as the Chairperson directs.
- (4) The decision for leave to appeal must be made within 10 days from the date of the hearing.
- (5) In granting leave, the Chairperson:
 - (a) May order a stay of execution of the decision or order, pending the outcome of the appeal; and
 - (b) May direct parties to prepare for issues identified, to be determined; and
 - (c) May set the time and place for the appeal hearing which must be within 60 days from the date leave is granted; and
 - (d) Must order the appellant to pay security for costs.

Amendments approved.

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Clause 48 amended as approved.

CLAUSE 49: Time limitation for filing for leave to appeal.

MR SPEAKER: There is an Amendment by the Committee for Clause 49. I call on the Deputy Chairperson of the Committee.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker Clause 49...

“AMENDMENT:

- (1) An appeal must be by way of rehearing by the Land and Titles Court of Appeal and Review as constituted in Article 104C of the Constitution.
- (2) The Court in its discretion may re-hear the whole or any part of the matter.

Amendments approved.

Clause 49 amended as approved.

CLAUSE 50: Hearing of application for leave for appeal.

MR SPEAKER: There is an Amendment for Clause 50 by the Committee. I call upon the Deputy Chairperson.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker Clause 50...

“AMENDMENT:

The grounds for review in the Land and Titles Court of Appeal and Review are common law grounds of judicial review, such as illegality, irrationality and procedural impropriety.

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Amendment was approved.

Clause 50 amended as approved.

CLAUSE 51: Time for final appeal or review.

MR SPEAKER: There is an Amendment by the Committee for Clause 51. I call on the Deputy Chairperson.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker, Clause 51...

“AMENDMENT:

A motion for judicial review may be filed at any time after the date of the decision or order of the Land and Title

- (1) s First Court or Land and Titles High Court that is the subject of the review, together with the prescribed security for costs.
- (2) At the commencement of this Act, the rules of procedure for judicial review matters in the Supreme Court, applies to this Act until replaced and become part of the Rules under section 61.

Amendment approved.

Clause 51 amended as approved.

CLAUSE 52: Grounds for appeal.

MR SPEAKER: There is an Amendment by the Committee for Clause 52. I call upon the Deputy Chairperson.

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Tofa NAMULAUULU SAMI LEOTA: Clause 52 Mr Speaker...

“AMENDMENT:

This Division applies to the Land and Titles First Court, Land and Titles High Court and Land and Titles Court of Appeal and Review.

Amendment approved.

Clause 52 amended as approved.

CLAUSE 53: Grounds for review.

MR SPEAKER: There is an Amendment by the Committee for Clause 53. I call upon the Deputy Chairperson.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker, Clause 53.

“AMENDMENT:

- (1) The Court with the consent of all parties may order those proceedings that commenced be discontinued, and such proceedings must be held in open court.
- (2) A petition filed but not served is deemed discontinued at the request of the petitioner before the Registrar, with all paid fees refunded.

Amendment approved.

Clause 53 amended as approved.

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CLAUSE 54: Notice of hearing of appeal and review.

MR SPEAKER: There is Amendment by Committee. I call upon the Deputy Chairperson.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker Clause 54...

“AMENDMENT:

- (1) A full judgement is to be delivered in open Court:
 - (a) for the Land and Titles First Court, by the Vice President presiding or a member of the panel appointed by the Vice President within three (3) months of the last date of the proceedings; and
 - (b) for the Land and Titles High Court, by the President or Deputy President presiding or a member of the panel appointed by the President within three (3) months of the last date of the proceedings; and
 - (c) for the Land and Titles Court of Appeal and Review, by the Chairperson or a member of the Court appointed by the Chairperson within three (3) months after the last date of hearing.
- (2) Where the timelines in subsection (1) are impractical due to unforeseen and exceptional circumstances, the Court may deliver its judgment in any other form within one (1) month from the last date of the timeline in subsection (1).

Amendment approved.

Clause 54 approved as amended.

CLAUSE 55: Response to application for appeal and review.

MR SPEAKER: There is Amendment by Committee on Clause 55. I call upon the Deputy Chairperson.

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Tofa NAMULAUULU SAMI LEOTA: Mr Speaker Clause 55...

“AMENDMENT:

- (1) The Court must in every decision on a petition, appeal or application for review, give reasons for such decision.
- (2) For leave to appeal decisions, the reasons may be stated briefly and in general terms only.
- (3) The Court must give reasons for a decision for an application for an interim order or in an application for an interim injunction.

Amendment approved.

Clause 55 amended as approved.

CLAUSE 56: Application.

MR SPEAKER: There is Amendment by Committee on Clause 56, I call upon the Deputy Chairperson.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker Clause 56...

“AMENDMENT:

- (1) Subject to Part IX of the Constitution and this Act, no decision or order of the Land and Titles Court of Appeal and Review, Land and Titles High Court or Land and Titles First Court shall be reviewed or questioned in any other Court by way of appeal, or prerogative writ or otherwise whatsoever.
- (2) A decision of the Land and Titles Court of Appeal and Review is final, pursuant to Article 104C(9) of the Constitution.

Amendment approved.

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Clause 56 amended as approved.

CLAUSE 57: Delivery of Judgments.

MR SPEAKER: There is Amendment by Committee, I call upon the Deputy Chairperson.

Tofa NAMULAUULU SAMI LEOTA: Clause 57:

“AMENDMENT:

- (1) The decisions of the Supreme Court and Court of Appeal are not binding on the Land and Titles First Court, Land and Titles High Court or Land and Titles Court of Appeal and Review.
- (2) All decisions of the Supreme Court and the Court of Appeal on matters the subject of the jurisdiction of the Land and Titles First Court issued and delivered prior to the commencement of the Constitution Amendment Act 2020 and this Act, shall not bind the Land and Titles First Court, the Land and Titles High Court and the Land and Titles Court of Appeal and Review.
- (3) All rights or interests created or vested by the decisions referred to in subsection (2)”.

