



LEGISLATURE OF AMERICAN SAMOA HOUSE OF REPRESENTATIVES

Hon. Savali Talavou Ale
Speaker

SU'A ALEXANDER ELI JENNINGS
Swains Island Delegate

Committee Chairman: Homeland Security
Public Safety
Committee Vice Chair: Port Administration
Committee Member: Public Works/ Health

October 17, 2014

To: The Hon. Esther Kia'aina
Assistant Secretary of Insular Affairs
U.S. Department of Interior
1849 C Street, NW
Washington DC 20240
esther_kiaaina@ios.doi.gov

Ref: The Matter of the Swains Island Representation
In the American Samoa Legislature

Malo ni and Aloha Madam Secretary,

Please allow me, from American Samoa, where you'll be visiting soon to introduce myself. I am Su'a Alexander Eli Jennings and I am the delegate to the American Samoa Legislature from the northernmost part of the territory, which was made part of the territory in 1925 (two decades after the territory was created by the U.S. Congress). I represent Swains Island, also the birth place of the Hon. Papaliitele Jack "Tihati" Thompson (Counsel General of Samoa in Hawaii), whom you may also know along with wife Cha as owners of Tihati Productions, headquartered in Honolulu. If at all possible, despite your super-busy schedule while you are here in American Samoa, I would appreciate very much, please, an appointment with you to discuss with you the following situation involving Swains Island:

On March 13, 2014 I sponsored House Joint Resolution, HJR 33-2 to amend the Revised Constitution of American Samoa to grant the Swains Island Delegate the right to vote in the House of Representatives (please see HJR 33-2 attached). The Resolution was referred to the House Ways & Means Committee, and a Hearing conducted around March 16, 2014.

P.O. Box 485, Pago Pago, American Samoa, 96799
Tel: (684) 633- 5758 / Cell: (684) 252-7981
e-mail: rep.alexanderjennings@gmail.com

In that Hearing the Attorney General, the Legislative Council, and the Secretary of Samoan Affairs all testified in support of the Resolution, despite objections by some lawmakers. After the matter was left in Committee for six months, with no new evidence or further discussions, I submitted a written request to the Chairman, Hon. I'aulualo Faafetai Talia, to bring HJR 33-2 up for a vote (please see letter to Chairman I'aulualo attached.) On October 3, 2014, HJR 33-2 was brought up for a vote of the House where it was defeated by a vote of 6 to 5, 4-abstained, and 5-absent.

Unfortunately, the decision of the House of Representatives to defeat HJR 33-2 seals the fate of Swains Island to be permanently disenfranchised in this Territory. Furthermore, it concludes over 8 years of attempts to address ambiguities in our political relations through the local government and traditional leaders, and over 89 years of being treated as second class citizens of American Samoa, and not as a Territory of the United States.

BACKGROUND:

American Samoa Constitution Convention June 2010

Preparations for the 2010 Constitution Convention began in **2006** when then Governor Togiola Tulafono created the **Future Political Status Study Commission FPSSC** (ASCA Title 2: Chpt. 14). Part of their mandate stated in paragraph (d): "To study and evaluate the impact of American Samoa's political status and relationship with the United States as to the economic, cultural, land tenure, health, safety and social needs of American Samoa and **the need for a comprehensive study to include Swains Island.**" Unfortunately, the Commission did not include a representative from Swains Island. However, based on their mandate, the Commission issued the following recommendations on Swains Island:

- The Commission recommends that to avail themselves of the public services to which they are entitled, the US Nationals of Swains Island consider relocating to the main islands of American Samoa.
- The Commission recommends that the constitutional process for the election of the Swains Island delegate (to the House of Representatives) be made more practical.

(http://faleomavaega.house.gov/sites/faleomavaega.house.gov/files/pdfs/fpssc_report.pdf)

The **Constitution Review Committee** was subsequently created in 2009, to consider the recommendations of the Commission and submit proposed amendments to the Constitution Convention scheduled for June 2010. Again, no representative of Swains Island was invited to be part of the Constitution Review Committee. However, in their recommendation, the Review Committee proposed only that the Swains Island Delegate be selected by popular vote of all Swains Island residents on Swains and in American Samoa and given the right to vote. The other recommendation by the FPSSC, to relocate residents to Tutuila, was not approved by the Review Committee.

