

SUPPLEMENTAL DOCUMENTATION

IN SUPPORT OF  
THE JANUARY 18, 2024 STATEMENT OF  
HON. TALAUEGA ELEASALO VAALELE ALE  
LT. GOVERNOR OF AMERICAN SAMOA

ON BEHALF OF  
HON. LEMANU PALEPOI SIALEGA MAUGA  
GOVERNOR OF AMERICAN SAMOA

BEFORE THE  
HOUSE COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE ON INDIAN AND INSULAR AFFAIRS  
REGARDING H.R. 6062



**OFFICE OF THE GOVERNOR  
AMERICAN SAMOA GOVERNMENT**

Serial No.: 682 – 22

December 14, 2022

The Honorable Deb Haaland  
Secretary of the Interior  
U.S. Department of the Interior  
1849 C Street NW  
Washington, DC 20240

**Subject: Voter Approved Amendments to the Revised Constitution of American Samoa**

Dear Secretary Haaland:

The people of American Samoa have spoken. This year, American Samoa held a Constitutional Convention that consisted of members selected from each county in the Territory and Swains Island. The Convention recommended eleven amendments to the Revised Constitution of American Samoa. On November 8, 2022, the voters approved five of those amendments. We ask that you support these amendments and take such actions as may be necessary and appropriate to bring them into effect pursuant to your authority under Executive Order 10264.

The people of American Samoa appreciate and acknowledge the efforts of the Department of Interior to support this locally conducted process by providing a technical assistance grant, number D21AP10078-00, in the amount of \$150,000 to the American Samoa Government for its use in carrying out the Constitutional Convention. We are grateful that the Honorable Carmen G. Cantor, the Assistant Secretary for Insular and International Affairs, and Basil Ottley, the Director of Policy for the Office of Insular Affairs, could accept our invitations to attend the Convention as honored guests.

I appreciate the support of our Legislature for the Constitutional Convention. They passed an appropriation of \$1,375,000 in PL 37-6 to the “Governor’s Office to provide for the Constitutional Convention.” Both the Speaker of the House and President of the Senate were members of the Constitutional Review Committee, and the latter served as Chairman of the Convention. Many legislators were delegates to the 2022 Constitutional Convention.

After the Revised Constitution of 1967 was approved, a constitutional convention was held in 1973 as provided in R.C.A.S. Article V, Section IV. Since then, Governor Peter Tali Coleman, Governor A. P. Lutali, and Governor Togiola T. A. Tulafono called constitutional conventions by issuing executive orders in 1984, 1986, and 2010 respectively.

A bit of background for the 2022 Constitutional Convention, Executive Order 001-2022 issued February 4, 2022, appointed the 2022 Constitutional Review Committee to consider proposals for revisions, prepare amendments, and submit a report of proposed amendments. The Committee submitted its report on June 17, 2022. Upon receipt of the Committee report, Executive Orders 006-2022 and 007-2022 were issued on June 20, 2022. They called for each county council and the people of Swains Island to select convention delegates and for convening the Constitutional Convention of 2022 to consider, discuss, debate, and vote on amendments to the Constitution.

Convention delegates representing the people of American Samoa approved eleven amendments and submitted the amendments to my office on September 7, 2022. In the General Election held on November 8, 2022, a majority of the voters approved five of the amendments. The certified results of the election and copies of the five amendments approved by the people of American Samoa are enclosed.

In support of our request, we are enclosing a letter from our Chief Election Officer with the results of the constitutional referendum, the text of the Revised Constitution of American Samoa incorporating the text of the five amendments that were approved by the voters, and the report of the 2022 Constitutional Convention. The report of the 2022 Constitutional Convention includes the text of the Revised Constitution of American Samoa that incorporated the eleven amendments that were approved by the Convention as well as Executive Orders 001-22, 006-22, and 007-22.

We ask that you use your authority under Executive Order 10264 to implement the will of the people. Please review amendments that were approved by the 2022 Constitutional Convention and the referendum on November 8, 2022, and take appropriate actions to facilitate the will of our people.

Sincerely,



Lemanu P. S. Mauga  
Governor

- Encl: Certified Election Results  
Text of the Revised Constitution of American Samoa incorporating five amendments approved by voters  
Report of the 2022 Constitutional Convention
- cc: The Honorable Uifa'atali Amata Coleman Radewagen, Member of Congress  
The Honorable Tualo Manaia E. Fruean, President of the Senate | Legislature of American Samoa  
The Honorable Savali Talavou Ale, Speaker of the House of Representatives | Legislature of American Samoa  
The Honorable Carmen G. Cantor, Assistant Secretary of Insular and International Affairs  
The Honorable Keone Nakoa, Deputy Assistant Secretary of Insular and International Affairs  
Basil Ottley, Director of Policy | Office of Insular Affairs  
Lydia Faleafine-Nomura, Field Representative | Office of Insular Affairs

HON. LEMANU P.S MAUGA  
Governor

HON. TALAUEGA E. VAALELE ALE  
Lt. Governor

AMERICAN SAMOA GOVERNMENT - ELECTION OFFICE



LEALOFI UIAGALELEI, ED.D  
Chief Election Officer

TAVAI FITI TAVAI  
Deputy Director

November 15, 2022

Lemanu P.S. Mauga  
Governor of American Samoa  
Office of the Governor, EOB  
Utulei, American Samoa

Dear Governor Lemanu,

In my capacity as Chief Election Officer, I would like to officially inform you that our Midterm Election 2022 results have been certified as required by law in Title 6, Chapter 8, section 6.0805.

In the matter of our Constitutional Amendments, five have been passed and six have been rejected as voted on by the registered voters of American Samoa on Tuesday, November 8<sup>th</sup>, 2022.

Lastly, I would like to thank you for your tremendous efforts and support shown during the preparation and execution of the 2022 Midterm Election, and the democratic principles we stand for; our voters have spoken.

Official results are enclosed for your review. I shall be happy to further discuss them with you if you so decide.

Again, thank you very much.