Afioga Hon FIAME NAOMI MATAAFA (Lotofaga): Mr Speaker...

MR SPEAKER: I call upon the Sao Faapito...

Afioga Hon FIAME NAOMI MATAAFA: I rise with respect, this Clause 57, seems like it is new. It is not included in the Bill tabled before the House. I can see that the aim of this provision is to separate the two jurisdictions of Court. The Supreme Court and the District Court as well as the Land and Titles Court in its new structure.

In paragraph 2, I do not understand, as the Deputy Chairperson stated that the Land and Titles Court will not be bounded by any decisions made by the Supreme Court or the District Court. Especially decisions that have already been made but these Bills have not yet been passed.

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Mr Speaker if I am reading this correctly, this means decisions that have already been made will be changed again. And I do not think this is right. It seems we are moving forward but we should plan it well. But if we are going back, under this Clause, the benefits of those to whom decisions have already been made, this worries me. It seems it is going back retrospective, the new powers implemented in the Land and Titles Court. This is the situation that is not clear with the wording, as well as the outcome especially for the decisions that have already been made, thank you.

MR SPEAKER: Pardon the Chairperson I call upon Tofa Olo, the member of Salega.

Tofa OLO FITI AFOA VAAI: Thank you Mr Speaker for the opportunity. It is important, as I can see this part of the Bill it states that rights should be upheld and maintained in this part of the Act.

Mr Speaker if we look at 56, it is clear that no other court can review the order. My question for 57, what about the situation regarding matters that also affect civil cases such as lease of Samoan lands. Or will the consideration be limited here, because such claims should also be considered in the Supreme Court. Or will it be implemented here in our Land and Titles Court.

These are land issues that involve civil disputes or claims on the lease of Samoan lands with respect.

MR SPEAKER: I call upon the Deputy Chairperson.

Tofa NAMULAUULU SAMI LEOTA: Thank you Mr Speaker. The query conveyed by the Saofaapito and Tofa Olo are very important.

The whole intent of the Bill, is to specify the jurisdiction of our Land and Titles, since the Supreme Court and Civil jurisdiction is already precise. The aim of 57, is to ensure that other Courts do not overrule the decisions of Land and Titles. Since that is what it is now. The only time it can be crossed, is when a Judicial Review is carried out, which is implemented by the other court that is stated here.

The Land and Titles Court will be dealing with matters that are only related to Samoan lands and titles. It does not include other matters as mentioned by Olo of civil claims, it is implemented in the Supreme Court under their division. The only matter considered here are customary lands and matai titles, which is the objective.

All in all, everything is concluded in this last third floor, which is now allocated to this new area with respect.

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MR SPEAKER: Very well, you may speak using the last opportunity.

Afioga Hon FIAME NAOMI MATAAFA: Thank you Deputy Chairperson, the objective is clear in trying to separate the jurisdictions of the two courts, however the Deputy Chairperson has not answered the query conveyed, on decisions that have been finalized but this Bill has not yet been passed.

It seems, he is saying what I am reading is correct, that decisions made by the Supreme Court and District Court can be reversed, since there is now this new power. This is what I am reading towards the Bill, correct me Deputy Chairperson if I am wrong and misreading this part of the Bill.

Tofa LEALAILEPULE RIMONI AIAFI: Mr Speaker...

Afioga Hon FIAME NAOMI MATAAFA: Please Mr Speaker I am not done with my query. Even though the separation of jurisdictions are clear, but concerns have been voiced beforehand that there is still some potential for overlap. Well this is the answer that was given when it happens, an answer will be given at the time.

I have a different view about this arrangement, because this is what it means when you try and specify it, no matter the strengths of each division. An example Mr Speaker. Even now, there is this overlap, on how the leases of Samoan lands are being done for development.

The current legal view is that, once the lease is received, it is shifted, and the Court in charge of lease is the Supreme Court. Decision was also made upon it by the former Chief Justice Afioga Patu. However it keeps happening, and it is overlooked by the Land and Titles Court, the lands that have been leased. This is an example, on the overlap seen, however a question, where should it be allocated? On the matter related to lands that are leased. These lands are customary lands.

But please, I still want to understand the query I conveyed earlier, will it be withdrawn, will the decisions already made by the Supreme Court and District Court be overturned, because of the change in jurisdiction implemented in the Land and Titles Bill when it is passed.

MR SPEAKER: Very well, is there another matter you wish to speak upon Tofa Olo, please conclude.

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Tofa OLO FITI AFOA VAAI: No, pardon me, but I seem to be more confused with this matter. The main objective which we support in part, is the separation of the two jurisdictions. I am worried since it was mentioned by the Deputy Chairperson, if there are issues that involve Samoan lands, the matter will be referred back to the Supreme Court or wherever. But when there is a quarrel between the owners of the land, one that is leased, then the matter is brought back down to the Land and Titles Court.

This is our opinion on the matter, the structure of the Bill is not outlined properly on where it should, with respect.

MR SPEAKER: Very well, I call upon the Chairperson.

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Mr Speaker, I just want to assist on matters of lease. If it is customary land, and I want to lease my land, I will first publish a notice if any people will interfere with the lease that I want to carry out.

If there are no people, then I have the right to do whatever I want over the land, once there is no issue I will go to the Ministry of Natural Resources, this is where leases are applied. That is a different section.

For leases I have to go to the Survey Department, to apply a lease, there are also provisions. But our family has no more interference on the lease of this customary land. That is the difference. But if your lease is affected in the future, and there is a dispute with the person leasing the land, then I have the right to terminate that lease. This does not affect matters of the Land and Titles court.

If someone were to interfere with the lease of your land, the issue can be taken before the Land and Titles Court. If not, I will go to the Survey Department to validate my lease, thank you.

MR SPEAKER: Very well, I call upon the Deputy Chairperson to respond...

