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# CURRENT PROBLEMS IN AMERICAN SAMOA

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## HEARING BEFORE THE SUBCOMMITTEE ON TERRITORIAL AND INSULAR AFFAIRS OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS HOUSE OF REPRESENTATIVES NINETY-THIRD CONGRESS

SECOND SESSION

HEARING HELD IN WASHINGTON, D.C.  
APRIL 2, 1974

Serial No. 93-49

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## CURRENT PROBLEMS IN AMERICAN SAMOA

TUESDAY, APRIL 2, 1974

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON TERRITORIAL AND INSULAR AFFAIRS  
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10 a.m., in room 1302, Longworth House Office Building, Hon. Phillip Burton (chairman of the subcommittee) presiding.

Mr. BURTON. The Subcommittee on Territorial and Insular Affairs is called to order.

The purpose of today's meeting is pursuant to the full committee and the subcommittee's authority and is to exercise our oversight responsibilities with reference to the governance of American Samoa. It is our Chair's intention to first call the elected delegate at large from American Samoa, Hon. Fuimaono and after his statement, which at this time without objection upon the conclusion of my remarks we will insert his statement in the record in full, but after the Chief concludes his statement, if we have any questions of him then it is our intention to ask Governor Haydon to join with the Chief at the witness stand.

Chief Fuimaono, would you please come forward?

Chief, I would like to have you stand and be sworn.

[The witness was sworn.]

### TESTIMONY OF HON. ASUEMU U. FUIMAONO, DELEGATE AT LARGE, GOVERNMENT OF AMERICAN SAMOA

Mr. FUIMAONO. Mr. Chairman and honorable members of the subcommittee:

I am most appreciative of this opportunity given me to express the views of the office which I hold in relation to recent developments encompassing the administration of the territory of American Samoa. This is in specific reference to my press release of March 25, 1974, concerning the unsettled status of the appointed Governor of American Samoa before the U.S. Civil Service Commission, and other instances where in my honest opinion, Mr. Haydon has betrayed the trust not only of the people of American Samoa, but the ideals and understandings democratic principles upon which this great country was founded.

Since 1900 and for the first time after 70 years of U.S. administration of American Samoa, the Office of the Delegate at Large was duly proposed by our local legislature, and which proposal was signed into law by former Governor Owen S. Aspinall just prior to his departure from American Samoa. The position is one in which the voters throughout the whole territory participate in the selection process. As the first elected delegate at large of the people of American Samoa, I am under an obligation to the voters who placed their confidence and trust in me to represent them before the Congress or any agency of the Federal Government. Obviously I cannot bind or commit the Government of American Samoa in any way since the process requires a concerted effort mainly between the legislative and executive branches of our local government. However, as an elected official of the Samoan people here in Washington, D.C., I shall and will continue to express what I sincerely believe are matters that will affect the interests and integrity of the Samoan people.

The territory of American Samoa came into the hands of the United States by deeds of cession signed by the chieftain leaders of both island groups of Tutuila and Manu'a. It was not until 29 years of U.S. Naval administration that such a treaty was finally approved by the U.S. Senate. The treaty was conditioned on the willingness of the Government of the United States to respect and protect the individual rights of the people, as well as for the promotion of the peace and welfare of the people and an establishment of a good and sound government for the people. As a chartered member of the United Nations, the United States also has an obligation to non-self-governing territories under provisions of article 73—and I have presented the exhibit A, Mr. Chairman, and if the subcommittee would permit and as I read the rest of my statement, I would like to present all of the exhibits, to present the rest of the exhibits up to exhibit G if permissible—of the United Nations charter. It is my understanding that the U.S. Department of State submits an annual report before the United Nations concerning the administration of American Samoa as it is conjunction with U.S. commitments outlined under the provisions of the charter.

It is unquestionable that Congress, by mandate of the Federal Constitution, has general and plenary authority over territories that come under the sovereignty of the United States. In the case of American Samoa, Congress delegated "all civil, judicial, and military powers . . . in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned." On 48 United States Code 1661(c) President Harry S. Truman delegated this authority to the Secretary of the Interior by Executive Order No. 10264, June 29, 1951.

The question that comes to mind now is, what kind of administration has the Department of the Interior provided for the people of American Samoa? I address myself specifically to the administration of the incumbent Governor John M. Haydon.

On September 1973, and for the first time ever, the U.S. Civil Service Commission conducted a series of hearings on alleged viola-

tions of the Federal Hatch Act against Mr. Haydon. The Governor was accused of violating 5 United States Code, section 1502(a) (1) which prohibits a Governor of an American territory from using his official authority or influence for the purpose of affecting the result of an election or nomination for office. I am not concerned here with whether the Governor technically violated the Hatch Act or not but what gives me cause for concern are the facts that have been revealed as a result of the hearing.

During that trial there was a great deal of testimony and evidence presented which showed that Mr. Haydon had ordered Government employees who ran the only television and radio stations in American Samoa to produce programs that were broadcast just before the election day.

Mr. BURTON. Excuse me, at this point I think the record should reflect that the Administrative Law Judge cleared the Governor of American Samoa, John M. Haydon, of violations of the Hatch Act. Please continue, Chief.

Mr. FULMAONO. Employees of the television station told how they were ordered to produce a television program that they described as "slanted" and "biased" against the elected Governor proposal. During the televised program Mr. Haydon made a long speech in which he told the people that under previous administrations, not much money was provided for the territory. The testimony and evidence at the hearing also showed misleading statements of the Governor concerning the levels of Federal funding, the financial situation in the territory before he was appointed Governor, the amounts of money he gets as a Governor, and grants he had supposedly just gotten for the territory.

The manager of the Government-owned radio station told how he was called to the Governor's office the day before the election and how the Governor told him to ask him questions about the non-Samoan candidate running for the territorial legislature. The manager was told to make a tape recording of the Governor's answers to his own questions. Since there was only one candidate for the legislature who was a non-Samoan, it is quite obvious that the Governor's statements were aimed at defeating the candidacy of the individual non-Samoan.

It was about 3 years ago that the Washington Post (exhibit B) reported on the controversial deportation of a local newspaper editor by Mr. Haydon, and the subsequent reassignment by the Secretary of Interior of the associate justice who ruled on the case. In spite of unanimous resolutions (exhibit C) passed by the legislature and other leaders of American Samoa to retain the services of the associate justice, the resolutions were ignored by the Interior Department. Furthermore, it was suspected among our leaders that the removal of the associate justice was due to pressures from Mr. Haydon to the Interior Department in view of what had happened with the deportation case of the newspaper editor. It should be noted, Mr. Chairman, that previous to this incident, another record indicated that Mr. Haydon was personally involved in the removal of the former Chief Justice H. Edward Hyden. These are clear examples where

Mr. Haydon has violated basic principles of separation of power among the three branches of the territorial government.

Yet, in spite of the above incidents, and according to evidence produced by Civil Service attorneys at the hearing, Mr. Haydon wrote a letter (exhibit D), dated November 18, 1972, to the Director of Territorial Affairs, Department of the Interior, criticizing the status of the current chief justice and associate justice, who are also appointees of the Secretary of the Interior. Mr. Haydon complained of the inordinant length of time the justices take to handle their cases. He also claims that "without modesty I would say I could handle either judge's cases in about 2 days work a week and wipe out the backlog in nothing flat." He concluded by saying that "friendly and positive letter from Secretary Morton to each of these judges would have a great effect. They are extremely highly paid and, at the present time, do not do enough work to stick it in a man's ear."

Mr. Chairman, it is my considered opinion that the notion of separation of powers between the judicial and executive branches of the local government as it now exists in American Samoa is a farce and in complete contradiction of the intent and purported policies of not only our national government but by the Department of the Interior itself. Yet, nothing has been done to alleviate this awkward imposition of executive activity against the judiciary element of our local government. I am also attaching for the consideration of the subcommittee, Mr. Chairman, a copy of a letter, dated June 25, 1973, written by a former official of the Interior Department who personally experienced other related activities of the incumbent Governor while assigned to Samoa [exhibit E]. I believe you will find his explanations self-explanatory.

I also call the subcommittee's attention to the fact that Mr. Haydon's case before the Civil Service Commission is personally defended by the attorney general of American Samoa. That during the trial, one of the assistant attorneys of the administration filed criminal charges against Governor Haydon for interfering with an interview of a witness by the television news director. As a result the attorney general fired the assistant attorney, dismissed the charges, and reassigned the case for further investigation by his deputy attorney general. In his final opinion, the deputy attorney general concluded the case should best be found in the area of civil rather than criminal law. However, the deputy attorney general also stated in part that:

The answer lies in the Governor's conduct. Mr. Kingzett's [Assistant Attorney] action can only be explained by his professional feeling as a lawyer that the Governor had consistently and constantly abused his authority with regard to the public-owned news media in American Samoa. The action in attempting to thwart the \* \* \* interview was the product of the same mentality which fostered the Civil Service charges \* \* \*. It smacks of unbridled control over that which may be carried on public-owned news media. Such control results of necessity in one-sided press coverage protecting the administration at the sacrifice of the public's right to know. In my opinion, such control is unlawful, particularly in view of the fact that public monies are used to operate the local television and radio station \* \* \*.

We speak of first amendment rights as basic and fundamental principles of a democratic society. The fact that the Governor also controls the basic news media in the territory gives rise of my grave concern in this matter. I submit to you, Mr. Chairman, that it is my honest opinion that freedom of expression does not exist in American Samoa, so long as there is this kind of oppressive and subtle tactics employed by the present administration to mislead rather than properly informing the people of what is going on with their government.

Mr. Chairman, I also submit for your consideration, a copy of letter, dated August 22, 1972, addressed to a Mr. Wyatt of the Interior Department [exhibit F], wherein on page 4, paragraph 7 of the letter, Mr. Haydon describes the Samoan people as a "completely amoral society." Also on page 3 of the letter, Mr. Haydon describes members of the Samoan legislature of being tax evaders, and lacking any form of responsibility on budget and fiscal matters.

Mr. BURTON. May I at this point request that all testimony after the paragraph ending "on budget and fiscal matters" not be taken at this time and that the record not reflect the last full paragraph? I ask that by unanimous consent request.

I have not seen this statement until now and I don't mean by this action to underscore the value, if any, of that but it is the Chair's determination that we don't wander afield here, and I have not the slightest idea of what is meant by this last paragraph, but we don't intend to pursue it at this point anyway.

I can't gather if there was someone in the administration who in theory or in fact did or didn't conduct themselves in some way, but we certainly had no intention to get into this area of inquiry. It is not relevant to the committee's main interest. It is very unfair to any of the parties anyway and the Chair will just arbitrarily state that we will have no testimony with reference to exhibit G and I hope that, when the rest of the exhibits are passed out, that exhibit G will not be included therein, and the staff will be instructed to take a look at exhibit G, both minority and majority staffs. But at this juncture we are not going to launch into what in my view is not central and relevant to the inquiry before us.

So, Chief, at this point, do you have any more to say? We will be questioning you and also Governor Haydon and I hope you understand I am not trying to restrict your testimony, but on the other hand, the Chair will stand by his ruling.

So I will ask you, if you have copies of these exhibits to give them to Mr. Haydon, Governor Haydon. Do you have them here?

Have those exhibits already been given out? Do you have copies of the exhibits?

Mr. FUIMAONO. Yes, they are over on the table.

Mr. BURTON. Well, would you take all of those exhibits, Nancy please, and bring them all up here. I perhaps shouldn't have overreacted, but I have no idea what this last paragraph is about and it is not at all central to anything we have under consideration.

Mr. FUIMAONO. Mr. Chairman—

Mr. BURTON. I want all of the exhibits, all exhibit G's, if I may, all of them up here.

Now the Chair at this point asks unanimous consent that exhibits A to F be included in the record at this point.

Mr. MEEDS. Reserving the right to object, Mr. Chairman.

Mr. BURTON. Yes.

Mr. MEEDS. Could the Chief explain why he feels that is relevant to this inquiry, that last paragraph there?

Mr. BURTON. Well, with my colleagues' indulgence, I would prefer we defer this until at least the staff has an opportunity to look at the last exhibit. This committee would like to think of itself as protecting in all respects character and reputation. And until the majority and minority staff have an opportunity to look at that, I am just not sure what that line of inquiry may or may not be.

Mr. MEEDS. I agree that may well be, Mr. Chairman. In summary though, the witness might tell us why he feels it is relevant to our inquiry and that might help. I don't know why he has that in his statement either.

Mr. BURTON. I would prefer, because once we open up that line of inquiry we might find ourselves deterred from the more fundamental administrative issues before us, I would prefer that in fairness to all concerned the staff have an opportunity, including the gentlemen from Washington or any member of this committee, to look at this exhibit before we pursue it. I don't mean to denigrate the gentleman, our witness, but on the other hand I am determined to protect whatever reputations may be involved. I feel by our belaboring this point we may be underscoring that which may not or may be central.

Mr. MEEDS. Very well. May I do this, Mr. Chairman? May I ask unanimous consent that the witness be allowed to prepare and present to us in writing why he feels this information is relevant and that then can be studied by counsel on both sides and by the chairman. And if they then feel it is relevant, it can be made a part of the record.

Mr. BURTON. Without objection—

Mr. CLAUSEN. Reserving the right to object, Mr. Chairman. For purposes of inquiry, would the gentleman from Washington want to have his response as part of the file or part of the record?

Mr. MEEDS. Part of the record if it is determined by yourself and counsel and the chairman that it is indeed relevant to what we are inquiring about, because then I think it should be made part of the record.

Mr. CLAUSEN. Further reserving the right to object, Mr. Chairman. I would simply like to ask of the witness is that his preference to stop his testimony after the words "responsibility on budget and fiscal matters"? Is that your desire to stop your testimony at this point?

Mr. FUJIMANO. Well, I have no other choice but the ruling of the chairman, so therefore I must respect the ruling.

Mr. BURTON. Yes. If there are no other objections, exhibits A through F inclusive shall be incorporated in the record immediately following that portion of the prepared statement, which the committee has entered into the record under previous unanimous consent as amended. It is so ordered.

[Exhibits A through F follow:]

Exhibit A

DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES

ARTICLE 73 OF THE UNITED NATION'S CHARTER

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

c. to further international peace and security;

d. to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and

e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

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Exhibit B

[From the Washington Post Editorial, Aug. 15, 1971]

TROUBLE IN PAGO PAGO

American Samoa is a long way from Washington and it's just as hard to know from here exactly what is going on out there as it is easy to forget that the United States runs the place. But the information that has been drifting back about the events leading up to the removal of one of the judges of the Samoan High Court this summer leads us to suspect that all is not well.

There seem to be only two facts that are not in dispute. One is that Judge Joseph Goss is being transferred from Samoa to Washington by the Department of Interior at the urging of Gov. John Haydon Jr. The other is that Judge Goss is the second member of that High Court to be ousted by Governor Haydon since he became the top man on the island two years ago.

The reason behind the transfer of Judge Goss, who quite clearly likes Samoa and is eager to stay there, is murky, to put the situation kindly. Governor Haydon says Goss is "a lousy judge" who has decided cases in a way designed "to ingratiate himself with the islanders." The islanders, or at least the legislature composed of islanders, says that Judge Goss is "very able, honest and industrious," and that his transfer "would be a great loss to the Samoan people." Presumably knowledgeable officials in the Department of Interior say Goss is "highly qualified" and Secretary Morton has said he is needed in a new division of the Department here in Washington. Somehow, we find it difficult to square those three views of the same man.

Lurking behind this is a deportation case in which Judge Goss has so far frustrated Governor Haydon. That concerns an American citizen named J. P.

King who is involved in the publication of something variously described as a newspaper and as a little smear-sheet. Mr. King wrote some articles rather critical of Governor Haydon and the Governor has attempted to have him deported, although the relationship between the two events is not quite clear. In addition, there are allegations that he is the fourth writer for that publication to face deportation since it started being critical of the Governor.

Be all that as it may, there is enough here to justify a Congressional inquiry into the whole situation. Chief Justice Donald Crothers of the Samoan High Court, also an Interior Department man, has written that the removal of Judge Goss leaves the inference out there that judges who don't rule the way Governor Haydon wants them to don't last very long. That is a serious charge, particularly in light of the formal protest filed by the Samoan legislature with President Nixon and Secretary Morton. Given the deep responsibility this country has to the people of Samoa, Congress has an obligation to listen to them and to make sure the place is governed fairly and decently as well as efficiently.

---

[From the Washington Post, Sept. 8, 1971]

#### GOVERNING SAMOA

Your editorial of August 18 on the crisis in American Samoa has filtered its way out to the wilds of Oregon. I spent a year in Pago Pago as a VISTA lawyer and had the opportunity to become acquainted with all the principals: Governor Haydon, Judge Goss and Jake King.

I fully agree with Marcus Sisk that the governor has blatantly compromised the integrity and effectiveness of not only the high court of American Samoa but the legislature as well. American Samoa is a colony of the United States and Governor Haydon has behaved as dictatorially and arbitrarily as any Mexican viceroy.

Perhaps the governor's action in extirpating a judge who displeased him will result (finally) in granting the Samoan people (who have chafed under appointed executives since 1900) the fundamental right to elect their own governor from among their own people. Certainly an inquiry by Congress will reveal that the Samoans themselves could not possibly misgovern and mismanage their lovely islands with the facility displayed by the current political appointee.

DEAN S. KAUFMAN,  
*Eugene, Oreg.*

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[From the Washington Post, Aug. 14, 1971]

#### KEEPING PARADISE TOGETHER IN AMERICAN SAMOA

(By Ken W. Clawson)

Life on the tiny South Pacific island of American Samoa has been bittersweet since John Haydon Jr. of Seattle moved into the governor's mansion in 1969.

The placid, even careless, pace of island life changed for the 28,000 natives and sundry Yankee overseers as Haydon applied his skills learned at the Seattle Port Commission to get things moving in the South Seas paradise.

When things didn't move rapidly enough, Haydon was there to nudge. One of his early acts was to recommend the transfer of Chief Justice Edward Hyden of the Samoan High Court. Hyden, a career Interior Department lawyer, left the islands.

More recently, Gov. Haydon was confronted with another balky American, J. P. King, who remained in American Samoa after his contract to repair television sets expired. Despite Haydon's repeated efforts to deport him, King acquired the island's only weekly newspaper and made Gov. Haydon its No. 1 target.

For example, King's paper published a story about the governor and a box of

garbage that the governor dumped on his sanitation chief's desk after finding litter in the government compound.

This was followed by the "promotion" back to Washington of another American judge who ruled that King should not be deported.

The Interior Department and Congress subsequently got into the act, the former rather unwillingly, since in upholding Haydon the Washington bureaucrats opposed the Samoan legislature.

Efforts to deport King triggered Washington's involvement in the affair. King, all sides agree, was a contract government employee charged with repairing television sets, an important assignment because the Samoan educational system depends on about 300 of the sets placed around the island.

When King's contract expired, he was expected to leave within 30 days because Americans cannot privately own anything in Samoa, and government policy is to discourage beachcombers.

But King got a job with The Samoa News, and his talents for attacking Haydon soon resulted in his elevation to managing editor, and, some sources say, even covert ownership.

Haydon has no authority to deport anyone, but the Samoa Immigration Board, which operates under Haydon, does. Proceedings against King were started about 18 months ago.

In a telephone interview from Pago Pago yesterday, Haydon called King an incompetent TV repairman who roamed the islands on drinking "escapades" that resulted in his wrecking a school bus. King was a shame and embarrassment to all Americans on the island, Haydon said.

The Immigration Board ordered King deported as an "immoral character." But the TV repairman-turned newspaper editor appealed to Associate Justice Joseph Goss of the Samoan High Court while his tabloid continued charging Haydon with maladministration, interfering with the island's judiciary and legislative branches and polluting the island's environment.

Goss stayed the deportation order.

In July, Judge Goss received notification from the Interior Department that he had been transferred back to Washington to become an attorney adviser to the newly created Office of Hearings and Appeals.

Judge Goss quickly asked Interior to reconsider, and then he sent protest letters to his favorite congressmen alleging that Haydon was deporting him unjustly.

He told Interior that he was the only American judge in the region who was expert on land and title cases or who was familiar with Samoan law and customs.

Attaching a memo from Chief Justice Donald Crothers, Goss said his transfer would further erode the independence of the judiciary, which was under increasing pressure from Gov. Haydon. Crothers' memo said it was clear that Haydon was responsible for removing former Chief Justice Hyden and intent upon removing Goss.

"This of course cannot help but leave the inference, or cloud, that the court is advised to make their findings in accordance with the wishes of the executive or face further removal of its judges," the chief justice wrote.

Responding to Goss' letters, Sen. Henry Jackson (D-Wash.), Reps. Phillip Burton (D-Calif.) and Wayne Aspinall (D-Colo.)—whose son was the former governor of American Samoa—wrote letters to Interior protesting Goss' transfer.

Meanwhile, the Samoan legislature—both houses—wrote Interior claiming that Goss' expertise was invaluable and urging that he be permitted to stay.

On Aug. 4, Secretary Rogers C. B. Morton replied to the congressmen that it was true Haydon caused the deportation proceedings against King, but contended that the courts would rule independently without interference.

He said Goss was needed in the new Interior division and that, actually, the transfer would give him an opportunity to "move onto greater heights" in the government. He added that it was "regrettable" that the Samoan people wanted Goss to remain.

Other Interior officials said there was "absolutely no connection" between King's deportation case and Judge Goss' reassignment. They called him "highly

qualified" and pointed out that his GS-14—\$23,591 a year salary—remained intact in the transfer, which some called a "promotion."

Gov. Haydon said that he did recommend Goss' removal from American Samoa, but not because of his ruling in the deportation case. "He's just a lousy judge," Haydon said. "There are kids all over this island, and he takes speeders into his court and fines them 50 cents or \$1 just to ingratiate himself with the islanders."

Gov. Haydon also said he wanted to set the record straight about the stories that King's "little smear-sheet" had published about him.

One story, which caused concern among Samoa's native leaders, reported that the governor threw garbage on his sanitation chief's desk. It was reported by King that the government garbage man was also a native leader and that the governor's action were tantamount to "spitting on island culture."

Haydon said the fact is that he gave orders 30 days earlier for a cleanup campaign of the government compound. After a month, he said, he filled up a box with beer cans from the compound and placed the box on the sanitation chief's desk as a rather pointed reminder that his orders weren't carried out. He added that the reluctant garbageman was "an employee of mine, not a native chief."

King also suggested that Haydon was sitting on his hands while Pago Pago's harbor area was being polluted. Haydon denied this yesterday. "I'm obsessed with environment cleanup here. I've even started a Sierra Club chapter," he said.

King's paper also suggested that Gov. Haydon is trying to keep VISTA volunteers off the islands, but Haydon said the opposite is true.

"We are asking VISTA for 11 volunteers right this minute," the governor said. "We've had good luck with VISTA personnel. We've had to deport only one VISTA boy because he was getting marijuana through the mail from Hawaii."

Judge Goss' ruling permitting King to remain on the island was appealed by the Immigration Board to Chief Justice Crothers. But the governor said yesterday that Crothers has disqualified himself.

King's island residency will be decided by Leslie Jochimsen, whom the Interior Department dispatched to American Samoa this week to replace Judge Goss, who is due in Washington Aug. 23 to assume his new post. Jochimsen formerly headed Interior's electric power administration, which prepares contingency plans for national emergencies.

Jochimsen will have to stay in a hotel because Judge Goss hasn't moved out of his government house while he's been lobbying to retain his old job.

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[From the New York Times]

#### "DEMOCRACY" IN AMERICAN SAMOA

Gov. John Haydon Jr. of American Samoa ordered the deportation early this year of the editor of a local newspaper that had been critical of his administration. After Associate Justice Joseph W. Goss of the High Court of American Samoa had stayed the deportation order, the judge, who has also been at odds with the Governor, was abruptly transferred by the Interior Department to a Washington assignment.

The transfer order has been protested by a unanimous resolution of the Samoan Legislature. Citing Justice Goss' familiarity with Samoan customs and the "high esteem" in which he is held by the Samoan people, the legislators declared that his transfer would represent "a great loss."

Despite this appeal, the Interior Department already has dispatched a replacement for Justice Goss to Samoa. The department's action, in flagrant

disregard of the wishes of Samoa's chosen representatives, gravely compromises American principles of an independent judiciary and a free press. It could seriously affect United States relations with the people of Samoa, who voluntarily accepted American rule, and with the neighboring Trust Territories, which have begun to challenge the American administration of their islands.

It is up to Congress to review the Interior Department's governance of Samoa, with an eye to new legislation that will guarantee democratic rights, now being unpardonably abused.

[Exhibit C]

JULY 19, 1971.

HON. HARRISON LOESCH,  
*Assistant Secretary of the Interior,  
Department of the Interior,  
Washington, D.C.*

DEAR SECRETARY LOESCH: Enclosed is a copy of a letter which Judge Goss has received from Assistant Secretary Bodman relative to a transfer to Washington, D.C., together with a copy of House Concurrent Resolution 17. We want to emphasize that the Legislature's desire to retain Judge Goss is non-partisan—the Resolution was subscribed to unanimously by all Republican, Democratic and American Samoa Party members of the Legislature except for two members who were ill. Of these two, both have signed the petition submitted August 10, 1970 and the signature of one also appears on this letter.

In view of the encouragement of your letter of August 31, 1970 we hope that you will, on behalf of the Samoan Legislature, urge that Judge Goss remain in Samoa where his experience with Samoan custom will not be wasted. One of our concerns is the delay in our pending Samoan land cases which would result from moving the Judge who has worked on them. We understand the proposed transfer would be to an office of some 156 attorneys. By any reasonable standard it would promote the efficiency of the service to leave Judge Goss here and staff the Washington office with someone else.

Respectfully submitted,

SALANOA S. P. AUMOETU-ALOGO,  
*Acting President of the Senate.*  
FAINUULELEI S. UTU,  
*Speaker of the House.*

TWELFTH LEGISLATURE—SECOND REGULAR SESSION

House Concurrent Resolution No. 17

WHEREAS, the Legislature of American Samoa has learned that Associate Justice Joseph Goss has been appointed to the post of Attorney Advisor to the Office of Hearings and Appeals, Washington, D.C.; and

WHEREAS, Associate Justice Goss has spent a number of years in the Pacific and is familiar with Samoan customs; and

WHEREAS, Associate Justice Goss is a very able, honest, and industrious judge; and

WHEREAS, he has the confidence of the Samoan people and is held in high esteem by them; and

WHEREAS, it would be a great loss to the Samoan people if he were to be transferred to duty in Washington; Now, therefore

BE IT RESOLVED by the House of Representatives and the Senate of the Legislature of American Samoa, that the Secretary of the Interior be urged, and he is hereby urged not to transfer Associate Justice Goss to duty in Washington but to leave him in American Samoa where he is greatly needed by the Samoan people; and

BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be sent to the President of the United States, the Secretary of the Interior and Mr. Hughes on the Staff or the Secretary of the Interior.

(Signatures)

Fainuulelei S. Utu (sick)  
*Speaker of the House*

Ligoligo K. Eseroma  
*Representative, District No. 1*

Leaeno T. W. Reed  
*President of the Senate*

Fofu I. F. Sunia  
*Senator, District No. 1*

Tagaloa M. Tuiolosega  
*Senator, District No. 2*

Salanoa S. P. Aumoealogo  
*Senator, District No. 3*

Alaivanu R. Taufaaasau  
*Senator, District No. 4*

Mulitauaopele Tamotu  
*Senator, District No. 5*

Matautia Tautunu  
*Senator, District No. 6*

S. P. Mailo  
*Senator, District No. 7 & 8*

Tuaolo Lemoe  
*Senator, District No. 9*

Liufau M. Liufau  
*Senator, District No. 10 & 11*

Lagafuaina Laisene (sick)  
*Senator, District No. 12*

Leoso Malama  
*Senator, District No. 13*

Tuveve S. Ameperosa  
*Senator, District No. 14*

Auan Foe  
*Senator, District No. 15*

Aufata Fonoti  
*Senator, District No. 15*

Satele Mosegi  
*Senator, District No. 16*

Taitasi Faamasani  
*Senator, District No. 17*

Asoau Ofisa  
*Senator, District No. 1*

Certified a true copy.

Puleleite M. F. Tufele  
*Representative, District No. 1*

Soosooali'i Savali  
*Representative, District No. 2*

Te'o Joe Fuavai  
*Representative, District No. 3*

Tupua Leiato  
*Representative, District No. 5*

Faamausili S. Talo  
*Representative, District No. 6*

Amituana'i E. R. Meredith  
*Representative, District No. 7*

Fouuluvalu H. Scanlan  
*Representative, District No. 8*

Lea'oa V. Manuma  
*Representative, District No. 9*

Ma'o Tima  
*Representative, District No. 10*

Vaaitautia Talamoni  
*Representative, District No. 11*

Nofoa Alo Staffany  
*Representative, District No. 12*

Peni Poumele  
*Representative, District No. 12*

Fateia P. Noa  
*Representative, District No. 13*

Frank W. Pritchard  
*Representative, District No. 14*

Muagututi'a F. Tuia  
*Representative, District No. 15*

Fuesina, Auono M. Pili  
*Representative, District No. 15*

Afoa S. Afoa  
*Representative, District No. 16*

Lefotu Tuilelu  
*Representative, District No. 17*

Wallace H. Jennings  
*Representative, Swains Island*

TENARI S. FUIMAONO,  
*Chief Clerk of the House.*

Enclosures:

1. Letter from Secretary Bodman, July 2, 1971 (omitted).
2. House Concurrent Resolution 17.
3. Letter from Secretary Loesch, August 31, 1970 (omitted).

AUGUST 10, 1970.

Mr. HARRISON LOESCH,  
*Assistant Secretary of the Interior,*  
*U.S. Department of the Interior,*  
*Office of the Secretary,*  
*Washington, D.C.*

DEAR SECRETARY LOESCH: It has recently come to our attention that there is an attempt on the part of the Governor to replace Associate Justice Joseph W. Goss. With the attached petition we wish to indicate that the people of American Samoa are fully behind Judge Goss and that we would like to retain him because of his hard work and valuable contributions.

Among the signatures are those of Public Defender Arthur A. Morrow (Chief Justice 1937-1942 and 1946-1965) and 36 of the 38 members of the Senate and House of Representatives of American Samoa. A list of the names of the Legislator's is attached. There has been no attempt to circulate this petition except to a small group.

We are sure you will agree that if we are to have due process in our criminal and civil cases in Samoa we must have a Judiciary which is able to exercise its own judgment. Moreover, we feel that the decisions of the courts here have been in the interests of the Territory and the entire administration.

Respectfully submitted,

SALANOA S. P. AUMOEUALOGO,  
*President of the Senate.*

FAINUULELEI S. UTU,  
*Speaker of the House of Representatives.*

AUGUST 10, 1970.

Hon. WALTER J. HICKEL,  
*Secretary of the Interior,*  
*Department of the Interior,*  
*Washington, D.C.*

DEAR MR. HICKEL: This letter comes to you with profound traditional respect of the undersigned as Samoans. Our initiative as expressed herein does not represent any particular sector of American Samoa nor political organization or aspirations.

Rather, we merely wish to express our concern over recent rumors that our associate justice, the Honorable Joseph W. Goss, may be recalled from American Samoa. Although we do not wish to stand in the way of any advancement for Judge Goss, we wish to request (or recommend) his retention in American Samoa for the following reasons:

1. Judge Goss has had *three* years of experience in the disposition of matters affecting Samoan customs and traditions.
2. Judge Goss has acquired the background and knowledge of the intricacies and idiosyncrasies of Samoan customs and traditions.
3. Judge Goss has demonstrated to the Samoans his genuine interest in maintaining the true heritage of the Samoan people in spite of recognized and inevitable changes in the Territory.
4. Judge Goss has demonstrated a real sense of impartiality and knowledgeable decision making in matters of importance in Samoa, with remarkable consistency his advice is sought often by both the Legislature and traditional leaders as well as the general public.
5. Judge Goss has been able to utilize his local background together with his legal and judicial expertise to make the real substance of our unique judicial system a fair and impartial one, and we will continue to depend on this ability for continued and necessary upgrading of our system.
6. Continued changes in American Samoa have been the cause of short, abrupt and ineffective planning or programming. This has been one of the ills of administering this Territory. Just as soon as a good administrator becomes oriented and familiar with local conditions, he departs for one reason or another.

We recognize that Judge Goss has researched for better adjustment of the judicial system although he has not taken the credit for such interest and initiative. Indeed, we are just beginning to feel the improvements on our system through legislations that were proposed by the Judicial Branch under the guidance of Judge Goss.

Although no person is an unknown in Samoa, we are not necessarily friends of the Honorable & Judge Goss. We have, however, felt his profound dedication to justice in an environment that is completely alien to western culture and institutions; and his ability to make impartial judgements within that environment.

We affix our signatures below as testimony that we wholeheartedly subscribe to the abovementioned presentation.

With our belief in fair treatment and equal consideration, we are:

(Signatures)

Tuiolosega Tuumamano, Associate Judge  
 I. Letuligasenoa, Associate Judge  
 T. M. Tauala, Associate Judge  
 T. A. Masaniai, Associate Judge  
 Rep. Ligoligo K. Eseroma, House of Representatives  
 Senator Mulitauaoepele Tamotu  
 Rep. Fa'asuka S. Lutu  
 A. Tiapula, Temporary Associate Judge and Immigration Office Supervisor.  
 Rep. Soosooalii Savali  
 I. Pele, Counsel  
 Fa'amausili Sui'aua, Representatives and chairman Judiciary.  
 Senator Leaeno T. W. Reed, Chairman Ways and Means.  
 T. Ma'o  
 Saipale Matagi, Associate Judge  
 Lauvale L. Lutu Peni II, Legal Practitioner of Am. Samoa (USAF. Ret.)  
 Mariota L. Tuiaosopo, Member of House of Representative Legislature of American Samoa.  
 Senator Tagaloa M. Tuiolosega, Chairman Budget and Appropriations Committee  
 Salanoa Aumoeualogo, President of the Senate  
 P. F. Sunia, Representative and Samoan Legal Practitioner  
 Taule'alo L. Tafau, Assistant Clerk  
 Napoleone A. Tuiteleapaga, Samoan Legal Practitioner  
 Fofu Sunia, Senator 1st District  
 Rep. E. Meredith, Chairman Ways and Means Committee  
 Senator Fano Shimasaki, Chairman Parks and Rec.  
 Senator Lagafuaina Laisene, Chairman of Judiciary County of Itua'u.  
 Vaaitautia Talamoni, Rep.  
 Joe S. Valasi  
 Lefotu Tuile'su, Rep.  
 Fonoti Aufata, Senator  
 Matautia T., Senator  
 Tuitasi Faamasani, Senator  
 Alaivanu L. Taufaasau (Senator)  
 Rep. T. O. T. Galeai  
 Aso'au Ofisa, Senator District #1.  
 Leaso Malama, Senator Fofu County  
 Satele M., (Senator Tualatai County)  
 F.S. Utu, Speaker, Police and Pub Safety  
 Rep. S. Amosa  
 Rep. Tupua F. Le'iato, Member of the Legislature of Am. Samoa  
 Lt. J. Lauvao, Traffic Prosecutor  
 H. D. Clarke, Barrister and Solicitor  
 Frank P. Swett, Jr., Attorney-at-Law  
 Arthur A. Morrow  
 Walter Barrie, Legislative Counsel

GOVERNMENT OF AMERICA SAMOA, LEGISLATIVE BRANCH,  
PAGO PAGO, AMERICAN SAMOA

JULY 22, 1970.

To: Hon. Walter J. Hickel, Secretary of Interior, White House, Government of the United States.  
Subject: Petition.

We the undersigned, Petitioners and majority of the 38 Senators and Representatives of the Legislature of American Samoa, vitally interested in the proper functions and operation of our Judicial Branch. For reasons enumerated below, we respectfully and therefore do hereby submit this petition to retain Judge Joseph W. Goss in his present post of Associate Justice of American Samoa.

The Fono and People of American Samoa through past experiences and knowledge of our local courts, are fully aware of the fact that no stateside judge can properly decide a civil case in Samoa unless he personally obtain a knowledge of our Samoan customs and usages. In the hearings of our Matai Titles and Communal Lands disputes, which are presently heard only by Justice Goss, the customs of our people are always involved in decision-making. Complete disregard of such will arise more future disputes between the families concerned. For this reason, an American judge, in order to avail himself to study and learn these customs and usages of our people, is required to retain his position here for a reasonable number of years. Samoan customs are the unwritten laws of our people. The Samoan land goes along with the Matai Title. Those very important factors should be considered by an American judge in our local courts. (We only have two American judges; Justice Goss and Chief Justice Crothers who has been here for a little over 5 months).

The Fono has confidence in the integrity, sincere, and loyalty of Associate Justice Joseph W. Goss. The Petitioners have watched and observed the performance of Judge Goss in the recent hearings of civil cases before the High Court of American Samoa. We recognize the fairness and sound judgment he rendered which, we believe, stemmed from his knowledge of our customs and people.

Judge Goss honored and recognized the dignity and authority of the Samoan Chiefs. He realized the good part played by the Chiefs in the general operation of our Territorial Government and local governments. He recognized the importance of our Samoan lands to our people and our posterities.