Respectfully,

Uiagalelei, Lealofi  
Chief Election Officer

Certified November 15, 2022-4:45 p.m

Received in Governor's Office  
On 12/16/22 time 12:13  
By EF

**AMERICAN SAMOA ELECTION OFFICE  
OFFICIAL RESULTS  
U.S CONGRESS  
NOVEMBER 8, 2022**

<b>Individual Polling Booth</b>	<b>Aumua Amata / Total Votes 2022 Midterm</b>	<b>2022 Registered Voters</b>	<b>Vote Percent</b>
Central Office - Swains Island	9	9	100%
Dist #1 - Manu'a	407	770	53%
Dist #2 - Manu'a	269	459	59%
Dist #3 - Vaifanua	411	748	55%
Dist #4 - Saole	222	535	41%
Dist #5 - Sua No. 1	210	607	35%
Dist #6 - Sua No. 2	183	399	46%
Dist #7 - Maoputasi No. 1	169	467	36%
Dist #8 - Maoputasi No. 2	347	577	60%
Dist #9 - Maoputasi No. 3	397	881	45%
Dist #10 - Maoputasi No. 4	185	318	58%
Dist #11 - Maoputasi No. 5	267	531	50%
Dist #12 - Ituau	875	1,817	48%
Dist #13 - Fofu	619	1,103	56%
Dist #14 - Alataua	300	583	51%
Dist #15 - Tualauta	1,169	3,085	38%
Dist #16 - Tualatai	406	908	45%
Dist #17 - Leasina	192	516	37%
<b>Total</b>	<b>6,637</b>	<b>14,313</b>	<b>46%</b>

**2022 MIDTERM ELECTION OFFICIAL RESULT - REFERENDUM**

DISTRICT	Amend 1		Amend 2		Amend 3		Amend 4		Amend 5		Amend 6		Amend 7		Amend 8		Amend9		Amend10		Amend 11	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Swains Island	5	4	8	1	5	4	6	3	6	3	9	0	5	4	7	2	6	3	7	2	8	1
	56%	44%	89%	11%	56%	44%	67%	33%	67%	33%	100%	0%	56%	44%	78%	22%	67%	33%	78%	22%	89%	11%
Dist #1 - Manu'a	175	262	185	246	190	247	215	215	210	216	343	182	343	126	265	166	240	182	244	191	249	195
	40%	60%	43%	57%	43%	57%	50%	50%	49%	51%	65%	35%	73%	27%	61%	39%	57%	43%	56%	44%	56%	44%
Dist #2 - Manu'a	97	164	98	159	136	153	138	127	124	138	151	112	241	75	170	89	154	111	161	101	160	103
	37%	63%	38%	62%	47%	53%	52%	48%	47%	53%	57%	43%	76%	24%	66%	34%	58%	42%	61%	39%	61%	39%
Dist #3 - Vaifanua	146	281	150	260	145	270	144	268	159	259	186	229	126	288	205	217	195	222	193	220	181	234
	34%	66%	37%	63%	35%	65%	35%	65%	38%	62%	45%	55%	30%	70%	49%	51%	47%	53%	47%	53%	44%	56%
Dist #4 - Saole	92	185	80	195	92	180	104	167	110	163	152	123	79	194	148	127	138	135	143	129	141	135
	33%	67%	29%	71%	34%	66%	38%	62%	40%	60%	55%	45%	29%	71%	54%	46%	51%	49%	53%	47%	51%	49%
Dist #5 - Sua No. 1	63	142	79	127	83	124	90	112	108	96	121	85	66	140	129	77	120	84	121	83	106	97
	31%	69%	38%	62%	40%	60%	45%	55%	53%	47%	59%	41%	32%	68%	63%	37%	59%	41%	59%	41%	52%	48%
Dist #6 - Sua No. 2	75	113	76	111	82	104	75	110	81	104	102	84	60	127	97	90	106	78	103	83	95	88
	40%	60%	41%	59%	44%	56%	41%	59%	44%	56%	55%	45%	32%	68%	52%	48%	58%	42%	55%	45%	52%	48%
Dist #7 - Maoputasi No. 1	36	138	44	125	39	132	53	113	69	95	98	72	52	120	89	80	81	88	93	77	83	86
	21%	79%	26%	74%	23%	77%	32%	68%	42%	58%	58%	42%	30%	70%	53%	47%	48%	52%	55%	45%	49%	51%
Dist #8 - Maoputasi No. 2	103	247	120	234	127	226	145	205	150	199	225	129	84	273	216	141	201	151	157	147	191	165
	29%	71%	34%	66%	36%	64%	41%	59%	43%	57%	64%	36%	24%	76%	61%	39%	57%	43%	52%	48%	54%	46%
Dist #9 - Maoputasi No. 3	90	237	106	215	104	213	141	175	151	168	151	175	87	230	210	120	198	124	213	107	195	120
	28%	72%	33%	67%	33%	67%	45%	55%	47%	53%	46%	54%	27%	73%	64%	36%	61%	39%	67%	33%	62%	38%
Dist #10 - Maoputasi No. 4	66	115	80	100	74	105	76	101	74	106	85	93	68	111	96	83	94	83	101	75	88	89
	36%	64%	44%	56%	41%	59%	43%	57%	41%	59%	48%	52%	38%	62%	54%	46%	53%	47%	57%	43%	50%	50%
Dist #11 - Maoputasi No. 5	87	177	183	157	96	162	108	151	102	158	127	133	73	185	153	107	141	120	146	113	138	125
	33%	67%	54%	46%	37%	63%	42%	58%	39%	61%	49%	51%	28%	72%	59%	41%	54%	46%	56%	44%	52%	48%
Dist #12 - Ituau	321	595	452	447	331	550	559	345	558	356	495	422	331	580	584	320	562	339	574	331	548	376
	35%	65%	50%	50%	38%	62%	62%	38%	61%	39%	54%	46%	36%	64%	65%	35%	62%	38%	63%	37%	59%	41%
Dist #13 - Fofo	191	436	241	380	231	397	287	333	284	345	373	256	205	427	380	249	367	255	367	271	361	268
	30%	70%	39%	61%	37%	63%	46%	54%	45%	55%	59%	41%	32%	68%	60%	40%	59%	41%	58%	42%	57%	43%
Dist #14 - Alataua	123	188	126	184	128	185	144	166	137	176	169	141	122	195	136	144	180	132	170	142	171	143
	40%	60%	41%	59%	41%	59%	46%	54%	44%	56%	55%	45%	38%	62%	49%	51%	58%	42%	54%	46%	54%	46%
Dist #15 - Tualauta	437	836	486	784	481	794	782	473	634	641	758	496	457	802	862	435	797	485	809	469	752	505
	34%	66%	38%	62%	38%	62%	62%	38%	50%	50%	60%	40%	36%	64%	66%	34%	62%	38%	63%	37%	60%	40%
Dist #16 - Tualatai	140	267	165	243	159	246	192	218	190	225	241	174	140	270	236	122	242	164	235	179	233	179
	34%	66%	40%	60%	39%	61%	47%	53%	46%	54%	58%	42%	34%	66%	66%	34%	60%	40%	57%	43%	57%	43%
Dist #17 - Leasina	47	138	57	128	63	125	71	118	61	126	97	95	47	142	101	87	94	96	85	104	87	106
	25%	75%	31%	69%	34%	66%	38%	62%	33%	67%	51%	49%	25%	75%	54%	46%	49%	51%	45%	55%	45%	55%
<b>TOTAL</b>	<b>2300</b>	<b>4536</b>	<b>2,743</b>	<b>4,106</b>	<b>2,573</b>	<b>4,227</b>	<b>3,338</b>	<b>3,409</b>	<b>3,216</b>	<b>3,583</b>	<b>3,893</b>	<b>3,008</b>	<b>2,593</b>	<b>4,299</b>	<b>4,094</b>	<b>2,663</b>	<b>3,926</b>	<b>2,859</b>	<b>3,932</b>	<b>2,831</b>	<b>3,797</b>	<b>3,022</b>
	<b>34%</b>	<b>66%</b>	<b>40%</b>	<b>60%</b>	<b>38%</b>	<b>62%</b>	<b>49%</b>	<b>51%</b>	<b>47%</b>	<b>53%</b>	<b>56%</b>	<b>44%</b>	<b>38%</b>	<b>62%</b>	<b>61%</b>	<b>39%</b>	<b>58%</b>	<b>42%</b>	<b>58%</b>	<b>42%</b>	<b>56%</b>	<b>44%</b>