Afioga Hon GATOLOAIFAANA AMATAGA ALESANA-GIDLOW: Thank you I will not respond to the query made by the Sao Faapito, on the decisions made by the Supreme Court and District Court. It cannot be used under the Land and Titles Court. This is the reason why it is divided, a Judicial Review is also being brought into the Land and Titles Court, so that the two tiers will not intersect with the other.

As for the matter voiced by the Sao Faapito, no. The decisions made by the Supreme Court and District will not be used anymore in the Land and Titles Court with respect.

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MR SPEAKER: Very well thank you, your time is up Afioga Fiame.

Afioga Hon FIAME NAOMI MATAAFA: I really want an answer, on decisions that have already been made. If decisions have already been made, but it states, if I am reading this correctly, it can be changed again since it is the prerogative of the Land and Titles Court. This is the statement that I am trying to convey, I do not understand what is written here since it is something new, and the Committee should respond to it on whether my statement is not right...

Tofa LEALAILEPULE RIMONI AIAFI: I will try and assist with the matter.

MR SPEAKER: I call upon Tofa Lealailepule to assist with the matter.

Tofa LEALAILEPULE RIMONI AIAFI: I was also a bit confused with the reading of this Bill, but if we read Clause 59, which is now replaced as Clause 57, the explanation is very straight forward. The decisions and orders of this Court is not reviewable by other Courts. This is the part that had me confused but now I understand, it is the word binding. It is stated that it is not binding to other courts, and it will not be reviewed. This is not relevant with this part if we look at it, this is quoted from Clause 59.

It seems the Deputy Chairperson only pointed out, the only thing that needs to be clarified here is that no other court above can review a decision, if it has been reviewed by the Court of Appeal, in the Land and Titles Court. This is how this part of the Bill is read.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker a point of order. The part of the Bill addressed by the member is the old Clause 59. However we are discussing the new Clause 57, which is new altogether. It is not relatable, but I still put forward my question, because I read it, the drafting of the Bill, it seems decisions that have already been made may be reversed, because of this Bill that we will be passing.

MR SPEAKER: Perhaps it was clear in the Ministers speech this morning, the matter conveyed by the Sao Faapito has pass. But I am grateful to the member of Faleata for his assistance on this matter. I believe we should progress with our orders since there are no more opportunities.

Amendment approved.

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Clause 57 amended as approved.

CLAUSE 58: Reasons for judgement.

MR SPEAKER: There is Amendment by Committee on Clause 58. I call upon the Deputy Chairperson.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker:

“AMENDMENT:

58. Orders as to costs:–

- (1). In any proceedings the Court may make such order as it thinks just, as to the payment of the costs of the proceedings, or of any matter incidental or preliminary to the proceedings, by or to any person who is a party to the proceedings.
- (2). If the Court is of the opinion:
 - (a). that any proceeding is frivolous or vexatious; or (b) that any petition, application or objection in respect of the proceedings is frivolous or vexatious, it may, if it thinks fit, irrespective of the result of the proceedings, allow any party the whole or any part of his or her costs in defending or disputing the frivolous and vexatious proceedings.
- (3). In any proceeding and at any stage of the hearing, the Court may require any party to deposit any sum of money as security for costs, and in default of making the deposit the Court may stay the proceedings either wholly or in respect of the party in default.
- (4). The sum deposited is disposed of in such manner as the Court directs.

Amendment approved.

Clause 58 amended as approved.

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CLAUSE 59: Decisions and orders not reviewable by other Courts.

MR SPEAKER: There is Amendment by Committee on Clause 59. I call upon the Deputy Chairperson.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker:

“AMENDMENT:

59. Enforcement of decisions and orders of the Court – (1) A decision or order of the Court shall be enforced in and by the Supreme Court or, as the case may be, by the District Court.

(2) A sealed copy of the decision or order to be enforced under this section is to be filed in the Supreme Court, or the District Court.

Afioga Hon FIAME NAOMI MATAAFA: Mr Speaker...

MR SPEAKER: Since the members of Salega and Lotofaga are upstanding, I call upon the member.

Afioga Hon FIAME NAOMI MATAAFA: Please, I voice this to the Deputy Chairperson through the Chair, it is hard to understand this Clause because when I read it is saying, the decisions made by the Land and Titles Court will be enforced in the Supreme Court and District Court. If I am reading this correctly, then I want to question the arrangement on separating the two courts. If I am reading this correctly, it seems that the Land and Titles Court have more power to make decisions that are enforced by the Supreme Court and District Court. Am I reading this correctly Deputy Chairperson?

MR SPEAKER: I call upon... Pardon me Deputy Chair, I think it is best that we listen to the opinion of Tofa Olo.

Tofa OLO FITI AFOA VAAI: Mr Speaker, thank you for the opportunity. My question is related to the one asked by the Sao Faapito. The term that concerns me, is the word enforcement of decisions of the Land and Titles Court regardless of the position of the District Court. Please respectable Deputy Chairperson, can you give an example on the relationship between the Land and Titles Court and the District Court and why it does not relate anymore. With respect.

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Tofa NAMULAUULU SAMI LEOTA: Thank you Mr Speaker. Perhaps this part is nothing new. This is the current structure. When court cases are carried out by the Land and Titles Court who enforces it? It is enforced by the District and Supreme Courts. What is the reason? If you do not obey the orders of the court, you have overstepped the boundary of being criminal. This means there is defiance, which is the result of the term contempt of court, you are not following orders of the court. This is where the District Court comes in to enforce this part of the law with respect.

MR SPEAKER: I believe the matter has been clarified.

Amendment approved.

Clause 59 amended as approved.

CLAUSE 60: Orders as to costs.

Approved.

CLAUSE 61: Enforcement of decisions and orders of the Court.

MR SPEAKER: There is Amendment by Committee on Clause 61. I call upon the Deputy Chairperson.

Tofa NAMULAUULU SAMI LEOTA: Thank you Mr Speaker. Clause 61:

“AMENDMENT:

Clause 61.