The Petitioners firmly believe that no American Judge, irrespective of his broad knowledge of the law, his legal or judicial training, can decide fairly on a Matai or Land case in Samoa unless he spent quite a number of years on the bench here in our courts. His lengthy association with our Samoan judges provides him with a keen knowledge of our Samoan unwritten laws—the Samoan customs and usages. Justice Goss has been in American Samoa for over 3 years after spending several years as a Judge in the Trust Territories. He is a career civil service employee and has been for many years.

Article III of the Revised Constitution of American Samoa provides that the Chief Justice of American Samoa and other Associate Justices are appointed by the Secretary of the Interior. Sec. 3.0201 of the Code of American Samoa, 1961 Edition, as amended, in part provides that "... Chief Justice and Associate Justice shall hold office during his good behaviour. ...." Of course, we are Samoans, but we are also Samoan-Americans because we are under the Jurisdiction of the United States of America.

The Petitioners felt that our Courts in American Samoa today need the services of Justice Goss. And therefore, we firmly petition his retention in his present post.

THEREFORE, we respectfully urge that he must continue with his present post here in American Samoa. We cannot afford to lose him.

Respectfully submitted,

(Signatures)

SENATORS:

Tagaloa M. Tuiolosega  
Faumuina John S., Sr.  
Leoso Malama  
Fano Shimasaki, Jr.  
Aso'au, Ofisa  
Fonoti Aufata  
Mulitauaoepele Tamotu  
Tuveve S. Amperosa  
Satele Mosegi  
Lefotu Tuilese  
Alaivanu R. M. Taufasau  
Mageo Felise  
Leaeno T.W. Reed

REPRESENTATIVES:

Ligoligo K. Eseroma  
F.S. Utu  
Manutafea E. Meredith  
Mariota L. Tuiasosopo  
Tupua F. Leiato  
Sialega Mauga  
Fa'asuka S. Lutu  
So'oso'oali'i Savali  
S. Amosa  
Vai Talamoni  
E. Meredith  
Suegogo B. Schirmer  
Joe S. Valasi  
Tagoai Tunoa  
Muagututi'a F. Tuia

ELEVENTH LEGISLATURE OF AMERICAN SAMOA

LIST OF SENATORS

1. Salanoa S. P. Aumoeualogo—President of the Senate
2. Fofu I. F. Sunia
3. Tagaloa M. Tuiolosega
4. Alaivanu R. Taufasau
5. Mulitauaoepele Tamotu
6. Matauti'a Tautunu
7. Fano Shimasaki
8. Mageo Felise
9. John Faumuina Sr.
10. Leaeno T. W. Reed
11. Lagafuaina Laisene
12. Leoso Malama
13. Satele Mosegi
14. Sagapolutele T. N.
15. Aufata Fonoti
16. Tuveve Siaki Ameperosa
17. Aso'au Ofisa
18. Tuitasi Faamasani

LIST OF REPRESENTATIVES

1. Ligoligo K. Eseroma
2. Fuaileleo P. Sunia
3. Soosooalii Savali
4. Mariota Tuiasosopo
5. Tupua F. Leiato
6. Faamausili Suiaunoa
7. Edward Meredith
8. Faasuka Lutu
9. Suegogo B. Schirmer
10. Manutafea Meredith
11. Vasi Talamoni
12. Tofu Fia
13. Sialega Mauga
14. Talitalimanu Galea'i
15. Solofua Amosa
16. Muagututi'a F. Tuia
17. Tagoa'i Tunoa
18. John Valasi
19. Lefotu Tuilese
20. Fainuulelei S. Utu—Speaker of the House

[Exhibit D]

GOVERNMENT OF AMERICAN SAMOA, OFFICE OF THE GOVERNOR,  
PAGO PAGO, AMERICAN SAMOA

NOVEMBER 28, 1972.

CONFIDENTIAL

HON. STANLEY S. CARPENTER,  
*Deputy Assistant Secretary for Territorial Affairs,*  
*Office of the Interior,*  
*Washington, D.C.*

DEAR STAN: I wonder if you would mind taking up with Secretary Morton the possibility of his writing a letter to Chief Justice McKnight and Judge Jochimsen regarding the inordinate length of time that it takes them to handle cases down here. I like both these men but I can tell you that the Attorney General and his staff and, many members of my staff, the Commissioner of Public Safety and I, are absolutely dismayed and frustrated beyond belief by the way in which our Court stretches out cases almost into eternity, ad nauseam.

*There is simply no excuse for this and without modesty I would say that I could handle either Judge's cases in about two days work a week and wipe out the backlog in nothing flat.*

I frankly do not know what is the matter with these men but suspect they are somewhat bewildered since neither of them was a Judge before and, I think, they are afraid they might make some kind of a mistake. What happens is that it leads to an absolute loss of morale on the part of our office of Attorney General and I think it is time that they be given the word to get off their "butts" and go to work.

There is no bar association and shyster lawyers are free to practice as they wish, our Samoan legal practitioners—who are no more a lawyer than Molly—get away with murder including the charging of extremely high fees, thus screwing their fellowmen. This often happens in Immigration Board hearings and other similar cases where they deal with people who are afraid they are going to be deported. In literal truth, known crooks are allowed to continue practicing before the Court. The one bright note is that the Court has agreed to our tactful suggestion that all reckless and drunken driving cases be heard by the High Court rather than by the Samoan Judges who tend to let off the aiga with a slap on the wrist.

I would like to make it very clear that I have been meticulous in observing the separation of power between the Executive Office and Judiciary but I am about ready to climb the wall over the countless pity delays which are instituted by our two judges. I cannot help but recall the lecture you gave Judge McKnight when you visited with him in Frank Mockler's house where you pointed out that it was his responsibility to protect the people not the criminal. I am afraid the message did not sink in.

It is my firm belief that a friendly and positive letter from Secretary Morton to each of these Judges would have a great effect. They are extremely highly paid and, at the present time, do not do enough work to stick it in a man's ear.

Best personal regards.

Sincerely yours,

JOHN M. HAYDON,  
*Governor.*

[Exhibit E]

RESTON, VA., June 25, 1973.

MR. BEN JOSEPH,  
*Office of the General Counsel,*  
*U.S. Civil Service Commission,*  
*Washington, D.C.*

DEAR MR. JOSEPH: It is my understanding that your office is presently conducting an investigation of violations of the Hatch Act and other improper actions reportedly committed by John M. Haydon, Governor of American Samoa. I have been aware of such allegations and apparent improprieties and

reported them to the General Accounting Office and to Congressman Phillip Burton in February of this year. I commented on additional improprieties of Mr. Haydon's administration during hearings on H.R. 11523 and H.R. 12493 to provide for an elected Governor and Lieutenant Governor of American Samoa.

You have been furnished copies of my correspondence and testimony and I am writing this letter to you in order to supply additional corroborative information based on my first-hand experience while serving as Special Assistant to Governor Haydon in American Samoa from July 1969 to August 1970. My comments also reflect my observations as an official in the Office of Territories from 1967 until I assumed my post in American Samoa in 1969.

My observations center on four fundamentals of a free and democratic society, i.e., separation of powers among the branches of government; equal treatment under the law; safeguarding individual civil liberties; and a public service founded on a merit system. As we will be shown below, these fundamentals have either been lacking or have been sorely and blatantly abused under the administration of John M. Haydon.

*Separation of powers.* A cardinal rule of the American system of government, which is supposed to be followed in each of its states and territories is the strict separation of powers among the judicial, legislative and executive branches. Mr. Haydon violated this rule by actively engineering the removal of the Chief Justice and the Associate Justice who had been appointed to the High Court prior to his assumption of office. He further sought to weaken and demean the Court by publicly ridiculing their performance and through his attempts to influence the justices' rulings.

Mr. Haydon sought Chief Justice Hyden's removal on his alleged tendency to imbibe alcoholic beverages excessively. Haydon told me that he based this opinion on observing the Chief Justice during a party at my home, although he admitted that he was not aware of any instance of the Chief Justice being under the influence of alcohol while on the bench. With regard to Associate Justice Goss, Mr. Haydon publicly denounced him as a "lousy judge" and let it be known that he did not want him to stay in American Samoa. The Department of the Interior acquiesced to Haydon's demands and removed the justices but officially censured him for interfering with the judiciary and for his intemperate remarks. Part of Interior's embarrassment was undoubtedly caused by the strong protests lodged by the Legislature of American Samoa. Speaking for the people of American Samoa, the Legislature expressed its confidence in both justices and voiced its concern over the executive branch's threats to an independent judiciary.

In another, less known instance of executive interference with the judicial processes, Mr. Haydon ordered his Attorney General, Thomas Thorpe, to forcibly remove a floating dock from government property. His arbitrary order was given while the status of that dock was before the High Court in a case of the government vs. the private operator of an airline. This so upset Chief Justice Crothers (who had replaced Chief Justice Hyden) that the Attorney General had the dock hauled back to its original location.

In his dealings with the legislative branch, Mr. Haydon seemed to view this body as a non-equal entity, and made little or no effort to maintain two-way communication. For example, the executive branch had the staff and expertise to develop and review technical programs; the Legislature did not, so the Governor determined program and budget priorities. I personally attempted to redress this inequity by urging the establishment of a Joint Budget Review Committee so that the Legislature could participate actively in this vital facet of government. Mr. Haydon gave lip service to this concept but in reality rejected any meaningful legislative participation by permitting only their "cooperation." Their role as a co-equal entity was subverted since they were not brought into the decision-making process prior to the setting of territorial priorities and commitments.

Another example of how the cardinal rule of the separation of powers was violated, as well as the corollary of supremacy of the Constitution, occurred when Mr. Haydon decided to hire a personal friend from Seattle. Although the Constitution of American Samoa expressly called for legislative approval prior to the establishment of a new executive department, Mr. Haydon did so by executive order without first submitting it to the Legislature. Attorney General Thorpe took issue with this but Mr. Haydon insisted on this action on

grounds of "expediency." Privately, Mr. Haydon admitted that the cause of "expediency" was really his desire to make his Seattle crony a department director rather than a lower division head so that he could get better government-furnished housing.

*Equal treatment under the law.* Prominently displayed behind the Governor's desk is a large placard reading, "One law for everyone." This is supposed to indicate equal treatment for everyone, but the Samoans quickly learned that this really meant one law for Haydon and his friends and something less than equality for everybody else.

Some examples: Haydon had a fetish about Samoan cooking. He could not stand it and constantly accused his Samoan housekeepers of stealing (they were provided by the Government of American Samoa at no cost to him, as was most of his food, liquor, etc.). They had worked for the previous Governor and apparently performed satisfactorily. But, Mr. Haydon did not want to retain them and had them fired. Instead of replacing them with other Samoans, he imported a Japanese native who had worked for him in Seattle. His importation of an alien for household help was contrary to Samoan immigration laws because of their high incidence of unemployment. To get around this legal barrier, though, Haydon claimed a shortage of qualified Samoan household help—which was patently untrue.

Other examples of unequal treatment was Mr. Haydon's propensity to grant government store leases to friends instead of following government regulations requiring open bids (space was extremely scarce, so there was keen competition for government-owned stores); giving favored housing to friends instead of assigning it by rank and seniority according to personnel regulations; and the arbitrary barring of "palagis" (non-Samoans) from receiving government scholarships even though they were legal residents of American Samoa who met all qualifications for financial aid.

*Safeguarding individual civil liberties.* Related to the unequal application of the law was Mr. Haydon's attitude about individual civil liberties. The rights of free speech were placed in jeopardy and opposition to administration policies was not tolerated, as governmental harassment and oppression were used against "palagis" and Samoans.

The Government of American Samoa has long enjoyed a near-monopoly on news in American Samoa through its ownership of newspaper, radio and television communications. The major exception to this is a weekly newspaper, *Samoa News*, edited by Jake King. Mr. King became a sore point for Mr. Haydon because of his outspoken editorials criticizing the administration. Haydon's personal vendetta against King (whereby Haydon tried illegally to expel King from American Samoa) is by now well documented. What is not so universally known, however, was Mr. Haydon's efforts to have Attorney General Thorpe violate Mr. King's civil liberties by having the police seize him and place him on an outgoing airplane. Mr. Haydon was so incensed over King's criticism that he refused to listen to the advice given by the Attorney General or me as we tried to persuade him against such an illegal act. He insisted that as Governor he had the ultimate right as to who might reside in American Samoa. It was only after Thorpe sent a cablegram to the Department of the Interior requesting guidance and their response forbidding such unconstitutional action that Haydon backed off and permitted the case to be handled through legal means. It is interesting to note that the legal outcome was that the High Court upheld King and dismissed the Governor's charges against him. Associate Justice Goss' handling of this case was undoubtedly one of the reasons Mr. Haydon labeled him a "lousy judge."

George Wray, a "palagi" attorney, was also on Mr. Haydon's list of people he wanted to get rid of because he had been openly critical of his administration. (Mr. Wray owned the airline referred to above in the incident of the floating dock). Haydon could not deport Wray, but he had the government harass him in his business and even tried to get the Federal Aviation Administration to declare his airline unsafe. The fact that Mr. Wray provided a vital link to the nearby islands for medical evacuation, which the government could not do, did not deter Haydon. The F.A.A., however, saw otherwise and ruled Wray's airline safe and found it to be complying fully with all rules and regulations.

Still others who had been critical of the Haydon administration felt his wrath. These included a hapless school teacher who debunked the qualifications

of the newly appointed director of education and thereby embarrassed the Governor. As a consequence, Haydon ordered a special review of his contract to determine whether he could be dismissed immediately. He could not but his contract was not renewed when it expired. Mr. George Little, medical planner, was another person who got into trouble because he did not agree with Haydon's expertise. His contract was terminated early and Little was deported.

Mr. Haydon's vituperative action against critics was not confined to "palagis" only. If he did not like a Samoan or if he heard of a Samoan criticizing his administration, he became equally vindictive. Although he could not deport a native, he did try to have him fired if he was a government employee or made life miserable for him in other ways. A specific instance occurred when Chief Freddie Letuli let it be known that he disagreed with how Mr. Haydon violated Samoan traditions. Chief Letuli was a government employee so Haydon directed the personnel director to determine if he could be fired. Chief Letuli could not, but the message got around: do not criticize the Governor if you wanted to keep your job or get promoted.

*Public service under a merit system.* A basic national policy of the United States in American Samoa is to help the Samoans take over their own governmental affairs. The public service was supposed to offer increasing opportunities to Samoans, with the corollary of decreasing the number of "palagi" appointees. To accomplish this, the public service was to be founded on a merit system so that qualified Samoans would assume more decision-making posts while "palagis" were to be phased-out. New jobs or those become vacant were to be advertised openly so that Samoans would know about opportunities and have enough time to apply for them. Equal pay for equal work was also supposed to be a precept of public service.

It is worthwhile to examine how these principles fared under the Haydon administration.

First, the equal pay issue. Although this was cited in Mr. Haydon's inauguration speech in July 1969 as having the highest priority, it took him more than three years to start to approach parity. In the meantime, of course, non-Samoan salaries kept pace with the cost of living while Samoan staff were discriminated against as they were paid a fraction of what their "palagi" counterparts received.

With regard to job opportunities, qualified Samoans were supposed to get preferential consideration for new jobs or as "palagi" contracts expired. Job openings were supposed to be advertised but this was either dispensed with or curtailed in order that cronies of Mr. Haydon could be placed. A few examples:

As discussed above, a Seattle crony, Richard Berg, was brought in to head the newly established Department of Manpower Resources (established illegally) even though it was apparent that he had neither the education nor the experience to qualify. He performed so poorly and became involved in so much controversy that Haydon kicked him upstairs within about six months. In doing so, he promoted him—in violation of the Whitten Amendment requiring one year in-grade. Again, the merit system was ignored as a new position was created to take care of him (Special Assistant for Transportation).

Special salaries and positions were given to other favorites of Mr. Haydon, such as Mr. and Mrs. Munday Johnston. As part of the deal to make room for the new special assistant for transportation, Mr. Johnston was transferred from his positions as Special Assistant to the directorship of the newly-created economic development bank. Mr. Johnston, a superannuated former banker had never been in the development banking business and subsequently he, too, had to be removed for failure to carry out his duties satisfactorily. In all of this, Mr. Johnston's salary, paid for with public tax monies, was not decreased in line with his lesser responsibilities, even though he himself brought this to Mr. Haydon's attention. Similarly, Mrs. Johnston, as a friend of the Haydons, enjoyed special pay and perquisites, such as receiving the 25 percent hardship allowance. This was contrary to local-hire policies because her husband was also receiving it.

In accepting his oath of office, a Governor pledges to uphold the U.S. Constitution and to carry out national policy. By so doing, he is obligated to serve the people of American Samoa. Instead, as indicated above, in the other documents referred to above as well as charges from others, the incumbent Governor has served himself and his friends to the detriment of the Samoan

people. Mr. Haydon has shown a unique insensitivity and open arrogance as he set himself above the law which he pledged to uphold and administer. In doing so, his administration has created a state of repression that seeks to squelch all criticism.

If it is an axiom of democracy that the tone and quality of government are set by its leadership, one might characterize American Samoa under John M. Haydon as existing under a "Big Brother" society in which friends are rewarded with special favors and critics are punished.

Such a state of repression is reprehensible under any circumstances and is an anathema to a democratic form of government which is dedicated to a free and open society under which its government services by and for the people. In contrast to the principles of limited government and operative checks and balances, American Samoa exists under a form of feudal absolutism. Instead of being a showplace of American democracy, American Samoa is an example of U.S. Government-sponsored colonialism.

To fully grasp the significance and impact of this, one must recognize that American Samoa is a very small community isolated from the main stream of appeal and review by higher governmental bodies. The Governor, as a carryover from military occupation literally has the power of economic life or death over individuals, institutions and businesses in American Samoa because there is only one government, and that government is supreme for all practical purposes. The normal safeguards of civil liberties and rights of appeal through the courts that one enjoys in any of our fifty states are either not available to Samoans or are enforced by the Department of the Interior, the very agency which appoints and supports the Governor. The courts, which might normally serve as an overseer of the chief executive, are also under Interior's supervision. As shown previously, the Department of the Interior has not served as a bulwark against intrusions by the Governor. Similarly Interior may nullify legislative independence because it reserves the final veto power in case of disputes between the Legislature and the Governor.

Under the circumstances existing in American Samoa, the investigation being conducted by your office is especially vital. The Samoan people living in such a closed society have nowhere to turn for relief. Complaints to the Office of Territories or to the Department of the Interior have gone unheeded or have been referred to the Governor for reply. The American Samoans desperately need help to obtain for them guarantees of free speech and civil liberties for which they have been struggling since 1900 when the U.S. assumed responsibility for them.

As a necessary step toward redeeming this 73-year old pledge, the incumbent Governor of American Samoa, who has proved himself so inept and repressive, must be removed. In his place an interim Samoan Governor should be appointed with the advice and consent of the Legislature, and special elections of Samoan officials should be held as quickly as possible.

Sincerely yours,

WILLIAM WOHLFELD.

[Exhibit F]

GOVERNMENT OF AMERICAN SAMOA, OFFICE OF THE GOVERNOR,  
PAGO PAGO, AMERICAN SAMOA

AUGUST 22, 1972.

CONFIDENTIAL

Mr. JAMES O. WYATT,  
Program Officer,  
Public Land Management,  
Office of the Secretary,  
Department of the Interior,  
Washington, D.C.

DEAR JIM: This is a belated reply to your August 9th letter. We have been swamped with work and I wanted to go over it with Tom Mahar before I replied.

I am sorry I placed you in the wrong office. I know what your responsibilities are but inadvertently identified you with the wrong shop.

Tom Mahar is reorganizing his office to make it more efficient and to reflect the output desired under the program worked up between the two of you and outlined in your original memo and again in your letter of August 9. I believe he is well underway, although still heavily overloaded with actual budget preparation work and still not completely filled as far as personnel goes.

Congresswomen Hansen and Senator Bible have both told me during budget hearings that they are very pleased with the way we now identify sources of funds and Tom will be taking further action to identify these by actual grant programs. We have been very pleased to work with the Congressional Committees and, having appeared before them three times and having read all of the Congressional hearings back to 1968, I am quite familiar with the intensity with which Congressional Committees sometimes wish to go into very small detail.

I agree with the various points in your letter but believe it is worthwhile to discuss more fully involvement of the Legislature of American Samoa in the planning and budget process.

When I came here in August of 1969, the "rubber stamp" procedure you described was in effect under Governor Aspinall. Within two weeks, we had set up a Joint Budget Review Committee with the Fono and, for the first time, they began taking part in the actual budget planning process. That first year, we had about six members of the Fono take part. The last two years, about fourteen have taken part. However,—and this is particularly *faa-Samoa*—other members of the Fono are quite jealous of the Joint Budget Review members' prerogatives and constantly argue about their right to speak for the Fono as a whole. They do not have such a right but merely take part in the budget planning process and then are asked to explain the budget document to the Fono. This, unfortunately, they do not do. More than a year ago, I informed the Fono that I was more than willing to have every member of the Fono, from both Houses, sit on the Joint Budget Review Committee in order to get the kind of participation you are talking about. Since Secretary Loesch has testified before Congress that Samoa will elect its own Governor within four to six years, it is vital that the Fono learn how to put together a budget. In recent months, they have acquired a fiscal officer, Mr. Jim Krause, and he is already involved in the budget planning and reprogramming process. He is also quite frustrated. At the last Joint Budget Review session, no member of the Senate bothered to appear.

It should be noted that during my Administration we have also heartily endorsed giving the Legislature full authority over its own funds and far broader authority over the appropriation and reprogramming of local revenues or excess local revenues. I think I can say that, in all fairness, American Samoa has taken some rather remarkable steps forward in the budget area as far as involvement of the Fono is concerned. However, over a period of some nine years. I have intimately observed the relationship between Governor Daniel J. Evans of Washington State and its Legislature as far as budgeting goes, have had three years of budgeting experience here and am obligated by the duties of my job as Governor to plan for American Samoa on a realistic and pragmatic basis that takes into account both the desires of the Secretary of the Interior—as expressed before the Congress by Secretary Loesch—and the raw material with which we must deal here in American Samoa. I attach a copy of Secretary Loesch's statement before Congress, in case you have not seen it, and draw attention to his emphasis on controls over financial management.

I also have to think in terms of the responsibilities of the Samoan Governor to come and do not wish to play any part in a dilution by default of the Governor's authority. It is interesting that in the summer '72 issue of "State Government", Ron Michaelson, Assistant to Governor Ogilvie of Illinois, points out "a perennial dispute in public affairs is whether the Office of the Governor should be limited and decentralized, or centralized on broad based powers. In recent decades, the Governors emerged as the undisputed chief architect of state policy. Accordingly, final responsibility for the administration of the major part of State Government rests with the Governor. This development has coincided with a trend toward more vibrant and activist state governments."

While conditions in the 50 states do not, and, in fact, absolutely do not coincide with conditions in a territory, there are many, many similarities. When

American Samoa does have its own Governor, we must make certain that all reasonable authority due that office is handed over to him.

I have certain facts of life which I have to deal with here and, after three years of very intimate association with our Fono, I feel I have a reasonable understanding of the thinking process of the average member. Some of the types of things that disturb me are these:

(1) Backed by members of the Fono, the chiefs of Aunu'u, where less than 300 people reside, seriously requested that we build them a bridge from Aunu'u to the mainland at a cost of \$142,000,000.

(2) Both Houses of the Legislature in a session earlier this year passed a resolution asking me to get the Army Engineers to build a bridge across the entrance of our harbor. Estimated cost was \$250,000,000-\$300,000,000. This was to relieve traffic congestion created around the market place by our population of 2500 or 2600 automobiles.

(3) Although we have made no direct investigation of members of the Fono, current tax audits in the general private sector have already turned up 14 members of the Fono who are involved in one form or another of tax evasion.

(4) Our Tax Division estimates that, if we were to investigate all members of the Fono, we would find close to 100 percent tax evasion of one form or another on the part of the Fono members.

(5) One member of the Fono this year has been involved in a serious embezzlement. Another member of the Fono is under suspicion of the same thing at the present time.

(6) Our Fono, based on last year's activities, probably has the highest percentage of travel expense to total budget expense of any Legislature of any state or territory in the United States with the possible exception of Guam. I have indicated my concern to the Fono but, since they are the spenders of their own budget, they pay no attention. They continue to send large groups off on meaningless trips at high expense to the Government of American Samoa.

(7) By and large, this is completely an amoral society, does not approach large sums of money with the same seriousness that you and I do (and why should they, since the United States has supplied the bulk of the money for this country for many years) and, at the present time, completely lack the professional capacity to develop a meaningful budget on their own. This ability might be brought about through long-term training but it will be a number of years in coming, if it arrives at all.

Jim, I could recite many more facts but do not feel it is necessary. It has been indicated to me at Interior that the Comptroller systems, now in effect in Guam and the Virgin Islands, are quite unsatisfactory. The experience with those two should be a red flag for all of us involved in planning for the future of American Samoa.

I appreciate very much your taking the time to write and I will make a real point to visit you when I next come to Washington. The above is about all I want to put on paper but there are many things I would like to discuss with you in person.

Best personal regards.

Sincerely yours,

JOHN M. HAYDON,  
Governor.

Mr. BURTON. It is also understood that the gentlemen from Washington State request that the witness be able to present to the committee and any additional members who ask his written responses as to the relevancy of that final paragraph.

At this time I would like to have the staff give copies of these exhibits to Governor Haydon.

As I said earlier, it is my hope and intention that I will hold in abeyance on my own questioning until some of the members of the committee, who have had an opportunity to visit American Samoa and all others of the committee for that matter, have an opportunity to question the Chief and also Governor Haydon.

At this time, if you will move over Chief, I think it will be useful for Governor Haydon and for any staff he thinks might be useful to him to come forward if you will, Governor.

Governor, would you stand up and be sworn?

[The witness was sworn.]

### TESTIMONY OF JOHN M. HAYDON, GOVERNOR OF AMERICAN SAMOA

Mr. HAYDON. Mr. Chairman—

Mr. BURTON. Governor, initially I believe you should respond in any manner that you believe to be useful. The Chair will stipulate that just as he has not seen this testimony prior to this morning, that though you may or may not be aware of some of the actual background that prompted the testimony of Chief Fuimaono, that we assume unless you state the fact to the contrary, that you, yourself, had not seen this statement prior to this morning.

Governor HAYDON. No, I hadn't.

Mr. BURTON. So without objection you will be entitled to expand upon your testimony in written form. We in the House would call this revision and extension so that you are not in the posture where your memory may be somewhat at fault or hazy where you may make a misstatement of fact that you prefer to correct and I would suppose within 2 weeks time you could get a copy of this transcript and you will then forward to us whatever revisions or corrections in your testimony you think would be in order. I think that is fairest to you and the fairest to those who will be reading the record so that it represents not only your testimony here today but your best view upon recollection as to whatever responses and as to whatever questions you may have with reference to the Chief's statement.

I will say that the Chair will be a good deal less flexible in terms of your responses to members of the subcommittee who visited American Samoa with reference to specific problems that arose during the course of their visit, as to that procedure, because just like any other witness it is assumed that you are in a position to respond to whatever extent you have the facts at your command. So please proceed if you will.

Governor HAYDON. Well, Mr. Chairman, I think that is a fair approach. I don't know why the Delegate at Large, Chief Fuimaono, is motivated to reopen a Hatch Act hearing, which has been conducted. And I believe my own attorney would advise me, since we are still in the period of appeal following the hearing judge's opinion, that I should not comment on the Hatch Act and therefore I appreciate the opportunity to reply in writing within whatever period of time you wish to give me. I would be very glad to answer any—

Mr. BURTON. I would say it is not the intention of the subcommittee that you in any way testify on that issue without consultation and approval of your attorney on any information you are willing to impart to the committee. We are going to scrupulously avoid infringing upon your rights in all respects as best we can perceive them.

Governor HAYDON. Undoubtedly there are motivations for reopening or attempting to reopen this Hatch Act case, but I don't know what good purpose is served by my retestifying as I did at length in American Samoa.

I would be very glad to answer any questions that the committee has. I am glad that I am sworn and I think that the Delegate at Large, for reasons which I am sure he feels are well intentioned, wishes to continue the controversy which he has carried on for some time. I am sorry it exists.

We are all trying to work for Samoa and that is why he is here in Washington. And it is somewhat surprising to me that this sort of thing continues.

Other than that, since I think you could get to the heart of whatever you wish to more quickly by questioning me, I think that I should let it go at those remarks and open myself to whatever questions you might have.

Mr. BURTON. The Chair will first recognize the ranking majority member of the subcommittee present, Hon. Patsy Mink from Hawaii.

Mrs. MINK. I would like to ask you, Governor Haydon, whether you dictated or authorized to be sent this message from your office to Mr. Carpenter's office? I ask the clerk to show you a copy of this telegram.

Governor HAYDON. Yes, I did.

Mrs. MINK. Would you mind reading the last sentence of that telegram for the record?

Mr. BURTON. Without objection, the whole telegram will be inserted in full at this point.

[The document referred to follows:]

[Exhibit 2-A]

[Radio Dispatch]

JANUARY 1974.

For Carpenter X Press statements by Rep. Mink that TV education is a failure not based on any in depth study. She did not meet with education officials or raise subject with me, although I had Chief Pula present at one meeting. She did have dinner with Meeuwsen, Mahar and Clark. Governor Haydon sends  
BT

Mr. BURTON. And now respond to our colleague's question.

Governor HAYDON. The last sentence reads: "She did have dinner with Meeuwsen, Mahar, and Clark."

Mrs. MINK. Of what relevance in your mind regarding whatever positions I may take with regard to problems that I saw in American Samoa is the fact that I had dinner with the three named individuals?

Governor HAYDON. Primarily because Mr. Meeuwsen, Mr. Mahar, Mr. Clark, and I believe others with whom the committee had dinner formed the PTA. These are Palagis who work under civil service or contract for American Samoa and who have levelled a great deal of criticism at the operation of the Fia Iloa School and the Samoana High School. Mr. Carpenter is familiar with that fact and I mentioned it since to the best of my knowledge these were the people

who had given the committee a picture of education in American Samoa. And if that was the only picture given, it was a distorted picture or at least it was only half of the picture.

Mrs. MINK. Who was it that informed you I had dinner with these three named individuals?

Governor HAYDON. I don't recall.

Mrs. MINK. Well, you stated that it was your statement that was transmitted over the teletype so I assume you substantiated this reference to persons I might have had dinner with on my visit before sending such a message. With whom did you substantiate such a misinformation?

Governor HAYDON. Well, it was mentioned by several people, Mrs. Mink, that the committee was having dinner at Mr. Zintheo's house with this group and it was mentioned by enough people that I didn't question it.

Mrs. MINK. For your reference, it was a cocktail reception that was given in our honor by certain individuals.

Governor HAYDON. I was told it was a dinner. It could have been a cocktail reception.

Mrs. MINK. Who are these individuals, could you give us their titles?

Governor HAYDON. Mr. Meeuwsen is director of administrative services; Mr. Mahar is the director of budget and planning; and Mr. Clark is director of the office of material management.

Mrs. MINK. Now, do these individuals currently hold these positions?

Governor HAYDON. Yes.

Mrs. MINK. In the capacity which you have just described, do these individuals have an opportunity as a result of their government responsibilities to know about the operations of the educational system in Samoa?

Governor HAYDON. As much as any Palagi parent there, yes.

Mrs. MINK. Would you say that if the committee had an opportunity to talk with these three individuals, that it would have a very good view on the operations of the educational system in Samoa?

Governor HAYDON. No.

Mrs. MINK. Why not?

Governor HAYDON. I would say they would have a fairly good view of a contract employee school system from the United States view of the school system in American Samoa, but certainly not a view at all of the overall problem of education as it affects from 12,000 or 13,000 students in American Samoa who are primarily Samoan.

Mrs. MINK. At the time you sent this message to the Department of the Interior, had you seen the copy of the so-called press statement to which you refer to in your telegram?

Governor HAYDON. Yes.

Mrs. MINK. I ask that the press statement that is alluded to in the telegram be also entered into the record.

Mr. BURTON. May we first have the clerk show it?

Mrs. MINK. And if the Governor could be shown a copy of that news clipping; here it is.

By the way, Mr. Chairman, the only comment I made after my trip was this one, so there is only one news article that could possibly have been referred to.

Mr. BURTON. Governor, are you familiar with that article?  
Governor HAYDON. Yes.

Mr. BURTON. Let the clerk number that article next in order. The telegram will be noted as exhibit 2-A and the newspaper article is exhibit 2-B.

[Exhibit 2-B follows:]

[Exhibit 2-B]

[From the Honolulu Advertiser, Jan. 14, 1974]

#### EDUCATION IN SAMOA: "INADEQUATE"

U.S. Rep. Patsy Mink yesterday described the educational system in American Samoa as "very, very inadequate."

Mrs. Mink returned from American Samoa early yesterday after a four-day investigative trip with three other members of the House subcommittee on territories.

She said the educational problem stems from a Federal Government decision, made about eight years ago, to make educational television the primary means of schooling in the islands.

"It hasn't worked," she said. "Now the problem is to find a way to get back to regular learning."

Mrs. Mink said the subcommittee members talked with American Samoa teachers and principals, "and they were deeply concerned about why so many young Samoans come to Hawaii to get their high school education."

Mrs. Mink said she may bring up the problem in the House Education Committee, of which she is a member.

Mrs. Mink said the subcommittee members met with all three of American Samoa's district councils and found them unanimously in favor of having an elected governor.

But Mrs. Mink said some young American Samoans are against an elected governor because they fear that move will serve to entrench the complex, customary land-ownership system.

Mrs. MINK. Governor, I will read you a portion of this press release, which indicates how I arrived at my conclusions regarding the educational system. On paragraph five:

Mrs. Mink said the Subcommittee members talked with American Samoa teachers and principals and they were deeply concerned about why so many young Samoans have to come to Hawaii to get their education.

With that being the major context in which I made my statement to the press in Honolulu, to wit that I had an opportunity during my visit to talk to teachers and principals, how is that you could have arrived at your conclusion in the telegram which I have just alluded to, that my conclusions were arrived at only because I had an opportunity to "have dinner with three of your government executives"?

Governor HAYDON. Well, Mrs. Mink, if you recall at the chairman's request I brought the Director of Education and the Deputy Director of Education to meet with the committee in my office and no conversation was had with them at all, with the people who were primarily responsible for our educational system in American Samoa. And knowing your schedule, I was not familiar with the fact that you had had time to have discussions in any depth at all with other members of the educational system. And frankly you—

Mrs. MINK. Well, Governor you must not have read the news article very carefully before you saw fit to inform the Department of the Interior on what you believed was a superficial inquiry on my part. Your remarks not only go to my own personal integrity but questions of what I consider to be a legitimate inquiry of this committee; to wit, the way in which the educational system in American Samoa is in fact functioning.

In my 10 years of Hill service I have always considered it most appropriate for a member of an investigating committee to not merely discuss matters as seen through the eyes of government officials but to take on the personal responsibility of going to the people and discussing these matters with the people themselves and to get their appraisal of the problem.

I would like to request the chairman at this point to insert in the record this [indicating] and ask unanimous consent that I be permitted to file also a subsequent news article, which I cannot put my hands on at the moment, in which the Governor himself concurs that the educational system is "an absolute failure."

Mr. BURTON. Without objection—

Mrs. MINK. At this point, Mr. Chairman, I would like to reserve the balance of my questioning in order to allow the other members of the committee time to offer their questions.

Mr. BURTON. Well, Mrs. Mink, without objection, this exhibit will be numbered next in order, exhibit 2-C.

You have more time now and can have more time later. So if you care to continue your line of inquiry or another line, you may do so.

Mrs. MINK. Well, if I have a few minutes, I would like to show the news article to the Governor and also ask unanimous consent that I may be allowed to submit a more recent article.

Mr. BURTON. Without objection, so ordered.

[The document referred to follows:]

[Exhibit 2-C]

#### EDUCATION LAG IN AMERICAN SAMOA BLAMED ON ETV

High school graduates in American Samoa are two to three years behind their counterparts in the United States, says the new, tough-talking governor of the territory.

And Gov. John M. Haydon, 50, a Republican who was appointed by President Nixon eight months ago, blames the lag on the territory's reliance on classroom use of educational television.

Haydon calls the ETV system "an absolute failure."

He was publisher of a Seattle-based weekly maritime magazine when he was named governor. He was interviewed recently by the Star-Bulletin.

Haydon added bluntly:

"I reject absolutely the notion that Polynesians are a lazy people. They are a lovely, responsive people—willing to work for what they want," he said.

He listed five major areas of concern: education, fishing, farming, tourism and light industry.

Of tourism in Samoa, he said:

"We're going to develop tourism, but it's going to be controlled, not like Waikiki. We need people who like Samoa for Samoa—for what it is.

"Some people come down to Samoa with their briefcases in their hands saying they're going to develop tourism 'for the good of the people.'

"That's the last they have in mind, of course, and I don't waste any time letting them know when the next plane leaves."

Returning to ETV, he continued:

"I don't discount the use of television in the classroom," he said, noting that the six-year-old TV system has been studied by educators from throughout the world.

"This kind of thing could be used to tremendous advantage in such places as India, as well as Samoa. But it is urgent that we determine how we might best use this modern tool to insure that we meet our educational objectives."

Haydon is working closely with the University of Hawaii to improve teaching in American Samoa schools and he recently hired Richard Balch, UH vice president for continuing education and community affairs, as his director of education.

Balch and another UH specialist, David Lynn, are working not only on the TV system but a wide range of projects—recruiting more and better teachers, adult education, expanding vocational education, improving instruction in the English language and establishing a community college in the near future.