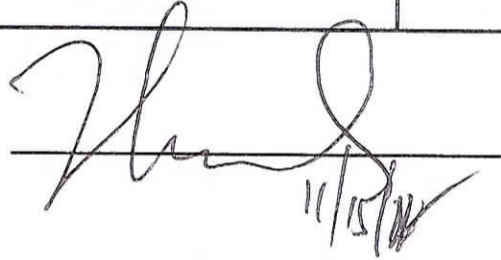
American Samoa Election Office  
2022 Midterm Election  
House of Representatives  
Official Results

District No. 1 - Manu'a		Votes	
CANDIDATE 1	<b>ALUMAMALU ALE FILOIALI'I</b>	299	<i>Elected</i>
CANDIDATE 2	<b>ELIJAH J. LEASAU</b>	112	
CANDIDATE 3	<b>FETUI FETU JR.</b>	230	<i>Elected</i>
CANDIDATE 4	<b>PAEPAETELE MAPU JAMIAS</b>	189	
District No. 2 - Manu'a			
CANDIDATE 1	<b>TIAOALI'I FAUAGIGA T. SAI</b>	205	<i>Elected</i>
CANDIDATE 2	<b>TILI TAVITA</b>	82	
District NO. 3 - Vaifanua			
CANDIDATE 1	<b>LAVEA FATULEGAE'E PALEPOI MAUGA</b>	122	
CANDIDATE 2	<b>SHAUN O. VA'A</b>	251	<i>Elected</i>
CANDIDATE 3	<b>TUAOMALOTUMUA LONENOA PHILIP FAOA</b>	91	
District NO. 4 - Saole			
CANDIDATE 1	<b>TITIALI'I KITARA VAIAU</b>	173	<i>Elected</i>
CANDIDATE 2	<b>VAASĀ ULUIVA SIMANU EdD</b>	70	
District NO. 5 - Sua # 1			
CANDIDATE 1	<b>LUAITAUA GENE PAN</b>	201	<i>Elected</i>
District NO. 6 - Sua # 2			
CANDIDATE 1	<b>AVAGAFONO, TUAVAO VAIMAGA MAIAVA</b>	166	<i>Elected</i>
District No. 7 Maoputasi # 1			
CANDIDATE 1	<b>VAILOATA ETEUATI AMITUANA'I</b>	167	<i>Elected</i>
District No. 8 - Maoputasi # 2			
CANDIDATE 1	<b>MALAEOLETALU MELESIO GURR</b>	226	<i>Elected</i>
CANDIDATE 2	<b>VAILIUAMA STEVE LEASIOLAGI</b>	149	
District No. 9 - Maoputasi # 3			
CANDIDATE 1	<b>VESIAI POYER SAMUELU</b>	376	<i>Elected</i>
District No. 10 - Maoputasi # 4			
CANDIDATE 1	<b>TAPAI ALAILEPULE BENJAMIN VAIVAO</b>	154	<i>Elected</i>
CANDIDATE 2	<b>TINA FAISIOTAMO'I VIVAO IOANE</b>	35	
District No. 11 - Maoputasi # 5			
CANDIDATE 1	<b>FAIMEALELEI ANTHONY FU'E ALLEN</b>	181	<i>Elected</i>
CANDIDATE 2	<b>MUAIAVAONA FOFOGA PILA</b>	107	
District No. 12 - Ituau			
CANDIDATE 1	<b>FA'AFEŌ LAGAFUAINA</b>	243	
CANDIDATE 2	<b>LOGOITUAU MARK T. ATAFUA</b>	451	
CANDIDATE 3	<b>MANUMAUUA WAYNE C. WILSON</b>	536	<i>Elected</i>
CANDIDATE 4	<b>SAUĀSETOA TAUTOLOITUA SOLIAI HO CHING</b>	590	<i>Elected</i>