61. Non-Prosecution of matter:

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- (1). If a Petitioner does not pursue with due diligence his petition filed in the Land and Titles First Court any other party may apply to the President to dismiss the petition.
- (2). If the Petitioner does not appear at the time appointed for hearing of his or her petition, the Land and Titles First Court may dismiss the petition.
- (3). In respect in subsection (1) the President or the Court may order the Petitioner to pay cost to any party.
- (4). If an Appellant does not prosecute his or her appeal with due diligence filed in the Land and Titles High Court or Land and Titles Court of Appeal and Review, any other party may apply to the President or Chairperson to dismiss the appeal.
- (5). If the Appellant does not appear at the time appointed for hearing his appeal, the Court may dismiss the appeal.
- (6). In respect of subsection (4), the President or the Chairperson or the Court may order the Appellant to pay cost to any party.”

Amendment approved.

Clause 61 approved as amended.

CLAUSE 62: Offence proceedings.

Approved.

CLAUSE 63: Rules for the procedures of the Courts.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker:

“AMENDMENT:

63. Regulations.

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Renumber Clause 63 to become Clause 62 and amend subclause (1) at the beginning of the subclause:

(a). Insert the phrase “Except for the rules in section 51,” at the beginning of the subclause (1).”

Amendment approved.

Clause 63 amended as approved.

CLAUSE 64: Service of application on other parties.

Approved.

CLAUSE 65: Engaging a lawyer.

MR SPEAKER: I call upon the Chairperson.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker:

“AMENDMENT:

Clause 65 is renumbered to Clause 64 and the subclause (1) and (2) are substitute as follows:

“A lawyer may be engaged to represent any party to a judicial review proceeding before the Land and Titles Court of Appeal and Review.”

Amendment approved.

Clause 65 amended as approved.

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CLAUSE 66: Appeals from the Village Fono.

MR SPEAKER: There is Amendment by Committee.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker...

“AMENDMENT:

Clause 66 is renumbered with Clause 65 and insert after “process of appeals” the words “which shall be instituted by filing a petition”.

With respect.

Amendment approved.

Clause 66 approved as amended.

CLAUSE 67: Repeal.

MR SPEAKER: I call upon the Chairperson, there is an Amendment.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker:

“AMENDMENT:

Renumber Clause 68 with Clause 67 and substitute subclause (3) and (4) as follows:

“(3) All records, instruments, nominations, appointments, warrants, decisions, orders and generally all documents and acts of authority originating under the repealed Act, and which are subsisting at the commencement of this Act, shall ensure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act and accordingly shall, where necessary, be deemed to have so originated.

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(4) The repeal of the Land and Titles Act 1981 does not affect any claim, title, right or interest created or vested under that Act, nor any instrument or document in support, and every such claim, title, right, interest, instrument or document shall continue in force and have effect as if this Act had not been passed or as if made or done under the corresponding provisions of this Act.”

Amendment approved.

Clause 67 amended as approved.

CLAUSE 68: Savings and transitional provisions.

MR SPEAKER: I call upon the Deputy Chairperson.

Tofa NAMULAUULU SAMI LEOTA: Mr Speaker:

“AMENDMENT:

- (a) Renumber Clause 69 with Clause 67, and new paragraph (d) is inserted after paragraph (c):
“(d) in section - (i) 2 by omitting the definition of “registrar”; and
- (e) (ii) 3 by substituting “Registrar” with “Chief Executive Officer”.
- (c) Substitute “Land and Titles Court” with “Land and Titles First Court”.

Amendment approved.

Clause 69 approved as amended.

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**Immigration Bill 2020
– consideration in detail**

CLAUSE 1 AND TITLE

CLAUSE 1: Short title and commencement.

TITLE: Land and Titles Act 2020.

Approved.

The Land and Titles Act 2020 progressed with Amendments.

**IMMIGRATION BILL 2020
– consideration in detail**

MR SPEAKER: Pursuant to Standing Orders the Legislative Assembly must approve the Report of Committee on the Bill before it is considered in detail.

I call upon the Chairperson of Committee.

Tofa NAFOITOA TALAIMANU KETI (Chairperson, Standing Orders, Electoral, Petitions and Constitutional Offices Committee): Let us change the notes on our piano this evening. I commend Mr Speaker for his administration of our session.

Mr Speaker I stand with respect to move a motion, *That the Assembly approve the Report of Committee that recommends, the progress of the Immigration Bill 2020 together with corrections.*

Seconded by the member of Lefaga and Faleaseela and the member of Falealili West.

Motion approved.

MR SPEAKER: The Assembly has now approved the Committees Report and will proceed with consideration in detail of the Bill.

Pursuant to Standing Orders, consideration in detail starts with Clause 2.

CLAUSE 2: Interpretation.

Approved.

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**Immigration Bill 2020
– consideration in detail**

CLAUSE 3: Application of this Act.

Approved.

CLAUSE 4: Rights of citizens protected.

Approved.

CLAUSE 5: Duty to cooperate.

Approved.

CLAUSE 6: Service of notice.

Approved.

CLAUSE 7: Entry into Samoa.

Approved.

CLAUSE 8: Application for visa.

Approved.

CLAUSE 9: Entitlement to visa is not automatic.

Approved.

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**Immigration Bill 2020
– consideration in detail**

CLAUSE 10: Form of visa.

Approved.

CLAUSE 11: Chief Executive Officer grants visa.

Approved.

CLAUSE 12: Emergency Conditions.

Approved.

CLAUSE 13: Expiry of visa.

Approved.

CLAUSE 14: Void Visa or exemption.

Approved.

CLAUSE 15: Person to submit declaration.

MR SPEAKER: There is Amendment by Committee on Clause 15. I call upon the Chairperson of Committee.