Mr. BURTON. Governor, you are now being shown exhibit 2-C.

Mrs. MINK. Is this, Governor, a correct statement of your views at the date of this article?

Governor HAYDON. No, it is not.

Mrs. MINK. Well, in what way is it a misstatement of your views?

Governor HAYDON. Where it says that I called the ETV system an absolute failure is an absolute misquote.

I have never called the TV system in American Samoa an absolute failure. I have said that there is much more that could be gained from it, that it has not been a complete success and has not been used to its complete capability.

I have stressed continuously that it is a teaching tool and not a single way of education. I have never called the ETV system an absolute failure.

I have consistently been misquoted apparently because people like to do that. I have never believed that I do not believe that at the present time. I certainly believe it is deficient in many areas and can be improved, and we have made constant efforts to improve it.

Mrs. MINK. What efforts did you take to correct that news report?

Governor HAYDON. I didn't take any efforts to correct it. I found that is a somewhat futile activity except that at home, I explained that I had been misquoted.

Mrs. MINK. Governor Haydon, I wonder if I might request that the committee be provided with your opening address to the Fono in this session of the Samoan Legislature, which I believe occurred after our visit?

Mr. BURTON. Without objection, Governor, you are directed to provide that statement to the committee and that statement will be numbered next in order, which is exhibit 2-D.

[Exhibit 2-D follows:]

[Exhibit 2-D]

LEGISLATURE OF AMERICAN SAMOA,  
OFFICE OF THE LEGISLATIVE COUNSEL,  
Pago Pago, American Samoa, April 10, 1974.

HON. PHILLIP BURTON,  
*Chairman, Subcommittee on Territorial and Insular Affairs, House Office Building, Washington, D.C.*

DEAR CONGRESSMAN BURTON: I have been informed by the Governor's office that at a recent hearing of your subcommittee, a tape of certain legislative

proceedings was requested. This particular tape covered the opening day of the Legislature on January 14, 1974 and included the Governor's welcoming remarks.

We use these tapes in the preparation of our legislative Journals and when they have served this purpose, they are erased and reused for other purposes. As this particular tape related to the opening day proceedings, it has already been transcribed and I am enclosing herewith a copy of the Governor's remarks as typed from the tape. I trust you will find this useful for whatever purposes it is intended.

With kind regards.

Cordially yours,

GEORGE M. BLAESI,  
*Legislative Counsel.*

Enclosure.

GOVERNMENT OF AMERICAN SAMOA,  
OFFICE OF THE GOVERNOR,  
*Pago Pago, American Samoa, January 14, 1974.*

Mr. Speaker  
Mr. President  
Members of the Fono

My remarks today as you open the 13th Legislature of American Samoa will be relatively brief.

This session could well be one of the most important in the history of the Legislature of American Samoa as we face a number of serious problems brought on by the energy crisis.

Our air service has been cut in half due to a shortage of aviation gas.

Because of this, bookings at our hotel have fallen substantially and its financial future is endangered.

Unless we get far more ample supplies of diesel fuel, and fleets supplying our canneries will have to tie up and the jobs of some 2000 people will be at stake.

Highway funds face a 30% cutback as they come from the U.S. tax on automotive gasoline.

The terrible fire of December has left us with \$3.5 million in damages, money which will have to come from deferred capital improvement projects unless the OMB and the Congress see fit to provide us with supplemental relief.

The question of whether or not to build an oil refinery in American Samoa, I should point out, is a dead issue for the time being because of the world wide shortage of crude. As Secretary Morton requested, we have provided a fuel position paper outlining both positive and negative factors, but, while there is long range interest, there will be no action on a refinery at the present time.

We thought we had a real opportunity to bring these problems to the attention of the Congressional Sub-Committee which visited us last week but, regrettably, the Sub-Committee's time here was so short its chairman had little time to listen to these very real and immediate problems and, at the same time, hold meaningful discussions about American Samoa's political future.

However, as we have in the past, it is my firm belief that we can work together with the understanding and backing of the American Samoan people to conquer the problems of 1974. Our growth may not be as great as in the past few years but there is no real reason why we cannot maintain our strength, solve most of our problems and, by hard work and determination, even move ahead in some vitally important areas.

Admiral Hyman Rickover spoke to the Congress recently about man's purpose in life and his remarks seem particularly applicable to American Samoa's dilemma of today. I would like to bring some of his comments to your attention.

Man's work begins with his job, or profession. Having a vocation is always somewhat of a miracle, like falling in love. . . . But having a vocation means more than punching a timeclock. One must guard against banality, ineptitude, incompetence, and mediocrity.

We as a people seem inclined to accept average or mediocre performance. Mediocrity can destroy us just as surely as perils far more famous. It is important that we remember to distinguish between what it means to fail at a task and what it means to be mediocre. There is all the difference in the world between the life lived with dignity and style which ends up failing, and one

which achieves power and glory, yet is dull, unoriginal, unreflective, and mediocre. In a real sense, what matters is not so much whether we make a lot of money, hold a prestigious job, or whether we don't; what matters is that we become people who seek out others with knowledge and enthusiasm—that we become people who can enjoy our own company.

Most of the work in the world today is done by those who work too hard; they comprise a "nucleus of martyrs." The greater part of the remaining workers' energy goes into complaining. Employees today seldom become emotional about their organization or its output; they are only interested in getting ahead. And many organizations are killing their employees with kindness, undercutting their sense of responsibility with an ever-increasing permissiveness. This is a fatal error, for where responsibility ends, performance ends also.

The sense of responsibility for doing a job right seems to be declining.

The unwillingness to act and to accept responsibility is a symptom of America's growing self-satisfaction with the status quo. . . .

A major reason why so large a majority is smugly docile is that it has accepted the unwritten rules of the game; Don't rock the boat as long as you get your cut. Why become worked up over corruption as long as there are enough benefits of the fallout to go around? Once the acceptance of corruption becomes sufficiently widespread, effective exposure seems threatening to too many people and interests. Clamor for closing loopholes declines in direct proportion to the number of people who benefit from loopholes of their own. Freedom of speech seems less important when the majority persuades itself that it is not likely ever to want to speak out to complain.

For the person who strives to excel, to shoulder responsibility and to speak out, there is an enemy wherever he turns. The enemy is a man who has a total willingness to delegate his worries about the world to officialdom. He assumes that only the people in authority are in a position to know and act. He believes that if vital information essential to the making of public decisions is withheld, it can only be for a good reason. . . .

The enemy is any man whose only concern about the world is that it stay in one piece during his own lifetime. . . . Nothing to him is less important than the shape of things to come or the needs of the next generation.

To struggle against these enemies, and against apathy and mediocrity, is to find the purpose to life.

I made the point at the function put on by the Fono for the Congressional Sub-Committee that America would celebrate its 200 birthday in 1976 but that Samoans had had a working system of government for approximately 3,700 years.

To me, the durability of the Fa'a-Samoa over the centuries, is a guarantee that the problems of a moment, the problems of the single year of 1974, can, with patience, understanding and faith be successfully overcome.

Yes, we do indeed have great problems this year. We also have great opportunities. Each, working together, should get equal attention. If we approach this year that I truly believe we can solve most of our problems and take advantage of most of our opportunities—for the benefit of the American Samoan people.

Soifua,

JOHN M. HAYDON,  
*Governor of American Samoa.*

Mr. BURTON. You had a point to make with reference to this?

Mrs. MINK. Yes.

Mr. BURTON. It would be helpful to those who have not read the statement if you explained it.

Mrs. MINK. It was reported in your opening address to the Fono, the legislature of American Samoa, that you made reference to this committee's trip in January and referred to it as most inadequate because we obviously came to Samoa with no intent to talk to the people. Would you care to comment as to the accuracy of this statement as it was reported to have been made to the elected legislators of the American Samoan Legislature?

Governor HAYDON. I will be happy to provide a copy of my remarks since they are printed, Mrs. Mink. I don't recall making such a statement, but if I did, the president and speaker are here and can verify whether I did or not.

Mr. BURTON. It is your sworn testimony that you did not make such a statement?

Governor HAYDON. I don't recall making the statement that Mrs. Mink just quoted.

Mr. MEEDS. Or anything similar?

Governor HAYDON. Congressman Meeds, I really don't recall what it is in the opening address. I will be glad to provide it for you.

Mr. CLAUSEN. Would the gentleman yield? Was the speech that you delivered to the Fono totally in writing? Possibly were there some extemporaneous remarks over and above the prepared text?

Governor HAYDON. I believe this one is in writing, Congressman Clausen. I try to stick with the text. I could have made extemporaneous remarks. I don't recall making the statement of Mrs. Mink.

Mr. BURTON. Are your remarks recorded? Is there a verbatim transcript of your speech?

Governor HAYDON. I believe they taped it.

Mr. BURTON. And that is a tape that better not be missing. Go on.

Mr. CLAUSEN. I was just going to say that it might be helpful if we had, over and above the prepared text, that if there is a recording of the extemporaneous remarks, that that be made a part of the record, Mr. Chairman. And I would therefore ask unanimous consent it be included at this point in the record.

Mr. BURTON. Without objection the Governor's prepared opening statement to the Fono will be noted as exhibit 2-d and the transcript of the recording of the Governor's statement shall be listed in the committee record as exhibit 2-e, with the minority and majority staff instructed to note what if any meaningful departures from or additions to the prepared text are reflected in the recording of the Governor's statement.

Mr. BURTON. Please continue, Mrs. Mink.

Mrs. MINK. I would ask unanimous consent that I also be permitted to supply the news item to which I have referred.

Mr. BURTON. Without objection that news item will be referred to as exhibit 2-F.

[Exhibit 2-F follows:]

[Exhibit 2-F]

[From the Samoa News, Jan. 21, 1974]

#### LEGISLATURE OPENS THIRD REGULAR SESSION

The Thirteenth Legislature opened its Third Regular session Monday morning with Governor John M. Haydon delivering the opening address.

Haydon told the lawmakers American Samoa has great problems in 1974—but also great opportunities. He said, "As we approach this year, I truly believe we can solve most of our problems and take advantage of most of our opportunities, for the benefit of the American Samoa people."

Haydon noted that a number of serious problems have been created by the energy crisis. He said, "Our air service has been cut in half due to a jet fuel shortage. Because of this, bookings at our hotels have fallen substantially and their financial future is endangered."

Haydon said the local canneries face a critical period unless more diesel fuel can be obtained. He said, "Unless we get far more ample supplies of diesel fuel, the fleets supplying our canneries will have to tie up and the jobs of some 2,000 people will be at stake."

The governor noted the fire last November destroyed a large portion of the Administrative Building, leaving about \$3.5 million damages which may have to come from deferred capital improvement projects to rebuild unless the OMB and the Congress see fit to provide the supplemental relief funds needed.

Haydon said the prospects of building an oil refinery at this time is a dead issue because of the worldwide shortage of crude products.

However, Secretary Morton requested a fuel position paper outlining both positive and negative factors. He said there is still a long range interest but there will be no action on a refinery at the present time.

"We thought we had a real opportunity to bring these problems to the attention of the Congressional Sub-committee which visited us last week but, regrettably, the Sub-committee's time here was so short its chairman, Rep. Phillip Burton, had little time to listen to these very real and immediate problems.

Following the opening address committees began work on bills left over from the last session.

Mrs. MINK. Governor, during our subcommittee's trip to American Samoa were you at any time given, either orally or in writing, the list of district councils and other public meetings which we were holding?

Governor HAYDON. Yes.

Mrs. MINK. And so you were fully aware then that we were making every possible effort during our meeting to visit with all of the district leaders in the principal island of American Samoa?

Governor HAYDON. Yes.

Mrs. MINK. What is your view of the work of the subcommittee for the record?

Governor HAYDON. Concerning your visit?

Mrs. MINK. As you perceive it and the work that we undertook to accomplish.

Governor HAYDON. Well, I assume, Mrs. Mink, that the subcommittee came to Samoa because of its interest in Samoa. If I can be a bit chronological, I have been in Samoa nearly 5 years, and during the first 3 years that I was in Samoa I had no correspondence from this committee or no indication of any interest in American Samoa of any kind. It has only been in recent times I saw I believe a page and one-half or two pages of comments of some hearing held about 2 years ago on all of the territories in which American Samoa was mentioned. I have repeatedly asked Members of Congress to come to Samoa to see the problems of Samoa. Many have come. We feel that this gives us an opportunity to show that this is a very unique and complex place. That, although it is part of the United States, it is not like the rest of the United States and it has some very complex problems.

I think it was excellent that this committee went out and talked to the political leaders, particularly the traditional leaders of Samoa, which form a second form of government in American Samoa.

I was very disappointed that there was not the opportunity for those of us who work in Samoa to have the kinds of meetings that we normally have with congressional committees that come down.

Mr. BURTON. Governor, at this point, is it fair to construe that we

spent too much time with the American Samoans and too little time with others, or putting it somewhat differently, that we spent the bulk of our time with the legislative leaders and the traditional leaders and the community leaders in every district of Samoa, the people, and relative to the time we spent with the official hierarchy, we spent the preponderance of our time with the local American Samoan people? Is that not an accurate statement?

Governor HAYDON. That is an accurate statement. This could well be to the fact you didn't have much time but—

Mr. BURTON. No, it was an effort on behalf of this committee to find out, as those of us who made the trip did, what the great rank and cross-section of the views of the American Samoan people themselves held with reference to a variety of issues. And I dare state there has been no congressional visitation in any community anywhere that worked harder at meeting as broad a cross-section of the indigenous community and its leadership as did our subcommittee. And I will stipulate we spent relatively speaking a good deal less time with the administrators of American Samoa. We will stipulate relatively speaking we spent the preponderance of our time and effort and energy and interest in the views, attitudes, and in constructing some kind of meaningful relationship with the people and leadership of the whole cross-section of American Samoa. And I think that is quite indisputable. Do you disagree with that statement in any way?

Governor HAYDON. No.

Mr. BURTON. Good. Mrs. Mink?

Mrs. MINK. I have one final question, Mr. Chairman. In view of your knowledge of the objectives of this subcommittee trip and our efforts to meet with the district council leaders and elected members of the Fono and in view of your past experience as you have related it to the committee on news items and news reporting, I still would like to come back to my first inquiry as to what purpose was to be served by your message to the Department of the Interior vis-a-vis my statements with regard to educational television and who I might have been discussing this matter with. The news article itself pointedly made note of the fact that I had discussed the matter with teachers and principals and others in the community. Is it, Governor Haydon, because you do not tolerate any difference with your point of view?

Governor HAYDON. Well, I can't consider that statement accurate, Mrs. Mink. As any member of my staff will tell you, there is a great deal of free interchange and a great difference of opinion on many occasions. And I am quite flexible and quite capable of changing my mind about courses of action in American Samoa.

I have run that form of government there since the time I have been there and I had 10 years of governmental activity at the—

Mrs. MINK. Thank you.

Governor HAYDON. I believe in it and I will always believe in it.

I might fight for my views strongly, but if I am shown to be incorrect, I am quite willing to change and I have done so many times.

Mrs. MINK. You discounted the possibility of whatever we might have learned at the cocktail reception party from Mr. Meeuwsen and Mr. Mahar and Mr. Clark on the grounds that they are Palagi. Do you view yourself as Palagi?

Governor HAYDON. Yes.

Mrs. MINK. Well then of what greater weight should your view be than the other three gentlemen you listed.

Governor HAYDON. I simply feel the primary responsibility of the Department of Education in our school system is to the many thousands of Samoan children who need an education and that while we must attempt to provide the best education we can for the children of our contract employees, that our Samoan children come first and see nothing wrong in that viewpoint.

Mrs. MINK. Mr. Chairman, just for the record I would like the record to show that at no time did I have dinner with any of these three named individuals. Thank you very much.

Mr. BURTON. The Chair would now depart from traditional practice and with the indulgence of my colleagues, and I believe they will have no occasion to believe this is a usurpation of authority, will call on the gentleman from Washington and upon the conclusion of his line of inquiry, the Chair has some questions. Mr. Meeds?

Mr. MEEDS. Thank you, Mr. Chairman. And for the benefit of the members of the committee so that they will understand what I am attempting to do by the testimony of the Governor and the exhibits, I will inform the members of the committee that it is my intent to show through the Governor's testimony and through the exhibits that immediately upon or very shortly after our departure, after the subcommittee's departure from American Samoa, the gentleman which Mrs. Mink has referred to, Mr. Bill Zintheo who innocently invited Mrs. Mink and myself and Mr. Foley to a reception, was demoted by having a person whom he had previously supervised placed over him in his position. And this should further indicate what I am sure this subcommittee will have a lot of testimony about, that this gentleman on the witness stand simply does not tolerate views foreign to his own in American Samoa and he acts swiftly and completely in retribution to those who have those views.

Mr. Haydon, on January 8, 1974, did you have a meeting with Tom Mahar, Carl Meeuwsen, Jack Clark, and Leonard Yaudall at which you discussed what I will hand to you and ask that the clerk label as attachment No. 1, a copy of that memo?

Mr. BURTON. The clerk will note this exhibit as attachment No. C-1.

[Attachment C-1 follows:]

[Attachment C-1]

GOVERNMENT OF AMERICAN SAMOA,  
OFFICE OF THE GOVERNOR,  
*Pago Pago, American Samoa, January 8, 1974.*

To: Distribution.

From: Governor.

Subject: Phase I—Reorganization of Administrative Services.

The Director of Territories and the Assistant Secretary of the Interior for Management have agreed in principle with the findings and recommendations of

Cresap, McCormick and Paget with regard to the Department of Administrative Services and its functions. Implementation of some of the recommendations will require new funding and other preliminary actions. Others, however, can be more easily and immediately initiated, at least, for initial stages. In this category, it seems desirable to take the following actions as the first phase in implementing the CMP recommendations:

1. Establish the new Office of Material Management as recommended by CMP, to include the functions now performed by the Material Management Division and by the Lease and Contract Office (except, in the latter case, for construction contracting functions which will go to the Department of Public Works). Acting Director of the new Office of Material Management would be Jack Clark. Other top positions would also be incumbered on an "acting" basis, pending completion of the reorganization.

2. Pending establishment of the new Office of Planning and Systems, provide that the existing Planning and Budget Office and its functions will report to the Governor.

3. Pending establishment of the new Department of Financial Management, provide that the existing Income Tax Office and its functions will report to the Governor.

4. Position descriptions for key supervisory positions in the new offices and departments should be prepared, including the directors and chiefs of subordinate divisions and branches.

5. Budget requirements for the new organizations should be laid out, and 1974 and 1975 fiscal year budgets revised accordingly.

JOHN M. HAYDON.

Mr. MEEDS. This is a memo entitled "Phase I Reorganization of Administrative Services."

Did you discuss that memo on January 8 with the persons I have named?

Governor HAYDON. I assume so, Congressman Meeds. Without my appointment book here I can't verify it accurately but let's say I assume that is correct.

Mr. MEEDS. Well now January 8—and my memory is not too good either, Mr. Haydon—but January 8 is not all that far back. Did you on or about that time have a discussion of that memo with those gentlemen in your office?

Governor HAYDON. Yes, I believe we did.

Mr. MEEDS. All right, now you were aware that we attended a reception at Mr. Zintheo's home?

Governor HAYDON. Yes.

Mr. MEEDS. Who informed you of that?

Governor HAYDON. I don't recall. I merely heard from several people.

Mr. MEEDS. Well, who were the several people? Can you name any?

Governor HAYDON. I believe you were the one who told me you were going.

Mr. MEEDS. OK, I am one of those people.

Governor HAYDON. Yes.

Mr. MEEDS. OK, any others?

Governor HAYDON. Some of the staff.

Mr. MEEDS. Well, who were the staff?

Governor HAYDON. I honestly don't remember who they were.

Mr. MEEDS. It is apparent that on the night following that, when we were at a reception at your mansion, that you knew that we had been at such a meeting, was it not?

Governor HAYDON. Yes, you had been at my home the evening before and you told me you were going out to his home.

Mr. MEEDS. Then am I the only one who told you?

Governor HAYDON. No, I heard later——

Mr. MEEDS. You can't recall the names of anybody else who told you now. Is that correct?

Governor HAYDON. Not at this moment.

Mr. MEEDS. Now, I am going to hand you—first, you are aware that that reception was on January 16, is that correct, or thereabouts?

Governor HAYDON. Thereabouts.

Mr. MEEDS. OK, I am now going to hand you what I will ask the clerk to file as attachment C-2, which is a memo entitled "Phase I Reorganization of Administrative Services, Serial Number 367." I ask you if that is a correct copy and a copy of your signature?

Governor HAYDON. Yes.

[Attachment C-2 follows:]

GOVERNMENT OF AMERICAN SAMOA,  
OFFICE OF THE GOVERNOR,  
*Pago Pago, American Samoa, January 8, 1974.*

To: Distribution list.

From: Governor.

Subject: Phase I—Reorganization of Administrative Services.

The Director of the Office of Territorial Affairs and the Assistant Secretary of the Interior for Management have agreed in principle with the findings and recommendations of Cresap, McCormick and Paget with regard to the Department of Administrative Services and its functions. Implementation of some of the recommendations will require new funding and other preliminary actions. Others, however, can be more easily and immediately initiated, at least, for initial stages. In this category, it seems desirable to take the following actions as the first phase in implementing the CMP recommendations:

1. Establish the new Office of Material Management as recommended by CMP, to include the functions now performed by the Material Management Division and by the Lease and Contract Office (except, in the latter case, for construction contracting functions which will go to the Department of Public Works). Acting Director of the new Office of Material Management would be Jack Clark. Other top positions would also be encumbered on an "acting" basis, pending completion of the reorganization.
2. Pending establishment of the new Office of Planning and Systems, provides that the existing Planning and Budget Office and its functions will report to the Governor.
3. Pending establishment of the new Department of Financial Management, provide that the existing Income Tax Office and its functions will report to the Governor through the Administrative Assistant for Financial Management, Allan Dean.
4. Position descriptions for key supervisory positions in the new offices and departments should be prepared, including the directors and chiefs of subordinate divisions and branches.
5. Budget requirements for the new organizations should be laid out, and 1974 and 1975 fiscal year budgets revised accordingly.
6. The Information Systems Division will be established as recommended by the CMP report, except the Systems Support Branch will not be established at this time and these functioning services will be left under Material Management for the time being.

Mr. Gordon Crawford is to be transferred with his supporting budget at existing salary from the Planning and Budget Office to the position of Acting Manager of the Information Systems Division.

Mr. John Quinn, Systems Analyst-Accountant, is to be transferred with his supporting budget from the Treasurer's Office to the Information Systems Division as Acting Head, Programming Branch. The existing programmers

will act as staff to Mr. Quinn. The establishment of a separate Systems Design Branch will be left until there is adequate money to staff such a branch.

Mr. Bill Zintheo will continue as Acting Head of the Data Processing Operations Branch and is requested to train Mr. Kapeli Le'iato as a possible Samoan replacement for this position.

Gordon Crawford will continue as advisor to Vernon Ta'a on work being done on improved immigration records and procedures effort. He will also serve as the "Census Coordinator" until the latter project moves on its own impetus.

Changes under No. 6 will have no impact on total GAS budget and are subject to final approval by Mr. Allan Dean when he returns from leave. However, this will give us an immediate start on reorganizing one of the most important areas in the Department of Administrative Services.

Mr. Bill Roberts is to implement the personnel changes on an acting basis as quickly as possible.

JOHN M. HAYDON.

Mr. MEEDS. Now, was that issued on January 18?

Governor HAYDON. Well, it was dated January 8——

Mr. MEEDS. That is not what I asked you. I asked you when it was issued?

Governor HAYDON. Well, if I had to give you an answer based upon what I am looking at, I would say January 8. Well, it could have been issued at some other time.

Mr. MEEDS. Remember you are now under oath. Will you testify with certainty that that memo was not issued after the cocktail or the reception that Mrs. Mink mentioned on January 18?

Governor HAYDON. No, it well could have been.

Mr. MEEDS. It could have been?

Governor HAYDON. Yes, sir.

Mr. MEEDS. But it is dated January 8?

Governor HAYDON. Yes.

Mr. MEEDS. Indeed it was issued after January 16 was it not?

Governor HAYDON. I believe so.

Mr. MEEDS. Yes, now why was that?

Governor HAYDON. I don't know.

Mr. MEEDS. Why was it dated January 8 and issued January 18?

Governor HAYDON. I don't know.

Mr. MEEDS. You have no idea?

Governor HAYDON. I have no idea.

Mr. MEEDS. Well, is that a general practice in your office to date things on January 8 and issue them on the 18th?

Governor HAYDON. Well, we have one which is a draft and two which is a final and the only thing I can assume is that the typist picked up the date off the draft and sent it out.

Mr. MEEDS. Did you destroy the original draft?

Governor HAYDON. I didn't write the original draft.

Mr. MEEDS. Could it be that——

Governor HAYDON. I didn't write either of the documents.

Mr. MEEDS. Could it be that the decision, which was made in exhibit C-2 here, differed from the memo which is lettered exhibit C-1?

Governor HAYDON. In specifics; yes, it does.

Mr. MEEDS. Indeed it does, does it not?

Governor HAYDON. Yes.

Mr. MEEDS. It has a sixth item which is not in exhibit C-1?

Governor HAYDON. By number, yes.

Mr. MEEDS. And that deals with what?

Governor HAYDON. Specific assignments of people.

Mr. MEEDS. Including whom?

Governor HAYDON. Well, there are four.

Mr. MEEDS. Perhaps Mr. Bill Zintheo?

Governor HAYDON. Mr. Zintheo was one of them, yes.

Mr. MEEDS. Do you want to tell us what happened to Mr. Zintheo after January 16 or do you want me to drag it from you?

Governor HAYDON. Well, you don't have to drag anything out from me, Mr. Congressman. He was appointed acting director of the computer systems.

Mr. MEEDS. Acting director of the computer systems?

Governor HAYDON. Yes.

Mr. MEEDS. Now what did he come over to Samoa to do?

Governor HAYDON. Director of the computer section.

Mr. MEEDS. And whom did he replace? Was it a person by the name of Gordon Crawford?

Governor HAYDON. Dr. Gordon Crawford.

Mr. MEEDS. Now why did he replace Mr. Crawford?

Governor HAYDON. Because the original manager of the computer section had left. Dr. Gordon Crawford was assigned to computer section until we could find a replacement and Mr. Zintheo was hired to be that replacement.

Mr. MEEDS. And Mr. Zintheo is now acting director of computers—what did you call it, programs center?

Governor HAYDON. Let's give the specific—

Mr. MEEDS. Is it systems support branch? No, it is—

Governor HAYDON. Data processing—

Mr. MEEDS. Oh, yes, data processing operations branch, is that correct?

Governor HAYDON. That is correct.

Mr. MEEDS. Now who is his immediate supervisor?

Governor HAYDON. Dr. Gordon Crawford.

Mr. MEEDS. The person he came over originally to replace, is that right, so that we don't lose track now?

Governor HAYDON. That is right.

Mr. MEEDS. That is correct? And Mr. Crawford was placed in this position by whom? Who selected him for this position?

Governor HAYDON. The computer position?

Mr. MEEDS. The information systems division director, which is what he is now?

Governor HAYDON. I did.

Mr. MEEDS. You did? And does he have the qualifications for that?

Governor HAYDON. Indeed he does.

Mr. MEEDS. Did you follow the directions or recommendations of a firm called Crescent—

Governor HAYDON. Cresap, McCormack, and Paget.

Mr. MEEDS. Yes, in making your recommendations, Governor, did you follow their recommendations or at least their suggestions?

Governor HAYDON. Yes.

Mr. MEEDS. And by their suggestions does Mr. Crawford have the requisite background to fill the position which he is presently in?

Governor HAYDON. He not only has the background to fill the position that he is in, but he is a very strong candidate for the director of the office of planning and systems under which all of these offices will be incorporated.

Mr. MEEDS. OK, here is a copy—here I am reading from a copy of the CRP or the CPR report, whichever, which says: "The manager of Information Systems should be an experienced systems and data processing professional. Minimum qualifications for this position include the following: eight to twelve years of increasing systems and data processing experience."

Does Mr. Crawford have 8 to 12 years' experience?

Governor HAYDON. No, not in that—

Mr. MEEDS. Indeed, he doesn't have 2 years, does he?

Governor HAYDON. He had sufficient experience so that he was able to run the department quite capably until we were able to get a replacement.

Mr. MEEDS. Now, you just told me that you followed the suggestions of this group. Now on the first shot out of the box you say he doesn't have 8 years. That is their first suggestion. You didn't follow that, did you?

Governor HAYDON. No, but—

Mr. MEEDS. All right, the next suggestion is "three or more years of experience managing a small- or medium-sized system and data processing function."

Did Mr. Crawford have that experience?

Governor HAYDON. No.

Mr. MEEDS. That is the second suggestion. You didn't follow that either?

Governor HAYDON. No, we had never considered Mr. Crawford for this position. He held it temporarily until we were able to get someone.

Mr. MEEDS. I am sure you didn't consider him for that position until after the night of the 16th of January.

Governor HAYDON. That is not true.

Mr. MEEDS. You don't have to tell me that, sir; I am sure of that.

So the first two suggestions, which you say you followed, you didn't follow. Now the next question is didn't Mr. Zintheo have all of those qualifications?

Governor HAYDON. Yes.

Mr. MEEDS. He did?

Governor HAYDON. And he remains right where he was.

Mr. MEEDS. Wait a minute, this is qualifications for information systems division, where the two prime qualifications for which your man, Mr. Crawford, does not have but Mr. Zintheo, whom Mr. Crawford is now over, has; is that right?

Governor HAYDON. Right.

Mr. MEEDS. Now, does that kind of thing go on in American Samoa very often?

Governor HAYDON. No, you left out a vital factor though—

Mr. MEEDS. Only after congressional visits?

Governor HAYDON. There have been many congressional visits, Mr. Congressman.

Mr. BURTON. Would you please expand on that, sir? Except for the attendance by our two distinguished colleagues, Congressman Veysey and Congressman McKay at the opening of the new Fono, what was the last official congressional subcommittee or full committee that visited American Samoa?

Governor HAYDON. No, Interior Committee. Yours is the first to ever come.

Mr. BURTON. But congressional committee.

Governor HAYDON. Congressional committee?

Mr. BURTON. We are the first one?

Governor HAYDON. First Interior Committee to come down as an entity.

Mr. BURTON. Ever?

Governor HAYDON. Since I have been in Samoa.

Mr. BURTON. Ever?

Governor HAYDON. I don't believe ever. I think there have been visits in the past.

Mr. BURTON. All right, since you were there, how many congressional committees, Interior or otherwise, visited American Samoa?

Governor HAYDON. I think we had four or five. We have had people en route who stopped off in Samoa—

Mr. BURTON. I am not talking about a layover stop for either rest or for that matter the inevitable shorter term visitation inherent in being a stopover. I might add I don't decry that utilization of time, but how many occasions have there been two or more Members of the U.S. Congress, apart from the visitation of Congressmen Veysey and McKay who represented us at the Fono and most properly so, how many visitations of a time span of more than 2 days have there been since you have been the Governor of American Samoa?

Governor HAYDON. Of more than 2 days? Not very many.

Mr. BURTON. I think the record will reflect there have been none.

Governor HAYDON. The committee headed by Senator Goldwater and I believe Congressman Price in the House was in Samoa for about 5 days during Apollo 17.

Mr. BURTON. I will accept your modification.

Governor HAYDON. There have been a number of individual visits. Congresswoman Sullivan has been down, Congressman Hosmer has been in Samoa. I could reconstruct over the last 4½ years who has visited American Samoa.

Mr. MEEDS. To summarize on this instance, Mr. Haydon, we now have the situation where Mr. Bill Zintheo, who innocently held a reception for four Members of the U.S. House of Representatives and who went there to replace Mr. Gordon Crawford because Mr. Gordon Crawford couldn't run the computer operation—

Governor HAYDON. That is not so.

Mr. MEEDS. Well, why didn't you keep him there?

Governor HAYDON. Well, we are indulging in semantics, Mr. Congressman. Mr. Crawford, as I have explained—

Mr. MEEDS. I am certainly not trying to indulge in semantics.

Governor HAYDON [continuing]. Did not come there to replace Dr. Gordon Crawford. He came there to take over a vacant job, to run our little computer section, which Dr. Crawford was holding down until somebody could get there.

Mr. MEEDS. All right. And then Dr. Gordon Crawford has now, after the reception which Mr. Zintheo had for us, Dr. Gordon Crawford is now over Mr. Zintheo in a position which admittedly he doesn't have the first two qualifications suggested by the firm which you relied on and he is now over Mr. Zintheo in that position and Mr. Zintheo does have the qualifications, those first two qualifications. Is that an accurate summary of the situation?

Governor HAYDON. I believe he does. I am not——

Mr. MEEDS. OK, now how many times have you attempted to deport Mr. King from American Samoa?

Governor HAYDON. I have never attempted to.

Mr. MEEDS. You never have?

Governor HAYDON. No.

Mr. MEEDS. You never brought any influence or pressure to get Mr. King to leave American Samoa? Now remember you are under oath.

Governor HAYDON. I know I am under oath. This is a misconception, Congressman. I have no authority and I don't know of any Governor of Samoa who has ever had authority to deport anybody from American Samoa. Mr. King was ordered deported by the Board of Immigration under Samoan law for immoral conduct.

Mr. MEEDS. And you had no part in that?

Governor HAYDON. I had no part in it. He was called up before the Board and the Board rendered a decision.

Mr. MEEDS. You in no way tried to get the Board or any member of the Board to render that decision?

Governor HAYDON. No, I did not.

Mr. MEEDS. Didn't even talk to them?

Governor HAYDON. Not that I recall. Possibly——

Mr. MEEDS. So you feel it is fine if Mr. King stays down there? You don't have any problem with that?

Governor HAYDON. I don't enjoy it.

Mr. MEEDS. Why don't you enjoy it?

Governor HAYDON. Because Mr. King is totally incapable of reporting a fact as a fact.

Mr. BURTON. He is a publisher——

Mr. MEEDS. He is another one of those newspaper people who doesn't get things straight, who misquotes you?

Governor HAYDON. I am in the same business, as you know, Congressman——

Mr. MEEDS. So am I, and I am afraid I don't get misquoted as often as you do.

Governor HAYDON. Well, I——

Mr. MEEDS. Tell me if you had anything to do with the reassignment of the Associate Justice down there who held contrary to which you believed at that time?

Mr. BURTON. What is the name of the judge?

Mr. MEEDS. Judge Hyden.

Governor HAYDON. Judge Hyden.

Mr. MEEDS. Associate Judge Hyden.

Governor HAYDON. There were two judges: Judge Hyden and Judge Goss.

Mr. BURTON. It so happens that I have known him personally for some 18 years and known him to be a man of great personal honor and integrity. Please answer the question, Governor.

Governor HAYDON. Under the Separation of Powers, the only authority that I have—and I can't quote the section in the Department of the Interior Rules or Federal Rules—but I am required whenever the actions of a judge or the conduct of a judge effect other departments of government to so report to the Secretary of the Interior. That is the only area and it isn't an authority at all. It is merely an area of communication that I am allowed as Governor.

Mr. MEEDS. Now you reported to the Interior Department that Judge Goss had done something adverse to the government of American Samoa.

Governor HAYDON. I felt that Judge Goss was taking too long to render decisions and was not rendering decisions which constituted fair justice to the Samoan people.

Mr. MEEDS. Now, did one of those judgments happen to go against you?

Mr. SEBELIUS. If I might make one remark, then I intend to leave, Mr. Chairman. Let the record show I didn't make this trip and I have no intention of participating further in this trial. I have no animosity, but I am just going to remove myself because I am not cognizant of what all of this is about.

Mr. BURTON. I appreciate the remarks of our distinguished colleague from Kansas. One of the purposes of this meeting is to give our colleagues an opportunity to hear and perceive first hand that which will be related during the course of this hearing.

Mr. CLAUSEN. Mr. Chairman?

Mr. BURTON. The gentleman from California, Mr. Clausen.

Mr. CLAUSEN. Well, I think that the record should show that there were apparently no minority members present during the visitation—

Mr. BURTON. Correct.

Mr. CLAUSEN [continuing]. Of the Committee to American Samoa. Certainly the fact that this committee visiting American Samoa was the first to visit the area does point out some of the great difficulties that many of us have in attempting to travel the great distance. It is not only a time problem—and of course we have very very little time—but I must also state that in many instances we are subjected to a great deal of criticism for taking that kind of trip. This is simply a domestic political problem that I believe all members face when they serve on these committees dealing with territorial matters. So that which is being presented here this morning is the first that I have ever heard of this as the ranking minority member and I think that the record should simply show that none of us on the minority side

was with the committee at the time and so I am anxious to hear personally what transpired.

Mr. BURTON. I would like to commend my distinguished ranking colleague and also underscore one of the points he has made. I know the ranking member, Mr. Clausen, has made every effort to get minority members to attend this rather onerous trip. I would like to specifically note that Congressman Ketchum from our State was able to make most of the trip but was simply was unable to make Samoa. He literally had to fly about 20 hours over 10,000 miles, nonstop, which is another way of saying double red-eyeing it when you leave Guam in the Marianas. But a continuing problem confronting the Congress is that if we are to perform our responsibilities with more judgment in fact, we simply must make first-hand visitations. And to the extent the media judges by our actions rather than by speculation, it makes it easier for at least this chairman to get his colleagues to make these trips and so we do have difficulty. And to the extent we can't get members to accept, then to that extent we are working with a little less information collectively and individually than is useful.