American Samoa Election Office  
 2022 Midterm Election  
 House of Representatives  
 Official Results

	<b>District No. 13 Fofu</b>		
CANDIDATE 1	<b>ANDRA SAMOA</b>	274	
CANDIDATE 2	<b>FIU JOHN SAELUA</b>	397	<i>Elected</i>
	<b>District No. 14 - Alataua</b>		
CANDIDATE 1	<b>FATUMALALA LEULUA' I AL-SHEHRI</b>	34	
CANDIDATE 2	<b>SAVALI TALAVOU ALE</b>	295	<i>Elected</i>
	<b>District No. 15 - Tualauta</b>		
CANDIDATE 1	<b>BARTLEY SU'A PAPALI'I LUCIA</b>	146	
CANDIDATE 2	<b>FIATAGATA MALOĀ AMANI JOHNSON</b>	208	
CANDIDATE 3	<b>LARRY S. SANITOA</b>	791	<i>Elected</i>
CANDIDATE 4	<b>SAMUEL IOKA MELEISEA</b>	602	<i>Elected</i>
CANDIDATE 5	<b>TAUINAOLA JEREMIAH TATUPU</b>	473	
CANDIDATE 6	<b>VUI FLORENCE VAILI SAULO</b>	318	
	<b>District No. 16 - Tualautai</b>		
CANDIDATE 1	<b>MANAVAALOFA TUTUILA MANASE</b>	230	<i>Elected</i>
CANDIDATE 2	<b>MOIRA FATIMA MAIAVA</b>	210	
	<b>District No. 17 - Leasina</b>		
CANDIDATE 1	<b>APE MIKE ASIFOA</b>	197	<i>Elected</i>

Certified By:

  
 \_\_\_\_\_  
 11/15/22



**OFFICIAL REFERENDUM BALLOT – NOVEMBER 8, 2022 MIDTERM ELECTION**

**Instruction**

Place a mark X or √ inside the circle corresponding to the answer of your choice.

**Fa'atonuga**

Tusi se fa'ailoga X po'ov' i totonu o le pusa e feagai ma le tali ua e filifilia.

**DO YOU APPROVE THE FOLLOWING AMENDMENTS TO THE 1967 REVISED AMERICAN SAMOA CONSTITUTION?**

**E TE FAAMAONIA SUIGA NEI I LE FAAVAE TOE TEUTEU O AMERIKA SAMOA O LE 1967?**

<b>#1</b>	The Governor shall appoint the Chief Justice and Associate Justices subject to confirmation by the Legislature.	YES/IOE	<input type="radio"/>
	O le a filifilia e le Kovana le Faamasino Sili, ma Sui Faamasino Sili ae faamaonia e le Fono Faitulafono.	NO/LEAI	<input type="radio"/>
<b>#2</b>	The Secretary of Interior shall not have the power to change the decisions of the High Court of American Samoa.	YES/IOE	<input type="radio"/>
	O le a le toe iai se pule a le Failautusi o le Initeria e sui ai faai'uga a le Faamasinoga Mauuluga o Amerika Samoa.	NO/LEAI	<input type="radio"/>
<b>#3</b>	The Secretary of Interior shall not have the power to change the Legislature's override of the Governor's Veto.	YES/IOE	<input type="radio"/>
	O le a le toe iai se pule a le Failautusi o le Initeria e sui ai le faaleaogaina e le Fono le vito a le Kovana.	NO/LEAI	<input type="radio"/>
<b>#4</b>	This amendment shall add one (1) seat to Representative District–Ituau and, add one (1) seat to Representative District –Tualauta. The total number of Representatives would increase from 20 to 22.	YES/IOE	<input type="radio"/>
	O lenei suiga o le a faaopoopo ai le Faipule e tasi (1) i le Ituau ma se Faipule e tasi (1) i Ma'upu (Tualauta). O le a sui ai le aofa'i o Faipule mai le 20 i le 22.	NO/LEAI	<input type="radio"/>
<b>#5</b>	This amendment shall include “Malaeimi” in Representative District No. 12 – Ituau.”	YES/IOE	<input type="radio"/>
	O lenei suiga o le a aofia ai “Malaeimi” i le Itumalo Faafaipule o le Ituau.	NO/LEAI	<input type="radio"/>
<b>#6</b>	This amendment will give the delegate from Swains Island the right to vote in the House of Representatives.	YES/IOE	<input type="radio"/>
	O lenei suiga o le a tuuina atu ai i le Faipule o Swains le aia tatau e palota ai i le Maota o Sui.	NO/LEAI	<input type="radio"/>
<b>#7</b>	This amendment will restore five (5) Senators to Manu'a. The total number of Senators would increase from 18 to 20.	YES/IOE	<input type="radio"/>
	O lenei suiga o le a toe fa'aatoa ai le lima (5) o Senatoa o Manu'a. O le a sui ai le aofa'i o Senatoa mai le 18 i le 20.	NO/LEAI	<input type="radio"/>
<b>#8</b>	This amendment shall include an impeachment process of the Governor and Lt. Governor.	YES/IOE	<input type="radio"/>
	O lenei suiga e auiliili ai faagasologa e faatula'i ai le Kovana poo le Kovana Lutena.	NO/LEAI	<input type="radio"/>
<b>#9</b>	This amendment shall change the name “Government of American Samoa” to “American Samoa Government”.	YES/IOE	<input type="radio"/>
	O lenei suiga o le a suia ai le “Government of American Samoa” i le “American Samoa Government”.	NO/LEAI	<input type="radio"/>
<b>#10</b>	This amendment shall change “Ma'ūputasi” to “Ma'oputasi”.	YES/IOE	<input type="radio"/>
	O lenei suiga o le a suia ai le “Ma'ūputasi” i le “Ma'oputasi”.	NO/LEAI	<input type="radio"/>
<b>#11</b>	This amendment shall change “Leasina” to “Leasina ma Aitulagi”.	YES/IOE	<input type="radio"/>
	O lenei suiga o le a suia ai “Leasina” ia “Leasina ma Aitulagi”.	NO/LEAI	<input type="radio"/>

**Summary of Amendments Approved by the 2022 Constitutional Referendum**

## **1. SWAINS ISLAND VOTE**

This amendment would grant the delegate from Swains Island the right to vote in the House of Representatives. (Amending Article II, Section 2).