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Tofa NAFOITOA TALAIMANU KETI: Mr Speaker:

“AMENDMENT:

In subsection (3) omit the number “5” and substitute the number “50” and (3) read as follows:

(3) “not exceeding 50 penalty units.”

Amendment approved.

Clause 15 amended as approved.

CLAUSE 16: Chief Executive Officer may request for further information.

Approved.

CLAUSE 17: Requirement for medical examination.

Approved.

CLAUSE 18: Entry and exit through regulated port.

Approved.

CLAUSE 19: Clearance zone.

Approved.

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CLAUSE 20: Orders prohibiting departure from Samoa.

Approved.

CLAUSE 21: Court departure prohibition order.

Approved.

CLAUSE 22: Attorney General departure prohibition order.

MR SPEAKER: There is a Correction to the Samoan version in Clause 22. I call upon the Chairperson of Committee.

Tofa NAFOITOA TALAIMANU KETI: Mr Speaker:

“CORRECTION:

Clause 22

To omit the sentence “e manuia ai” and substitute with “o le soo lelei o;”

Correction approved.

Clause 22 corrected as approved.

CLAUSE 23: Prohibited immigrant.

Approved.

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**Immigration Bill 2020
– consideration in detail**

CLAUSE 24: Prohibited immigrant register.

Approved.

CLAUSE 25: Obtaining visa prior to arrival in Samoa.

Approved.

CLAUSE 26: Denial of visa and exemption.

Approved.

CLAUSE 27: Required Criteria.

MR SPEAKER: There is Correction by Committee on Clause 27. I call upon the Chairperson.

Tofa NAFOITOA TALAIMANU KETI: Mr Speaker I move a correction on Clause 27 as follows:

“CORRECTION:

Clause 27(1) (a)

- (i) Substitute “le manuia” with “le solo lelei” and
- (ii) substitute “e manuia ai” with “o le solo lelei o”;

Correction approved.

Clause 27 approved as corrected.

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– consideration in detail**

CLAUSE 28: Sponsorship.

Approved.

CLAUSE 29: Employment visa.

MR SPEAKER: I call upon the member of Faleata.

Tofa LEALAILEPULE RIMONI AIAFI: I want to ask the Chairperson about the matter regarding employment visa. From the point of view of Committee, what type of work, as we have noticed there are different types of work our people are able to carry out, which is now being given to other people from abroad. What is the view of the Chairperson and Committee on this matter. With respect.

MR SPEAKER: I call upon the Chairperson.

Tofa NAFOITOA TALAIMANU KETI: I want to thank the member for the question, because this is one matter considered by Committee. Because of the many impacts but also public grievance against some people who are not citizens of our country. We have looked into it and found; they were given visas. It was first noted as permit, now it has been amended in this Bill as visa. This is the same with New Zealand and Australia to make it equal, for those travelling from country to the other.

It is therefore the recommendation of the Committee that the Ministry of Commerce, Industry and Labour to work closely with the Immigration office, under the Ministry of the Prime Minister. To take a closer at these situations and not to issue work visas to foreigners, who are not citizens. The type of work that can be performed by our people.

This is an area that the Ministry is looking into, which is why it was mentioned in the research conducted by the Committee, for the two Ministries to overlook. Because there was conflict, since there were provisions implemented by our country to bring in some people to do this work. Those brought in from overseas do some of the work that our people cannot, they are allowed. Unfortunately, it has been noted, there is a different permit that they come on, but they do other work that can be performed by our people. Therefore, it is provided and mandated that such cases do not recur. With respect.

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Clause 29 approved.

CLAUSE 30: Requirement to undergo clearance zone process.

Approved.

CLAUSE 31: Duty to depart Samoa.

Approved.

CLAUSE 32: Non-departure.

Approved.

CLAUSE 33: Duties of operator or carrier.

Approved.

CLAUSE 34: Immigration clearance.

Approved.

CLAUSE 35: Emergency situation.

Approved.

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CLAUSE 36: Responsibilities to remove passenger who have been denied entry into Samoa.

Approved.

CLAUSE 37: Seizure of Craft.

Approved.

CLAUSE 38: Requirements for departure.

Approved.

CLAUSE 39: Responsibilities of operators and owners of regulated ports.

Approved.

CLAUSE 40: Chief Executive Officer may cancel visa.

Approved.

CLAUSE 41: Removal order.

Approved.

CLAUSE 42: Deportation order.

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– consideration in detail**

Approved.

CLAUSE 43: Execution of a deportation order.

Approved.

CLAUSE 44: Deportation order not affected.

Approved.

CLAUSE 45: Treatment of person under 18.

Approved.

**CLAUSE 46: Designation of confinement premises for removal or
deportation.**

Approved.

Tofa LEALAILEPULE RIMONI AIAFI: I have noted that no one else is asking a question, for assistance on your work, why not read it out in fives. With respect.

MR SPEAKER: Thank you for your assistance.

CLAUSE 47: Transport of removed or deported person.

Approved.

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CLAUSE 48: Exclusion period.

Approved.

CLAUSE 49: Limitation of rights.

Approved.

CLAUSE 50: Court does not have jurisdiction.

Approved.

CLAUSE 51: Appeal regarding permanent residence visa.

Approved.

CLAUSE 52: Appeal against removal or deportation.

Approved.

MR SPEAKER: The assistance that was given now is great. I will try to read it out five at a time, however I am just worried that the Saofaapito will suggest we read it out one by one. The decisions made for today is not easy.

CLAUSE 53: Withdrawal of an appeal.

Approved.

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CLAUSE 54: Administrative review.

Approved.

CLAUSE 55: Duties of employers and education providers.

Approved.

CLAUSE 56: Confidentiality of information.

MR SPEAKER: I can see that Clause 56, has a Correction by Committee. I call upon the Chairperson.

Tofa NAFOITOA TALAIMANU KETI: Mr Speaker, I commend you for your patience and perseverance. This is how Sittings are at time, I am also grateful for the assistance.