The gentleman from Washington State is recognized.

Mr. MEEDS. Mr. Chairman, I will try to hurry this up. Just tell me, Mr. Haydon, did you or did you not request that reassignment of Judge Goss after he had ruled that Mr. King should not be deported?

Governor HAYDON. I believe so, but that was not the reason for it.

Mr. MEEDS. Well, that may not be the reason you gave anyhow. Tell me if you had dismissed an Assistant Attorney General who filed criminal charges against you for interfering with his interview with witnesses in the civil service proceeding?

Governor HAYDON. No, I did not.

Mr. MEEDS. Well, was he reassigned thereafter?

Governor HAYDON. No, he was——

Mr. MEEDS. He didn't continue on the case, did he?

Governor HAYDON. No, he was dismissed by the attorney general.

Mr. MEEDS. Oh, now who appoints the attorney general?

Governor HAYDON. The Department of the Interior.

Mr. MEEDS. And you don't have any control over who the attorney general is?

Governor HAYDON. No.

Mr. MEEDS. Then you don't have any control over what he does?

Governor HAYDON. Well, he works for me.

Mr. MEEDS. Right. All of which, Mr. Chairman and members of the committee, I hope is some evidence that anybody who disagrees with this gentleman in American Samoa is in real trouble.

Just one last question. You will recall a conversation which I had with you at the airport on our departure from American Samoa with regard to the location of a Bumble Bee Tuna cannery. Do you recall that conversation?

Governor HAYDON. Yes, exactly.

Mr. MEEDS. And do you recall my asking you if you had talked to the people about whether there should be a tuna cannery or not?

Governor HAYDON. Yes.

Mr. MEEDS. Do you recall your answering me and saying "I don't need to talk to the people. I know what they think."

Governor HAYDON. Yes.

Mr. MEEDS. Do you remember that? Well, do you want to tell the people here what happened for the record when the tuna people went down and started surveying for their cannery or do you want me to?

Governor HAYDON. Well why don't you, Sir.

Mr. MEEDS. Well, I will just ask you, weren't the surveyors chased out by the people with brush knives?

Governor HAYDON. On one occasion. That is very common I might add.

Mr. MEEDS. Did they have the courage to come back in armored suits?

Governor HAYDON. No, they just came back.

Mr. MEEDS. Do you still believe the people of American Samoa want a tuna cannery at that location, Sir?

Governor HAYDON. Some do; some don't.

Mr. MEEDS. Well, you evidently hadn't talked to the people who don't when you answered my question.

Governor HAYDON. The process of bringing a new tuna cannery into American Samoa will undergo a great deal of public scrutiny before any such permit is issued. That process is extremely complex. They will have to meet many many environmental qualifications and very well may never come to American Samoa because it can't meet those requirements. There will be public hearings; several of them particularly on environmental aspects, that is hearings before the Economic Development Board and there will be full public participation all of the way down the line.

Mr. MEEDS. Well, what if a majority of the American people in Samoa didn't want a tuna cannery, then would you put one in anyhow?

Governor HAYDON. No.

Mr. MEEDS. Have you made efforts to ascertain the majority wishes of the people of American Samoa?

Governor HAYDON. We are proceeding on that now.

Mr. MEEDS. Are you taking a referendum?

Governor HAYDON. No, we will hold public hearings. Our first procedure is a public hearing. One of our first procedures will be a public hearing before the Economic Development Commission.

Mr. MEEDS. Well, wouldn't it be very simple to just take a quick referendum on American Samoa to determine if the people want a tuna cannery?

Governor HAYDON. No, it is not very simple at all. It is very complex.

Mr. MEEDS. They do vote there?

Governor HAYDON. Yes, they do.

Mr. MEEDS. I have just been handed an article by Mr. John Simmons of the Ganet News Service in which he quotes the American Samoa Delegate at Large as trying to block the location of a tuna cannery.

Well, that is apparently one very important citizen you hadn't talked with.

What I am saying is before you spend all of this money for economic development hearings and all of the other things, it would seem to me to be very simple to have a referendum. And as you just stated, if a majority of the people of American Samoa don't want a tuna cannery, then you wouldn't try to shove one down their throats. Wouldn't that be simpler?

Governor HAYDON. No, it would not be simple.

Mr. MEEDS. Would you please tell us why it would be difficult?

Governor HAYDON. First of all, I am not even sure that I have the authority to call a special election. In fact, I am quite positive I don't have authority of that nature.

The cost of it and the necessity for complete information—a system which is provided for under the system that we have now—in hearings for the Tax Incentive Board and hearings before the Economic Development Commission and the Federal Water Pollution Control requirements and EPA requirements all tend——

Mr. MEEDS. Well, wait just a minute.

Mr. BURTON. Excuse me, I want him to complete the litany of those that you have to clear this decision with, Governor.

Governor HAYDON. Well, there are many of them.

Mr. BURTON. You mean appointed agencies essentially so far? Would you talk to the district traditional leadership?

Governor HAYDON. The western district has already told me they want a cannery in American Samoa. Chief Fuimaono——

Mr. BURTON. Are you intending to talk to the various districts about the location and about the wisdom of having a cannery and the location of it before you make a decision?

Governor HAYDON. Well, Bumble Bee announced their intention to come to American Samoa. The government of American Samoa did not announce it.

Mr. BURTON. Governor, I asked you a very simple question. Before you approve first, of an additional cannery, and second, of its location, will you first consult with the individual districts and their traditional leadership in essentially the form this committee met with those district leaders?

Governor HAYDON. If they request such a meeting, yes but——

Mr. BURTON. Next, will you consult with and seek the approval of the Fono as to the fact and the location of the factory?

Governor HAYDON. Yes.

Mr. BURTON. And will you be bound by that judgment?

Governor HAYDON. I don't believe I am bound by it.

Mr. BURTON. No, would you be?

Governor HAYDON. But I certainly would respect it.

Mr. BURTON. Are you making the point that a plebiscite is expensive and awkward and if the Fono and the district leaders are in essentially full agreement, that that can be assumed to be the view of the people?

Governor HAYDON. A plebiscite——

Mr. BURTON. I am not arguing with that——

Governor HAYDON. No.

Mr. BURTON [continuing]. I am only trying to refine your response.

Governor HAYDON. Well, I can only refine it by saying I don't believe I have the authority to call a special election of that nature or the budget—

Mr. BURTON. No, I understand that.

Governor HAYDON. And that is why it would be complex.

Mr. BURTON. But if the Fono and all of the district leaders would be in full agreement you should proceed with the fact of the new tuna plant and its location, would you concede that to be the will of the Samoan people?

Governor HAYDON. If they were in agreement, fine.

Mr. KETCHUM. Would you yield?

Mr. BURTON. No I won't. I won't yield to the gentleman from California.

Now the district leaders and the Fono are unanimously in support of an elected governor bill. Should this committee then accept that as an expression of the sentiments of the Samoan people?

Governor HAYDON. I don't think so.

Mr. BURTON. So in terms of something that may or may not have an impact on the uniqueness of American Samoa, if the district leaders and the legislators are in full agreement, you can accept that but we should not?

Governor HAYDON. No, that is not what I am saying at all. In fact, the examination is getting drawn to a point where I scarcely understand what you are driving at.

Mr. BURTON. Well let me state it more simply. In response to my question that if all of the district leadership and the Fono agreed with the establishment of a tuna factory at a given site, you would consider that to be an expression of the will of the Samoan people and you answered that in the affirmative.

Governor HAYDON. Of all of the Fono? No, I would not.

Mr. BURTON. My question then—and it can be restated—but let me ask you this again and I want the record to be underscored here as to whether I am getting the response to essentially the same question, I asked you if all of the traditional district leadership in the three districts, concurred with the Fono that a tuna plant should be established at a given site, would you consider that to be an expression of the will of the Samoan people. You answered yes.

Governor HAYDON. Yes, I would consider that a good indication.

Mr. BURTON. Fine, now I say with the same approval mechanism, as we have received with reference to the elected governor bill, should we not perceive that to be an expression of the will of the American Samoan people. And you answered no to that.

Governor HAYDON. Exactly and for a very simple reason. We have had a vote on this question twice in the last year and one-half and the people have voted against it, therefore, we have a different situation.

Mr. BURTON. Now, Governor, you personally favor the election of a Governor in American Samoa?

Governor HAYDON. Yes, I do.

Mr. BURTON. Now in the event that the Congress decides to in effect make such a provision would you ask the Secretary for an election within a reasonable short time span not to exceed 4 to 6 months to give the American Samoan people an opportunity to express themselves with reference to this?

Governor HAYDON. The Fono——

Mr. BURTON. Because it is the Secretary that has the authority to call the elections, right?

Governor HAYDON. That is right. I do not have that authority.

Mr. BURTON. Would you ask for a plebiscite?

Governor HAYDON. I have no objection.

Mr. BURTON. Well, would you ask for one if we authorized it subject to the approval of the Samoan people?

Governor HAYDON. Well, it is the Secretary, Mr. Chairman——

Mr. BURTON. Would you ask for one? Would you ask the Secretary for one?

Governor HAYDON. I don't know. I——

Mr. BURTON. Let me at this point, Governor, in fairness to you and the record write the possible following scenario. There are those that note that in November of 1972 there was an election, there was a plebiscite, to see whether or not the people of American Samoa wanted to state a matter of policy. It had no binding effect on the Congress or the Secretary whether or not they chose to elect a Governor.

There are those that note—and this gave rise to the Civil Service suit and in your own words, I believe, you called yourself the “most powerful executive anywhere under the American flag”—and there are those who note that you have run effectively or have control effectively over the radio and TV media and that you appeared on radio and television representing that, among other things, that there were dangers in electing a Samoan because the Federal funds may be dramatically reduced. Other traditional leaders joined with you in expressing a general concern about the meaning for American Samoa to have an elected Governor and the people rejected the idea in a Plebiscite. Then perhaps pursuant to this, pursuant to pressures from this committee or perhaps pursuant to whatever, there was an election held in 1973. And as we learned, there was a one-sentence question posed to the people of American Samoa as to whether they wanted this new charter—call it a constitution or framework or, you know, whatever—and they were to vote yes or no, and among other things, included in that were salary increases for the Fono and some 20 or 30 or 40 other provisions, and the simple question was a vote up or down for the whole document. And it is represented there was very little notice given to the people and in some cases the translations were not available and distributed very far in advance of that election. But the voters turned down this omnibus document including the item of an elected governor.

Now our committee found out it was the unanimous view of the various district traditional leaders, as well as the Fono, that the American Samoans be given the right—and it is the only place under the American flag that this doesn't exist—be given the right to elect their governor.

Now we are troubled about the fact that American Samoan people, without regard to the reason, turned this down twice and the possibilities are we will not impose our will, despite the representations of all the leadership, and probably will condition in some respects the elected Governor on some kind of renewed opportunity of the people to express themselves.

So it is in that context, Sir, that I am bemused by your reluctance and your refusal to say that if we vote—first it is our policy that we think there should be an elected Governor, however, the American Samoans must judge that for themselves but they need a special election.

I am bemused by your refusal to say that you wouldn't request to the Secretary that he call such an election.

Governor HAYDON. Well, I may enlarge on my reply—

Mr. BURTON. Please do.

Governor HAYDON. Mr. Chairman, first of all, because of the election in 1972 I found myself open to Hatch Act charges, which in simple effect said that you told the people too much, which I believe is obligatory when we are having an election that the people should be informed.

Mr. BURTON. You told the people in effect that if you were out of the job, all of a sudden, Congress would lose its interest in the people. That is what you told the people and the record of your speech will make this unmistakably clear.

Governor HAYDON. Well, that is your interpretation, Sir. In the second election a suit was brought against the Lieutenant Governor, as election officer, and objections were raised in correspondence by your committee that not enough time was given to inform the people.

Mr. BURTON. That is correct.

Governor HAYDON. OK, this is why you put me in a quandary when you—

Mr. BURTON. But my question was to put this within 4 to 6 months, which is adequate notice, and not the 3 or 4 weeks or 5 weeks with the translations appearing just 10 days before the election and this all wrapped into one omnibus package. I was very careful to provide adequate notice to the people in the suggestion I made.

Governor HAYDON. Well, I have—well, I am on record. I supported an elected Governor for American Samoa. I have joined with the Department of Interior and the Secretary in that support. I have no objection to this item being placed on the ballot.

Mr. BURTON. But you wouldn't ask that it be placed on the ballot?

Governor HAYDON. Yes, I will ask that it be placed on the ballot.

Mr. BURTON. How much notice should be given?

Governor HAYDON. Well, I would merely say that I feel that there should be adequate time for the issue to be discussed.

Mr. BURTON. I understand that, but what is adequate time?

Governor HAYDON. I don't really know what adequate time is.

Mr. BURTON. Well, I don't want to belabor this, but I think in fairness to you I must say I think you think you have a pretty good job and the longer you can hold on to it, the better; and the longer

that the elected governor bill can be delayed, the longer you will be able to have the job.

I have one other question I would like to ask you, Sir. There was a hearing of a civil service referee where the—as I noted as early in the record as I could—where the administrative law judge made the decision that the act of which you were accused was not covered by the Hatch Act.

During the course of this hearing there were a number of witnesses. Now, that is laying the first part of this foundation.

Now the second part is, do you not have your own equivalent of an Internal Revenue Service in American Samoa?

Governor HAYDON. Yes.

Mr. BURTON. And these people are subject to your essential direction and control, are they not?

Governor HAYDON. On paper they are.

Mr. BURTON. Fine. And your department keeps track of the names of those that they seek audits on or have audits of their taxes do they not?

Governor HAYDON. Some, not all.

Mr. BURTON. Well, I am directing you to provide to this committee—and these will be made not a part of the committee record but available to the ranking minority member and any other member of the committee that seeks to see it—the names of every person that your Internal Revenue group has reviewed the taxes of since 30 days immediately prior to the date of the beginning of your trial to this date.

As was pointed out by my colleague just now, when I say within 30 days, it may be preceding the beginning of the investigation for your trial.

Now if you choose to have me expand on that, I shall.

Governor HAYDON. I shall be happy to supply the information.

Mr. BURTON. You understand fully what I have requested, correct? How soon can we expect that information after your arrival in American Samoa from this trip?

Governor HAYDON. I will be back on the eighth. I would say it would take me a couple of weeks to put it together.

Mr. BURTON. So in a time frame that would be reasonable, we should expect this information then on May 1 to 15?

Governor HAYDON. OK, you want the names of everyone from the date of the beginning of the Hatch Act investigation, is that correct?

Mr. BURTON. Correct. And I would ask you and instruct the minority and majority staff alike, if it is the concurrence of my colleague as to the minority staff, to know the date of the investigation and which of those persons were witnesses at your hearing.

Now, so the record can be complete I will place in the record at this point exhibit D-1 that reads as follows—and it is a letter from Governor Haydon to Mr. Carpenter and is addressed for Mr. Carpenter—and reads as follows:

May I have your permission to submit a factual account of the activities of Burton's group while in American Samoa. Those of us involved do not enjoy having to remain quiet while they spout off distortions to the newspapers.

And it is signed Governor Haydon.

Now I do this in fairness to you, Sir, because just as we are entitled to our own characterization of the value of our own visitation, also as responsible administrative officer you are entitled to imprint your own view.

[Exhibit D-1 follows:]

[Exhibit D-1]

[Department of State Telegram]

JANUARY 1974.

For Carpenter X may I have your permission to submit to Chairman Haley via you a factual account of the activities of Burton's group while in American Samoa? Those of us involved do not enjoy having to remain quiet while they spout off distortions to the newspapers. Governor Haydon sends

Mr. BURTON. Now, question number one, did you transmit such a report?

Governor HAYDON. No.

Mr. BURTON. Were you denied authority by Mr. Carpenter?

Governor HAYDON. No.

Mr. BURTON. Did he respond to this communication?

Governor HAYDON. Yes.<sup>1</sup>

Mr. BURTON. Well, I was hoping you had transmitted it so we could put it in because my next request would be to place that in the record at this point so your views could have the benefit of public scrutiny.

Mr. Haydon, here is the thing that disturbs this one member. There is an unfortunate set of circumstances that may be entirely fortuitous, although some of us have difficulty believing they are because the pattern is so consistent, but be it the dismissal of a judge for actions or judgments not in the best interests of administering the affairs of American Samoa to the dismissal of a deputy attorney general to a demoting of a civil servant because this person made the mistake I gather of marrying the sister of a colleague who thought merely they were being hospitable to a couple of their friends from Washington State who happened to indeed be Members of Congress to even—if I may say this and I don't have the man's name, but I affirm this to my colleagues to be accurate—to even having my own staffer going down 3 days earlier so that he could ascertain on the ground before we get there a kind of a feel of the situation, and then when he and my wife, who I might note whose trip was paid for entirely by my own pocket, had dinner with a man one night. Within 2 days he was demoted, and this set of circumstances concerns me. It was something in the area of the comptroller-treasurer. Now perhaps all of these are just happenstance even to your own department having an in-house report that we asked you about with reference to how well you were proceeding with your recruitment and the moving ahead of the American Samoans into positions of responsibility—and I might add that was quite critical—and when asked seven different ways by this member about that, we received a denial from you that any such report existed. And it

<sup>1</sup> See letter dated May 9, 1974 from Gov. John Haydon to Chairman Phillip Burton on p. 100.

wasn't until a day or two later that then you allowed that you didn't fully understand the question, and I might add we are going to pursue this matter. We decided we would wait until you came here to have an opportunity to go into some of these questions.

So I am troubled and of course aghast at your view of your responsibilities, which amongst other things, must be put in the context you have been quoted as saying—first perhaps I ought to clear this up. Did you make a statement or do you ever recall making a statement that you have more power than any Governor under the American flag?

Governor HAYDON. No.

Mr. BURTON. You never made that statement?

Governor HAYDON. No.

Mr. BURTON. I will have to accept that. Did you make a statement of equivalent import?

Governor HAYDON. Not that I know of. I believe that statement has been more attributed to the Governor of Alaska than certainly the Governor of American Samoa.

Mr. BURTON. Well, if I am in error in that respect, I offer my apology. Let me make this one final point to the press.

On this exhibit G and having looked at it, my initial concern was in some way there might have been some whiff of a hint that one of the people in the national Interior might be involved in some matter or not, but that is not the case at all. This is simply a matter of a transmittal of a letter from Mr. Haydon, from Governor Haydon to Mr. Carpenter. Mr. Carpenter or no one else in the Department was involved in anything. But I was a little concerned by a possible construction, until I read the memo, that there might be some charge with reference to someone, but of course that is not the case.

I might say I am not impressed with the materiality or relevance of that exhibit G and unless pursued by others, I don't intend to make it a part of the record. I don't really see that that does anything for the record.

Mr. MEEDS. May I just conclude, Mr. Chairman?

Mr. BURTON. Yes, Mr. Meeds. I am sorry for interrupting you.

Mr. MEEDS. No, that is perfectly all right. I have taken more than my share of time and I will conclude very quickly by saying that this course of conduct, which the witness testifies to himself and which the chairman correctly points out possibly could be fortuitous, but which certainly doesn't appear to me to be fortuitous, has the effect of in effect ruining the civil service career of Mr. Bill Zintheo and some other people, which is of course very important to the individual. But also, Mr. Chairman and members of the committee, it is a direct affront to the U.S. Congress because any witness in his right mind who says anything derogatory of Mr. Haydon, as long as Mr. Haydon is the Governor of American Samoa, is going to find himself out in the street. And that I consider to be a direct affront to this body.

Governor HAYDON. May I answer that, Mr. Chairman?

Mr. BURTON. Yes.

Governor HAYDON. I would agree with Congressman Meeds that

if the circumstances, as he feels have taken place, were accurate then that it would be an affront. But I think it ought to be noted that it is fortuitous that almost 2 years ago I began attempting with the support of the Department of the Interior to bring about a study by Cresap, McCormach, and Paget as a neutral outside body of the Department, to begin a study of administrative services because of so many malfunctions and things that were wrong, because we were working toward self-government and we were determined to develop simpler forms of systems of accounting and bookkeeping and all of the rest of it that can be successfully handled by our Samoan people. In one session of the Fono the funds necessary to fund the study by CMP was defeated by the Fono and in a following session nearly a year later the funds were approved and the study took place over a period of over some 6 months. The final copy of the study was submitted in November of 1973 and was reviewed with the Department of the Interior on December 17 here in Washington, previously having seen copies of it and all of the suggestions and the reorganization of this department, and I was instructed at that time by the Department of the Interior to implement whatever I could of this study. The total implementation calls for 2 years of training and a number of changes in the department; breaking down the size of it into more management operation and a changing of the number of jobs and so on. In the last session at that time I was instructed to go ahead and attempt to get the money from the Fono, implement this report. And Mr. Zintheo, with whom you had dinner, and Mr. Zintheo with whom Mrs. Mink had cocktails and a reception—

Mr. BURTON. Well, it was Mrs. Mink and a number of our colleagues—

Governor HAYDON. We are all referring to the same man.

Mr. BURTON [continuing]. And a number of local people, Samoans and the like.

Governor HAYDON. No, the point I am trying to make is the recommendation to reorganize the department and make these changes was made long before the visit of the committee and that I am only stopped—that I now have \$190,000 by consent of the Fono to take the next step in implementing these recommended reorganizations and am only stopped—

Mr. BURTON. You testified, Sir, that this January 8 saying in all likelihood was promulgated after the committee trip.

Mr. MEEDS. It was backdated.

Mr. BURTON. So you testified that this may or may not be fortuitous or causal. And I hope I am not hearing you say you have all of this work to do at least before you can shed yourself of the enormous responsibility and run the risk the American Samoans may elect somebody who is incompetent to fill your shoes.

Governor HAYDON. I am not saying that at all.

Mr. BURTON. I hope you are not making that case in any respect.

Governor HAYDON. I am not saying that. I am saying there is a very fat study by recognized experts that it needs 2 years to reorganize and train the people in the Department of Administrative

Services so that it can function efficiently. I am making no reference at all to the length of time it is needed for me to stay in American Samoa.

Mr. BURTON. In that respect, Governor, may I also at this time make reference to the differing treatment that a Palagi from the mainlands receives vis-a-vis American Samoans with reference to salary and I think also housing as well, though we recognize this as a matter upon which there can be some reasonable disagreement. Mrs. Mink has the largest and I the second largest American Samoan community within the United States, including Hawaii and Alaska. And this policy has, as we understand it, deterred and not improved the prospect that American Samoans can be on board in key positions of responsibility whenever the elected governor policy is adopted and finally implemented.

Governor, we have very few more minutes and while we have them, I think it only correct that we change completely our course. You are up for appropriations. Now in that respect, where can we be of help? Where are there items such as Congressman Clausen worked out on the road program during the last visit, items with which we may be of help to you during these pending appropriations?

We may get a quorum called soon and I want to have some constructive fall out from these hearings. If there is an item or two that occurs to you—

Mr. CLAUSEN. Would the Chairman yield?

Mr. BURTON. Yes.

Mr. CLAUSEN. Before we get off this subject, Mr. Chairman, I think I have the responsibility as the ranking member to ask unanimous consent that any one of the minority members, who have such a desire, who want to submit questions to any of these witnesses, that they be permitted to and be placed in as part of this hearing record.

Mr. BURTON. Absolutely. Without objection so ordered.

[Questions of Mr. Clausen and Mr. Ketchum with answers and material for the record follows:]

GOVERNMENT OF AMERICAN SAMOA.

OFFICE OF THE GOVERNOR.

*Pago Pago, American Samoa, April 30, 1974.*

HON. DON H. CLAUSEN,  
Member of Congress,  
U.S. House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN CLAUSEN: Your letter of April 10 asked that I provide responses to three questions pertinent to my testimony before the Subcommittee on Territorial and Insular Affairs of the U.S. House of Representatives on April 2, 1974. I am glad to do so and regret the delay in answering. Unfortunately, your letter did not arrive in American Samoa until April 23.

1. Mr. CLAUSEN. Can you furnish any recent expert opinion regarding the status of education in American Samoa?

Answer. I attach a letter of March 20, 1974 to Representative Patsy Mink from Dr. Wilbur Schramm, formerly of Stanford University and now Director of the East-West Communications Institute at the East-West Center, Honolulu. Dr. Schramm is a nationally known educator and has long been a deeply interested observer of our educational system in American Samoa.

In addition, I attach the introductory and summary sections of "A Study of Unmet Educational Needs in American Samoa." This extensive study, published in several volumes of data, is indicative of the desire of the American Samoan Department of Education to identify problems as a basis for implementing education changes. I would be happy to send you the entire set of volumes, if you so desire, but would suspect that inclusion of all of this material would be an excessive burden on the record. Dr. R. Murray Thomas of the University of California, Santa Barbara, California, was the principal consultant for this study. He has worked with our education system for a number of years.

2. Mr. CLAUSEN. Concerning the new cannery proposal, please explain the potential benefits to be derived and the preliminary requirements to be met in introducing this new industry to American Samoa.

Answer. On a short range basis, the immediate benefit would be the establishment of a labor intensive, revenue producing industry in American Samoa where a lack of natural resources and an isolated geographic location makes the attraction of new industries extremely difficult. The construction period of the proposed cannery would take approximately two years and would provide substantial employment for many American Samoans. Should the cannery be built, initial employment when the facility goes on line would be approximately 350 people. Our Department of Economic Development and Planning has set a goal for necessary new employment for American Samoa at 360 jobs per year.

During the construction period and during the period of incentive tax exemption, if granted, the Government of American Samoa would be collecting personal income tax revenues from all employees. Spin-off benefits include local purchasing by the cannery and its fleet from American Samoa's wholesale and retail merchants, increased activity and revenues from our Marine Railway, increased employment and tax revenues from the American Can Company factory located here, increased port and harbor revenues, increased water and electricity payments and other automatic peripheral benefits.

On a long range basis, assuming the proposed new cannery would be given initial tax exemption (as were the two existing canneries now in American Samoa) a major benefit would be the eventual collection of corporate income tax as a substantial contribution to total local revenues. The two existing canneries are currently contributing approximately \$3 million each annually to local revenues. It is reasonable to expect, all other factors remaining equal, that a new cannery would make similar corporate tax payments, thus increasing American Samoa's ability to contribute a larger and larger share of local revenues to its total budget needs. This is in keeping with the policy of the Department of the Interior to assist American Samoa in achieving a greater degree of financial as well as political independence, reducing the territory's dependence on dollar assistance from the Congress.

The preliminary requirements to be met before actual construction could be gotten underway are both lengthy and complex. They involve the following:

(1) Hearing before the Economic Development Commission of American Samoa. We have recommended to the Office of Territorial Affairs, Department of the Interior, that the normal consideration of the cannery proposal by the Economic Development Commission be made a public hearing so that all aspects of the proposal, pro and con, can receive public attention and comment. The Economic Development Commission would consider every possible factor, positive or negative, in arriving at its conclusions and recommendations. Among these factors would be the impact on the economy in terms of employment and generation of local revenue through taxation, both personal and corporate; spin-off benefits to the local economy, siting problems, availability of water, labor, power and other public services including the degree, if justified, of the proposed cannery's financial participation in developing these services. The Economic Development Commission would also consider the social and environmental impact on our community of an increased fleet of fishing vessels to serve the cannery.

(2) Application for tax incentive before the Tax Incentive Board of American Samoa. This requires a complete presentation by the cannery interests of all aspects of their proposal in terms of physical, financial and related data to justify that their investment could not be made without the help of a tax incentive. Approval by the Tax Incentive Board depends upon the provable strength of the cannery's justification of its application. It has been indicated

by the cannery's officials that their total investment in their proposal would be close to \$20 million—approximately one-half of which would be a physical investment in plant construction in American Samoa.

(3) Application to the Zoning Board of American Samoa for approval of site location as required by our Code.

(4) Application to the American Samoa Parks and Recreation Board for approval to build between the main highway and the sea. Obtaining such approval is also required by the Code of American Samoa.

(5) Application to the Immigration Board of American Samoa for permission to use a limited number of highly skilled management and technical people from outside the territory to supervise initial construction and to operate the cannery when it goes on line.

(6) Application and hearing before the Land Use and Site Evaluation Committee of American Samoa. This Committee evaluates and decides upon the use of government land.

(7) Informal review of the proposal before the Legislature of American Samoa.

(8) Consideration of the proposal's environmental aspects by the Environmental Quality Commission of American Samoa to insure conformity to all applicable and Federal environmental regulations.

(9) Incorporation of the proposed company in American Samoa as required by our Code.

(10) Application for a standard American Samoan business permit as required by the Code.

(11) Application for conveyance of off-shore reef area by the U.S. Government through the Department of the Interior to the Government of American Samoa which would, in turn, subsequently lease the needed site area to the cannery.

(12) Application, following the preparation of an Environmental Impact Statement, to the Government of American Samoa and the U.S. Army Engineers for a building permit under the terms of the U.S. Submerged Lands Act.

(13) Application to the U.S. Army Engineers for a permit to dredge under Section 10 of the Rivers and Harbors Act. This application calls for a public hearing.

(14) Application for a discharge permit from the Environmental Quality Commission, to be issued jointly with the Environmental Protection Agency. This requirement calls for a public hearing.

The above actions constitute the major steps to be taken by the principals in the proposed cannery. Because of the involvement of a fleet with the cannery, the Government of American Samoa will also have to be assured of adequate shoreside solid waste collection facilities to serve the fleet, installation of an oil-water separator and shoreside collection system to handle ships' bilge waste, maintenance by the cannery of oil spill cleanup and collection equipment of adequate size to handle any spill from their fleet or their supply ships, compliance with odor requirements and advertising sign requirements and, finally, submission of plant design to the Arts Council of American Samoa for preliminary approval of building roof lines and design.

3. Mr. CLAUSEN. I would appreciate the submission of a progress report on political, economic and social improvements in American Samoa since your tenure as governor.

Answer. In providing an answer to this question, I would like to make it very clear that whatever progress can be shown in American Samoa since August of 1969, when I became Governor, is not the result of the work of a single person but is the result of a coordinated effort between the Government of American Samoa, the Department of the Interior and its Office of Territorial Affairs, and, in certain areas, in cooperation with the Congress of the United States. In many areas, we have moved ahead with the generous assistance of various Federal agencies. On a local basis, we have been able to move ahead because of a team effort on the part of those involved in staffing the various departments of the Government of American Samoa and by broad cooperation between the Executive, Legislative and Judicial branches of the Government of American Samoa.

In the political area, the following developments can be noted since August of 1969.

Creation of a Joint Budget Review Committee between the Executive and the

Fono for the first time. Previously, budgeting had been done by the Executive Department and submitted to the Legislature for concurrence.

Completion of the report of the Political Status Commission. The Commission's major findings were that no changes should be made in the relationship between American Samoa and the United States, the Governor and Lieutenant Governor should be made elective positions and Senators should be elected by popular vote.

Agreement that local revenues would be used for the entire support of the Legislature of American Samoa. This was first accomplished in the 1971 budget. Previously, funds for the Legislature had been by Congressional appropriation and members of the Legislature had long sought this change.

Creation of a full-time, salaried Legislature of American Samoa.

Creation by legislation of the Office of the Delegate-at-Large in Washington, D.C. and the election of the first delegate in November, 1970.

Support in Congressional testimony by the Department of the Interior of the proposition of an elected Governor and Lieutenant Governor.

Creation under the authority of the Secretary of the Interior of an American Samoa Gubernatorial Study Commission composed of members of the Legislature of American Samoa, the Executive and the general public. The recommendations of this Commission were passed in detail to the delegates to the 1973 Constitutional Convention.

The establishment of a fully staffed Legislative Reference Bureau in the Legislature of American Samoa.

Publication of the Code of American Samoa for the first time.

Authorization by the Secretary of the Interior for the holding of a special election on June 18, 1974 to consider the question of whether or not American Samoa wishes to elect by popular vote its Governor and Lieutenant Governor. If the vote on this question is affirmative, the Secretary of the Interior has declared that the first such election will take place in 1976. The letter of authorization is attached.

Design and construction of major new buildings to house the Legislature of American Samoa at a cost of approximately \$1 million. The new buildings were dedicated in October of 1973.

Establishment of a cooperative association with the Government of Western Samoa. For the first time, joint meetings, chaired by either the Governor of American Samoa or the Prime Minister of Western Samoa, have been held to consider mutual problems in the areas of immigration, agriculture, fisheries, crime, health, etc. On American Samoa's part, participants in these meetings have included the Legislature and the Executive Branches.

The beginning of intensive departmental management studies to prepare for internal self-government. Five major government departments are considered vital to this program. A study of the Department of Manpower Resources has been completed and has been implemented, as has a single wage system. The study of the Department of Administrative Services has been done and implementation has begun. The study of the Department of Public Works is underway and will be completed in 1974. Studies of the Department of Education and the Department of Medical Services remain to be done.

In the economic area, the following progress factors can be noted.

Over the past four fiscal years, American Samoa has achieved a dramatic growth in total budget. The fiscal year '70 contained a \$2.7 million deficit position primarily due to overruns on construction projects. Through reprogramming and other measures, the \$2.7 million was eliminated in fiscal years '70-'72. American Samoa's total budget has grown steadily from \$13.1 million in fiscal year '69 to \$36,729,000 in fiscal year '74 and a proposed \$37,749,000 in fiscal year 1975.

The growth of local revenue has grown steadily over the past four fiscal years. Records show that local revenues were \$4.6 million in 1969, \$5.2 million in 1970, \$5.8 million in 1971, \$6.8 million in 1972, \$7.2 million in 1973, \$11.3 million in 1974 and estimated at \$14.7 million in 1975. The FY '75 figure represents 55% of our total budget when added to FY '74 excess local revenues appropriated for the FY '75 budget.

The rapid growth in total budgets over the past four years has allowed a heavy investment in long-needed infrastructure projects, primarily roads, water and sewer systems. I attach material from the fiscal year 1974 and fiscal year

1975 budgets to indicate the type of CIP programs being carried out for the benefit of the people of American Samoa. I also attach a memorandum prepared by the Office of Budget and Planning to indicate yearly growth in CIP programs.

Growth in American Samoa's participation in the Federal grant programs has grown from \$.8 million in 1969 to a level of \$6 million in fiscal year 1974 and estimated at \$6.5 million in fiscal year 1975. For reference, an outline of Federal grant programs utilized now by American Samoa is attached.

In 1969, unemployment in American Samoa was estimated by the Department of Economic Development and Planning at 26 percent. Unemployment at the present time is estimated at 11 or 12 percent. Unemployment in American Samoa cannot, of course, be compared to unemployment figures used in the United States. Because of the family structure in American Samoa and of a subsistence economy in the Manua Islands, unemployment has a different meaning. Using stateside formulas, we can estimate unemployment at approximately 11 percent, but, at the same time, it should be noted that some industry is having difficulty obtaining sufficient labor. Continued economic growth will continue to bring the total unemployment figure down.

An intensive system of tax audits, the first in the history of the Samoan income tax system, has been implemented over the past several years. The tax audit system has disclosed rather broad deliberate and non-deliberate areas of tax violations or evasion. The manager of the Tax Office estimates that the program of tax audits has added \$1.5 million to \$2 million a year to American Samoa's local revenues.

While not broad in scope compared to a major state on the mainland, the past several years has seen the first entry of new major businesses since the canneries were started in American Samoa. The old Bank of American Samoa, a government institution, was sold to the Bank of Hawaii, thus establishing the first private bank in American Samoa. Using the premium from the sale, the Government of American Samoa has established the Economic Development Bank of American Samoa and it has been able to issue many housing and business loans. The First National City Bank of New York has applied to open a branch in American Samoa and has been granted permission to do so. They will open for business on July 1, 1974. The Bulova Watch Company has formed Pacific Time Corporation in American Samoa and approximately 50 people are employed at their watch factory here. The Sultan Jewelry Company of Hawaii has established a small plant in American Samoa and has trained American Samoans as skilled employees. Meadow Gold Dairy Corporation has established a milk and ice-cream plant in American Samoa, providing us with fresh product for the first time. The P.J. Brennan Company established a double-knit trouser factory in Samoa. Employment at this factory reached a high of 200 people, but the company, after more than a year of operation, was forced out of business because of excessive freight rates. A national firm of Certified Public Accountants has opened an office in American Samoa, the first of its kind. A design engineering firm has set up an office in American Samoa to assist on local construction projects.

The issuance of building permits from 1971 through the end of March, 1974, serves as a good barometer by which to measure economic growth. Statistics attached from the Department of Public Works' Building Branch show that 1,912 building permits for either Samoan homes or European houses have been issued in the above period, a rather remarkable total for a small area with only 28,000 population.

Two new small hotels had been brought into existence and our one major hotel has been expanded from 100 to 190 rooms. A number of new local retail businesses have been established, most of them small grocery and dry goods stores. A major bowling alley has been built and is very active.

Our two major canneries have invested and are investing substantial sums in plant expansion of cleaning lines and cold storage facilities. The total employment in 1969 at the two canneries, the Marine Railway, and the American Can Company, was approximately 1300. Employment in the same area at the present time is estimated at close to 2,000 people. The fleet serving these canneries has risen from 178 vessels in 1969 to approximately 350 vessels at the present time.