## **2. IMPEACHMENT**

This amendment provides an impeachment process of the Governor and Lt. Governor. (Adding Article II, Section 26).

## **3. AMERICAN SAMOA GOVERNMENT**

This amendment will insert “American Samoa Government” in place of “Government of American Samoa”.

(Amending Article I, Section 3; Article I, Section 11; Article I, Section 12, twice; Article II, Section 20; Article III, Section 2; Article IV, Section 7; Article IV Section 8; Article IV Section 11).

## **4. MA’OPUTASI**

This amendment changes “Ma’uputasi” to “Ma’oputasi”.  
(Amending Article II, Section 2, Article II, Section 4, and Article V, Section 10).

## **5. LEASINA MA AITULAGI**

This amendment adds “ma Aitulagi” to “Leasina” for the name “Leasina ma Aitulagi”.  
(Amending Article II, Section 2 and Article V, Section 10).

# Revised Constitution of American Samoa

## Article I

### Bill of Rights

#### Section

1. Freedom of religion, speech, press, rights of assembly and petition.
2. No deprivation of life, liberty or property without due process.
3. Policy protective legislation.
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**Preamble**

Whereas the Congress of the United States, in its Act of February 20, 1929, provided that until the Congress shall provide for the Government of the islands of American Samoa, all civil, judicial, and military powers shall be vested in such person or persons and exercised in such manner as the President of the United States shall direct; and

Whereas by Executive Order No. 10264 the President of the United States directed that the Secretary of the Interior should take such action as may be necessary and appropriate and in harmony with applicable law, for the administration of civil government in American Samoa; and

Whereas it is appropriate that, in the process of developing self-government, the people of American Samoa should enjoy certain rights and responsibilities inherent in the representative form of government; and

Whereas it is desirable that these rights and responsibilities be clearly set forth in a Constitution, and the adoption of a Constitution is in harmony with applicable law; and

Whereas the Constitution adopted in 1960 provided for a revision thereof:

Now, therefore, the 1967 Revised Constitution of American Samoa and amendments adopted subsequently including amendments approved by the 2022 Constitutional Convention of the people of American Samoa and voters at the 2022 general election, and reviewed by the Secretary of Interior and ratified and approved by Congress in its Act of \_\_\_\_\_, are ~~this revised Constitution,~~

~~having been ratified and approved by the Secretary of the Interior and having been approved by a Constitutional Convention of the people of American Samoa and a majority of the voters of American Samoa voting at the 1966 election, is established to further advance government of the people, by the people, and for the people of American Samoa.~~

## **Article I Bill of Rights**

### **Section 1. Freedom of religion, speech, press, rights of assembly and petition.**

There shall be separation of church and government, and no law shall be enacted respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

### **Section 2. No deprivation of life, liberty or property without due process.**

No person shall be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use without just compensation.

### **Section 3. Policy protective legislation.**

It shall be the policy of the ~~Government of~~ American Samoa Government to protect persons of Samoan ancestry against alienation of their lands and the destruction of the Samoan way of life and language, contrary to their best interests. Such legislation as may be necessary may be enacted to protect the lands, customs, culture, and traditional Samoan family organization of persons of Samoan ancestry, and to encourage business enterprises by such persons. No change in the law respecting the alienation or transfer of land or any interest therein shall be effective unless the same be approved by two successive legislatures by a two-thirds vote of the entire membership of each house and by the Governor.

### **Section 4. Dignity of the individual.**

The dignity of the individual shall be respected and every person is entitled to protection of the law against malicious and unjustifiable public attacks on the name, reputation, or honor of himself or of his family.

### **Section 5. Protection against unreasonable searches and seizures.**

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. Evidence obtained in violation of this section shall not be admitted in any court.

**Section 6. Rights of an accused.**

No person shall be subject for the same offense to be twice put in jeopardy of life or liberty; nor shall he be compelled in any criminal case to be a witness against himself; and the failure of the accused to testify shall not be commented upon nor taken against him. In all criminal prosecutions, the accused shall have the right to a speedy and public trial, to be informed of the nature and the cause of the accusation and to have a copy thereof; to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence. Every man is presumed innocent until he is pronounced guilty by law, and no act of severity which is not reasonably necessary to secure the arrest of an accused person shall be permitted. All persons shall be bailable by sufficient sureties except where the judicial authorities shall determine that the presumption is great that an infamous crime, which term shall include murder and rape, has been committed and that the granting of bail would constitute a danger to the community. Bail shall be set by such judicial authorities. Excessive bail shall not be required, nor excessive fines imposed nor cruel or unusual punishments inflicted.

**Section 7. Habeas corpus.**

The writ of habeas corpus shall be granted without delay and free of costs. The privilege of the writ of habeas corpus shall not be suspended except by the Governor and then only when the public safety requires it in case of war, rebellion, insurrection or invasion.

**Section 8. Quartering of militia.**

No soldier or member of the militia shall, in time of peace, be quartered in any house without the consent of the owner or the lawful occupant, nor in time of war, except in a manner prescribed by law. The military authority shall always be subordinate to the civil authority in time of peace.

**Section 9. Imprisonment for debt.**

There shall be no imprisonment for debt except in cases of fraud.

**Section 10. Slavery prohibited.**

Neither slavery, nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist in American Samoa.

**Section 11. Treason.**

Treason against the Government of American Samoa Government shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or a confession in open court.