Mr Speaker, I move a correction on Clause 56 as follows, these are matters of interpretation and translation from English into Samoan.

“CORRECTION:

Clause 56(2), Substitute “e manuia ai” with “o le solo lelei o mea uma”

Correction approved.

Clause 56 approved as corrected.

CLAUSE 57: Establishment, maintenance and protection of information.

MR SPEAKER: There is amendment by Committee on Clause 57.

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Tofa NAFOITOA TALAIMANU KETI: Mr Speaker I move an Amendment on Clause 57 as follows:

“AMENDMENT:

In subclause (2) substitute “except with” with “without lawful.”

Amendment approved.

Clause 57 approved as amended.

CLAUSE 58: Sharing of Information.

Approved.

CLAUSE 59: Power of Minister to delegate.

Approved.

CLAUSE 60: Powers of officers.

Approved.

CLAUSE 61: Evidence by certificate.

Approved.

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**Immigration Bill 2020
– consideration in detail**

CLAUSE 62: Power to collect biometric data.

Approved.

**CLAUSE 63: Duties and responsibilities of the Chief Executive Officer
under this Act.**

Approved.

CLAUSE 64: Delegation of powers of the Chief Executive Officer.

Approved.

CLAUSE 65: Assistance from Police.

Approved.

CLAUSE 66: Offences and penalties.

MR SPEAKER: There is Amendment by Committee. I call upon the Chairperson of Committee.

Tofa NAFOITOA TALAIMANU KETI: Mr Speaker, I move an Amendment on clause 66 as follows:

“AMENDMENT:

After subclause (5), insert new subclause (6) to read:

“(6) a person who breaches subsections (1), (2), (3), (4) and (5) is liable upon conviction to a fine not exceeding 200 penalty units or 12 months imprisonment or both.”

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Amendment approved.

Clause 66 amended as approved.

CLAUSE 67: Power to summarily deal with an offence.

Approved.

CLAUSE 68: Exempt from liability.

Approved.

CLAUSE 69: Regulations.

Approved.

CLAUSE 70: Repeal.

Approved.

CLAUSE 71: Transitional provisions.

Approved.

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Motion to Suspend Standing Orders 108(4)

CLAUSE 72: Consequential amendments.

Approved.

CLAUSE 1 AND TITLE:

CLAUSE 1: Short title and commencement.

TITLE: Immigration Act 2020.

Approved.

The Immigration Act 2020 progressed with Amendments and Corrections.

MOTION TO SUSPEND STANDING ORDERS 108(4)

MR SPEAKER: I call upon the Hon Prime Minister.

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker and the dignity of the House, I stand to move a motion, *That Standing Orders 108(4) be suspended, to allow for the third reading of the 4 Bills which have been considered in detail, this Sitting day.*

Seconded by the Minister of Women, Community and Social Development and the Minister of Commerce, Industry and Labour.

Motion approved.

CONSTITUTION AMENDMENT BILL 2020
– third reading

MR SPEAKER: I call upon the Hon Prime Minister.

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Constitution Amendment Bill 2020
– third reading

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker, I move a motion with respect, *That the Constitution Amendment Bill 2020 be read a third time.*

Seconded by Ministers of Cabinet.

MR SPEAKER: Provisions of the Constitution have been met, in accordance with the time allocated for consideration in the second reading and third reading, the Constitution Amendment Bill 2020, has one last requirement. It should be satisfied; the third reading should be supported by two thirds of the votes of members of Parliament.

A question will be put forward for the third reading through Divisional voting. I order the Clerk of the Legislative Assembly, to ring the alarm to conduct our division voting.

The Constitution Amendment Bill 2020 will now be read a third time.

Question: Those in favour to support please stand. Members may take their seats after the Clerk has called the names of each member.

1. Susuga Hon Tuilaepa Auelua Fatialofa Lupesoliai Lolofietele Neioti Aiono Galumalemana Dr. Sailele Malielegaoi.
2. Afioga Hon Tuitama Talalelei Tuitama.
3. Afioga Hon Lautafi Fio Selafi Purcell
4. Afioga Hon Sala Fata Pinati
5. Susuga Hon Papaliitele Niko Lee Hang
6. Afioga Hon Lopao Natanielu Mua
7. Afioga Hon Faimalotoa Kika Iemaima Stowers.
8. Afioga Hon Tialavea Fea Leniu Hunt
9. Afioga Hon Sili Epa Tuioti.
10. Afioga Hon Loau Sola Keneti Sio
11. Afioga Hon Faaolesa Katopau T. Ainuu.
12. Afioga Hon Afamasaga Lepuiai Rico Tupai.
13. Afioga Faaulusau Rosa Duffy Stowers
14. Afioga Afoa Amituanai Faleulu
15. Afioga Tapulesatele Mauteni Tamasoni
16. Afioga Nonu Lose Niumata.
17. Afioga Hon Gatoloaifaana Amataga Alesana-Gidlow
18. Afioga Tafua Maluelue Tafua
19. Afioga Hon Lauofo Nuafesili Pierre Lauofo

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20. Afioga Hon Faumuina Faaolatane Tiatia Liuga.
21. Afioga Peseta Vaifou.
22. Afioga Taefu Lemi Taefu.
23. Afioga Tuifaasisina Misa
24. Afioga Salausa John Ah Ching
25. Afioga Amituanai Kenrich Samu
26. Afioga Seiuli Ueligitone Seiuli
27. Afioga Hon Faasootauloa Pati Taulapapa.
28. Afioga Lenatai Victor Tamapua
29. Afioga Mulipola Leiataua Laki
30. Afioga Alaiasa Muagututia Moefaaououo
31. Afioga Sooalo Umi Feo Mene
32. Tofa Lealailepule Rimoni Aiafi.
33. Afioga Namulauulu Sami Leota.
34. Afioga Ili Setefano Taateo
35. Afioga Faalogo Iosefa Sopi.,
36. Afioga Sulamanaia Fetaiai Taulilili
37. Afioga Fuimaono Teo Samuelu.
38. Afioga Leaana Ronnie Posini
39. Afioga Aumua Isaia Lameko
40. Afioga Toleafoa Ken Vaafusuaga Poutoa
41. Afioga Nafaitoa Talaimanu Ketu.