In local fisheries, the Department of Marine Resources has established a boat

building and fisheries training program which has seen the launching of 24 small commercial fishing vessels, the first major approach to indigenous fishing in many years. This department has also acquired two small research vessels to assist in fisheries development, has begun reef surveys in cooperation with the Smithsonian Institution, has established a Sea Grant program to training commercial fishermen at our Community College, has assisted our high school to set up a Sea-Lab program to interest young people in the economics of fisheries and oceanography, and has utilized both Bureau of Outdoor Recreation and Bureau of Sport Fisheries funds to build several new boat launching ramps in American Samoa. This department is also carrying out a bait rearing program to provide our local fleet with live bait for a pole and line fishing effort. It should be noted that the Office of Fisheries was separated from the Department of Agriculture in 1970 in order that the proper emphasis could be given to the development of commercial fisheries in American Samoa.

Another organizational change saw the creation of the Office of Special Assistant to the Governor for Transportation to plan and execute programs long needed in the air, land and water transportation. Other organizational changes include the computerization of payrolls for the first time for employees of the Government of American Samoa, equalization of salaries, establishment of a single salary system for the first time, the establishment of an Internal Audit Office reporting directly to the Governor, the establishment of a Department of Economic Development and Planning as a separate government department in 1970, the reclassification of all Government of American Samoa jobs by the Department of Manpower Resources to insure proper alignment among jobs and to guarantee equal pay for equal work and the creation of critical flow path programming in the Department of Public Works to avoid overruns.

Our Department of Agriculture has instituted a small loan program, under the auspices of OEO, to enable farmers on the remote islands of Manua to begin growing taro for their own use and for export to our main island of Tutuila. This Department has also originated a mobile swine breeding program which has been quite successful and has expanded its poultry raising capability to assist local farmers.

The closure of two oriental machine shops within the cannery complex has funneled the bulk of this work to the GAS Marine Railway, thus preventing an outward flow of taxable income.

Our port is making the transition to containerization successfully and construction of a new warehouse near the airport in fiscal year 1975 will reduce the load on the transit warehouse on the waterfront, thus allowing more expeditious handling of cargo. An examination of military activity through the port and airport disclosed that no payments for services rendered were being made. Negotiations were concluded and the Military is now paying normal port charges and airport landing fees.

The major economic project underway at the present time is the construction of a large industrial development park near the airport. This project is funded at more than a million dollars and the bid award will be let in the next several months.

In responding to that part of your third question which solicits information regarding social progress, I have tried to list below items which relate most directly to the life-style or well-being of the American Samoan people. However, certain of the projects or programs listed have obvious economic implications or relate to the determined policy of the Department of the Interior and this administration to preserve and maintain Samoan culture and customs. One of the most significant social steps was taken two years ago with the creation of a retirement system for the employees of the Government of American Samoa. The Government is the largest employer in the territory and, at the present time, is responsible for about half of all employment. The next largest employers, the two canneries, have also announced retirement benefit systems for their employees. This would bring about 60 percent or better of all employees, government or private, under retirement systems at the present time.

In 1969, and the first half of 1970, visits were made by me to every village in American Samoa. At each village, lengthy meetings were held with the chiefs and the village council in order to determine village problems and desires. It is my understanding from the people of Samoa that this is the first time that any Navy or Interior Governor has ever visited every village in the American

Samoan islands. These village visits gave this administration a specific understanding of the needs of the people and served to identify problem areas. Since that time, the great bulk of the small complaints had been taken care of and work is underway on major problems concerning the need for better water systems, roads to villages without roads, the need for small harbors and power in the Manua Islands and the need for an expansion of sewage systems (See attached C.I.P. material for detail).

The total cost of the many needed facilities ran into many millions of dollars and it was obvious that all of these needs could not be taken care of except through long-range budgeting and planning. However, substantial improvements have been made in the past several years.

A second major sewage treatment plant has been constructed in the Tafuna area by the airport and laterals and hook-ups are now underway. Similar sewage treatment plants will be needed at Leone and Fagaitua in the future.

A grant of more than half a million dollars brought about—the rehabilitation of 36 village water systems not on the main water line.

Major contracts were let to drill wells in the Tafuna plain to tap underground water and a lengthy main pipeline and pumping stations have been constructed so this water may be brought all the way into the Pago Pago Harbor area. Additional wells will be drilled in fiscal year 1975.

With the assistance of the Federal Highway Administration, some highway funding has been obtained for American Samoa. The first major project to be completed was the road from Pava'ia'i on the main highway to the mountain village of Aoloau. A great deal of highway planning has led to the start of construction of pioneer roads to the eight isolated villages on the northshore of the main island of Tutuila. Several secondary highways have been paved and several new agricultural dirt roads have been constructed.

With the assistance of the U.S. Army Corps of Engineers, small harbor construction has begun in Manu'a. The first small harbor on the island of Aunu'u, one-half mile offshore from Tutuila. A second major highway program to begin in calendar year 1974 is the reggrading and paving of the lengthy road between the village of Fagaitua and Masefau.

With more than \$2 million assistance from FAA, Pago Pago International Airport has had its runway widened to accommodate 747's and similar large aircraft, has seen the installation of an ILS system, a 200-mile scanner system and a contract of nearly \$1 million is currently underway to build a new fire-crash station, fence in the airport and provide taxiways and apron improvements for larger aircraft. A private company has built a small airport on the island of Ta'u and the Government of American Samoa has funded and is currently conducting negotiations for a small airstrip on the island of Ofu. If land agreements are reached, this airport is expected to be finished by the end of calendar year 1974.

A completely new Community College was created in 1971 and its current enrollment is nearly 1,000 full or part-time students. The Community College of American Samoa is housed in old, previously condemned Navy buildings. However, through the appropriation of local funds, the extensive high school campus at Mapusaga is now being acquired at a cost of \$1.5 million from the Mormon Church for use as a permanent home by the Community College of American Samoa. At the same time, the old motor pool compound at Tafuna is being completely rehabilitated as a skill-trade center under the wing of the Community College. This facility will be responsible for the teaching of automotive mechanics, welding, wiring, plumbing, carpentry and other hard trades and skills so badly needed in American Samoa.

American Samoa's telephone system, at a cost of several hundred thousand dollars, has been completely rebuilt from an equipment standpoint and new exchanges have been constructed at Tafuna, Leone and Fagaitua. The new telephone system is now 78 percent operative and the Office of Communications' plan calls for the extension of telephone service to the Manua Islands by the end of fiscal year 1975.

Projects to install power plants on the islands of Ofu and Tau were revived and the installation of these plants is now complete, giving all three Manua islands electricity for the first time in history. On the main island of Tutuila, supplemental funding was obtained to install a sixth larger generator for the

Satala plant. Budget appropriations were used to build a second major power facility near the airport at Tafuna. This facility, with two 3500 kw generators, will go on line in April of 1974. A cooperative program for the installation of street lights at highway intersections and within villages has been in effect for some time.

In cooperation with the Legislature, a yearly fund to take care of small unbudgeted projects has been established and attached is a list of projects accomplished in a typical year with these monies.

In fiscal year 1974, a large science and resource center was completed for the Samoa High School, a new school and resource center was completed for the village of Poloa and four additional resource centers were completed at Leone High School and three elementary schools. Four more resource center schools will be constructed during fiscal year 1975 to take care of growing school population. Curriculum in the school system is under constant change with lesser emphasis on the use of television. Adult basic education is now an established program, a highlight of special education has been the first instruction for deaf children and approximately 350 Samoan teachers are now enrolled each summer in the in-service teacher training program. Early Childhood Education has been expanded heavily over the past four years and this division of education now has under construction its first headquarters and teacher training center. The main library has been extensively renovated and airconditioned and library extension services have been placed in the high schools of American Samoa. Two satellite library buildings have been constructed in the bay area.

In mid-1969, staffing at Lyndon B. Johnson Hospital was dangerously low with only two doctors and one dentist on the hospital staff. Recruitment since then has been heavy and the hospital now has eleven stateside doctors and two stateside dentists. Among the doctors is the first full Samoan doctor, a surgeon, to be brought back to American Samoa. Eleven Samoan medical officers are also on the hospital staff. Physically, hospital facilities have been expanded at LBJ for comprehensive health programs and training areas and, in the outlying islands, two new dispensaries have been built and four dispensaries have been rehabilitated. Currently, a \$1.3 million contract is underway to expand facilities at LBJ Hospital under the Hill-Burton Act and local funding. Off-island medical care has grown steadily and, through the efforts of the Department of the Interior, arrangements have been made at Tripler Hospital in Hawaii for base cost treatment of American Samoan patients. The curriculum at the School of Nursing has been substantially revised in order to qualify the School of Nursing for accreditation, a program which has two more years to go.

In the environmental field, over the past several years, the first staff ecologist was added to the Government's staff, environmental legislation was developed by the Executive and passed by the Legislature establishing the Environmental Quality Act of American Samoa and the Environmental Quality Commission. Working relationships were established with the Environmental Protection Agency and the Federal Water Pollution Control Agency. This has led to the installation of waste water treatment equipment at our two canneries at a cost of approximately \$1 million, the establishment of a five-man harbor patrol to control pollution in the harbor, the acceptance of Rose Island Atoll as part of the National Wildlife Refuge System, the establishment by the National Oceanographic and Atmospheric Agency of a pure air station in American Samoa, the elimination of open garbage dumps in favor of sanitary landfills, the creation of an American Samoa Chapter of the Sierra Club, an extensive biological and environmental study by scientists from the University of Hawaii of Pala Lagoon and a series of reef studies in conjunction with the Smithsonian Institution.

In the fields of the arts and humanities, under the chairmanship of Mrs. Jean Haydon, the Arts Council of American Samoa has been revived. Funding has been obtained from both the National Endowment for the Arts and Humanities and locally from the Legislature, thus allowing the establishment of the first museum in American Samoan history. The museum occupies the rehabilitated old Navy Post Office in downtown Fagatogo and is completely staffed by American Samoans. The Arts Council has carried out an extensive program of beautification each year, has established an official Choir of American Samoa, funded American Samoa's first artist-in-residence program, has established a working affiliation with the Smithsonian Institution, has encouraged the devel-

opment of the Historical Commission of American Samoa, has established the annual Arts Festival and has created a vigorous cultural exchange program. Seven historic buildings in American Samoa have now been identified and added to the National Register of Historic Buildings.

For the past three years, American Samoa has been the only territory to utilize the Youth Conservation Corps program and through it has completed a number of village recreation sites, seawall erosion prevention projects, school trails and other village programs. Approximately 600 young people will be involved in the FY '74 YCC program.

The Judicial Branch has undergone numerous changes. Of particular importance are the new small claims court, the new traffic court and the new matai title court, all presided over by Samoan Judges. The Judicial has built a new law library, has brought about major improvements to the village magistrate system, has worked with the Legislature in the publication for the first time of the Code of American Samoa and has substantially reduced its backlog of cases. The High Court of American Samoa has been added to the Register of Historic Buildings and will undergo extensive rehabilitation in fiscal year 1974. The office of Public Defender has been strengthened through the expansion of staffing and the provision of office space. The Judiciary has also been responsible for implementing publication of the "Court Reporter", a program now underway which will see publication of all court decisions, a first in Samoan Judicial history. The Court was also responsible for the holding of the first South Pacific Judicial Conference in cooperation with the High Court of Western Samoa two years ago.

The Office of Manpower Resources has given particular attention to the recruitment of qualified American Samoans, either locally or returning from the United States, to fill positions previously held or which would have been held by statesiders. Attached is a list of Samoans occupying such positions. The majority of the names on this list have been employed during the current administration. To date, employment has been found for all returning American Samoan servicemen and a very active American Samoa Veterans Association has been established. A full-time, funded Veterans Office was established a little over two years ago.

A full-time Social Security Office has been opened and staffed in American Samoa.

A funded and staffed Youth Office has been created in American Samoa and work is now underway to construct a funded handicraft center for the aged under the Older Americans Act. The Department of Education has established a full-time sports director to establish island-wide sports programs and he is working closely with the Youth Office.

Recent developments in outdoor recreation, in conjunction with the Bureau of Outdoor Recreation and other Federal agencies, has seen the creation of a major park at the village of Faga'alū, funding for a downtown park between the Office of Tourism and the new museum, construction of a new marina and recreational sports fishing facility at Malaloa, funding of a new running track for construction in FY '74, funding of a shelter building at the new golf course in Tafuna, and the completion of shore protection projects on the central waterfront adjacent to the new Legislative Buildings.

The Department of Public Safety of American Samoa has been reorganized and, for the first time, the Commissioner of Public Safety is an American Samoan rather than a stateside employee. A Corrections Division has been organized to separate the Police Department from prison facilities and an interim new correctional facility was established in old buildings in Tafuna pending construction of a new jail in fiscal year 1976. Construction of a new Police Headquarters and Fire Department headquarters is funded for fiscal year 1975, and will be located in the central downtown area.

The Department of Public Safety and the Attorney General's Office have been heavily involved in programs of the Law Enforcement Administration Agency for the past several years and two highlights of this program have been a legal intern program at the University of Southern California and a current scholarship program for American Samoan law students which has already seen the graduation of two Samoan lawyers with degrees. Seven other students are in the legal scholarship program at the present time. Currently, both of these departments, and several other major governmental departments, are concen-

trating heavily on programs in conjunction with the Federal Highway Traffic Safety Act, a program which is felt of high value because of the heavy incidence of traffic accidents in American Samoa.

In the general area of planning, some of the major studies carried out have included solid waste disposal, electrification, airport master plan, a five-year parks and recreation plan, ecological studies by the Smithsonian Institution and the National Park Service, a land tenure study by the Bureau of Land Management, development of ports and shore erosion control studies by the U.S. Army Corps of Engineers, road and highway studies by the Federal Highway Administration, development of well water studies by the U.S. Geological Survey, a HUD 701 master land use plan for the territory of American Samoa, water pollution studies by the Federal Water Pollution Control Administration and Environmental Protection Agency, commercial fishing studies by the National Marine Fisheries Service. Currently, the National Wildlife and Fisheries Agency is funding a two-year study of the flora and fauna of American Samoa, the first such study to be done by the United States of this territory. A number of these studies have led to the implementation of programs and projects previously listed above.

The Department of Economic Development and Planning has completed a master plan for the downtown Fagatogo area and implementation of this plan has seen the demolition of a number of condemned buildings and the rehabilitation of five buildings of historical value. A \$300,000 Korea House was built in 1973 by Korean fisheries interests for the recreation of members of the Korean fishing fleet. A similar China House has been funded by Chinese fisheries interests and is scheduled for start of construction in calendar year 1974.

Because of the heavy population of American Samoans in Hawaii, a Hawaii Office of the Government of American Samoa was opened in late 1973 and it is expected this office will be maintained on a permanent basis. Because of the heavy American Samoan population in Southern California, liaison with this population has been established through a sister city relationship with Ocean-side, California.

With the help of the Office of Territorial Affairs, Department of the Interior, American Samoa has been given a top priority for the acquisition of usable surplus out of the Far East through PURA and GSA. Well over \$1 million of good usable surplus has already been obtained under this program at relatively low cost.

The above material is not all-inclusive, but I hope it is responsive to your questions. As I stated in the beginning, the work carried out under the present administration has been a team effort involving GAS staff, the Department of the Interior and the Congress. All of us who have been involved feel that substantial progress has been made in the past four years. At the same time, we recognize that there are major areas which need improvement in the next few years in American Samoa if this small territory is to achieve its full economic, political and social status. Areas of particular concern include continuing improvements to the education system, particularly in the areas of teacher training, vocational education and a more successful scholarship program. In spite of the healthy number of building permits issued for new housing, studies by the Department of Economic Development and Planning indicate an urgent need for both a low-cost housing program and urban renewal programs in several bay area villages which have been near-slums for many years. An examination of the structure of the Government of American Samoa indicates clearly that there is a strong political and economic need for the Government to divest itself of the many activities it now conducts but which could be transferred to the private sector. The efforts of our current family planning programs, in the face of one of the heaviest birth rates in the world, need constant attention and improvement. Our heavy dependence on imported foods strongly indicates the need for improvements in agricultural production. While it will take a number of years to complete, it would seem obvious that the provision of basic infrastructure—water, power, roads and harbors—must be continued. Somehow, we must find ways to control our immigration procedures since they have led to a heavy alien population over the past several decades in American Samoa and a continuing migration of American Samoans to Hawaii and the mainland. In spite of inherent obstacles, every effort must be made to attract and diversify business ventures in American Samoa to reduce the territory's

dependency on the U.S. taxpayer through Congressional appropriation. We feel strongly that management studies, followed by reorganizational recommendations of major government departments in American Samoa should be continued so that, under internal self-government, the American Samoan people can be provided with the most efficient and workable forms of government possible.

Very sincerely yours,

JOHN M. HAYDON,  
Governor.

Enclosures.

EAST-WEST CENTER,  
EAST-WEST COMMUNICATION INSTITUTE,  
Honolulu, Hawaii, March 20, 1974.

Hon. PATSY T. MINK,  
The House of Representatives,  
2338 Rayburn Building,  
Washington, D.C.

DEAR MRS. MINK: I am glad that you have written to me about education in American Samoa.

When you returned from your recent visit I was somewhat puzzled to see you quoted as saying that instructional television had failed in American Samoa. I wondered how you knew that. Yet I disliked to intrude my ideas or information on you, or question you, for one thing because I have admired so much the way you represent us in Washington, and again because I felt that if you wanted any additional information you would ask for it—as you now have.

I am going to answer your questions very candidly, telling you what I know of the situation (which is less than I should like to know) and what I conclude (which I consider far from infallible). I shan't send you any research reports at the moment because the impedimenta of scholarship would simply get in your way. But you are welcome to see any data I have, or look at any reports or papers, when you so wish. What I am going to tell you I trust you will treat with discretion so as not to hurt the dedicated people who have tried very hard to give Samoa an effective educational system.

Let me make it clear that I have never worked in the American Samoa educational system. I was aware of what was happening from the beginning of the new system in 1964, and saw it for the first time in 1966 (my arrival there coincided with the famous hurricane of 31 January in that year!). I have been back a number of times, have been in most of the schools, done some research of my own, collected, tabulated, and analyzed all of the hard data I could find, and had some part in persuading them to give system-wide tests beginning in 1969. I suppose I have more hard data on the system than anyone else. But this has been done as a friendly outsider, not an insider. It has been done not to prove anything, but rather because, as a communication scholar, I felt that here was a significant experiment in the use of modern communication for instruction which we ought to know as much about as possible before we recommend it elsewhere.

To put it briefly:

1. I have no evidence that would lead me to believe that the educational system built around instructional television has "failed" in American Samoa.

2. I have no evidence that would let me say with any scientific confidence that performance in the schools, by students of the same level of ability, is any better or any worse in 1974 than in 1964. That kind of evidence simply does not exist. On the other hand there is considerable evidence that leads me to believe that the school system is doing much better in certain important respects than it did ten years ago. I shall detail some of that evidence later in this letter.

3. I do not consider that the American Samoan school system is as good as it could be or any of us would like it to be. (This same thing, of course, could be said about any school including Harvard.) The question is, how, under rather difficult circumstances, they could have improved it any faster.

Now let me go into some detail.

First, let us not delude ourselves into believing that what the United States did for Samoan education in 1964 is something to be ashamed of. It was a

generous act, arising out of a sense of guilt because for half a century we neglected Samoan education, and a sense of urgency because Samoans were moving in ever greater numbers into Hawaii and mainland culture and having difficulty making it. So far as I know, what happened in 1964 was the first time that any major nation had made such a contribution to the education of a few thousand of its territorial people, thousands of miles away, who were neither a potent political force nor a profitable investment. Perhaps it was not done in the best possible way. Perhaps we should have taken time to have a lot of textbooks written in the Samoan language, and then taught the elementary grades in Samoan. Perhaps we should have embarked on a massive program of training or retraining teachers. But everything I can find out about the early history of the Samoan project indicates that what was done was the best way anyone knew at that time to make a broad educational change quickly so that it could be of as much help as possible, as soon as possible, to all Samoan children. Two years. This was a titanic task; most such systems begin one grade at a time. Therefore, let us not feel any sense of national guilt over what happened in 1964.

In my opinion—and, as you know, everyone has 20-20 vision in retrospect—two mistakes were probably made in designing the system.

Urgency and guilt over having delayed so long. More important, a strong Samoan norm that all should go forward together: the first grade should not get greater benefits than the other grades, and so forth. So there were reasons for beginning in all grades at once. But the results were not wholly good. If they had begun one grade at a time they could have tried out and perfected the television for that grade, recorded much of it for later use, and gone on to the next grade. Furthermore, they would not have faced a situation in which students in the same grade were different each year (that is, a student who came into the third grade with two years of the new curriculum would be at a different level from students who started the new curriculum in the third grade). Therefore, it was impossible to record many lessons and use them the next years, because the level of the students was always different. Rather, it was necessary to make new television lessons for almost all courses every year. At the height of their production in the late 60's, the frantic production staff was turning out 188 live programs a week! Their four studios were kept busy from dawn long past dusk. No other organization does that even with facilities and staff much larger than American Samoa's. It is much more than NHK, NBC, PBS, BBC do. For a time, the average load per television teacher was 10 live programs a week; per producer, 20 programs. A senior BBC producer may do no more than 12 programs a year. As I have indicated, there was a reason for trying to do it as it was done in American Samoa, but it inevitably sacrificed quality of television, in favor of equality for all students.

They have done something about this now: they have cut back the amount of television and begun recording programs for use in more than one year. But more about that later.

The second mistake—or what seems to me, looking back, like a mistake—was to lean so heavily on the television. The television teacher was to do the main job. The classroom teacher was to fill out the class hour with exercises and practice suggested or provided by the television teacher. There was reason for that decision too. It was a time when educators were hopeful about what the new technology could do. Extensive use of television in places like Hagerstown had proved very promising. And as the educators looked at the Samoan situation it seemed to them that the greatest need was for swift improvement in the ability of both teachers and students to use English.

We have a number of descriptions (although no tests) of the level of English in Samoan schools in the early 1960's. Linguists and educators visited, observed, and wrote of a "tenseless, gender-less, halting pidgin" that was spoken in the classrooms—a kind of baby talk. Many of the teachers could not make themselves understood in English, and the Governor sometimes had to call in an interpreter to talk with his teachers who were supposed to be teaching an entire curriculum in English. That didn't seem like the best way to unlock the textbooks for students (there were no Samoan textbooks), or have useful class

discussion, or prepare Samoan young people to take their place in Hawaii or a mainland English-speaking society. The quickest way to change that, it was felt, was to expose the students as much as possible to native-English speaking teachers. And the quickest feasible way to do that was to put such teachers on television for all the schools.

So there was reason for putting American teachers on television as much as possible. But there was also a negative effect: to some extent, the result was to mechanize the classrooms. They had to move to the pace and schedule of the television, whether ready or not. The classroom teachers had to fit their practice activities to the television. There was relatively little equipment or opportunity for either teacher or student initiative. This became less acceptable the better the classroom teachers became. And they *did* improve. They learned from watching and listening to the television teacher, and many of them were sent away to take college or university courses. They became more confident, better aware of what they could do to fit the subject to their own students. This was particularly true in high school, where the emphasis is less on basic skills than on individual learning and initiative. And so there was growing impatience, especially in high school, especially with certain courses, and in general with televised courses that had to be produced in such a frantic rush. After half a dozen years or so, the heads of the Department of Education had to come to the conclusion that perhaps they were using too much television, and they cut it back, eliminating it entirely from some higher level courses, making it voluntary in many subjects, and reducing the number of television periods in other courses.

This drew criticism. Anything you do with education draws criticism from some side. If television had not been used in American Samoa, the schools would have been criticized for neglecting a wonderful new tool of technology. Because they did use the tool they were criticized for using it. As you well know, television has been a political football in American Samoa. It was so visible, so easy to kick. If someone didn't like one of the Governors, he could criticize television. If a small group want their children segregated in a Samoan Punahou, as they do now in Fia Iloa (though without paying the Punahou tuition), they can criticize television. So cutting television back was an even more courageous decision than introducing television. But it was probably a good educational decision.

For one thing, it made it possible for teachers and producers to allocate more time to producing effective television lessons. Secondly, it shifted more attention to other learning opportunities in the classroom. Television no longer was expected to carry most of the load. Samoan classrooms are beginning to look much different from the way they looked five or six years ago. Many of them have introduced the Hawaii English Program. They have individual practice cards and materials so that children can work at their own pace and on what they most need. There are more books in the classrooms. There are more group and individual activities. What seems to me to be happening in Samoa is that a kind of "free market" is coming into being, in which television is being allowed to find its own best level—the things it can do best, and the needs it can most efficiently meet. This will take some time to accomplish, but it seems to me healthy, and the kind of thing we can recommend to other developing countries. Therefore, I don't consider the cutback in television an indication of failure but rather a reflection of improvement in the classroom teaching, and a sign that something more has been learned about how to use television in a school system.

Incidentally, these lessons learned in American Samoa have been helpful to El Salvador, the Ivory Coast, and other places where television has been introduced in an extensive way to help bring about educational reform.

Now let's turn to some of the hard data. What do we know, with some of the surety of science, about educational performance in American Samoa?

How well are the students doing? For this we have three years of testing with mainland standardized tests (the Stanford and SRA test batteries). We have fragmentary comparisons with ninth grade in Western Samoa, but the philosophy of the two systems is quite different. Western Samoa has a selective system; only about 10 per cent of the beginning students ever reach the ninth grade. American Samoa has universal education; almost 100 per cent reach the

ninth grade. That makes any such comparison suspect. Similarly, there are confounding factors in any comparison with Guam or other Pacific islands. The chief source of data is how the American Samoa students compare with American mainland norms on two widely-given standardized tests.

To summarize briefly, they do about as well as the mainland groups we sometimes call "deprived"—Southern or midcity Blacks, Puerto Ricans, native Americans and so forth. The Samoan children do a little better in arithmetic, a little worse in reading.

Let's think about that for a moment: how well should we expect them to do? Should we evaluate them on tests made to fit mainland curricula and mainland culture? Questions about railroad trains and what clothes one wears at a temperature of 50 must sound odd to Samoans. Obviously, their performance could be measured more fairly on tests made for them and their culture, which is just what the Samoan school system is now doing.

And could we not think of the Samoan children as academically and linguistically "deprived," as much as the "deprived" mainland groups? Think of the situation in which they study. Most of them have no books in their homes. Most of their parents have had little education. The children use English five hours a day in school, and then are actively discouraged by their parents from using it at home. I am not saying that the Samoan culture is in any way inferior to ours—merely that there is an inevitable conflict between the desire of the Samoan parents to give their children a modern education and prepare them for the modern world and the industrialized society, and their deep wish to maintain the old culture unchanged. The Coleman report, the Mosteller report, the Jenks report all have shown that what the student brings with him from his home background has more to do with his school performance than what the school does. Consider how different is the home background of these Samoan children from yours or mine. They go to school in English, but seldom use it out of school. My home was full of books and newspapers and magazines; their homes are mostly empty of these things. Your home, my home were full of good talk, problem-solving, intellectual stimulus, encouragement to succeed academically. Are theirs? So it seems to me that we may be expecting too much of the schools if we expect the average Samoan score on an American standardized test to be any higher than those of "deprived" mainland groups. My judgment is that they are probably doing about as well on such measures as we could now expect of them.

Are they doing better or worse than they were before the new system was introduced in 1964?

The scientific evidence is very scant. After trying for several years to supplement it, clarify it, interpret it, I have finally come to the conclusion that the early test data are so suspect, so fragmentary, so lacking in information about who was tested, under what *circumstances*, that I don't care to commit myself to any such comparison based on test evidence.

I do have one piece of evidence that would be of interest to you. One inhabited island of American Samoa has, until this year, never had television. They have had an elementary school, and it is probably the nearest parallel in existence to the typical Samoan school as it was before 1964. With the cooperation of some experienced and skillful teachers I tested the students in that school in comparison to two small schools on the island of Tutuila. We had to restrict the testing to their competence in understanding, speaking, and reading English because most of the students on the non-television island would have done very poorly on an English-language standardized test such as the Stanford, the SRA, or the California batteries.

The results were interesting. Third grade students on Tutuila were doing about as well in English as fifth and sixth grade students on the television-less island. Very few students on this latter island could really answer questions in English. But perhaps the most interesting finding had to do with five students on the television-less island who had spent one to three years on Tutuila, in schools with television. Those five students were doing quite well. They could answer questions in English. They were far above their classmates in all the tests of English use. And they compared not too badly with the students of the two schools on Tutuila. It is very hard to look at those results and not believe

that television in the schools has not had some effect on the ability of Samoan children to use the English language, which, as I indicated, was perhaps the chief goal of the new system.

You must have seen some schools while you were in American Samoa, but I wonder whether you saw any of the village schools before television. They were one-room, fale schools, with four to eight grades taught together. Books were nowhere in evidence. The one teaching aid was a chalkboard. The teacher appeared to be about the only source of knowledge to be learned, and what was stored in the teacher's mind is what he gave the students to learn. He would repeat something, and the students would chant it back to him. It was rote learning. There was not much in science or social studies or systematic history. I remember one day I found written on the chalkboard the five items students in seventh grade were supposed to learn that day, apparently in social studies. One was, "The Last Supper is in Milan." I wondered why the Samoan children were to learn where Da Vinci's painting was, and how that knowledge could possibly help them. And then I realized this was one of the odd items stored in the teacher's memory that he was transferring to his students.

Even the most poorly equipped of Samoan schools today seem far above that level, and the best ones that are being filled with learning materials and individual opportunities to learn, seem to an outside observer to be on an entirely different educational level from the old fale schools. Furthermore, I sometimes have to remind myself that American Samoa has universal education through 12 grades today; it did not have that before 1962 or 1963. Therefore, although I can't prove scientifically that performance is any better now than ten years ago, everything I see leads me to think that it must be. And at the very least, the opportunities to learn are much greater than they were.

One more question: what do the teachers and students think of instructional television? We have two opinion surveys, one going from elementary school through high school, the other stopping at the eighth grade. You must not expect any 100% figures; one doesn't get them from opinion studies and most particularly from students and teachers talking about education. Opinions in elementary school are more favorable than those in high school, where the teachers are more confident and more of them have been trained outside Samoa, the students like to talk more rather than be talked to, and, as you know, teenagers become more critical of everything. In the elementary schools, over three quarters of both teachers and students are highly favorable to the use of television, want it continued, and want, on the average, about the same number of television periods they now have. When seventh grade science on television was eliminated a year ago, the opinion survey showed that a majority both of students and teachers wanted it restored. Unfortunately, we have no measure of change, if any, in high school opinions since their television was substantially cut back.

This is probably all you want to hear about the hard evidence, and, indeed, I may have written a great deal more than you want to hear in general. But you have asked whether I still think that the instructional television should be continued. I am a scholar, not a national policy maker, but it seems to me that to eliminate television at this point would be to throw away a valuable resource. If I were in charge of that system I should move along three lines: (1) continue to let television find its own level—the things it can do better than can be done in the classroom—and emphasize quality over quantity in television lessons; (2) build up the learning materials and opportunities in the schools until all classrooms can offer as much in addition to television as the best-equipped ones offer now; and (3) offer as much additional study opportunities, in Samoa or elsewhere, as I could afford, for Samoan teachers.

Finally, let me point out one more development in Samoa that should interest you. This is the first instance I know where a massive system of educational technology, installed, paid for, and operated by a paternal country, has ever been turned over completely and smoothly to the control and management of the developing country for whom it was installed. The French put in a comparable system for Niger, beginning soon after television started in Samoa. That system is still under French management, and up until this year had never been extended farther than 16 classrooms, a tiny corner of the country. In

contrast, television reaches every corner of American Samoa, and has moved completely into Samoan control. A few years ago, the Director of Education was an American. Most of his department heads were Americans, as were most of the principals and many of the teachers. Now the Director of Education is a Samoan, Chief Pula. His Deputy is a Samoan, Mrs. Mere Betham, who, I understand, will probably become the next Director. All the department heads except one, all the principals except one, are Samoans. American teachers in the classrooms are very few. The Samoan leadership seems to be doing very well, in the face of some difficult problems like the opposition to desegregating the Fia Iloa school. The turning over of Samoan schools to Samoans, so smoothly and completely, is something we should remember when we are criticized for one reason or another for what we have done *to*, rather than *for*, American Samoa.

With good wishes, I am

Sincerely yours,

WILBUR SCHRAMM,  
*Director.*

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., April 11, 1974.

Hon. JOHN M. HAYDON,  
*Governor of American Samoa,  
Pago Pago, Tutuila,  
American Samoa*

DEAR GOVERNOR HAYDON: We are in receipt of Senate Concurrent Resolution No. 47, which was passed by the Legislature of American Samoa on February 20, 1974, requesting that a referendum be called for May 1, 1974, on the sole question of whether or not the Governor and Lieutenant Governor of American Samoa should be popularly elected.

As you know the Department of the Interior has supported the concept of popularly elected governor and lieutenant governor and has gone on record before the U.S. Congress to that effect. The people of American Samoa have expressed themselves twice within the last year and a half on this subject. It has been contended in some quarters that their negative response to the proposal for an elected governor could possibly have been influenced by other issues on the ballot at the same time.

For this reason, I agree with the Fono that it would be desirable to have a referendum where the sole issue is popular election of the Governor and Lieutenant Governor. However, as to timing, I believe that the May 1, 1974 date is much too near and would not allow adequate time for full exposition of the issues before the electorate decides this most important question. Discussions here in Washington with the leadership of the Fono indicate that a late June date would be suitable.

Therefore, pursuant to the authority vested in me by Executive Order No. 10264, June 29, 1951, you will cause to be held on June 18, 1974, a special election in American Samoa at which the voters eligible to vote for members of the House of Representatives of American Samoa shall be given the right to vote "yes" or "no" the following question: Shall the people of American Samoa elect a Governor and Lieutenant Governor by popular vote?

If a majority of those voting approve the proposition, it is my intention to cause the first American Samoan gubernatorial election to be held in November 1976.

Between the receipt of this letter and June 18, 1974 it is important that a widespread educational effort be undertaken throughout American Samoa to explain to the electorate the significance of the elected governor issue. I believe this should be conducted primarily by the Samoan leadership both in the Legislature and in your Administration. In the case of the latter, the Secretary of Samoan Affairs should be the focal point.

Sincerely yours,

ROGERS C. B. MORTON,  
*Secretary of the Interior.*

## Department of Public Works

MARCH 1, 1974.

## REPORT FOR CMP REPRESENTATIVE

Total number of building permits issued in 1971:	
Samoan Fales.....	78
European Houses.....	272
Total permits issued.....	350
Total number of building permits issued in 1972:	
Samoan Fales.....	135
European Houses.....	409
Total permits issued.....	544
Total number of building permits issued in 1973:	
Samoan Fales.....	95
European Houses.....	655
Total permits issued.....	760
3-year total.....	1,654
1974—Total number of building permits issued:	
Samoan Fales.....	35
European Houses.....	223
Total permits issued.....	258

	<i>Amount</i>
Fiscal year 1973 appropriation.....	\$40,000
Approved projects:	
Calvert extension between main road and Fia Iloa School.....	100
Olosega sidewalk.....	2,400
Afono water system improvements.....	350
Sidewalk from Alao to Tula.....	3,734
Laulii School access road.....	2,800
Malaeimi-Mapusaga water line.....	1,200
Afono water system.....	2,700
Procurement 4-wheel-drive pickup—Manua garbage pickup.....	7,000
Foot bridges for Afono and Vatia.....	750
Cookie for ECE school program.....	3,000
Paviai Uta access road.....	2,400
Street lights—Marine Railway/Cannery area.....	1,100
Land fill for Pago Pago Bridge.....	500
Laulii land fill.....	125
Public toilet facilities—Viloatai Village.....	1,500
Generator for Swain Island.....	200
Temporary quarters for female and juvenile inmates at correctional facility.....	5,000
Street lights—trail between Sili and Olosega.....	325
Agricultural road—Fagasa Village.....	2,000
Total allocation.....	37,184
Unallotted balance.....	2,816
Savings: Afono water system.....	572
Alao Tula sidewalk.....	150
Total available fiscal year 1973.....	3,538

## FOREWORD

The ultimate goal of education in American Samoa is to help each person reach his fullest potential as a unique individual by meeting his educational needs.

In an effort to determine the extent of these needs, the Department of Education is conducting a series of needs assessments, the first phase of which was completed in 1972-1973. As a result of this study, ten critical learner needs and the target populations most associated with each need were identified. I feel that these identified critical learner needs will provide educators with a sound basis for planning educational programs and activities. As such, I am pleased to present this document as a description of the status of American Samoa's learner population in relation to a variety of key educational goals. I hope that the information provided will be utilized to further improve our education system.

While applying the results of the following report, we will also be looking forward with interest to the additional more refined statements of need that will result from the continuing phases of needs assessment that are planned for the coming years.

NIKOLAO I. PULA,  
*Director of Education.*

## PREFACE

The office of Research and Development has assumed responsibility for the first Annual Educational Needs Assessment Report. For the purpose of conducting the assessment and preparing the report, funds were budgeted in the Title III, Elementary and Secondary Education Act State Plan.

The report utilized a multi-faceted model. The model inputs include goal statements, measurable objectives, criterion levels, and current data. The educational needs are determined by comparison of current performance levels with desired criterion levels.

Assistance freely given by Deputy Directors and Assistant Directors within the Department of Education makes the report possible. Staff members, Mr. Saleva'a Atisano'e, Mrs. Fagamalama Fuala'au, Miss Samala'ulu Faletoi, Miss Faatonu Seekio, and Mrs. Iafoga'ula M. Lu'uga in particular, provided capable assistance in collecting data. Staff members from the following Department subdivisions assisted in collecting data and printing instruments: the Health and Physical Education Division, Testing Office, Publication Division, Secondary Principals and Elementary Principals.