**Section 12. Subversives ineligible to hold public office.**

No person who advocates, or who aids or belongs to any party, organization, or association which advocates the overthrow by force or violence of the ~~Government of~~ American Samoa Government or of the United States shall be qualified to hold any public office of trust or profit under the ~~Government of~~ American Samoa Government.

**Section 13. Retroactive laws and bills of attainder.**

No bill of attainder, ex post facto law nor any law impairing the obligation of contracts shall be passed.

**Section 14. Health, safety, morals and general welfare.**

Laws may be enacted for the protection of the health, safety, morals and general welfare, of the people of American Samoa.

**Section 15. Education.**

The Government shall operate a system of free and non-sectarian public education. The government will also encourage qualified persons of good character to acquire further education, locally and abroad, both general and technical, and thereafter to return to American Samoa to the end that the people thereof may be benefited.

**Section 16. Unspecified rights and privileges and immunities.**

The enumeration of certain rights in this Constitution shall not be construed to impair or deny other rights retained by the people. No law shall be made or enforced which shall abridge the privileges or immunities of the citizens of American Samoa.

## **Article II The Legislature**

### **Section I. Legislature.**

There shall be a Legislature which shall consist of a Senate and House of Representatives. The Legislature shall have authority to pass legislation with respect to subjects of local application, except that:

1. No such legislation may be inconsistent with, this Constitution or the laws of the United States applicable in American Samoa;
2. No such legislation may conflict with treaties or international agreements of the United States;
3. Money bills enacted by the Legislature of American Samoa shall not provide for the appropriation of funds in excess of such amounts as are available from revenues raised pursuant to the tax laws and other revenue laws of American Samoa. Prior to his final submission to the Secretary of the Interior of requests for Federal funds necessary for the support of governmental functions in American Samoa, the Governor shall prepare a preliminary budget plan. He shall submit such plan to the Legislature in joint session for its review and approval with respect to such portions as relate to expenditures of funds proposed to be appropriated by the Congress of the United States. Amended 1971, S.J.R. No.4, effective March 19, 1971.
4. Legislation involving the expenditure of funds other than as budgeted shall include revenue measures to provide the needed funds.

### **Section 2. Membership.**

The Senate shall consist of eighteen members, three from the Manu'a District, six from the Western District, and nine from the Eastern District.

The House of Representatives shall consist of twenty members elected from the following representative districts, the number of representatives from each of the districts to be as indicated:

Representative District No. 1

Composed of Ta'u, Fitiuta and Faleasao: 2 Representatives

Representative District No. 2

Composed of Ofu, Olosega and Sili: 1 Representative

Representative District No. 3

Vaifanua — Composed of the Villages of Alao, Aoa, Onenoa, Tula and Vatia: 1 Representative

Representative District No. 4

Saole — Composed of the Villages of Aunuu, Amouli, Utumea and Alofau: 1 Representative

Representative District No. 5

Sua No. 1 — Composed of the Villages of Fagaitua, Amaua, Auto, Avaio, Alega, Aumi and Lau'ii: 1 Representative

Representative District No. 6

Sua No. 2 — Composed of the Villages of Sailele, Masausi, Masefau and Afono: 1 Representative

Representative District No. 7

Ma'uputasi Ma'oputasi No. 1 — Composed of the Villages of Fatumafuti, Fagaalu and Utulei: 1 Representative

Representative District No. 8

Ma'uputasi Ma'oputasi No. 2 — Composed of the Village of Fagatogo: 1 Representative

Representative District No. 9

Ma'uputasi Ma'oputasi No. 3 — Composed of the Village of Pago Pago: 1 Representative

Representative District No. 10

Ma'uputasi Ma'oputasi No. 4 — Composed of the Villages of Satala, Atuu and Leloaloa: 1 Representative

Representative District No. 11

Ma'uputasi Ma'oputasi No. 5 — composed of the Village of Aua: 1 Representative

Representative District No. 12

Ituau — composed of the Villages of Nu'uuli, Fagasa, Matuu, Faganeanea: 2 Representatives

Representative District No. 13

Fofu — composed of the Villages of Leone and Auma: 1 Representative

Representative District No. 14

Lealataua — composed of the Villages of Fagamalo, Fagalii, Poloa, Amanave, Failolo, Agagulu Seetaga, Nua, Atauloma, Afao, Amaluia and Asili: 1 Representative

Representative District No. 15

Ma'upu — composed of the Villages of Tafuna, Mesepa; Faleniu, Mapusaga Fou, Pavaiai, Iliili and Vaitogi: 2 Representatives

Representative District No. 16

Tualatai- composed of the Villages of Futiga, Ituau (Malaeloa), Taputimu and Vailoatai: 1 Representative

Representative District No. 17

Leasina ma Aitulagi — composed of the Villages of Aitulagi (Malaeloa), Aoloau and Asu: 1 Representative

Senators and representatives shall be reapportioned by law at intervals of not less than 5 years. The adult permanent residents of Swains Island who are United States nationals may elect at an open meeting a delegate to the House of Representatives who shall have all the privileges of a member of the House ~~except the right to vote.~~

### **Section 3. Qualifications of members.**

A Senator shall;

1. be a United States National;
2. be at least 30 years of age at the time of his election;
3. have lived in American Samoa at least 5 years and have been a bona fide resident thereof for at least 1 year next preceding his election; and
4. be the registered matai of a Samoan family who fulfills his obligations as required by Samoan custom in the county from which he is elected.

A Representative shall;

1. be a United States National;
2. be at least 25 years of age at the time of his election; and
3. have lived in American Samoa for a total of at least 5 years and have been a bona fide resident of the representative district from which he is elected for at least 1 year next preceding his election.

A delegate from Swains Island shall have the qualifications of a Representative except that in lieu of residence in a representative district, he shall have been a bona fide resident of Swains Island for at least one year next preceding his election.