Approximately two weeks before the **Constitution Convention**, all the preparations were in place except no Delegate from Swains Island was invited to participate. I spoke with the Review Committee and was advised that due to the number of people on Swains Island it was determined that Swains Island will not have a Delegate. I referred them to the Constitution which specifies that Swains Island will have a Delegate in a Constitution Convention. I later received a call to conduct a selection for the Swains Island Delegate, and I was selected as the Swains Delegate.

During the Convention, I argued in the Legislative Committee that the selection of the Swains Island Delegate to the House of Representatives was consistent with the right to the protection of lands, customs, culture, and traditional family organization of American Samoan Ancestry, as provided in the Constitution (similar to the selection of Senators). My position was upheld, and the Committee agreed to remove the proposal and leave the Swains Island selection as it stands.

Meanwhile, in the Preamble Committee, Congressman Faleomavaega proposed that the Preamble include three paragraphs to recognize the three islands that were united to form the Territory of American Samoa. The first paragraph to include the Deed of Cessions with the traditional leaders of Tutuila, the second paragraph to include the Deed of Cessions with King Elesara and the traditional leaders of Manu'a, and the third paragraph the act of Congress making Swains Island part of American Samoa. Both recommendations from the Legislative Committee and Preamble Committee were approved in the Convention. Unfortunately, all proposed Amendments were defeated in the General election by an overwhelming 70% of the vote, because of the decision of the Election Officer to select one vote "Yes" or "No" for all proposed amendments on the ballots.

Letter to Congressman Faleomavaega E. Hunkin January 14, 2011

In my letter to Congressman Faleomavaega dated January 14, 2011, I tried desperately in my limited capacity, to provide a comprehensive review of the political status of Swains Island and its impact on economic, cultural, land tenure, health, safety, and social needs of Swains Island (please see letter to Congressman Faleomavaega attached). On July 6, 2011, Congressman Faleomavaega solicited the assistance of the Department of Interior (please see Congressman Faleomavaega letter to then Secretary Ken Salazar attached). Assistant Secretary of Insular Affairs then, Anthony Babauta, responded to our Congressman, indicating that Swains Island constitutes an area in American Samoa equal to Tutuila, Aunuu, and Manu'a, when considered throughout the DOI and other federal offices (please see Secretary Babauta response attached).

House Joint Resolution (HJR) 33-2 March 2014

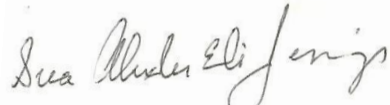
HJR 33-2 was introduced in the House of Representatives in March 2014, requesting an Amendment to the Revised Constitution of American Samoa to grant the Swains Island Delegate the right to vote in the House of Representatives. On the Second Reading of the House, approval of the measure failed by a vote of 5-ayes, 6-nays, 4-abstained, with 5-absent.

REQUEST:

Madam Secretary, I believe that the non-voting status of the Swains Island delegate to the American Samoa Legislature is an oversight and bears correction through Interior Department action. One, because our Constitution sanctions laws that protect the lands, customs, culture and traditional family organization of Swains Island, and two, it also prohibits the enforcement of laws that abridge against the privileges and immunities of the citizens of American Samoa. Consequently, I support the position of the Attorney General, the Legislative Counsel, and the Secretary of Samoan Affairs, in that granting the Swains Island Delegate the right to vote is a basic step in correcting this oversight.

I further believe that I have exhausted every reasonable action over the last eight years to rectify this oversight at the lowest level through the local government and traditional leaders. Therefore, I humbly request your assistance on this matter and request a meeting with you during your upcoming visit to American Samoa.

Respectfully yours,



Su'a Alexander Eli Jennings

Attachments

cc:

Ms. Lydia Faleafine, American Samoa Office of Insular Affairs