Special recognition is given to Dr. Murray Thomas of the University of California, Santa Barbara, who was the consultant in the Needs Assessment Study, to Mr. Tupuai F. Titiali'i who was the Director of the Assessment Study, and to Mrs. Lafoga'ula M. Lu'uga who did the typing and put this report together.

SILI M. ATUATASI,  
*ESEA Title III Coordinator.*

The training sessions for teachers participating in the teacher-parent conferencing program furnished experience in interviewing techniques and the use of rating scales for teachers and principals of four elementary schools.

The classroom-problems study gave teachers in seven high schools, 11 elementary schools, and 18 early-childhood centers practice in reporting classroom problems and in estimating the causes for the problems.

The community survey illustrated to 1,200 members of the community methods of gathering survey data by means of interviews and questionnaires.

In effect, several Samoans received intensive training in various aspects of educational research while a wide variety of others gained a bit of additional knowledge of research techniques through their participation in some phase of the overall assessment program.

#### A SUMMARY OF THE MOST CRITICAL LEARNER NEEDS IDENTIFIED IN THE 1972-73 PROGRAM

The following paragraphs offer an overview of the 10 most significant unmet needs identified in the studies conducted over the period of January 1972

through June 1973. This summary treats only the most critical needs. A variety of additional, less prominent ones are described in the detailed reports of the substudies on which this brief review is based.

The needs considered below are presented in the order of their apparent importance, with the more critical ones placed early in the list and the less critical ones later. The degree of criticalness has been determined by three factors: (1) the frequency with which the need was mentioned in the community-opinion survey, (2) the frequency of its appearance in the survey of classroom problems, and (3) the size of the discrepancy between expected scores and actual scores in the academic and physical-performance testing programs. The fact that the results of the teacher-parent conference study did not show one area of need as being greater than another has meant that the conference results were of little use for determining which needs were most critical.

All 10 of the critical needs listed below are phrased in terms of desired student behavior. Following the description of each need, we identify the source of evidence which suggests that the need is indeed an important one in American Samoa.

*1. Command of English.*—At all age levels, pupils need to read, speak, write, and aurally comprehend English at a higher level of proficiency than is currently the case.

*Evidence of the Need.*—When respondents in the community survey were asked what the school should teach more effectively, all subgroups cited English language as the subject in greatest need of improvement. In the standardized-testing program, Samoan pupils performed very poorly on reading and language-usage portions of the English-language tests. Twelfth graders in Samoan schools scored at the sixth-grade level in reading on the mainland norms. In the classroom-problems survey, deficiencies in English constituted the single most frequent type of classroom academic difficulty cited by elementary and secondary teachers.

*2. Mastery of Samoan Language and Knowledge of Samoan Culture.*—Students need to develop greater fluency in the Samoan language. They need to understand the elements of Samoan culture and to know Samoan history. They should develop some skill in traditional arts and physical feats.

*Evidence of the Need.*—When participants in the community survey were asked what students had insufficient chance to learn in today's schools, all of the adult subgroups cited Samoan language and culture as the areas most seriously neglected at the present time. In the special academic testing program, pupils at all grade levels (2 through 12) showed significant deficiencies in knowledge of Samoan culture and history. In the physical-performance testing program, faculty members and students showed so little interest in the three indigenous Samoan events that the events had to be dropped from the program.

*3. Individual Learning Opportunities.*—Students need to pursue goals in school that are in keeping with the students' individual abilities, their particular background knowledge, and their interests. Each pupil needs a chance to learn by methods and materials suited to his abilities and past preparation.

*Evidence of the Need.*—In the classroom-problems study, the wide variety of problems cited by teachers and the wide range of cause-estimates for the problems suggest that many of the unmet needs of pupils are individual ones, not shared—at least in the same degree—with most of their agemates. This conclusion is supported by the wide variation in performance of students on all of the tests in academic and physical-performance areas. Further evidence of the individual or subgroup nature of many unmet needs derives from the participants' responses in the community-opinion survey and the teacher-parent, conference reports.

*4. Command of Arithmetic and Mathematics.*—Students at all levels of the school system need to become more proficient in the skills of arithmetic and mathematics.

*Evidence of the Need.*—In the community survey, arithmetic was placed near the top of the list of subjects that students, educators, and parents thought should be taught more effectively. In the classroom-problems study, deficiencies

in arithmetic ranked as the third most common problem in elementary schools and sixth most common in high schools. In the standardized-testing program, Samoan students above grade six in particular, were significantly below mainland students in their command of mathematics (although the deficiencies in mathematical computation were less than deficiencies in the subject-matter areas of social science, physical science, and English language).

*5. Business-Education and Other Vocational-Education Skills.*—Students need more opportunities to study business education and office practice and, to a somewhat lesser degree, skills required in the trades and in industry.

*Evidence of the Need.*—When asked what learning opportunities they most needed, the youths in the community survey cited business-education skills far more often than they did any other set of skills or knowledge. Employers interviewed in the community survey also frequently mentioned business-education needs of employees they had hired or hoped to hire. Students and several adult subgroups in the survey noted a range of trades and other vocational skills they thought should be learned more adequately in school.

*6. Physical Skills and Opportunities in Physical Education.*—Students should improve in several areas of physical performance. They also need more varied opportunities for learning in the field of physical education, particularly at the high-school and community-college levels.

*Evidence of the Need.*—In several of the events in the physical-performance testing program, Samoan students scored far below the level of California students of the same ages. In certain other events, the Samoans did not improve from one age to the next as was expected of them. In the community survey, college students and educators along with legislators recommended a strengthening of the physical-education and health-education offerings in the schools, particularly in the upper grades.

*7. Command of Social-Science Skills and Knowledge.*—Students need better skill and knowledge in the social studies at all grade levels.

*Evidence of the Need.*—The special testing program covering social-studies facts and concepts taught from grade 1 through grade 11 revealed that pupils do not have sufficient command of the skills and knowledge that the school system's curriculum developers believe should be mastered. In the community survey, a need for improved learning opportunities in social sciences was cited by a fairly large number of respondents.

*8. Command of Science Skills and Knowledge.*—At least a portion of the student population in Samoan schools need a better mastery of science.

*Evidence of the Need.*—A substantial number of college students, recent high-school graduates, teachers, and current high-school students said they thought science should be taught better and that a greater variety of science subjects should be offered in high schools. In the standardized testing program, Samoan students scored significantly below mainland students in science. On the special examination in science, students in grades 4 through 12 scored somewhat lower than the desired level of achievement.

*9. Regular School Attendance.*—If students are to achieve the goals of the school, they need to attend school regularly enough to receive systematic instruction and to practice the expected skills and knowledge.

*Evidence of the Need.*—In the classroom-problems study, the one problem that ranked among the top six at all three school levels (early childhood, elementary, secondary) was that of excessive absence.

*10. Acceptable Social Behavior.*—Many Students—particularly those in the lower levels of the school system—need to develop more acceptable ways of getting along with both their agemates and adults.

*Evidence of the Need.*—The most common classroom problem at the early-childhood level was that of pupils getting into physical conflicts. In elementary schools, this problem was the fifth most common difficulty mentioned. At all school levels, a variety of other problems could be interpreted as symptoms of a lack of sufficient respect for authority, rules, and other people's rights.

We conclude, then, that the foregoing 10 educational needs are ones that appear to warrant special attention from key educators in both the public Department of Education and the island's private schools.

## POSITIONS HELD BY AMERICAN SAMOANS AS OF APRIL 1974

*Administrative Services*

Assistant Director—Treasury  
 Assistant Disbursing Officer  
 Chief, Revenue Branch  
 Deputy Director  
 Systems Accountant  
 Systems Accountant II  
 Territorial Registrar

*Agriculture*

Agriculture Program Manager  
 Assistant Director of Agriculture  
 Development Officer II  
 Director of Agriculture

*Audits*

Special Assistant, Audit

*Communications*

Communication Operator Manager  
 Director of Communication

*Development and Planning*

Administrative Officer  
 Community Development Coordinator

*Education*

Assistant Director for Early Childhood  
 Assistant Director for Elementary  
 Assistant Director for Secondary  
 (3) Classroom Teachers, Community College  
 (6) Classroom Teachers, Community College (Earning Comparable Salaries)  
 (9) Classroom Teacher, Secondary  
 Curriculum Specialist (Secondary)  
 Deputy Director of Education (Community Affairs)  
 Deputy Director of Education (Instruction)  
 Deputy Director of Education (Public Affairs)  
 Director of Education  
 (4) Educational Specialist, Community College  
 (2) Educational Specialist, Secondary  
 (2) Elementary Classroom Teacher (Earning Comparable Salaries)  
 (19) Elementary Principal  
 ESEA Title III Program Manager  
 ETV Research Librarian  
 Federal Programs Coordinator  
 (2) Instructional Supervisor (Secondary)  
 Media Resources Supervisor (Secondary)  
 Publications Supervisor  
 (32) Secondary Classroom Teacher (Earning Comparable Salaries)  
 (4) Secondary Principal  
 State Food Services Supervisor  
 (4) Television Engineer  
 (9) Television Producer—Director  
 (5) Television Teacher (4 Elem & 1 Sec.)  
 (2) Television Teacher (Earning Comparable Salaries)  
 Tests & Measurements Coordinator  
 Transportation & Facilities Supervisor

*Executive*

Handicrafts Production Manager

*Legal Affairs and Public Safety*

Assistant Attorney General  
 Commissioner of Public Safety  
 Director, Criminal Justice Planning Agency

*Legislative Reference Bureau*

Assistant Director, Legislature Reference Bureau  
(2) Research Associates

*Local Government*

Deputy Secretary, Samoan Affairs  
Secretary of Samoan Affairs

*Manpower Resources*

Administrative Assistant  
Assistant Classification Specialist  
Assistant Director, Benefits, Fiscal & Safety Division  
Assistant Director, Training Division  
Deputy Director, Manpower Resources  
Program Manager, EEA  
Program Manager, NYC

*Marine Railway*

Financial Manager

*Marine Resources*

Assistant Director, Biologist  
Fisheries Development Specialist  
Fishery Biologist Assistant  
Program Manager (Dory Project)

*Material Management*

Contract Specialist  
Deputy Procurement Officer  
Procurement Officer

*Medical Services*

Assistant Director, Nursing Service  
Associate Health Educator  
Associate Health Planner  
Chief of Laboratory  
Chief of Radiology  
Chief Sanitation Officer  
(3) Dentist III  
Director, Hospital In-Service Nursing  
Director, Nursing Education  
Director, Public Health Nursing  
Health Statistical Analyst  
Hospital Administrator  
Housekeeping Manager  
Maintenance Superintendent  
Medical Services Administrator  
Nursing Instructor  
Physician I, M.D.  
(7) Physician II  
(3) Physician III  
(4) Physician IV  
Physician VI  
Public Health Administrator  
Sanitarian  
(3) Supervisor, R.N.  
Supervisory Nurse I

*Planning and Budget Office*

Budget Specialist

*Port Administration*

Airport Manager  
Assistant Manager, Water Transportation  
Director of Port Administration  
Manager, Water Transportation  
Superintendent, Airport Operations

*Public Works*

Assistant Director, DPW Construction  
 Construction Inspector  
 Construction Project Coordinator  
 Maintenance Coordinator  
 Manager, Building Branch  
 Manager, Lands & Survey  
 Manager, Manua M&O  
 Manager, Motor Pool  
 Manager, Water Utility  
 Power Production Specialist  
 Right-Of-Way Specialist  
 Special Assistant to the Director, DPW  
 Superintendent, Maintenance

*Tax Office*

Assistant Manager, Processing & Collection Branch  
 Manager, Audit Branch  
 Manager, Collections Branch  
 Tax Technician Auditor II

*Tourism*

Director of Tourism

GOVERNMENT OF AMERICAN SAMOA, CAPITAL IMPROVEMENT PROGRAM—DIRECT LOCAL APPROPRIATIONS,  
 FISCAL YEAR 1975

Program code	Program category	Local appropriation request	Estimated Federal grants	
			Federal funds	Local matching
01	Educational and cultural facilities:			
	Elementary school facilities.....	\$271,000		
	Secondary school facilities.....	74,000		
	School buses.....	56,000		
	High school gymnasium.....	290,000		
02	Health related:			
	Sewer.....	450,000	\$577,000	\$119,000
	Water.....	1,100,000	32,000	22,000
	Solid waste transfer station.....	15,000		
03	Economic development:			
	Re-engine dorys (20)—cost share.....	25,000		
04	Conservation and environment:			
	Seawall.....	240,000		
	Recreational facilities.....	50,000	50,000	50,000
	Storm drains.....	50,000		
05	Transportation and power:			
	Small boat harbor.....	810,000	1,000,000	0
	Construction equipment.....	150,000		
	Concrete and asphalt plants.....	260,000		
	Container storage yard.....	400,000		
	Graving dock for marine railway.....	400,000		
	Roads.....		1,000,000	447,000
06	General government:			
	Administrative facilities.....	992,000		
	Warehousing.....	150,000		
	M. & O. shop.....	250,000		
	M. & O. equipment.....	100,000		
	Replacement government housing.....	150,000		
07	Public safety:			
	Police and fire equipment.....	110,000		
	Street lights.....	10,000		
	Sidewalks.....	40,000		
08	Advanced planning:			
	Land acquisition and development.....	100,000		
	Land acquisition and development.....	100,000		
	Total appropriations.....	6,643,000		

*Special programs:*

1. Additional loan assets for development bank..... \$250,000  
 2. Claims and damages fund..... 100,000  
 3. Small village project contingency fund..... 50,000  
 4. General wage adjustment (career service)..... 1,100,000

Total..... 1,500,000

GOVERNMENT OF AMERICAN SAMOA—CAPITAL IMPROVEMENTS PROGRAM—DEPARTMENT OF  
INTERIOR GRANT-IN-AID

	Fiscal year 1972 appropriation	Fiscal year 1973 appropriation	Fiscal year 1974 proposal	Increase (+) or Decrease (—)
Education and cultural facilities.....	\$378,000	\$649,000	\$721,000	+\$72,000
Health facilities.....	1,255,000	1,040,000	1,200,000	+160,000
Economic development.....	50,000	50,000	0	-50,000
Conservation and environment.....	150,000	120,000	0	-120,000
Transportation, communications, and power.....	1,062,000	2,300,000	350,000	-1,950,000
General Government.....	490,000	32,000	0	-32,000
Public safety.....	0	385,000	0	-385,000
Planning and A. & E. design.....	100,000	0	300,000	+300,000
Total.....	3,485,000	4,576,000	2,571,000	-2,005,000

1. Education and cultural facilities..... \$721,000  
 a. Elementary Learning Resource Centers—Tutuila..... 500,000

An amount of \$500,000 is requested to provide for design and construction of four learning resource centers to be added at four existing elementary school campuses at Alofa'u, Manulele Tausala, Aua and Lupelele. This is a continuation of a program which added similar learning resource centers in fiscal year 1973 at Pago Pago, Pava'ai'i, Leone Mdikiff, and Matafao. Each elementary learning resource center is a 3,600 sq. ft. fale style building which allocates space to mathematics and science, language laboratory, learning resources, movie and assembly area, individual study space, slide viewing area, a TV room, and classroom areas. Several of the internal walls are movable to allow flexible redistribution of space to these purposes.

These buildings not only offer the latest concept in providing a learning environment but meets the needs of the elementary school system to provide expanded facilities to cope with the growing student population.

Each learning resource center provides the equivalent of five conventional classrooms.

- b. Secondary learning resource—Fagaitua..... \$221,000

This request will enable the poorly organized space of the existing Fagaitua High School building to be remodeled to provide a 21,600 sq. ft. learning resource center. This work stems directly from the five year plan of the Department of Education which in FY 1972 began "A program of change over from individual classrooms to school complexes built around the use of resource centers".

A study by the Davis Mac Connell Ralston Company dated 10 December 1971, stated "Our observation of the existing two-story classroom building at Fagaitua is that poor traffic flow, room arrangement and room relationships hinder contemporary educational programs. Also, there is inefficient utilization of instructional space. It is obvious why the building is not being used as it was originally intended".

The new learning resource center will provide eight additional classrooms plus areas for small group projects, and seminars teachers workrooms, and space for storage and display of learning resources and equipment.

2. Health related facilities..... \$1,200,000  
 Water development storage and distribution—Tutuila..... 1,200,000

The FY 1974 water development program will continue the programs of FY 1972 and FY 1973. Six more wells, complete with distribution pumps, controls, housing and electrical and piping connections will be provided. The wells will be located in the Tafuna plain area. Exact locations will be based on information obtained from the FY 1973 well drilling program. At least two of these wells will be sited so as to provide data for use in planning future well development programs. The cost of the FY 1974 well development program is estimated at \$180,000.

New water mains will be installed between the Happy Valley section of Pago Pago (terminus of FY 1973 improvements) and Atu'u a new booster station will be added near Pago Pago. This project will replace a section of old, corroded pipe

which services the industrial area of Pago Bay. Estimated Cost of this project is \$170,000.

Two new storage tanks are also planned. A 1.0 million gallon tank will be located east of the industrial area near Atu'u. A 0.5 million gallon tank will be located in the vicinity of Mapusaga. The cost of the two tanks including control valves and access roads is estimated to be \$234,000.

As new pipelines are built, a requirement for fire hydrants and distribution laterals develops. The laterals will provide for connections to metered house services. The following amounts are budgeted for FY 1974:

Fire hydrants.....	\$20,000
Distribution laterals.....	60,000

These amounts include provisions for facilities for villages which are expected to have requested incorporation into the Government of American Samoa water system.

New booster pumps are to be provided for the pump stations at Nu'uuli and Utulei. They will initially serve as spare pumps to be used during periods of maintenance or repair of either of the operating pumps. The amount budgeted for these pumps is \$20,000.

A water main will be installed from the terminus of FY 1973 improvements in Futiga to a connection with the present Leone water system in Puapua. The cost of this water main is \$45,000.

A booster pump station will be provided for the Malaeimi-Pavaiai section of the Western District water main. The pump station will include two 200 PGM pumps, electrical controls, housing and electrical and piping connections. Estimated cost is \$15,000.

A new treatment facility for coagulation and sedimentation is planned for the Vaipito area. They will be designed to operate in coordination with existing rapid sand filters and the Vaipito reservoir. Included will be mixing, flocculation, and setting tanks, chlorination and quality testing facilities and central control room. This facility is budgeted at \$200,000.

The FY 1974 Rehabilitation program includes items of work planned for accomplishment by Public Works forces. Included are:

Replacement of existing pipelines along airport road.....	\$72,000
Fagatogo area.....	36,000
Virgin Falls—Fagaalu transmission.....	30,000
Procurement of spare parts for existing equipment.....	10,000
Renovation of chloration system.....	30,000
System survey for leaks, illegal or unmetered connections, etc.....	10,000
Renovate storage tanks:	
To provide fire protection reserve.....	10,000
Replace control valves.....	10,000

Along with FY 1974 improvements, old, inefficient and polluted sources of water will be phased out of the GAS system.

The sum of \$22,000 is also budgeted to provide for miscellaneous village improvements as the need arises.

3. Economic development.....	0
No funds are requested for FY 1974	
4. Conservation and environment.....	0
No funds are requested for FY 1974	
5. Transportation, communications, and power.....	\$350,000
Roads—Tutuila and Ta'u.....	\$350,000

Funds are requested in FY 1974 to improve several existing pioneer roads on the islands of Tutuila and Ta'u.

These roads are unpaved and often become impassable with less than 4 wheel drive vehicles when washed out and rutted by rains and traffic. Such roads offer the only access to the villages of Masafau, Iliili, Vaitogi, Taputimu, Vailoatai, Malaeloa, Luma, Faleasao, Si'ufaga, Fitiuta, Leusoali'i, and Maia. Approximately 15 percent of the total population of the territory live in these villages. The total length of roads involved is approximately 20 miles. Selective grading and drainage work will be done as will selective paving of those sections of road which have proven to be susceptible to wash out or rutting. Approximately

\$50,000 will be needed to procure specialize equipment which will allow surface coatings to be applied by a spray technique. Such paving is inexpensive yet serviceable for the light traffic that uses these roads. It is believed that this improvement program will contribute significantly to a reduction in the costs to maintain these access routes.

6. General Government-----	0
No funds are requested for FY 1974	
7. Public safety-----	0
No funds are requested for FY 1974	
8. Planning, architectural and engineering design-----	\$300, 000
a. Planning-----	\$200, 000

The only identifiable budgeted fund earmarked specifically for capital improvements planning in American Samoa was an appropriation of \$50,000 in local funds by the Legislature of American Samoa in FY 1971. Further planning monies have since been made available by a HUD 701 grant. This grant has recently enabled the Government of American Samoa to finance a \$90,000 contract with a consulting firm to begin the first comprehensive plan. This contract effort will end at the close of FY 1973. It is expected to provide an information base, physical planning criteria and a preliminary general plan for land use and capital improvements in the Territory.

Funds of \$200,000 are requested to take the next steps in the process and translate the preliminary and general plans into plans for specific physical systems. System trade-off studies will be required to develop complete and accurate information on alternative systems for water, sewer, transportation, drainage, fire protection, recreation, utilities, port facilities, and housing. This information will be presented in executive reviews, legislative hearings, and public hearings to guide government decision-making on future courses of action on major capital improvements programs. Planning studies are also needed for reassessment of zoning laws, building codes, utility rate structures and transportation regulations.

Investments in capital improvements now constitute a very significant share of the total GAS budget. This is in line with the policy to provide the basic infrastructure as a prerequisite to economic development. It is imperative that these funds be spent in a manner which assures maximum benefit and contributes to orderly development of the Territory. Proper planning is essential to this purpose.

b. Architectual and engineering design----- \$100, 000

In FY 1972, \$100, was appropriated to provide funds to allow completion of design in the year preceding the availability of construction funding. No additions to the fund were made in FY 1973 and the additional funds requested in FY 1974 are to meet the needs of a much larger construction program.

The purpose of this fund is to provide financing for engineering work to enable the Government to prepare realistic designs and estimates on approved plans for future capital improvements prior to the availability of appropriations for construction.

Prior to the establishment of the current procedure which requires that designs be completed in the year preceding the availability of construction fundings, the Government of American Samoa experienced sizable carry-overs of unobligated construction funds to future years and also incurred substantial overruns on some construction projects. A principal reason for this was that the design engineering and cost estimating was not adequate and detailed design was not accomplished until the construction funds were appropriated. Availability of the A&E revolving fund now allows financing for architectural and engineering designs, cost estimating, site acquisition, soil tests, easements and the like in advance of the fiscal year that the construction funds are appropriated.

Expenditures against this fund are reimbursed by the inclusion of sufficient mark-up in future construction projects to permit the transfer of design engineering costs back to the A&E revolving fund thus restoring it to its original size as approved projects go forward. This request for A&E funding will increase the total fund from \$100,000 to \$200,000, and permit accomplishing approximately 15% of the final designs for FY 1975 construction projects.

*Sources of local funding*

Description:	Amount
Income tax reserve account .....	\$1, 000, 000
Excess fiscal year 1972 local revenue .....	137, 000
Offset cut in anticipated MDTA funding (Public Law 13-21) ..	170, 000
Office space above transit warehouse (Public Law 12-57) .....	160, 000
Increased salaries—public safety (Public Law 13-36) .....	150, 000
Decompression chamber personnel training (Public Law 12-57) ..	14, 000
Unobligated travel funds—Gubernatorial Study Commission (Public Law 13-18) .....	18, 000
Excess fiscal year 1974 local revenue .....	3, 270, 000
	<u>14, 774, 000</u>
 Fiscal year 1975 local revenue:	
Total available funds .....	19, 373, 000
Less: 2d excess revenue appropriation for fiscal year 1974 ..	2, 083, 000
Available to finance fiscal year 1975 budget .....	<u>17, 290, 000</u>

All or portions of these appropriations were frozen for 1 or both of the following reasons:

1. The need no longer exists for which the funds were appropriated.
2. Funds were insufficient to accomplish the objectives of the appropriation.

## LONG RANGE LOCAL REVENUE PROJECTION—AMERICAN SAMOA

[Millions of dollars]

Actual	Fiscal year 1972	Projected							
		1973	1974	1975	1976	1977	1978	1979	1980
Income tax .....	6.6	9.2	10.1	10.2	10.5	12.3	23.1	26.1	26.1
Other .....	3.3	3.4	4.1	4.9	5.9	7.1	8.5	10.2	12.2
Total .....	9.9	12.6	14.2	15.1	16.4	20.4	31.6	36.3	38.3

## FISCAL YEAR 1974 ANTICIPATED FEDERAL GRANT PROGRAMS

[Local share includes cash match only]

GAS department or office (Grant recipient)	U.S. department and agency (Grantor)	Authorizing legislation (name of grant)	Purpose of grant	Federal share	Local share	Total program
Operations: Department of Education	Health, Education, and Welfare: Office of Education	Elementary and Secondary Education Act:				
		Title I.....	Assistance for educationally deprived.....	\$385,000	0	\$385,000
		Title II.....	School library resources.....	30,000	0	30,000
		Title III.....	Supplemental education centers.....	188,000	0	188,000
		Title V, part A.....	Strengthening State departments.....	73,000	0	73,000
		Title V, part C.....	Planning and evaluation.....	9,000	0	9,000
		National Defense Education Act, title III.....	School equipment and administration.....	4,000	0	4,000
		Education Professions Development Act:				
		Part B-2.....	Teacher training.....	37,000	0	37,000
		Part D.....	Drug education.....	10,000	0	10,000
		Library Services and Construction Act:				
		Title I.....	Library services.....	40,000	0	40,000
		Title III.....	Interlibrary cooperation.....	10,000	0	10,000
		Manpower Development and Training Act.....	Direction and supervision.....	37,000	0	37,000
		do.....	Institutional training.....	98,000	0	98,000
		Higher Education Act, title IV, part C.....	College work study program.....	24,000	0	24,000
		Education of the Handicapped Act:				
		Part B.....	Handicapped school programs.....	70,000	0	70,000
		Part D.....	Teacher training.....	42,000	0	42,000
		Vocational Education Act.....	Vocational education in community college.....	98,000	0	98,000
		do.....	Vocational Advisory Council operations.....	34,000	0	34,000
		Adult Basic Education Act.....	Adult education in community college.....	43,000	0	43,000
		Economic Opportunity Act: Sec. 242 (Head Start).....	Preparation of preschool children.....	100,000	0	100,000
		Office of Child Development.....	School lunch and breakfast programs.....	700,000	0	700,000
		Agriculture: Food and Nutrition Service.....	National School Lunch Act.....			
Subtotal.....				2,032,000	0	2,032,000

See footnotes at end of table, p. 83.

# FISCAL YEAR 1974 ANTICIPATED FEDERAL GRANT PROGRAMS—Continued

[Local share includes cash match only]

GAS department or office (grant recipient)	U.S. department and agency (grantor)	Authorizing legislation (name of grant)	Purpose of grant	Federal share	Local share	Total program
Operations—Continued						
Council	National Foundation of Arts and Humanities; National Endowment for the Arts.	National Foundation on the Arts and Humanities Act.	Operation of museum and arts council.	\$60,000	\$30,000	\$90,000
Medical Services	Health, Education, and Welfare: Public Health Services.	Public Health Services Act:				
		Sec. 314 (a)	Comprehensive health planning.	77,000	13,000	190,000
		do.	Public health operations.	201,000	0	1201,000
		Sec. 314 (d)	Mental health operations.	65,000	0	165,000
		Special Security Act, title V:				
		Sec. 504	Crippled children's services.	104,000	0	1104,000
		Sec. 503	Maternal and child health services.	105,000	0	1105,000
Subtotal				552,000	13,000	565,000
Marine Resources	Department of Commerce: National Marine Fisheries Service.	Commercial Fisheries Research and Development Act.	Fisheries research and development.	118,000	39,000	157,000
	Department of the Interior: Bureau of Sports Fisheries and Wildlife.	Federal Aid in Sport Fish Restoration Act.	Sport fisheries inventory and development.	35,000	0	35,000
Subtotal				153,000	39,000	192,000
Department of Public Works/ Department of Public Safety.	Department of Transportation: National Highway Traffic Safety Administration/ Federal Highway Administration.	Highway Safety Act.	Highway safety planning.	25,000	11,000	36,000
Development Planning Office	Department of Commerce: Economic Development Administration.	Public Works and Economic Development Act.	Planning assistance.	54,000	34,000	188,000
	Department of Housing and Urban Development: Community Planning and Management.	Housing Act, sec. 701	Comprehensive territorial plan.	64,000	22,000	86,000
	Department of Labor: Bureau of Labor Statistics.	Occupational Injury and Health Statistics Act.	Implementation of statistics program.	3,000	0	3,000
Subtotal				121,000	56,000	177,000
Department of Manpower Resources.	Department of Labor: Manpower Administration.	Manpower Development and Training Act.	Administration and training allowance.	16,000	0	16,000
		Economic Opportunity Act:				
		Title I—B	Neighborhood Youth Corps.	41,000	0	41,000
		Title I—B, sec. 123a	Public service careers.	100,000	0	1100,000
		Occupational Safety and Health Act.	State planning.	41,000	0	141,000
Subtotal				198,000	0	198,000

Governor's Office.....	Department of the Interior: Youth Conservation Corps.....	Public Law 91-378.....	Summer employment for youth.....	60,000	60,000	1,120,000
	American Revolution Bicentennial Commission.....	Public Law 92-236.....	Botanical Garden project.....	14,000	14,000	28,000
	Health, Education, and Welfare: Administration on Aging.....	Older Americans Act, title III.....	Promotion of native skills and crafts.....	137,000	51,000	188,000
	Environmental Protection Agency.....	Water Pollution Control Act.....	Water pollution control program.....	59,000	12,000	171,000
Subtotal.....				270,000	137,000	407,000
Criminal Justice Planning Agency.....	Department of Justice: Law Enforcement Assistance Administration.....	Omnibus Crime Control and Safe Streets Act.....	Law enforcement planning.....	205,000	23,000	228,000
	do.....	do.....	Law enforcement action programs.....	108,000	12,000	120,000
Subtotal.....				313,000	35,000	348,000
Total fiscal year 1974 operating grant programs.....				3,724,000	321,000	4,045,000
Capital improvements:						
Department of Public Works.....	Department of the Interior: Geological Survey.....	Geological Survey Act of 1879.....	Water source development.....	32,000	22,000	54,000
	Department of Transportation: Federal Highway Administration.....	Federal Highway Act.....	Primary and secondary roads development.....	425,000	182,000	607,000
	Environmental Protection Agency.....	Water Pollution Control Act.....	Sewer master plan.....	150,000	38,000	188,000
	do.....	do.....	Sewer construction.....	375,000	125,000	500,000
Governor's Office.....	Department of the Interior: Bureau of Outdoor Recreation.....	Land and Conservation Act.....	Museum park and golf course.....	62,000	12,000	74,000
Arts Council.....	National Foundation of Arts and Humanities: National Endowment for the Arts.....	National Foundation on the Arts and Humanities Act.....	Art gallery.....	50,000	50,000	100,000
Department of Port Administration.....	Department of Transportation: Federal Aviation Administration.....	Airport and Airway Development Act.....	Airport improvements.....	902,000	301,000	1,203,000
Department of Medical Services.....	Health, Education, and Welfare.....	Public Health Services Act, title VI (Hill-Burton).....	Public health laboratories and service areas.....	335,000	37,000	372,000
Department of Public Safety.....	Department of Justice: Law Enforcement Assistance Administration.....	Omnibus Crime Control and Safe Streets Act.....	New police station and corrections facility.....	75,000	75,000	150,000
Total fiscal year 1974 capital improvement programs.....				2,406,000	842,000	3,248,000
Total fiscal year 1974 Federal grant programs.....				6,130,000	1,163,000	7,293,000

<sup>1</sup> Financed by continuing resolution; total awards for fiscal year 1974 not yet received.

<sup>2</sup> Anticipated; notifications of award not yet received.

<sup>3</sup> Federal funds are in addition to previous awards of \$1,000,000 in fiscal year 1973 for this program

GOVERNMENT OF AMERICAN SAMOA—CAPITAL IMPROVEMENT PROGRAM<sup>1</sup>

	Fiscal year 1969	Fiscal year 1970	Fiscal year 1971	Fiscal year 1972	Fiscal year 1973	Fiscal year 1974	Proposed fiscal year 1975	Total
<b>01 Educational and culture facilities:</b>								
Community college			\$10,000	\$66,000	\$20,000	\$1,540,000		\$1,636,000
Secondary schools			120,000	200,000	346,000	221,000	\$364,000	1,251,000
Elementary schools	\$108,000		100,000	178,000	383,000	500,000	271,000	1,540,000
TV equipment and school buses				20,000		757,000	56,000	1,833,000
School lunch program storage					27,000	43,000	70,000	130,000
Track facility						25,000		25,000
Library construction				18,000	10,500			28,500
School chlorinators								18,000
Subtotal	108,000		230,000	482,000	786,500	3,086,000	691,000	5,383,500
<b>02 Health related facilities:</b>								
Water development		\$458,167	420,921	1,099,000	867,200	1,232,000	1,132,000	5,303,288
Sewer system		500,000	503,000	735,460	450,000	975,000	1,027,000	4,190,460
Hospital and dispensaries		30,000		150,000	1,100,000	335,117		1,765,117
Public health and safety			79,000	33,000				112,000
Solid waste development				100,140	60,000		15,000	175,140
Public toilet facilities					34,000			34,000
Subtotal	244,000	988,167	1,802,921	2,117,600	2,511,200	2,542,117	2,174,000	11,580,005
<b>03 Economic development:</b>								
Fagatogo central business area			50,000	50,000	50,000			150,000
Tafua industrial park				980,000	156,000			1,136,000
Agricultural facilities and equipment						50,000		50,000
Dory project							25,000	25,000
Subtotal			50,000	1,030,000	206,000	50,000	25,000	1,361,000
<b>04 Conservation and environmental:</b>								
Storm drainage		50,000			4,400	65,000	50,000	169,400
Seawall and erosion		40,000		103,000	130,000	80,000	240,000	593,000
Pollution control and cleanup equipment						20,000		20,000
Recreation projects				65,000	149,000	112,000	100,000	426,000
Remove old tanks—Gataiva					7,500			7,500
Restore old tanks—Gataiva		45,000		170,000	22,500			237,500
Restore marine railway		30,000		47,000	40,000			117,000
Miscellaneous village projects						50,000		50,000
Subtotal		165,000		385,000	353,400	327,000	390,000	1,620,400



GOVERNMENT OF AMERICAN SAMOA,  
OFFICE OF THE DELEGATE-AT-LARGE,  
*Washington, D.C., April 24, 1974.*

Hon. PHILLIP BURTON, *Chairman,*  
*Interior Subcommittee on Territories &*  
*Insular Affairs,*  
*U.S. House of Representatives*  
*Washington, D.C.*

DEAR MR. CHAIRMAN: Inclosed for your consideration was a letter of inquiry from a fellow member of the Interior Committee, and my responses to his questions are answered accordingly.

With kindest personal regards, I am,  
Sincerely yours,

ASUEMU U. FUIMAONO,  
*Delegate-at-Large.*

Inclosures.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
U.S. HOUSE OF REPRESENTATIVES,  
*Washington, D.C., April 10, 1974.*

Hon. ASUEMU U. FUIMAONO,  
*Delegate-at-Large, Government of American Samoa,*  
*Washington, D.C.*

DEAR SIR: On April 2, 1974, you appeared before the Subcommittee on Territorial and Insular Affairs, U.S. House of Representatives to testify concerning aspects of governmental administration in American Samoa. You may recall that permission was received for committee members to elaborate on testimony through subsequent written inquiry. Accordingly, your expeditious response for submission in the record to the following queries is requested.

Mr. KETCHUM. What is the nature of your duties as Delegate-at-Large for the Government of American Samoa? Please include in your response, current instructions or regulations, promulgated by the Legislature of American Samoa (i.e., the Fono), that delineate the extent of your responsibilities.

Mr. KETCHUM. It is my understanding that within the Samoan hierarchy, you carry the title of Paramount High Chief. Would you explain how this title was acquired and what authority your position connotes in traditional Samoan society.

Mr. KETCHUM. How long have you known and in what official capacities has contact been maintained between you and the incumbent Governor of American Samoa, John M. Haydon?

Cordially,

WILLIAM M. KETCHUM,  
*Member of Congress.*

GOVERNMENT OF AMERICAN SAMOA,  
OFFICE OF THE DELEGATE-AT-LARGE,  
*Washington, D.C., April 24, 1974.*

Hon. WILLIAM M. KETCHUM,  
*Member of Congress,*  
*Committee on Interior and Insular Affairs,*  
*Washington, D.C.*

DEAR MR. KETCHUM: This is to acknowledge your letter of 10 April 1974 and the questions you raised concerning the status of this office and its activities.

I will restate your questions verbatim, and then provide an answer to each of them, and hope the record may be read accordingly for better understanding and clarity:

Mr. KETCHUM. What is the nature of your duties as Delegate-at-Large for the Government of American Samoa? Please include in your response, current instructions or regulations, promulgated by the Legislature of American Samoa (i.e., the Fono), that delineate the extent of your responsibilities.