No person who shall have been expelled from the Legislature for giving or receiving a bribe or being an accessory thereto, and no person who shall have been convicted of a felony under the laws of American Samoa, the United States, or the laws of any state of the United States, shall sit in the Legislature, unless the person so convicted shall have been pardoned and have had his civil rights restored to him.

No employee or public officer of the Government shall be eligible to serve in the Legislature while holding such position. The prohibition contained herein shall become effective on July 1, 1971. Amended 1971, S.J.R. No.3, approved by Secretary of the Interior, March 19, 1971.

#### **Section 4. Manner of Election.**

Senators shall be elected in accordance with Samoan custom by the county councils of the counties they are to represent, the number of senators from a county or counties to be as indicated: Fitiuta, Faleasao, and Ta'u, two one senators; Olosega and Ofu, one senator; Saole, one senator; Vaifanua, one senator; Sua, two senators; ~~Ma'uputasi~~ Ma'oputasi, three senators; Ituau, two senators; Ma'upu, two senators; Leasina ma Aitulagi, one senator; Tualatai, one senator; Fofu, one senator; and Lealataua, one senator. The decisions of the members of the county councils of the counties concerned shall be certified by the county chiefs of such counties.

Representatives shall be chosen by secret ballot of the qualified electors of their respective representative districts.

#### **Section 5. Elections.**

Elections shall be held biennially in each even numbered year beginning on the first Tuesday following the first Monday in November and ending not later than 4 weeks thereafter.

#### **Section 6. Term of office.**

Each senator shall hold office for a term of four years. Representatives including any delegates from Swains Island shall each hold office for a term of two years. The terms of all members of the Legislature including any delegate from Swains Island shall commence at noon on the third day of January following their election, except as otherwise provided.

#### **Section 7. Qualifications of electors.**

Every person of the age of 18 years or upwards who is a United States national and who has lived in American Samoa for a total of at least two years and has been a bona fide resident of the election district where he offers to vote for at least one year next preceding the election and who meets such registration requirements as may be prescribed by law shall be deemed a qualified elector at such election. No person under guardianship, non compos mentis, or insane shall be qualified to vote at any election; nor shall any person who has been convicted of a felony be qualified to vote at any election unless he has had his civil rights previously restored to him or unless he has maintained good behavior for 2 years following the date of his conviction or his release from prison whichever is the later.

### **Section 8. Legislative sessions.**

There shall be two regular sessions of the Legislature held each year, each session to last 45 days, the first session to begin on the second Monday in January each year and the second session to begin on the second Monday in July of each year. The Legislature may meet in special session at the call of the Governor who shall set the time for the beginning of such session and the number of days it may last. Amended H.J.R. No. 1, adopted Feb. 18, 1977, approved by voters Nov. 7, 1978, approved by Sec. of Int. Mar. 1, 1979; amended 1971 S.J.R. No. 3, effective March 19, 1971.

### **Section 9. Enactment of law; vetoes.**

The enacting clause of all bills shall be: "Be it enacted by the Legislature of American Samoa," and no law shall be enacted except by bill. Bills may originate in either House, and may be amended or rejected by the other. The Governor may submit proposed legislation to the Legislature for consideration by it. He may designate any such proposed legislation is urgent, if he so considers it.

Every bill, having passed both Houses, shall be signed by the President of the Senate and the Speaker of the House, and shall, before it becomes a law, be presented to the Governor for his approval. If he approves it, he shall sign it and it shall become a law, and he shall deposit it in the office of the Secretary of American Samoa. But if it be not approved by him, he shall return it with his objections to the House in which it originated which shall enter the same in their journal: Any bill not returned by the Governor within 10 days (Sundays excepted) after having been presented to him, shall become a law, whether signed by him or not, unless the Legislature by adjournment prevent such return, in which case it shall not become a law unless the Governor, within 30 days after adjournment shall sign it, in which case it shall become a law in like manner as if it had been signed by him before adjournment; and the Governor shall deposit it in the office of the Secretary of American Samoa.

Not later than 14 months after a bill has been vetoed by the Governor, it may be passed over his veto by a two-thirds majority of the entire membership of each House at any session of the Legislature, regular or special. A bill so repassed shall be represented to the Governor for his approval. If he does not approve it within 15 days, he shall send it together with his comment thereon to the Secretary of the Interior. If the Secretary of the Interior approves it within 90 days after its receipt by him, it shall become a law; otherwise it shall not.

If a bill presented to the Governor should contain several items of appropriation of money, he may object to one or more of such items, or any part or parts thereof, portion or portions thereof, while approving the other items, parts, or portions of the bill. In such a case he shall append to the bill, at the time of signing it, a statement of the items, or parts or portions thereof, to which he objects and the items, or parts or portions thereof, so objected to shall not take effect. As used in this paragraph, the terms "items", "part", "portion" and "portions" shall include a proviso or provisos, a directive, a limitation, or other extraneous substantive legislation included in an appropriations bill or appended to any item of appropriation in such an appropriations bill.

Furthermore, nothing in this section shall be deemed to permit any change in the law respecting the alienation or transfer of land or any interest therein to be effective unless such change shall have been approved by two successive Legislatures by a two-thirds vote of the entire membership of each House and by the Governor as provided in Section 3 of Article I.

**Section 10. Passage of bills.**

A majority of all the members of each House, voting in the affirmative, shall be necessary to pass any bill or joint resolution.

**Section 11. Powers of each house.**

Each house shall keep a journal of its proceedings and publish the same, determine its rules of procedure, punish members for disorderly behavior, and, with the consent of two-thirds of its entire membership, may expel a member, but not a second time for the same offense. Each House shall sit upon its own adjournments, but neither House shall, without the concurrence of the other, adjourn for more than 3 days, nor to any other place than that in which it may be sitting.

**Section 12. Freedom from arrest.**

Senators and representatives and any delegate from Swains Island in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during a session (including a special joint session) of the Legislature, and in going to and returning from the same. No member of the Legislature shall be held to answer before any tribunal other than the Legislature itself for any speech or debate in the Legislature.