Those who oppose, please stand.

1. Afioga Hon Fiaame Naomi Mataafa
2. Afioga Olo Fiti Afoa Vaai
3. Susuga Hon Laauli Polataivao Leuatea
4. Afioga Faumuina Asi Pauli Wayne Fong.

MR SPEAKER: This is the conclusion of our voting. Those in favour on the third reading of this Bill, are 41. Those who oppose the Bill are 4.

Members of the House showed their appreciation by applauding the passing of the Constitution Amendment Bill 2020.

Motion approved and the Bill was read a third time and had passed the Legislative Assembly.

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Judicature Bill 2020
– third reading

Susuga Hon Laauli Polataivao Leuatea: Mr Speaker, an opportunity please, to move a point of order.

MR SPEAKER: Pardon the member, I will not allow any interruptions since we are nearing the end of our work.

Susuga Hon Laauli Polataivao Leuatea: It is a very small matter stated above please.

MR SPEAKER: I announce, that the Constitution Amendment Bill has progressed and have been passed by Parliament.

JUDICATURE BILL 2020
– third reading

MR SPEAKER: I call upon the Hon Minister of Justice, Courts and Administration.

Afioga Hon FAAOLESA KATOPAU T. AINUU: I move a motion, *That the Judicature Bill 2020 be read a third time.*

Seconded by the Minister of Education, Sports and Culture, Minister of Finance and the Minister of Revenue.

Motion approved and the Bill was read a third time and passed by the Legislative Assembly.

LAND AND TITLES BILL 2020
– third reading

MR SPEAKER: I call upon the Hon Minister of Justice, Courts and Administration.

Afioga Hon FAAOLESA KATOPAU T. AINUU: Mr Speaker I move a motion, *that the Land and Titles Bill 2020 be read a third time.*

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Immigration Bill 2020
– third reading

Seconded by the Minister of Education, Sports and Culture, Minister of Finance, Minister of Revenue and the Minister of Communications and Information Technology.

Motion approved and the Bill was read a third time and passed by the Legislative Assembly.

IMMIGRATION BILL 2020
– third reading

MR SPEAKER: I call upon the Hon Prime Minister, Leader of the House.

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker I move a motion, *that the Immigration Bill 2020 be read a third time.*

Seconded by the Minister of Women, Community and Social Development and the Minister of Commerce, Industry and Labour.

Motion approved and the Bill was read a third time and passed by the Legislative Assembly.

MR SPEAKER: Thank you, I commend everyone for their patience and hard work. No work can be finished if we are not patient to perform our duties and calling. We have now come to end of our work, which was allocated for this Sitting day.

Therefore I want to convey appreciation and congratulations. A word from us, I apologise to the respects of Parliament, for the actions of the Chair that may have overstepped the boundary, especially to members listening, we are nearly at the end of the year, to welcome the birth of Christ, who was sacrificed for our sins, and I pray that we have the spirit of forgiveness. May the Lord show mercy and forgive the Chair in accordance with the proceedings of our work. But I respectfully call upon the Hon Prime Minister for his address to conclude our Sitting.

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**SPEECH BY THE HON PRIME MINISTER AND MOTION FOR
ADJOURNMENT**

Susuga Hon TUILAEP AUELUA FATIALOFA LUPESOLIAI LOLOFIETELE NEIOTI AIONO GALUMALEMANA Dr. SAILELE MALIELEGAOI: Mr Speaker I rise with great pride at this time of the day for the successful conclusion of our Proceedings especially Bills that have been considered. Special thanks to Mr Speaker you alone have administered our sitting thus there are many of us. I also commend all members of the House who spoke and showed support on the progress of our orders, it has been a long day, I know the majority have worked tirelessly in trying to finish our work before the day of the birth of our Lord. The matters that we have discussed are not simple. I commend the support of all Samoa, especially Le Ao o le Malo and the Member of Council of Deputies, the Judiciary, and the respects of *Aiga ma latou Tama, ae tainane le usoga a Tumua ma Pule, Ituai ma Alataua, Aiga i le Tai ma le Vaa o Fonoti*. I also acknowledge the support of the Holy Servants of God and their prayers.

The importance of this Sitting is, we have long been debating these Bills. I also want to thank the people of our country who showed support on the Bills, especially in welcoming Madam Chairperson, the Deputy Chairperson and their Committee. This is a unique Bill. As I have spoken upon it several times, this matter has been considered twice. Not only has it enquired the view of Samoa on which the Report is based, by which the Bill was established, but this Bill has been prepared to go out into communities to gather the views of Samoa. I have noted that there are different opinions, there is a difference of bringing forth opinions and some that have changed their opinions, there is not many, especially the matter of the right matai. If opinions were raised, then it is necessary. I observed the majority of Samoa, not only within Samoa, but Samoa aboard, including individuals and Church Ministries. I commend the few of the Holy Servants of God who have not fully supported the Bill, but I also know that many have supported the Bill, especially the result of this Bill, on signifying the importance of the authority of Alii and Faipule within villages, in supporting the programmes of our Government, as well as reassurance of our villages in the many changes that have taken place in our country as a result of lifestyles from overseas, the life that we still observe, not only of those who visit Samoa, but also of the images that we see, has changed the beliefs as well as the speed of telecommunications today.

I also thank those who challenged the Bill that was implemented in the House. I have not mentioned this once or twice, as the Minister said this morning this is nothing new, and it is important to go back, as we review our Constitution, the Constitutional Convention. This is the matter we have been discussing, it was considered on the 4th and 5th of October 1960 that is what we decided to address.