Mr. FUIMAONO. The duties of the Delegate-at-Large are defined in the published Code of American Samoa at Title 19, Section 2 (1973 Edition) which provides that he shall "represent, to the best of his ability, the views of the

people of American Samoa before all branches and agencies of the federal government, including . . . the Congress . . .” Governor Haydon informed me by letter of 17 October 1973 that my duties had been somewhat restricted by a statute enacted by the Fono on 9 July 1973. I have received a copy of this legislation, but never any instructions or directions from the Fono based upon it. Whether the duties of a Samoan officer elected by a vote among all the people (the only one, incidentally, as I assume you know) can properly be altered after the election poses a significant legal question, I am advised, which has never been resolved. The problem remains moot in my own case, however, because no disagreements or difficulties have ensued between the Fono and myself—and in any event I understand that the Fono is now considering still further amendments to the legislation in question.

Under date of 31 October 1973, President Aumoeualogo and Speaker Le'iato sent me a letter proposing, in essence, that I coordinate my activities with the Fono and refrain from action against its wishes. Whether this letter was sent at the direction of the Fono itself or in the exercise of their discretion as President and Speaker, I do not know. But neither before nor since this communication, so far as I am aware, has there been any dissatisfaction with my official conduct registered by the Fono. Inclosed copy of letter dated 3 December 1973, sent by this office in response to the 31 October 1973 correspondence from President Salanoa and Speaker Le'iato. To date, I have not received any further comment from either gentlemen.

I communicate regularly with the Fono and its leaders both by newsletter and monthly reports, supplementing this, when necessary, by telephonic communication. Because of the severe logistical difficulties involved in communications between the Fono and my office, I have been obliged for some time now to operate in the absence of specific directives and to follow the traditional policy of ratification-by-silence. The Fono has never quarrelled with this policy and, again, it has generated no difficulties between us of which I have been informed.

Except for the letter referred to above (a copy of which I enclose at your request), I have never received any instructions or regulations promulgated by the Fono that delineate the extent of my responsibilities.

Mr. KETCHUM. It is my understanding that within the Samoan hierarchy, you carry the title of Paramount High Chief. Would you explain how this title was acquired and what authority your position connotes in traditional Samoan society.

Mr. FUIMAONO. Generally speaking, succession to any matai (chieftain) title under Samoan tradition, and as subsequently embodied in the published Code of American Samoa, Title 1, Section 751, which requires among other prerequisites, that the eligible person “be chosen by his family . . .” In this context, the word “family” has a special Samoan meaning, and has been redefined by English commentators in order to accommodate Samoan usage as incorporating the “extended family concept.” Without getting overly pedantic and perhaps prodding the realms of immateriality, the more influential family member is one whose kinship ties are determined by blood descent. A candidate for any title must, by and large, satisfy a blood tie. But there is no absolute rule, nor is this requirement of general application. It would be a fair observation to make, that this depends on such factors as the importance of title and general family norms and traditions.

In my family, the custom has been with the Fuimaono title, to give preferential and weighty consideration to immediate blood ties with lineal descent lines recognized before lateral lines. Also, it is not unlikely that such other factors as competency, character and general standing are taken into account. It is a satisfaction of the above requirements, and others outlined in the Code of American Samoa that gave rise to my succession to the Fuimaono title.

As to question of authority in traditional Samoan society, on the family level I am responsible, as is every matai for the well-being and internal affairs of the family, as well as supervision of relationships with other families. There is pursuant to the Fuimaono title certain tracts of communal land (traditionally delimited to my family), and as the traditional head, it is my responsibility to oversee the use and distribution of properties belonging to the family. In this connection, it is consistent with practice and custom to be involved in the settle-

ment of internal disputes and promote general accord with leaders of other families as well.

On both the village and county levels, the Fuimaono title is regarded as the "Ali'i Sili," or "Paramount Chief" under English description. As the Ali'i Sili, the Fuimaono commands that traditional deference of being the head of those bodies politic called the village and county councils. The best I can say with regards to my authority here is that as the Fuimaono, I have a significant say in village and county council deliberations, but with what I do say, it is prudent to reflect the general sentiments of my village and council.

To avoid misunderstanding, I would add that the Samoan traditional ranking is not based on rigidly defined structures as one would expect with other social systems. Consequently, I think it would be futile and perhaps even foolish for me to attempt with any definiteness to outline a measure of authority. In a word, this does not accord with "fa'a Samoa," i.e., the Samoan way of doing things.

On the District level, the District Council is comprised of various county councils, and being the Ali'i Sili of one county, a recognizable measure of traditional deference is accorded to me and my county. Similarly at council meetings on the Territorial level, due respect is given to my say, being the Ali'i Sili of one of the four traditional counties comprising the Western District. Our Territory is made up of three districts, none of which has any singular head, but greatest deference is accorded the various Ali'i Sili.

Mr. KETCHUM. How long have you known and in what official capacities has contact been maintained between you and the incumbent Governor of American Samoa, John M. Haydon?

Mr. FUIMAONO. I have been acquainted with Governor Haydon since his arrival to Samoa in 1969. At that time I was serving as District Governor for the Western District, and we worked quite closely in coordinating the attended needs of the several villages and counties that were part of my administrative responsibility.

Prior to my being elected Delegate in 1970, I was asked by the Governor to serve as Director of Agriculture under his administration. Acceptance of the position was conditional only on the basis of complete supervision of departmental activities by me; the Governor assured me of his support in the matter, and the relationship was always in the best of terms.

Because of the unusual character of the position which I now hold, whatever controversies that have arisen between this office and the Governor are purely on matters of policy. It is regrettable that Mr. Carpenter, Director of Territorial Affairs, has alluded to such differences on grounds of personalities and not of the issues.

I should strongly emphasize the fact that my allegiance is with the people who voted me into this office, whereas the Governor's interests lie with the officials of the Interior Department who control his supervision and administration. It is in this context of an ill-defined policy of administrative responsibility that there lies an inevitable conflict of duties and obligations not only of this office but other branches of our territorial government.

I appreciate your inquiries, and if there is anything else I could do to assist you, please let me know.

Most sincerely yours,

ASUEMU U. FUIMAONO,  
*Delegate-at-Large.*

Enclosures.

LEGISLATURE OF AMERICAN SAMOA,  
THIRTEENTH LEGISLATURE,  
*Pago Pago, American Samoa, October 31, 1973.*

High Chief A. U. FUIMAONO,  
*Delegate-at-Large,*  
*Washington, D.C.*

DEAR CHIEF FUIMAONO: It has come to our attention that some of your recent actions in Washington, however well intended, may result in interfering with programs initiated by the executive branch for the benefit of the Samoan people.

We believe that any action which you may have taken is sincerely motivated by efforts to act on behalf of the people and, of course, this is commendable.

However, as you know, recent action by the legislature has greatly curtailed your authority.

We know that you would not want to do anything which would be contrary to the legislative intent because it is only through mutual cooperation and a spirit of working together that we can achieve with best results for all the people of Samoa.

We are enclosing a copy of Public Law 13-35 for your consideration in the event that, for some reason, a copy has not already been delivered to you.

Soifua,

SALANOA S. P. AUMOEUALOGO,  
*President of the Senate.*  
TUPUA E. LE'IATO,  
*Speaker of the House.*

Enclosure.

GOVERNMENT OF AMERICAN SAMOA,  
OFFICE OF THE DELEGATE-AT-LARGE,  
Washington, D.C., December 3, 1973.

HON. SALANOA A.P. AUMOEUALOGO,  
*President of the Senate*  
HON. TUPUA LE'IATO,  
*Speaker of the House*

GENTLEMEN: Your letter of October 31st. is hereby acknowledged.

I do so with reluctance since the letter betrays all the earmarks of a political ploy designed by some third party rather than an expression of a concern sincerely entertained by yourselves. If I have misapprehended your true motives I shall make appropriate amends in due course, but for the present I can see it no other way.

The letter whose very language sounds alien to both its subscribers warns me against interference with the "executive" branch and, without mention of any specifics, intimates that some of my official actions may run afoul of Public Law 13-35 which has purportedly "greatly curtailed" my authority.

The letter can only be read as a not-so-veiled threat inspired by those who would exalt the power of the appointed territorial governor over the rights of the Samoan People.

In the absence of specific charges a letter as this would not ordinarily merit any response and I would make none now except out of respect for the offices held by the two signatories. It suffices, I think, to note that as the only official of the Samoan Government chosen by national election, my mandate derives not from the Fono, the Governor nor the Department of Interior, but from the citizens of Samoa. If you can sight a single instance in which I have been unfaithful to the interests of my constituency, I shall promptly set the record straight in full detail; for I am confident in my own mind that this has never happened and never shall.

Sincerely,

A. U. FUIMAONO,  
*Delegate-At-Large.*

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LEGISLATURE OF AMERICAN SAMOA

Pago Pago, American Samoa

CERTIFICATE

I certify that House Bill No. 112 passed third Reading on July 27, 1973 in the House of Representatives of the Thirteenth Legislature of American Samoa.

TENARI S. FUIMAONO,  
*Chief Clerk, House of Representatives.*

I certify that House Bill No. 112 passed third Reading on September 5, 1973 in the Senate of the Thirteenth Legislature of American Samoa.

(MRS) SALILO K. LEVI,  
*Secretary of the Senate.*

## H.B. No. 112 Public Law 13-35

## THE THIRTEENTH LEGISLATURE OF AMERICAN SAMOA

## Second Regular Session

Begun and held at Fagatogo, Tutuila, American Samoa  
on Monday, the ninth day of July  
one thousand nine hundred and seventy-three

An Act to Amend Title II, Code Amer. Samoa, 1961 Ed., Sec. 2.1304 Relating to the Functions of the Delegate-at-Large.

Be it enacted by the Legislature of American Samoa :

Section 1. Sec. 2.1304 is amended to read :

Sec. 2.1304—FUNCTIONS OF DELEGATE-AT-LARGE: The delegate-at-large shall maintain an office in Washington, D.C. The delegate-at-large shall submit a monthly report of his activities to the President of the Senate and Speaker of the House of the Legislature of American Samoa, and to the Governor, and he shall, upon the request of the President of the Senate and the Speaker of the House, report in person to the Legislature during each regular session of the Legislature or at such other times as the Legislature may deem necessary. The report shall include complete details of any matters before the Congress of the United States which may in any way affect the territory of American Samoa and shall also include verbatim copies of any documents which may be directly or indirectly related to these matters. The delegate-at-large may present the views of the legislature or the Governor to any federal department or agency when authorized to do so but he may not bind or commit the government of American Samoa in any manner without specific authority.

SALANOA S.P. AUMOEUALOGO,

*President of the Senate.*

TUPUA E. LE'IATO,

*Speaker, House of Representatives.*

Hereby approved this 25th day of September 1973.

FRANK C. MOCKLER,

*Acting Governor of American Samoa.*

## P.M.S. Nu. 12 Tulafono Lautele 13-35

## NOFOAIGA SEFULUTOL FONO FAITULAFONO A AMERIKA SAMOA

Fono Tele Lona Lua

Nofia ma usua i Fagatogo, Tutuila, Amerika Samoa

Aso Gafau, aso iva o Iulai

tasi le afe ivaselau fitu sefulu-tolu

O se Tulafono e sui ai le Vaega II, Tusitulafono o Amerika Samoa, Lomiga o le 1961, Maga 2.1304 E uiga i fatuaiga a le Sui-Usufono-Aoao.

Ia Faatulafonoina e le Fono Faitulafono a Amerika Samoa :

Maga 1. Maga 2.1304 ia suia e faitauina :

Maga 2.1304—FATUAIGA A LE SUI LAUTELE I UASIGITONE: O le Sui Lautele o le a taofia e ia se ofisa i Uasigitone D.C. O le a tuuina mai e le Sui Aoao se ripoti i masina taitasi o ana gaioiga, i le Peresetene o le Maota Maua-luga ma le Fofoga Fetalai o le Maota o Sui o le Fono Faitulafono a Amerika Samoa, atoa foi ma le Kovana Sili. O le a saunia foi se ripoti i lona auai tino i le Fono i taimi o fono tele taitasi a le Fono Faitulafono po o se isi lava taimi e finagalo i ai le Fono, pe a talosagaina o ia e le Peresetene o le Maota Maua-luga me le Fofoga Fetalai o le Maota o Sui. O le a aofia i le ripoti famatalaga au'ili'ili o so o se mataupu i luma o le Faipule a le Inuaite Setete e mata e afaina ia i so o se auala le teritori o Amerika Samoa, ma e aofia ai foi kopi o so o se pepa e mata e faasinotonu pe le tautonu i ia mataupu. E ao ona fofogaina atu mana'oga o le Fono Faitulafono po o le Kovana e le Sui Aoao i so o se matagaluega le malo tele, po o se vaega pe a faatagaina e faia lea, ae le mafai e ia ona saisaitia pe ofoina atu le malo o Amerika Samoa i so o se auala e aunoa ma se malosī faapitoa e tuuina atu ia te ia.

Hereby approved this 25th day of September, 1973.

SALANOA S.P. AUMOEUALOGO,

*Peresetene Maota Maua-luga.*

TUPUA E. LE'IATO,

*Fofoga Fetalai Maota o Sui.*

FRANK C. MOCKLER,

*Acting Governor of American Samoa.*

Mr. CLAUSEN. Now the reasons are surely obvious. We were not there. We are picking up information as a result of the exchange that has taken place on the part of all witnesses so that I think we need to make certain that there is an opportunity to clarify this.

Mr. BURTON. Absolutely. That request will apply to all members of the subcommittee.

Governor HAYDON. Before I answer that I would just like to say briefly, because I believe I am entitled to have a full statement on my part in this type of record—

Mr. BURTON. Without objection, Governor, in addition to whatever you say now you will be entitled to present a formal statement that can expand on whatever remarks you made immediately following the remarks of the Chief—

Mr. MEEDS. Reserving the right to object, Mr. Chairman. Now I do not think that should be allowed unless we have the right to examine him. I do not. I will object. I do object.

Mr. MEEDS. Proceed, Governor.

Governor HAYDON. Well, I merely wish to say that I am very sorry—

Mr. MEEDS. I would be happy to have the Governor have an opportunity if we have an opportunity to examine him and then let him put it in or have him come here with the prepared statement.

Mr. BURTON. I think your remarks are well taken and we may be asking you to come back, Governor. Please proceed.

Governor HAYDON. I regret very much that Congressman Meeds has interpreted Mr. Zintheo's reassignment as some sort of vindictive action against him because he met with the committee when it was in American Samoa. That is simply not true. Mr. Zintheo first of all has not been demoted. His salary is the same. He is doing basically the same things he was doing with some splitting off of responsibilities of his office. And he had announced before the committee ever came to American Samoa, he had told his superior that he had no intention of renewing, that he was leaving American Samoa at the end of his contract, which I believe is up in October of this year. This is a fortuitous circumstance. I don't blame the Congressman for drawing this inference but it is simply not true.

As to help, we have had the very generous help of the House Subcommittee on Appropriations for Territories and our budget has risen from—

Mr. BURTON. What is it this year?

Governor HAYDON. \$36 million from all sources.

Mr. BURTON. What is the budget—first, what was it last year?

Governor HAYDON. \$32 million.

Mr. BURTON. And were you into the supplemental for anything?

Governor HAYDON. We, because of the terrible fire in December, we attempted to get a supplemental in but we have not had time—

Mr. BURTON. How much did you ask?

Governor HAYDON. We are asking for \$1,117,000.

Mr. BURTON. Now what is your budget this year?

Governor HAYDON. \$37 million.

Mr. BURTON. Is that the direct? Is that the same equivalent of the \$32 million or does that include the other matching?

I want the direct budget and not the other matching.

Governor HAYDON. Our total budget—well, we are asking \$14 million from the Congress in direct congressional aid and grant and aid.

Mr. BURTON. What did you get last—see, I am trying to get equivalents, Governor, and this is not adversary, this is for my own understanding so I can see how, if at all, we might help. And I might note parenthetically one of the reasons we have been very reluctant to the appropriations subcommittee is that it is difficult enough to get funding, but I hope you don't misinterpret this because that would be a misreading of views.

Governor HAYDON. This year it is identical to last year, \$14 million from the Congress or the Department of the Interior or AID.

Mr. BURTON. Well, isn't that then in effect a cut?

Governor HAYDON. We had asked last year for \$15 million and it was cut. We got \$14 million. We asked for \$14,900,000 and this was cut \$900,000, as I recall, by OMB, so it is the same as last year, \$14 million.

Mr. BURTON. Which is in effect a cut because the increased costs generally would make it a cut, is it not?

Governor HAYDON. Well, our local revenues are substantially up so that—

Mr. BURTON. How much are they up?

Governor HAYDON. Approximately \$6 million it would be up in 1975 over 1974. Our local revenues will be about 55 percent of our total budget.

Mr. BURTON. Well, Mrs. Hansen, of course, is one of the noblest persons who ever graced the halls of Congress or anywhere else for that matter. I am trying to see if we got a latter day equivalent of the \$500,000, my distinguished colleague, Mr. Clausen, and I were able to put together in about 72 hours on the road bill. I am trying to see if we can get something constructive out of this hearing in terms of the people of American Samoa in an economic sense. So what should we be shooting for?

Governor HAYDON. Well, I don't—since I did not clear Interior and OMB, I was not—

Mr. BURTON. I know you are in a spot, but I will instruct you that we are just trying to find out how to help and we do understand the constraints you are under because you just work for the Department. But I want to know what items were stricken so we can also individually judge whether or not they are meritorious or not. I think we are entitled to know.

Governor HAYDON. Well, the best way for me to point it out then is to state that the President of the Senate, Salanoa, informed Mrs. Hansen's Committee yesterday that we are prepared to utilize some \$900,000 of our local revenue to help repair the fire damage from December, but that we could certainly use \$1,117,000 in order to do the entire job that needs doing.

Mr. BURTON. Is there any other item that was rejected? Without getting into the minimal items, can you name any other?

Governor HAYDON. No.

Mr. BURTON. Are you under the Food Commodities Program?

Governor HAYDON. Only to the extent of our school lunch program.

Mr. BURTON. In other words you don't get the surplus food. Some of the offshore areas are going to be hurt by that and I wondered if that was pinching you.

Governor HAYDON. Only to the extent of our school lunch program. tions, though from the Department of Agriculture for our school lunch program and HEW.

Mr. BURTON. Anything else besides the fire?

Governor HAYDON. The fire is our major problem at the moment. We felt that we had a wealth of funding that was adequate and that we could handle without falling into overruns. We have—

Mr. BURTON. Do you have as much in the way of capital improvement in the way of the 1975 budget as in 1974?

Governor HAYDON. Approximately the same. It would be around \$9.5 million. We have trouble as a small place in engineering and design and obtaining material and all of the rest of it. The two projects, which in order to repair the fire damage, the two projects that are going to slip will be the complete renovation and expansion of the airport terminal, which we feel we can afford to let slip because the energy crisis has cut down our air service and so this could slip and the other major project is the expansion of our port facilities in order to provide a second berth in American Samoa.

Mr. CLAUSEN. I have before me your prepared testimony that was presented to Mrs. Hansen and the Subcommittee on Appropriations of the Interior Department. I am asking both the chairman and the Governor if it would be helpful for the purposes of this hearing to include that presentation that was made before the Appropriations Subcommittee in the record?

Mr. BURTON. Yes, it would be and without objection it will be so ordered.

[The statement follows:]

STATEMENT OF JOHN M. HAYDON, GOVERNOR OF AMERICAN SAMOA

Madam Chairman: The government of American Samoa is requesting a grant-in-aid from the U.S. Congress of \$14 million to assist in financing its fiscal year 1975 programs. This amount is identical to the appropriation level requested and granted in fiscal year 1974. Our budgetary needs for fiscal year 1975 have increased as you might expect, but all increases are being financed with local revenues. I am, therefore, very happy to report that our progress toward self-sufficiency within the territory is beginning to display real evidence of substantial progress. Last year, our basic local revenue contribution to the original budget request made before this committee included an amount of \$12.6 million. For fiscal year 1975 we project a local revenue contribution of \$17.3 million, which is 55 percent of the total appropriation being requested. In addition to the total requests for appropriated funds of \$31.3 million, we anticipate that approximately \$6.5 million in other Federal grants will be awarded to the territory in fiscal year 1975. Thus, we now project a total financing level in fiscal year 1975 of nearly \$38 million.

This \$38 million is approximately \$1 million more than the total funding which we have available in the current fiscal year. In fiscal year 1974, we have been able to make substantial appropriations of local excess revenues. This resulted from improving local revenue collections during the year which surpassed the estimate of these revenues which we made at the time the original fiscal year 1974 budget was prepared. Thus, the Legislature of American Samoa has been able to appropriate an additional \$4.1 million within the current fiscal

year; these funds have enabled us to initiate several programs that were previously scheduled for financing in fiscal year 1975. Most significant among these is \$1.6 million appropriated to purchase a beautiful high school facility and adjoining campus area, including 17 housing units, which was originally built and operated by the Church of the Latter Day Saints. This facility will become the new home for the Community College of American Samoa. We are very pleased that this opportunity came along and that we had local resources with which to take advantage of it.

While we have been blessed in the current fiscal year with an improvement in revenue collections, we have also had our share of problems. On November 29, we suffered a major fire which destroyed the west wing of our main administration building. This fire displaced 133 office workers and destroyed almost all the furniture, equipment, files, and records that were contained within the 18,000 square feet of office space. Thus, we have suffered a blow to our long range plans which has necessitated a revision of our program plans and has especially caused us to reevaluate our priorities with regard to our office facilities. Our recent analysis shows that more than half of our current total of 100,000 square feet of office space is obsolete and hazardous. These buildings were originally part of the naval administration facilities. For example, our main administration building, the one that burned, was originally a barracks facility built in 1930. These buildings are old, inefficient, and all have inadequate wiring. We believe that the fire of November 29 was started in faulty electric wiring. We have a program going to replace old wiring but it seems like an endless task.

Because we have reevaluated our office space conditions, we now plan to construct 16,000 square feet of new office facilities in fiscal year 1975 at a cost of \$992,000 in local appropriations. To do this, we have had to defer a major improvement of our main dock facilities which is badly needed to serve our very busy port.

Before I say any more about specific programs that we are requesting in fiscal year 1975 let me bring to your attention a change in the nature of our request this year over the way it has been presented in previous years. You will note that in fiscal year 1975 we are asking for your grant-in-aid to support only basic operations. In prior years, we have always requested financing for both operations and capital improvement projects. In fiscal year 1975 we plan to finance all capital improvements with local appropriations. We will not be requesting CIP funds in future years because we project sufficient local revenues to finance these needs. Also, we favor the use of local funds for CIP in order to ease the problem of reprogramming to adjust to changing needs, whether caused by fires or updated analysis of needs or whatever. This flexibility allows us to make the best use of the dollar resources available.

As you of the Congress well know, the Federal budgetary process is cumbersome and time consuming. I do not mean this in any derogatory way, it is just the nature of the thing and we all understand why we must live with it. The difficulty for a small government such as American Samoa is that we must outline our needs approximately 1½ years prior to the actual availability of the appropriated funds. Many changing circumstances can occur within that period which result in changing priorities and thus a need for a revised budget. If we use local funding for capital improvements, we can set our budget requests just prior to the start of the fiscal year. We are, therefore, asking for your aid only for our basic operations budget. These are fundamental needs as you will see as we go through the budget. They include our educational program, medical and health program, basic administration of the government, and maintenance and operations activities by our Department of Public Works. These are the programs with the most continuity, and while large in dollar impact, are the most straightforward to plan.

One other reason for desiring to finance capital improvements with local revenues is because basic operations are not controversial, and are readily understood and are the least difficult of our planning decision. The more controversial parts of our total program planning occur in the area of capital improvements. Thus, we find a very high local interest in the process of program priority determinations. We have seen some long and sometimes heated discussions and debates within the Legislature of American Samoa concerning priorities among various proposed capital improvement programs. We believe such

debate is healthful in the political development of the territory, and of course it has direct impact in sorting out what it is that we should be doing within the territory.

Finally, let me explain how for the first time in fiscal year 1975 we have altered the timing of local revenue appropriations. You will note that the local appropriations for fiscal year 1975 have not yet been made. In prior years, we have always submitted a final executive budget to the Fono in July or August for the fiscal year starting almost a year later. At that time, the Fono would call witnesses, complete its review of the executive proposal, and make the actual appropriations for the next fiscal year. This meant that our appropriations were made almost a full year in advance of the time the money was actually to be used. This procedure, of course, enabled us to give firm assurance to the Department of the Interior and to you members of Congress that our legislature had reviewed and approved our total program budget.

This year we again submitted an executive budget to the legislature in August; however, we considered the fiscal year 1975 budget to be a preliminary executive budget. It was reviewed by the Fono, witnesses were called, and the legislature approved the preliminary budget in principal, but no funds were actually appropriated as in previous years. The Fono passed a joint resolution which was forwarded to the Director of Territorial Affairs, Mr. Stanley S. Carpenter. With that assurance of the support of the legislature, we then proceeded to submit our budget estimate to the Department of the Interior for the Federal share of our financing needs.

The procedure we now use for local appropriations is that I will call a special session of the legislature in June, one month prior to the start of the fiscal year. At that time, the legislature will review our final program budget and make the appropriations of local revenues. This procedure will provide the flexibility to change program plans as needed, between the time that the preliminary and final budget requests are presented to the Fono. We now envision two major changes in our operating programs from that presented to the legislature last August. One change will provide an upward pay adjustment for our career service employees at an estimated cost of \$1.1 million annually. The second change will finance additional positions relating to a major reorganization of our Department of Administrative Services, and for a complete redesign and implementation of a new accounting system which will be performed by a consulting firm. The estimated cost for the new positions is \$250,000 annually, and the cost for the new accounting system will be about \$750,000, spread over a 2 year period.

I apologize for this rather long discussion of procedure but I hope that it has served to explain why we have taken this action. I trust that you will agree with our rationale and that it has helped to explain why our request for financing this year is of a simpler nature than in prior years with all of our request for congressional assistance now concentrated in a few selected basic operations.

In conclusion, let me note that we have brought with us to this hearing, exhibits which are up to date on our latest plans for our total program financing. We are prepared to submit these exhibits for the record. They will give you our best thinking on our intended requests for local appropriations by the Legislature of American Samoa in June. We also have brought with us our latest estimates of anticipated Federal grant programs which are slightly different than those which are presented in the budget justification. We will be happy to submit these updated tables for the record.

Finally, Madam Chairman, let me again, as I do each year, extend to you my sincere invitation for you to come to American Samoa and witness first hand both our progress and our problems. We were very happy to have had two acceptances of my invitations in this past year. We were honored to receive Congressman Gunn McKay and Congressman Victor Veysey, both of the House Appropriations Subcommittee, who were able to participate in the dedication of our new legislative building last October. Madam Chairman, this concludes my formal statement.

Thank you.

Mr. CLAUSEN. I have one question I would like to ask. What were the circumstances surrounding the Pan American crash out there

and were there any problems associated with the airport, with the air traffic control, et cetera.

Governor HAYDON. Not to my knowledge, Sir. The Federal—I guess it is the U.S. Safety Transportation Board——

Mr. CLAUSEN. The National Transportation Safety Board.

Governor HAYDON [continuing]. Held hearings in Hawaii last week and many people were witnesses. Lieutenant Governor Mockler, who was acting Governor when the plane went in and two of our airport people, that is our airport manager and I believe the fire chief also appeared as witnesses. There is no indication from any of the testimony given there that anything was wrong with the airport or—well I rather hesitate to talk about the case since there already millions of dollars of suits which have been filed against the Boeing Airplane Co. and Pan American.

The testimony would indicate though, as far as the airport was concerned, everything was sound. The recorder was found and the pilot's conversation right up to the moment of impact is very clear, but since it is still under investigation I hesitate to draw any conclusions about what caused what.

Mr. CLAUSEN. OK, what were the general weather conditions?

Governor HAYDON. It was raining.

Mr. CLAUSEN. It was raining?

Governor HAYDON. Raining and gusty.

Mr. CLAUSEN. Was it an instrument approach at the time?

Governor HAYDON. He was, as I understand it, on ILS and being talked in by FAA.

Mr. BURTON. Do any other committee members have any questions? Congressman Bingham?

Mr. BINGHAM. I have just one question, Mr. Chairman. Governor, I see in the exhibits we have before us—and it may have been referred to earlier and I am sorry I wasn't able to attend the entire hearing—a statement in a letter by you to Mr. Wyatt of August of 1972 in which you make the following statement: "By and large this is completely an amoral society."

I find that a shocking statement coming from a Governor who presumably hopes to keep the confidence of the people that he is given responsibility over. I wonder what your comment is.

Governor HAYDON. Well Mr. Congressman, part of the responsibilities of my job are to keep Interior informed of conditions in the territory that I govern. And unless one has lived a long time in a Polynesian society, one is not likely to recognize that their customs and their culture and their mores are entirely different from ours and that we are not really capable of applying all of the systems that we use here.

Mr. BINGHAM. But that is——

Governor HAYDON. Here in the States.

Mr. BINGHAM. But that is an entirely different statement from what was in your letter. The fact that their mores and their customs may be different doesn't mean that they don't have morals, is that not correct?

Governor HAYDON. Well, I believe that the common definition of "amoral" is neither moral or immoral. Samoans are——

Mr. BURTON. It means "without" technically. Amoral is without morals.

Governor HAYDON. Neither moral nor immoral, but Samoan standards are different than our standards.

Mr. BINGHAM. Don't you consider that statement an insulting statement to the Samoan people?

Governor HAYDON. It could be considered by some, but the Samoans whom I know well do not consider that an insulting statement. I did not intend it as an insulting statement.

Mr. CLAUSEN. Would the gentleman yield? In what context did you—well, what was the purpose of using that word and in what context did you present that in the response to Mr. Wyatt? Is that who the gentleman is?

Mr. BINGHAM. Right.

Mr. CLAUSEN. What was the purpose of making that kind of statement and in what context was it made?

Governor HAYDON. Well, I don't recall that it was in a letter to Mr. Wyatt.

Mr. BINGHAM. Yes, it is on page 4 of exhibit F.

Governor HAYDON. I posed it to Secretary Carpenter. But as we go toward self-government and dealing in millions and millions of dollars, we are going to need—and this has been recognized by the Fono itself by resolution—a very good system of controls in both personnel and in fiscal matters in American Samoa and if we don't have them we are going to have difficulties in possibilities of nepotism which is the Aiga system in Samoa——

Mr. BURTON. Well, nepotism—Governor, you intend this to be in response to Congressman Bingham's question?

Mr. BINGHAM. He is responding to a question of Mr. Clausen.

Governor HAYDON. Nepotism and fiscal control, Mr. Chairman. Our budget has jumped from \$14 million, from actually a little over \$11 million 5 years ago to the sums which we are now talking about and these are not small sums.

Mr. BURTON. This current subcommittee is very proud of its role individually and collectively in that respect. And I as chairman want to commend my colleagues not only on their responsibilities here but on other committees for playing the decisive role in the increase in the Federal funding to American Samoa.

Mr. CLAUSEN. If the gentleman would yield further? I think it is relevant to this discussion to say earlier, in response to a question, you made reference to the fact that you are in the process of training the people in administrative services. The thought occurred to me at that time are we dealing with the training of Samoan people or are we training Americans here from the continent?

Governor HAYDON. Samoan people.

Mr. BURTON. May I, Governor, at this point—and I want to give Congressman Bingham back his time—but at this point I think it would be useful to educate you and see if it comes as a surprise. It may not. But we were very reliably informed that as modest, at least

in terms of someone coming from a cosmopolitan constituency, that one might characterize the dress of the 15- and 16-year-old girls that performed at a function at your house, we have been reliably informed that the American Samoans consider that to be highly offensive to them. In contrary to the travel folders, at least as far as we can perceive it, the Samoan women universally were very modestly dressed. And that may or may not come as a surprise to you, but I have been informed by more than one source, that for a lot of obvious reasons I won't name, that that practice is considered to be very very offensive.

The Samoan people are very religious. And I just advance that while we are in this general round of morality so that you be apprised of that feeling. And if I didn't believe it to be the case, I certainly wouldn't be expressing it to you. You may or may not be sufficiently sensitized on that point.

Congressman Bingham, you were pursuing a line of inquiry.

Mr. BINGHAM. Yes.

Mr. BURTON. I am sorry I interrupted.

Mr. BINGHAM. I would just say at the very least that statement strikes me as showing an incredible lack of sensitivity on your part to the feelings of the people that you have responsibility to act as Governor for.

Let me ask you this question. In light of the statement that was submitted to us by the Honorable Fuimaono and other evidence, do you feel that you have the confidence of the people of American Samoa at this point?

Governor HAYDON. I think so, yes.

Mr. BINGHAM. No further questions.

Mr. BURTON. Mr. Won Pat?

Mr. WON PAT. Governor Haydon, in the next to last paragraph of this communication you indicated—

Mr. BURTON. What communication?

Mr. WON PAT. Exhibit F. You indicated that the Department of the Interior has indicated to you that the comptroller system now in effect in Guam and the Virgin Islands is quite unsatisfactory. Is that an unofficial communication?

Governor HAYDON. No, I have attended the hearings each year for 4 years, as you know, and have listened to the report by the comptrollers from Guam and from the Virgin Islands and it has been remarked a number of times by Interior officials that the system had not been efficient. The latest was only yesterday, when particularly the comptroller for the Guam system, came under heavy questioning because of disparities in adapting the recommendations of the comptroller of the Virgin Islands—

Mr. BURTON. While we are on that, at this point in the record it has been suggested informally that we consider authorizing the Secretary to utilize the GAO and it is the kind of thing that it sounds like a reasonably useful idea because it permits a lot of in-house flexibility in terms of recruitment and so forth and is something that we have discussed a number of times and have never pursued. And to those from the Department it would be useful if somebody sur-

faced that suggestion so we can see if we should deal with it this year. I didn't mean to interrupt the questioner or the Governor, but it just occurred to me. We keep thinking of that too late every Congress to implement it and it has some things to commend it. And if we get agreement from the Department, I hope we would add that authority. We require it for the Secretary in the offshore oil bills so that we can leap frog, but anyway that is another matter. Go ahead.

Mr. WON PAT. I raised that point because I would like you to further elaborate as to the ineffectiveness of the comptroller system. Originally when the Congress enacted the provision for Guam to have a comptroller, the Guam legislature was opposed to that provision and so was I, but we have had to accept.

Now I have been very sensitive to fiscal control for years, and I have even taken the matter up before the Senate committee. I am naturally sensitive in this area because the Federal Government must be assured that the people administering funds are responsible in the disposition of the funds. If we cannot responsibly dispose of these funds naturally we cannot expect to get more from the Federal Government.

I have talked to the chairman about reviewing the comptroller system because I personally favor the GAO system rather than having a separate comptroller system just for the two territories.

Mr. BURTON. Would you yield at this point?

Mr. WON PAT. Yes.

Mr. BURTON. The Secretary himself offered these very amendments during the course of deliberations on providing an elective governor to Guam and the Virgin Islands, Secretary Morton when he was a member of this committee which is why I framed this in terms of giving him the authority to move it that way rather than wiping out an idea which he was a father of, because often times we don't disown our own ideas, but he may think that moving the GAO is more desirable. So it would be my recommendation that rather than deciding to pass legislation requiring the transfer, which may or may not be very useful, whereas if we authorize the Secretary to arrange such a transfer, it has a slightly different political flavor.

Mr. WON PAT. I do hope, Mr. Chairman, that the committee will have an opportunity to review the comptrollers' systems in the two territories.

Mr. BURTON. Your suggestion is noted.

Are there any other questions? We do have another witness who wanted to testify. I don't think in fairness to anybody at this juncture that that would serve a useful purpose.

Governor, it has undoubtedly not been a comfortable morning any more than it was comfortable for a number of us to reach the conclusion that at least I have reached. I hope this hearing has been conducted in an essentially fair manner. You can believe that the depth of my feelings and the firmness of my convictions have been most understated this morning. And just as I think it is unfair for anybody in the position of power to bully those subordinate, so too as a committee with primary jurisdiction over American Samoa, I hope we have not found ourselves in the position of bullying you.

With that we will be interested in hearing from you. You may or may not be invited back to participate in a further hearing.

With that the subcommittee stands adjourned.

Will the person who wanted to testify please come and contact Mr. Shean and we will have to sort out what, if anything, we do with respect to that testimony at a future date. I have no idea what the nature of it is and therefore I don't think it fair to anyone that we have a witness without having the slightest idea of what the witness is going to say, because that doesn't make any sense from my point of view and it strikes me as being perhaps somewhat unfair.

Mr. DE LUGO. May I ask the Speaker of the House and the President of the Fono to stand up?

Mr. BURTON. Oh, yes. Mr. Speaker and President, would you please stand up? We are delighted you are here. We thoroughly enjoyed our trip and our discussion with the members of the Fono and before the end of this year we are going to pass a bill extending the right of the people of American Samoa to elect their Governor. I do believe it to be the sense of the committee, however, that rather than us deciding from 10,000 miles away, that we will require a Plebiscite to clear the air in that respect and perhaps require a Plebiscite where that is the only issue or where that issue is separated from others. I fear in the absence of constructing such an arrangement, we may find it too difficult this year to enact that legislation.

We welcome you again. I would have both of you up here talking with the chief, but I hope you will understand the fundamental nature of the hearing that we had this morning.

Thank you very much and the committee is adjourned.

[Whereupon at 12:30 P.M. the subcommittee recessed subject to the call of the Chair.]

[Additional material for the record follows:]

GOVERNMENT OF AMERICAN SAMOA,  
OFFICE OF THE GOVERNOR,  
*Pago Pago, American Samoa, May 9, 1974.*

HON. PHILLIP BURTON,  
*Chairman, Subcommittee on Territorial and Insular Affairs,  
U.S. House of Representatives  
Washington, D.C.*

DEAR CONGRESSMAN BURTON: Copies of the transcript of the informal discussion of matters relating to American Samoa discussed at the hearing held before the Subcommittee on Territorial and Insular Affairs, the Committee on Interior and Insular Affairs on April 2, 1974, were received by us on May 2, 1974. In accordance with your ruling on page 17 of this transcript, I submit the following revisions or corrections and additional expansion of testimony.

On page 3, beginning with line 16, Delegate-at-Large Fuimaono states that the Office of the Delegate-at-Large was duly proposed by our local Legislature, and signed into law by former Governor Owen S. Aspinall just prior to his departure from American Samoa. This statement is incorrect. The legislation, PL 11-124, was passed in 1970 and was signed into law *by me*. An extract from the Code of American Samoa is attached. I took office on August 5, 1969.

On page 6 of the transcript, line 12, you indicate that the Administrative Law Judge cleared the Governor of American Samoa of violations of the Hatch Act. However, since Delegate-at-Large Fuimaono continued to insert within the testimony statements based on hearsay or reflecting his own personal opinion, I believe it would be worthwhile to introduce into the record the findings of the Administrative Law Judge of the Civil Service Commission. A copy of those findings is attached for insertion in the record.

On page 30, I was requested to provide a copy of my opening remarks to the Fono's January, 1974 session. On most occasions, when opening sessions of the Fono, I speak from rather brief notes. The bulk of my short introductory remarks to the January session was a long quotation from Admiral Rickover and a few notes. To the best of my recollection, the notes and the Rickover quotation were either turned over to the Legislative Clerk or were thrown in the waste basket. It is my understanding that Mr. George Blaesi, Legislative Counsel, Legislature of American Samoa, has provided the Committee with a transcript of my remarks. It was to be included as Exhibit 2-D.

On page 71, line 8, there is an apparent misreading by the Chairman of a cablegram (Exhibit D-1, an additional copy of which I attach). The sentence quoted read "May I have your permission to submit to Chairman Haley via you a factual account of the activities of Burton's group while in American Samoa? Those of us involved do not enjoy having to remain quiet while they spout off distortions to the newspapers."

On page 72, line 6, Chairman Burton asked if Mr. Carpenter responded to this communication. My answer was "No". At the time of the hearing, to the best of my recollection, I did not recall having received a response. Following the hearing, the Office of Territorial Affairs searched its files and informed me that Director Carpenter had replied. A copy of his reply is attached and, for identification, I have marked it D-1A. The answer to the question should have been "Yes".

On page 79, starting with line 3, Mr. Clausen asked for consent to submit questions to any of the witnesses and that their replies be made a part of the hearing record. The Chairman agreed to this. Mr. Clausen has subsequently written me a number of questions and I have provided him with full answers for inclusion in the record.

On page 84, line 19, I have changed the figures to the correct amount of \$9.5 million.

I have not commented on Exhibit E, referred to on page 9, starting with line 3. Much of the material is hearsay, relates to the Hatch Act charges, and contains many misrepresentations or half-truths.

If I may provide additional information, I will be pleased to do so.

Very sincerely yours,

JOHN M. HAYDON,  
Governor.

Enclosures.

[Department of State Telegram]

JANUARY 1974.

Ref your gas 10. Unable to reach decision on your request until we see the material. Assume that has been sent air mail per our recent telecon. Carpenter sends. Rush.

## Title Nineteen

### ELECTIONS

Chapter :	Section
1. Delegate-at-Large to United States Government	1
3. Election of Representatives	201
CHAPTER 1. DELEGATE-AT-LARGE TO UNITED STATES GOVERNMENT	

### Section :

1. Nomination and election.
2. Functions.
3. Term; compensation; transportation.
4. Vacancies.

### § 1. Nomination and election

(a) At the general election in November 1970, and at every second general election thereafter in which representatives are chosen for the House of Representatives, the voters registered to vote for representatives shall also elect a Delegate-at-Large, who shall have the same qualifications as a representative, except that no term of residence in a representative district shall be required.

(b) Candidates for Delegate-at-Large shall be nominated in the same manner as candidates for representative, except that a petition nominating a candidate for Delegate-at-Large shall be signed by at least 300 registered voters without regard to their representative districts.

(c) The Delegate-at-Large shall be elected by a majority of the electors voting in all of the representative districts. If no candidate receives a majority of the votes cast, a run-off election shall be held between the two candidates receiving the greatest number of votes, within the time provided in the Constitution for the election of representatives.

(d) Questions concerning the qualifications and nomination of candidates for Delegate-at-Large, and questions concerning the conduct and results of the election of the Delegate-at-Large, shall be determined in the same manner as in the election of representatives, except that the decision of the election board shall be final.

#### History

Source. II Code Amer. Samoa, 1961 Ed. 2.1301; P.L. 11-124, 1970.

#### § 2. *Functions*

(a) The Delegate-at-Large shall maintain an office in Washington, D.C., and shall represent, to the best of his ability, the views of the people of American Samoa before all branches and agencies of the federal government, including the Department of Interior, and the Congress and any other organization, public or private. He shall not bind or commit the Government of American Samoa in any manner without specific authority.

(b) The Delegate-at-Large shall submit a monthly report of his activities to the President of the Senate and Speaker of the House of the legislature of American Samoa, and to the Governor, and he shall, upon the request of the President of the Senate and the Speaker of the House, report in person to the legislature during each regular session of the legislature or at such other time as the legislature may deem necessary.

#### History

Source. II Code Amer. Samoa, 1961 Ed. 2.1304; P.L. 12-9, 1971.

#### § 3. *Term; compensation; transportation*

(a) The Delegate-at-Large shall serve for a term of four years beginning on the first day of January following his election and ending on December 31st, four years thereafter.

(b) The Delegate-at-Large shall receive annually a salary of \$25,000. The following additional amounts shall be budgeted for the office of Delegate-at-Large:

Housing -----	\$15,500
Staff -----	35,000
Official Expenses -----	10,000
Travel -----	5,000

(c) The annual budget of the office of the Delegate-at-Large shall be a part of the budget of the legislature.

(d) Transportation for the Delegate-at-Large, his immediate family, and household effects, shall be provided in the same manner as is used in the case of contract employees of the Government of American Samoa.

#### History

Source. II Code Amer. Samoa, 1961 Ed. 2.1302; P.L. 11-124, 1970.

#### § 4. *Vacancies*

Vacancies in the office of the Delegate-at-Large shall be filled in the manner provided in Const. Amer. Samoa, Art. II, Sec. 13, for the filling of vacancies in either house of the legislature, except that the registered voters in all representative districts may vote in any special election.

#### History

Source. II Code Amer. Samoa, 1961 Ed. 2.1303; P.L. 11-124, 1970.

## UNITED STATES OF AMERICA BEFORE THE UNITED STATES CIVIL SERVICE COMMISSION

Docket No. S-03

IN THE MATTER OF JOHN M. HAYDON

Appearances: Ben W. Joseph, Esq.; Philippe M. Neff, Esq.; George A. Wray, Esq.; Attorneys for the Government. Donald C. Williams, Esq.; Soli Aumoeualogo, Esq.; Heinrich Meredith, Esq.; for Respondent John M. Haydon.

## RECOMMENDED DECISION OF THE ADMINISTRATION LAW JUDGE

## I. INTRODUCTION

This is a proceeding to determine whether John M. Haydon, Governor of American Samoa, violated the Hatch Political Activities Act and a provision of the civil service rules, as alleged in a Letter of Charges issued by the General Counsel of the Civil Service Commission. The general charge is that he used his official authority or influence as governor for the purpose of interfering with or affecting the result of elections held in American Samoa on November 7, 1972. The question of whether the people of American Samoa would elect their own governor and lieutenant governor in 1974, in lieu of an appointed governor, was among the propositions voted on in that election.

Notice of the charges was issued to the Respondent, Governor Haydon, on July 10, 1973. After a written answer was filed, a pre-hearing conference was held on August 6, 1973. The Commission thereafter approved the taking of certain depositions. A hearing was held in Pago Pago, American Samoa, beginning September 11, 1973, and concluding on September 18, 1973.<sup>1</sup> Briefs were submitted in December by both parties.

## II. JURISDICTION

*An issue of dual jurisdiction*

A threshold question concerns the basis on which these charges are brought against the Respondent. Two separate sources of authority are cited in the Letter of Charges: (1) a provision of Civil Service Rule IV (5 CFR 4.1) applicable to Federal employees, and (2) that part of the Hatch Act (5 U.S.C. 1501-08) which applies to certain officers and employees of State or local agencies. Apparently the Government believes that Governor Haydon may be held accountable both as a Federal employee and as a State employee for the conduct specified in the charges. Both prohibit the use of official authority to interfere with an election.

The essential issue is whether the Commission is authorized to hear and adjudicate Respondent's case on the basis of the two provisions cited by the General Counsel. Respondent's attorney concedes the applicability of the Hatch Act to Respondent insofar as it covers a "State or local officer or employee" as defined by 5 U.S.C. 1501, but he disputes the Commission's authority to proceed under section 4.1 of Civil Service Rule IV. A further question, which neither party discussed, is whether the Respondent would properly be chargeable under the provisions of the Hatch Act which, like Civil Service Rule IV, restricts the political activity of Federal employees. The conclusion recommended herein is that the provisions of 5 U.S.C. 1501-08 alone apply in this case for the reasons outlined below.

*Respondent as a Federal employee*

Undeniably, the Respondent is a Federal employee by virtue of his appointment. He was appointed Governor of American Samoa on August 1, 1969, by the Secretary of the Interior. He holds that position by a noncareer executive assignment<sup>2</sup> in the excepted service under the Office of Territories,<sup>3</sup> Department of Interior. He is compensated under the Federal pay system known as the General Schedule (5 U.S.C. 5331-38), at grade GS-18 with a salary of

<sup>1</sup> Lafi Toelupe and Silvia F. Sunia served as official interpreters at the hearing.

<sup>2</sup> The tenure and other characteristics of a noncareer executive assignment are prescribed by Part 9 of Civil Service Rules (5 CFR 9.20-9.23).

<sup>3</sup> Now, Office of Deputy Assistant Secretary of Territorial Affairs.

\$36.00 (the present maximum for that grade) and receives 25% additional as a post differential. (Gov. Ex. 3, p. 61). He exercises the executive authority of the Government of American Samoa under the supervision of the Secretary of the Interior. (R-19, p. 612).

The Respondent is an "employee" for the purpose of title 5 of the United States Code, for in view of the facts recited above he meets the conditions set forth in the definition of the term "employee" set forth in section 2105, in that—

(1) he was appointed in the civil service by the head of an Executive agency (the Secretary of the Interior),

(2) he is engaged in the performance of a Federal function, i.e., administration of a territory of the United States, under authority of law or an Executive act, and

(3) he is subject to the supervision of the head of an Executive agency.

Respondent's status as an "employee" for the purpose of title 5 of the United States Code brings him within the purview of 5 U.S.C. 7324(a) which applies to "[a]n employee in an Executive agency \* \* \*"—an "Executive agency" being "an Executive department, a Government corporation, and an independent establishment." 5 U.S.C. 105. Since Governor Haydon is appointed and supervised by the head of an Executive department, and serves under the Department of the Interior, he is an "employee in an Executive agency" for purposes of the Hatch Act. For basically the same reasons, he must also be considered a "person employed in the executive branch of the Federal Government or [an] agency or department thereof \* \* \*" within the meaning of section 4.1 of Civil Service Rule IV.

#### *Respondent as a State or local officer or employee*

At the same time, Respondent's position as a territorial governor seems to require that he be regarded as a State or local employee for purposes of chapter 15 of title 5 of the United States Code, which applies to the governor of a territory or possession of the United States as well as to a State governor. It was stipulated by the parties that Respondent has been employed exclusively as Governor of American Samoa since 1969, and that his employment in fiscal year 1973 was, and continues to be, "in connection with an activity which is financed \* \* \* in part by Federal grants." (G-14, p. 64).

In view of the foregoing it can be seen, through a literal application of the statutory definitions (set out in footnote 4) that as Governor of American Samoa Respondent is a "State or local officer or employee" within the terms of sections 1501-08 of title 5 of the United States Code.<sup>4</sup> Moreover, since the governor of a State, territory or possession is expressly exempted [5 U.S.C. 1502(c)(1)] from some of the restrictions of the Hatch Act, it must be assumed that Congress intended to cover State and territorial governors under the conditions specified in the statute; otherwise the partial exemption would be unnecessary and superfluous.

#### *Discussion*

On a prima facie consideration of the matter, then, Respondent appears to be subject to the Hatch Act both as a Federal employee and as a "State" officer in his capacity as governor of a territory. Similarly, section 4.1 of Civil Service Rule IV seems applicable to him as a Federal employee. In this unusual situation, is the Commission legally authorized, and is it a valid application of the law, to hold Respondent answerable under each of the three provisions in question—all forbidding the misuse of one's official authority to affect the outcome of an election?

<sup>4</sup> For the purposes of this chapter—

(1) "State" means a State or territory or possession of the United States;

(2) "State or local agency" means the executive branch of a State, municipality, or other political subdivision of a State, or an agency or department thereof;

\* \* \* \* \*

(4) "State or local officer or employee" means an individual employed by a State or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency, but does not include—

(A) an individual who exercises no functions in connection with that activity; \* \* \*. 5 U.S.C. 1501

(c) Subsection (a)(3) of this section does not apply to—

(1) the Governor or Lieutenant Governor of a State \* \* \*. 5 U.S.C. 1502

The conclusion that Governor Haydon may be charged under 5 U.S.C. 1502 as governor of a territory, but *not* under 5 U.S.C. 7324 or Rule IV as a Federal employee, is required. This result is dictated by familiar rules of statutory construction and by the position taken by the Commission on a similar question in 1966.

One guide to statutory construction counsels that in case of conflict between two provisions of a statute, either of which might control, the provision which is specific ordinarily prevails over the more general treatment of the matter in question. *Bulova Watch Company v. United States*, 365 U.S. 753, 758 (1961). Another elementary rule is that a later enactment takes precedence over an earlier, inconsistent provision on the same subject matter. *Skeeles v. United States*, 118 Ct. Cl. 362, cert. denied 341 U.S. 948 (1951). Both rules have application here.

The major provisions of the Hatch Act were enacted in two stages: the Federal employees restrictions in 1939, and the sections covering State and local employees in 1940. The 1940 amendments to the Hatch Act dealt explicitly with the political activity of territorial governors, treating them in the same manner as governors of States. Congress, it must be concluded, intended thereby to remove territorial governors from any corresponding restrictions that may have pertained to them as members of the more general class of Federal employees covered by the 1939 law.

Congress could not have meant to keep territorial governors under the Federal-employee provisions of the 1939 Hatch Act when a year later it placed them, by clear definition, within the State-employee sections. There would be confusion and conflict if the Commission were to attempt to give effect to both. For example, in proceedings against a State employee under chapter 15 of title 5 of the United States Code, subpoenas would be available to the parties; yet a Federal employee would not be entitled to them. If the Commission found a violation in the case of a territorial governor, the matter could be closed without any penalty whatsoever, if removal was deemed to be unwarranted; but if he were treated as a Federal employee also, his removal would be required unless the Civil Service Commissioners voted unanimously that a suspension (of no less than 30 days) was warranted instead. Access to the Federal courts and a prescription for judicial review are specifically provided for in chapter 15; in contrast, the judiciary is given no such express authorization to review the case of a Federal employee aggrieved by a decision under the Hatch Act. Congress certainly did not intend that this inconsonant mixture of two separate enactments would apply concurrently to an individual holding a single position. The only reasonable conclusion is that chapter 15 alone is applicable.

The same result is reached on the question of whether the Commission may invoke chapter 15 of title 5 of the United States Code and section 4.1 of the civil service rules as dual sources of authority to support the same charge. Again, a negative answer is required for the same reasons. The rule is linked to the statute [5 U.S.C. 7324(a)] in regulating the conduct of Federal employees, and the coverage and substantive prohibitions of the rule are no greater than under the statute. It follows that if the legislative provision restricting Federal employees [5 U.S.C. 7324(a)] must give way to 5 U.S.C. 1502 when they conflict in their application to a territorial governor, the rule must also yield.

There can be little doubt that section 4.1 of Rule IV and section 7324 of title 5 of the United States Code must be considered together, and the rule may not be applied to Federal employees in a manner at odds with the statute. The Supreme Court observed that the authority to discipline competitive service employees for political misconduct in violation of the civil service rules "continues in the Commission under the Hatch Act by virtue of" an amended rule which, in language similar to the Hatch Act, barred partisan political activity. *United Public Workers of America (CIO), et al. v. Mitchell*, 330 U.S. 75, 78 (1947). In that case charges were issued by the Commission under Rule I (now Rule IV) against a Federal employee for engaging in certain political activity. He and other employees sued to prohibit enforcement of the Hatch Act, but they failed to ask for relief from the civil service rule. The court did not consider this omission to be a fatal defect, explaining that "[s]o far as [the issue to be decided] is concerned, the act and the rule are the same." *Id.* 91, note 28. Thus, since 5 U.S.C. 7324(a) does not govern the present case, as

explained, *supra*, it must likewise be held that section 4.1 of Rule IV does not apply. Finally, even if section 4.1 existed without any corresponding statutory provision covering Federal employees, it would be necessary to conclude that chapter 15, because it is a legislative enactment, takes primacy over the executive regulation insofar as both purport to restrict the same political conduct on the part of territorial governors.

The result reached here is consistent with the interpretation formally adopted by the Commission in 1966. The Commission concluded that when Congress enacted what is now codified at 5 U.S.C. 1501-08 it intended to treat the governor of a territory or possession under the same provisions, and in the same manner, as the governor of a state. (Commission action recorded in Minute No. 2 of October 31, 1966.)

### III. THE MERITS

In view of the foregoing, the charges will be reviewed under chapter 15 of the United States Code, in particular section 1502, which reads in relevant part:

(a) A State or local officer or employee may not—

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.

Several specified incidents are cited in the Letter of Charges (G-1) to support the charge that the Respondent, Governor Haydon, violated the above-quoted prohibition. The first four specifications read as follows:

#### I

During October, 1972 he prohibited the broadcast of a television program over government-owned television station KVZK, Pago Pago, American Samoa. The program was critical of the Department of Agriculture of the government of American Samoa.

#### II

In October 1972 he ordered Stewart Cheifet and Larry Goodwin, employees of television station KVZK to produce a television program in cooperation with employees in his office. The television program that was produced was broadcast under the title YOUR COUNTRY—YOUR VOTE. This program was a showpiece for the accomplishments of John M. Haydon as Governor of American Samoa.

#### III

He ordered that the television program YOUR COUNTRY—YOUR VOTE be broadcast repeatedly over television station KVZK immediately before an election held in American Samoa on November 7, 1972, which was to decide whether or not the Governor of American Samoa would be elected by the residents of American Samoa rather than appointed by the United States Secretary of the Interior. This forty-five minute program was broadcast eight times on November 6, 1972.

He ordered that a radio program be produced by employees of government-owned radio station WVUV. This program was recorded in the office of the Governor in his presence. As part of this radio program, the Secretary of Samoan Affairs and the two Tutuila District Governors met with the Governor in his office and instructed voters to vote NO on the proposal to replace the appointed Governor with an elected Governor. As a result of the meeting and this radio program, employees of the government of American Samoa, including the Mayor of Fagatogo Village, instructed people to vote NO on the elected Governor proposal as they were voting in polling places on November 7, 1972.

The first specification does not allege what election might have been involved or how the barring of the broadcast would affect the result of an election. However, the clear implication in view of what is set out in other specifications is that Respondent's alleged conduct was related to the elections of November 1972 in American Samoa. Thus, the barring of a broadcast critical of one of the departments under the Governor had the same purpose, presumably, as the promotion of a program that "was a showpiece for the accomplishments of" Governor Haydon, as alleged in the second specification. Indeed, the theory of

the first three charges can only be that the Respondent took the actions described therein so he would be seen by the voters in a favorable light in order to influence them to defeat the ballot proposition for an elected governor.

Before any consideration is given to evidence supporting the foregoing specifications, the language of the statutory prohibition requires pause. It must be determined whether the Samoan election held on November 7, 1972, to decide, *inter alia*, if there would be an elected governor and lieutenant governor in 1974, was "an election or a nomination for office" within the meaning of 5 U.S.C. 1502(a) (1), set forth above.

The "election" we are concerned with in five of the six specifications (i.e., excepting V) is a referendum which presented several questions to the voters of American Samoa on November 7, 1972. The question referred to in the charges appeared on the ballot in the following language:

"PROPOSITION NO. 1—ELECTION OF GOVERNOR AND  
LIEUTENANT GOVERNOR

Shall H.J.R. No. 11 be approved providing for the popular joint election of a governor and lieutenant governor in the general election of 1974 for 4 years term and for gubernatorial succession in the following sequence: Governor, Lieutenant Governor and the Speaker of the House? (Ex. G-6)

☐ YES      ☐ NO"

The issue in this case is whether the process by which votes were taken on Proposition No. 1 was "an election or a nomination for office." The ruling on that point will, of course, determine whether Governor Haydon could have violated 5 U.S.C. 1502(a) (1) by using the influence of his office in various ways to affect the vote on Proposition No. 1 as alleged.

A simple reading of the statutory phrase in question leaves doubt as to whether a referendum, such as Proposition No. 1, is to be considered "an election" as Congress used the latter term in section 1502. It is necessary to examine the statute carefully to ascertain its precise meaning.

First, the phrase in question carries the connotation of an election for office, and not the taking of votes on a question printed on the ballot. Moreover, the grammatical arrangement of the phrase, "an election or a nomination for office," suggests that the words, "for office," were meant to modify the two preceding nouns.

Another clue to the meaning of the word "election" in 5 U.S.C. 1502(a) (1) is to be found in a section of the original enactment. In the 1939 Hatch Act, section 2 made it a crime for a person employed in an administrative position by the United States—

*"to use his official authority for the purpose of interfering with, or affecting, the election or the nomination of any candidate for the office of President [or other specified Federal office.]"* (Underlining added) 53 Stat. 1147 (1939), amended by 54 Stat. 767 (1940); 18 U.S.C. 595.

Section 12(a) of the same act, added in 1940 [codified at 5 U.S.C. 1502(a) (1)] applies to the present case, prohibiting use of "official authority or influence for the purpose of interfering with an election or a nomination for office, or affecting the result thereof." Comparing the language of the two provisions, the similarity of phraseology and meaning is apparent. Though the 1939 enactment contained the additional phrase "of any candidate," its omission would not have altered the meaning. Another insignificant difference between the two provisions that does not disturb the parallel is the use of the definite article in the 1939 legislation and the indefinite article in the 1940 amendments. This difference is explained by the fact that the former dealt with specific elections for Federal offices, whereas the latter covered elections to any office. Thus, it is appropriate to conclude, from the appearance of similar language in separate provisions of the same statute, that the same meaning was intended in both instances. It should also be noted that 5 U.S.C. 1503 exempting so-called non-partisan political activity uses the term "election" in the context of candidates and campaigns, while "referendum" appears in the provision concerning "questions."

The foregoing analysis indicates that the word "election" was used with reference to the selection of candidates for elective office, and does not include the process of polling the electorate on a referendum question.

Persuasive evidence as to the intended meaning is also found in the legislative history of the 1940 amendments which extended the Hatch Act to State and local employees in Federally financed activities. For convenience and to appreciate fully the significance of what appears in a committee report respecting the very phrase in question, the language of the statute will again be set forth:

"(a) No officer or employee of any State or local agency \* \* \* shall (1) use his official authority or influence for the purpose of interfering with an election or a nomination for office, or affecting the result thereof. \* \* \* " Sec. 12, 54 Stat. 767 (1940); now 5 U.S.C. 1502(a) (11)

Explaining why the words "a nomination for office" were proposed as a committee amendment to the pending bill to revise the Hatch Act, the report of the House Committee on the Judiciary stated:

"In \* \* \* subsection (a) of section 12, the committee added to the prohibited acts the using of official authority or influence in interfering with 'a nomination for office,' it being considered that in many instances *the nomination for office is tantamount to election* and that in order to strike at pernicious politics it would be necessary to include the nomination.'" (Emphasis added) H.R. Rep. No. 2376, 76th Cong., 3d. Sess. 8 (1940).

Obviously, since the committee was concerned with the fact that nomination for office is often equivalent to election, it must have viewed the words "an election" as meaning "an election for office," intending by the amendment to expand the prohibition so that it would forbid interference with a nomination for office as well as an election for office. The addition of the phrase, "a nomination for office," may well have been prompted by the belief that "election" might exclude primary elections concerned with the nomination of candidates for office—earlier legislation, the Federal Corrupt Practices Act, in closely related matters contained the following definition:

(a) The term "election" includes a general or special election, but does not include a primary election or convention of a political party. 43 Stat. 1070.<sup>5</sup> In any event, the committee report reinforces the conclusion that referendums and other means of taking a vote by ballot on public questions were not encompassed by the term "election," as used in 5 U.S.C. 1502(a) (1).

To reach the opposite conclusion would cause the paragraph in question to be out of harmony with other provisions of the Hatch Act. The original act and the 1940 amendments incorporated a provision of the civil service rule recognizing the right of covered employees—in the language of the 1939 act—"to express their opinions on all political subjects." This was later extended so as to ensure the right of an employee "to express his opinions on political subjects and candidates." 5 U.S.C. 1502(b). In section 1503, again freedom of expression and action concerned with political subjects or "questions" is preserved by excluding such activity from the bar against participation in political management and political campaigns.

It is not difficult to foresee what problems could occur in attempting to reconcile these grants of freedom with an interpretation of 1502(a) (1) that would restrain a governor from using the influence of his office to affect the outcome of a referendum. If the statute is thought to bar the Governor of American Samoa from using his official authority to affect the vote of Proposition No. 1, concerning the election of a governor, the consequences of that interpretation should be weighed to judge its reasonableness in other possible applications of the prohibition. Thus, if Governor Haydon had acted with respect to Proposition No. 2 rather than No. 1 he could be held accountable, under that view of the Hatch Act, for using the influence of his office to affect the outcome of the referendum on "Revision of the Constitution" of American Samoa. [For text of four propositions, see Ex. G-6, p. 66.]

By the same token a State governor, sufficiently connected with Federal grant programs through his official responsibility therefor, would also be forbidden to exert the influence of his office publicly in support of a referendum proposal to

<sup>5</sup> Repealed by 86 Stat. 11 (1972) which enacted the Federal Election Campaign Act of 1971, 2 U.S.C. 431-54; for definition of "election" in the 1971 act, see 2 U.S.C. 431(a).

amend his State's constitution. In the same way—to use another example—the elected mayor of a city who finds he is covered by the Hatch Act would risk violating its proscriptions if he addressed the voters to urge them to cast an affirmative vote on a referendum that would authorize a bond issue for school construction. To conclude that Congress intended these results would require the clearest expression of that purpose in the statute; it must be concluded that convincing evidence of such an intent is lacking.

In sum, an examination of the statutory provision on which the charges in this case are based [5 U.S.C. 1502(a)(1)] reveals that the term "election" does not include the process, such as the one commonly known as a referendum, which presents on the ballot a question or issue to be decided by the voters, not including candidacy for office. In consequence, it is recommended that the Commission dismiss those specifications which charge expressly or by implication that the Respondent violated the Hatch Act by using his authority or influence as Governor of American Samoa for the purpose of interfering with the result of the voting on Proposition No. 1 (the elected governor proposal) on November 7, 1972. Specifications numbered I, II, III and IV in the letter of Charges, and specification VI to the extent that it is related to IV, should accordingly be dismissed.

The remaining charges (V and VI) read as follows:

#### V

As part of the radio program described in Specification IV above, he stated that there should be no palagis (Caucasians) elected to the Samoan legislature, he well knowing at the time that there was only one palagi candidate running for election to the Samoan legislature on November 7, 1972, namely Mr. Wilbur Reine.

#### VI

He ordered that the radio program described in Specification IV and V above be broadcasted repeatedly over government-owned radio station WVUV on November 6 and November 7, 1972.

These paragraphs allege an offense within the purview of 5 U.S.C. 1502(a)(1). Evidence offered in proof of these allegations shows the following facts. Respondent first learned that Wilbur J. Reine, a former employee of the Government of American Samoa, would be a candidate for the Samoan legislature<sup>6</sup> during Mr. Reine's visit to the Governor's office a few months before the November 1972 election.

It was established that Mr. Reine was the only palagi (caucasian) whose name was on the ballot as a candidate for the Samoan House of Representatives and that no palagi had been a candidate before—at least not in recent years. His candidacy was, according to witnesses, a topic of public interest and discussed widely in gatherings of Samoan people. (tr. 46, 404).

Some time before the election, the Governor and the Information Officer for the Samoan Government discussed the advisability of having the Governor broadcast a radio message to encourage a large voter turnout. On November 6, 1972, at the Governor's request personnel of radio station WVUV, operated by the Samoan Government, came to the Governor's office to record an interview with the Governor for radio. The station manager, who operated the tape recorder, thought that "about three or four questions" and answers were recorded. (tr. 37). He testified that the questions were furnished to him by Governor Haydon. (tr. 35, 37)

The tape (G-11 is a copy) runs approximately one minute and forty five seconds and contains two questions and the two answers comprising Respondent's comments on the November 1972 election. The original tape was given to Mr. Reine, the candidate, after the election.

The recorded interview was broadcasted in English on WVUV three times on November 6, 1972, and once at 8:15 a.m. on November 7, coincident with the major newscasts. A summary of the taped interview was also aired in the Samoan language.

<sup>6</sup> The legislature, or Fono, is a bi-cameral body which enacts local laws under the territorial constitution. House members are elected by popular vote; senators are selected in accordance with the tradition of Samoa.

Respondent's testimony concerning the recording of the interview shows that his memory of the occasion was uncertain. Until he listened to the tape a few weeks before the hearing, he thought the interview was a spontaneous occurrence on the steps of an office building and that two questions were asked. (tr. 555) Governor Haydon, however, did not dispute the version outlined above. It is found therefore that after a discussion with the Samoan Information Officer, the interview was conducted at the Governor's request in his own office using two questions provided by the Respondent, and that the interview was broadcasted at the times noted.

Both the copy of the tape (G-11) and transcription of the tape recording (G-10; minor corrections are set forth at tr. 41) contain the following questions and answers (as corrected):

*Question.* With tomorrow's important Election only a few hours away, WVUV News visited today with Governor John M. Haydon.

Governor, do you have any comment on tomorrow's Election, and what it means to American Samoa?

*Answer.* Well, quite naturally, I do because this is one of the most important Elections in Samoan history. I am very anxious to see everyone who possibly can, vote, as the franchise to vote is the most valuable thing that we have, and I would hope that we could set a record in the United States in this Election for the percentage of voters who turn out to vote.

*Question.* With tomorrow's important Election only a few hours away, WVUV News visited today with Governor John M. Haydon. Governor, do you have any comment on tomorrow's Election, and what it means to American Samoa?

*Answer.* Well, quite naturally, I do because this is one of the most important Elections in Samoan history. I am very anxious to see everyone who possibly can, vote, as the franchise to vote is the most valuable thing that we have, and I would hope that we could set a record in the United States in this Election for the percentage of voters who turn out to vote.

*Question.* Thank you, Governor. We notice that there are palagis running for the Fono. What is your opinion on this, Governor?

*Answer.* Well, I am under the Hatch Act, and I cannot and would not take any position on individual candidates, whether they are Samoan or palagi. I do have a philosophical answer for you and I am free to give it. It would be my opinion that it would be a very serious mistake to elect any palagi to the Fono for a very simple reason. We are on our way to self-government here in American Samoa. Any in my political opinion, philosophical opinion, the Samoan people do not need palagis in their Fono. You have one . . . we all remember the story of the master and his camel; the next time we'll have three and the following time we'll have five, until the Fono will no longer belong to the Samoan people. Under self-government, you should govern yourselves. That means Samoans only in the Fono in my opinion.

In defense of his radio presentation Respondent explained he was opposed to having caucasians in the Samoan legislature because he believed in the principle that Samoa should be for Samoans. He publicly stated his views on the matter because, he testified, they accord with the policy of the Department of the Interior and with what he understands to be the traditional ways of Samoa (tr. 555-56). Though he knew that Mr. Reine was a candidate and had heard that possibly other caucasians might run, Respondent stated he did not intend to injure the candidacy of Mr. Reine. (tr. 557).

The record supports these further findings: that the Respondent arranged the interview and broadcast for the purpose of stating his views to the people of American Samoa on the question of whether palagis should be elected to the legislature and that he knew, or should have realized, that because of the great respect the Samoan people have for the office of Governor his remarks would probably influence voter attitudes with respect to Mr. Reine's candidacy.

Governor Haydon's actions constituted an unwarranted intrusion into the electoral process as the balloting was about to take place. Respondent argues that this was in the exercise of his right and responsibility to speak out on matters of public interest affecting Samoa. But that cannot be accepted as justification for projecting his views as governor (and Federal administrator) into the process of free elections, an important aspect of a system of self-determination and self-government which he advocates for American Samoa.

With those observations noted, it is, of course, necessary, also to decide whether the Respondent's conduct in this matter violated the prohibition on the use of his official authority or influence for the purpose of affecting the outcome of the election held for choosing members of the Samoan House of Representatives. The answer is not as simple or readily discovered as it may seem at first.

It must be considered that the governors of States, territories and possessions are not prohibited by the Hatch Act from taking an active part in political management or in political campaigns. 5 U.S.C. 1502(c)(1). This exemption extends also to others holding elective office and to certain high level officials of the national government. They are therefore free to enter election campaigns and work actively and publicly to bring about the election or defeat of any candidate. What presents the difficult issue in this case, and in the case of other prominent officials, such as mayors and State governors, is that the public does not and probably cannot, disassociate the individual from the attributes and authority of the office he holds.

For the individual who is widely identified with the position he occupies and who is under legal restrictions on the misuse of his office, there is responsibility to exercise caution in undertaking actions which derive special force from the influence of the office itself. At the same time, the enforcement of restrictions on the use of his authority for certain purposes must take into account the realities involved. Thus, allowances must be made for these obvious facts in applying a statute which, on the one hand, permits campaign activity and public expression of opinion about candidates while, on the other hand, forbidding use of one's official authority to affect the outcome of an election.

Beyond this, the First Amendment protection of freedom of speech cannot be ignored. This is not to suggest that 5 U.S.C. 1502(a)(1) is in conflict with the Constitution, but rather that the First Amendment must be given consideration whenever the application of a statute or governmental action in other forms tends to restrict or prohibit speech. Conflict with the Constitution should, if possible, be avoided therefore in applying a statute like the Hatch Act in the area of speech and public expression of opinion on political subjects and candidates. Concern for freedom of speech under the Hatch Act was expressed recently by the Supreme Court in *U.S. Civil Service Commission v. national Association of Letter Carriers*, 413 U.S. 548, 580-81 (1973). Though the Court rejected the claim that the statute was, on its face, vague and overbroad as interpreted and applied by the Commission, the majority acknowledged the possibility of clashes between freedom of expression and the restrictions on such conduct as endorsements in advertisements, broadcasts and literature, and speech in support of candidates. See also, e.g., *Pickering v. Board of Education*, 391 U.S. 563 (1968).

For several decades at least, it is officially noted, the Commission has adhered to an interpretation of the same prohibition from which the language of 5 U.S.C. 1502(a)(1) was derived. The interpretation has for many years been published in Commission pamphlets for the guidance of covered employees. It may be found in a 1926 pamphlet (Form 1236), and as late as 1966 in the last revision of Pamphlet 20. Referring to section 4.1 of Rule IV, it states in part:

"This provision \* \* \* is held to prohibit a superior officer from requesting or requiring the rendition of any political service or the performance of political work of any sort by subordinates." CSC Pamph. 20, May 1966—p. 23.

It must be pointed out that Commission determinations under this provision of the rule were not incorporated into the Hatch Act as were those concerned with the prohibition on acts of political campaigning and management. Nevertheless, it may be viewed as a possible guide to application of the same language in the statute, so as to avoid the constitutional problems discussed above.

In consideration of the foregoing it is recommended that the Commission find that the Respondent's conduct in the instance referred to in specification V did not violate the Hatch Act. It is the view of the Administrative Law Judge that the remarks broadcast on WVUV must be regarded as a permissible expression of opinion given in the course of an election campaign, and cannot be penalized under a statute which grants him the right both to state his opinion on candidates publicly and to take an active part in a political campaign. This seemingly naive view of his conduct does not overlook the fact that his action was aimed at the defeat of a particular candidate and done through the use of

governmental facilities. However, this occurred on only one occasion and did not involve the exercise of direct influence over subordinates—the First Amendment requires that a borderline case of this nature be resolved in favor of the Respondent.

#### IV. CONCLUSION

It is recommended that the Commission find that:

(1) The Respondent, John M. Haydon, did not violate section 1502(a)(1) of title 5 of the United States Code as alleged in the Letter of Charges.

The parties have 30 days from the date of service of this decision to file exceptions with the Civil Service Commission. 5 CFR 151.137(b).

Date: March 22, 1974.

JOHN J. MCCARTHY,  
*Administrative Law Judge.*

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