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Speech by the Hon. Prime Minister and Motion for Adjournment

Also to look at the protection of our lands, the matai titles, it was short, the wording was not long in the spirit that in future, there will be other Acts that will extend provisions contained in the Constitution, 100 and 102, the 102 sections of the Act. As for 103 that the Minister spoke about, once we touched on it debate was heated. Why? Because our customs and traditions are significant, and it may clash with the rights to which the Constitution is headed, it may clash. The Minister also stated, then there were our forefathers, 160 elders met from each constituency together with Tama Aiga, 160 of them contributed to the drafting of our Constitution. I say this because there are some who think that only a few of them contributed to the Constitution. No, all of our forefathers from each constituency were present. In my constituency, four of our prominent elders were present, but opinions have been limited. Why? Our requests may be compromised with the protection of individual rights that may interfere with customs and traditions. What happened? They tried their best, that there will come a time in future where a Parliament will implement a law, to give that body the power to implement all these provisions. What is this body? The Land and Titles Court. I have now been passed. And I believe, today, is a day that will be noted in the history of the Parliament of Samoa. Why? Because it has been long awaited, it has been 60 years since our forefathers' wishes were implemented, to do this for the protection of our communities through the dignified authority of Alii and Faipule, our lands and matai titles, which is now been established today.

And I would like to express my gratitude and congratulations on the implementation of the plans laid out, but it is unlikely that it would have come to fruition, but our first meeting that took place at the beginning of this Parliamentary term, when we met, it was made clear again that there are 2 things that do not lie in justice. What are these? Our Constitution is Samoa is founded on God. And second, our traditions. What did we do? We amended the Constitution to insert the words, E Faavae i le Atua Samoa, which was on the cover, not in the heart of the Constitution.

This means for the many years we served; we have been saying that the Government of Samoa is a Government founded on God but God sees these words as incorrect. We did not put it in here. Why? Because of the opinion that it is likely to jeopardize our passage to our independence, so it was all laid out like that on the cover, and we made the decision, that by the end of this Parliamentary term these 2 major things will be in the heart of the Constitution. What are the 2? It has been passed, all of us passed it, no one in Parliament objected to it, to put in the heart of the Constitution the words, *Faavae i le Atua Samoa*. We passed that part 2 years ago, and then we have this one, which we have passed today.

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Speech by the Hon. Prime Minister and Motion for Adjournment

Our Parliamentary term is almost over, and we almost missed the bus, but now we have accomplished it. Why? Because these amendments are important to us, and to the future of Samoa. There is democracy, the democracy of Samoa, the democracy of Samoa itself that we value. First, our belief in God is the foundation of Samoa. And second, honoring our traditions and our customs, which have all been put in place through the Land and Titles Court, with other small things to be amended.

This is the same with Acts, we start slowly, and there are some things that may be amended. Why? Because we are dealing with the future, we are moving into the future. None of us knows that, therefore we put our trust in God to give the lamb for sacrifice, to bring ideas into this Parliament and to amend our Acts. As I stated today, there are some who have ideas, that when we do something do it wholeheartedly. That is very difficult. Why? We are human beings; we are people not angels. Therefore moving forward into the future, we may also have other amendments to make our work more complete and better.

I applaud us for the great work that has been accomplished before us. Well, now we are on our way to celebrating the baby of Christmas, but I also think, it will be a merry Christmas for all of us. The great burden that we have faced is now past.

I speak specifically to those of us who are against the Government. Your work is important, do not think that there will be conflict, because your advice inspires us to have more good thoughts. And the most important thing, is we are all brothers in Christ.

Mr Speaker, that is our speech, may God bless this Parliament, let us reconvene with the resumption of work and then complete the rest of our work before we go into our elections. Merry Christmas and Happy New Year.

I move a motion Mr Speaker, *That the Proceedings of the Legislative Assembly be adjourned until the 19th of January 2021 at 9:00 am. Soifua and God Bless.*

MR SPEAKER: Well, I believe the dignity of Parliament have heard. The respects of Cabinet, also the Associate Ministers, the Chairpersons of Parliamentary Committees, and all respectable members of Parliament, you are the chosen few who were elected by the country to be present here and contribute to the decision making of our Government. I believe all of Samoa have also heard, with the support of the Le Ao o le Malo also the Member of Council of Deputies, the respects of *Tama ma Aiga, Aiga ma Tama, le usoga a Tumua ma Pule, Ituau ma Alataua, and Vaa o Fonoti.*

15 DECEMBER 2020

Speech by the Hon. Prime Minister and Motion for Adjournment

Also the Heads of Church denominations in the country, to the Lords chosen servants who are praying day and night, so that Samoa will prosper not only in its developments but also in our people so that they will have the skills and knowledge to develop our country, also to safeguard our country from diseases as we are perplexed by the forces that are thus facing us in climate change and our environment. I acknowledge the support of Chief Executive Officers of Government Ministries and Organizations, for your helping hand in serving our government, in developing Samoa through your efforts and intelligence.

I thank and congratulate you and we are satisfied, with what we have heard, and have seen with our eyes today, a lot of matters have been clarified, a lot of things have been thrown about carelessly on the basis of statements made in Parliament to make our work clear, you have spoken, and we are grateful. The words said unto God, you have done well, and we commend you for your efforts the Hon Leader of Government also I thank all of Parliament for the hard work.

Well, a motion has been moved, we will now adjourn until Tuesday, 19th January 2021, it will also be the day where we will consider the First Supplementary Budget 2020/2021. Come a time when the respects of Parliament will go our separate ways, especially Samoa who are gathered here in the House, thank you. There is no further statement that can emphasize your significance, because Samoa is a country already chosen, and it is not a hostile country.

Before we adjourn, I call upon the respectable member of Anoamaa East to conclude our Sitting with a prayer, he is a preacher of the Assembly of God.

Proceedings of the Legislative Assembly were adjourned at 6:25pm until 9:00 am on Tuesday, 19 January 2021.