**Section 13. Vacancies.**

When vacancies occur in either House, the Governor or the person exercising the functions of Governor shall issue writs of election to fill such vacancies except that if any such vacancy shall occur within three months of the next regular election, no special election shall be held and the Governor shall appoint a qualified person to fill such vacancy. Prior to appointing such person, the Governor shall in the case of a representative consult with the county chief or county chiefs in the representative district concerned; and in the case of a senator, with the District Governor and county chiefs in the district concerned. A person elected to fill a vacancy or appointed by the Governor to fill a vacancy shall hold office during the remainder of the term of his predecessor.

**Section 14. Public sessions.**

The business of each House, and of the Committee of the Whole, shall be transacted openly and not in secret session.

**Section 15. Reading — Passage of bills.**

No bill shall be passed until copies of the same with amendments thereto shall have been made available for the use of the members; nor shall a bill become a law unless the same shall have been read on two separate days in each House previous to the day of the final vote thereon. On final passage of all bills, they shall be read at length, section by section, and the votes shall be by yeas and nays upon each bill separately, and shall be entered upon the journal. The provisions of this section respecting the reading of bills shall be subject to the exception that a bill which has been vetoed by the Governor and reintroduced for passage over the Governor's veto need only be read on the day of the final vote thereon.

**Section 16. Title.**

Every legislative act shall embrace but one subject and matters properly connected therewith, which shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such an act shall be void only as to so much thereof as shall not be expressed in the title.

**Section 17. Amendments and revisions by reference.**

No law shall be amended or revised by reference to its title only; but in such case the act, as revised, or section or subsection as amended, shall be reenacted and published at full length.

**Section 18. Appointment to new offices.**

No member of the Legislature shall, during the term for which he was elected and for one year thereafter, be appointed to any office which shall have been created or the salary of which shall have been increased by the Legislature during such term.

**Section 19. Effective date of laws.**

An act of the Legislature required to be approved and approved by the Governor only shall take effect no-sooner than 60 days from the end of the session at which the same shall have been passed while an act required to be approved by the Secretary of the Interior only after its veto by the Governor and so approved shall take effect no sooner than 40 days after its return to the Governor by the Secretary of the Interior. The foregoing is subject to the exception that in case of an emergency the act may take effect at an earlier date stated in the act provided that the emergency be declared in the preamble and in the body of the act.

**Section 20. Legislative counsel.**

A legislative counsel, who shall be learned in the law, shall be appointed by the President of the Senate and the Speaker of the House, to advise and assist the Legislature. The position of legislative counsel shall be a fulltime position and compensation for the counsel shall be budgeted by the Legislature at a grade level equivalent to that of Deputy Attorney General of the Government of American Samoa Government. The legislative counsel shall also be the director



of the Legislative Reference Bureau. Amended H.J.R. No. 3, Feb. 18, 1977, approved by voters Nov. 7, 1978, approved by Sec. of Int. Mar. 1, 1979.

**Section 21. Quorum.**

A majority of each House shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and may compel the attendance of absent members in such manner as each House may provide.

**Section 22. Qualifications and officers.**

Each House of the Legislature shall be the judge of the elections, returns, and qualifications of its own members and shall ~~ehuse~~ choose its officers.

**Section 23. Adjourning legislature.**

In case of disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper, but no such adjournment shall be beyond the time fixed for the next regular session of the Legislature.

**Section 24. Special or exclusive privileges not to be granted; local or special laws.**

The power of the Government to act for the general welfare of the people of American Samoa shall never be impaired by the making of any irrevocable grant of special or exclusive privileges or immunities. Corporations may be formed under general laws but shall not be created by special act except for municipal, governmental, or quasigovernmental purposes in cases where the objects of the corporation cannot be attained under general laws. All general laws or special acts passed pursuant to this section may be amended or repealed. The Legislature shall pass no local or special act if a general act can be made applicable.

**Section 25. Compensation of the legislature.**

The compensation of the members of the Legislature is provided by law. — Amended 1977. H.J.R. No. 6. eff., April 8, 1977.

**Section 26. Impeachment**

(a) The Governor and Lieutenant Governor are subject to impeachment and, upon conviction, shall be removed from office.

(b) The Legislature shall provide for the manner, procedure, and causes for impeachment including for conviction of felonies and for a course of conduct amounting to a gross abuse of power, as defined by law.

(c) The House of Representatives has the sole power to bring articles of impeachment upon a vote of at least 2/3 of the entire membership. The Senate has the sole power to try

impeachment, with the Chief Justice presiding, and, may not convict unless at least 2/3 of the entire membership concur. The members when sitting for that purpose shall be on oath or affirmation.

(d) Conviction shall extend only to removal from office and disqualification to hold and enjoy any office of trust, honor, or profit under the Territory. The party, whether convicted or acquitted, is also liable to other prosecution under the law.

## **Article III**

### **Judicial Branch**

#### **Section 1. Judicial power.**

The judicial power shall be vested in the High Court, the District Courts, and such other courts as may from time to time be created by law.

#### **Section 2. Independence of the courts.**

The judicial branch of the Government of American Samoa shall be independent of the executive and legislative branches.

#### **Section 3. Appointments.**

The Secretary of Interior shall appoint a Chief Justice of American Samoa and such Associate Justices as he may deem necessary.

**Article IV**  
**Executive Branch**

**Section 1.**

Superseded by U.S. Dept. of the Int. Secretary's Order No. 3009, §§ 2 and 4, Sept. 13, 1977, eff. Sept. 13, 1977, as amended in § 2 by U.S. Dept. of the Int. Secretary's Order No. 3009, Amendment No. 1, Nov. 3, 1977, eff. Nov. 3, 1977.

**Section 2. Governor and lieutenant governor.**

The Governor and the Lieutenant Governor of American Samoa shall, commencing with the first Tuesday following the first Monday of November 1977, be popularly elected and serve in accordance with the laws of American Samoa.

Amended 1977, U.S. Dept. of the Int. Secretary's Order No. 3009, §§ 2, 4, Sept. 13, 1977, as amended by U.S. Dept. of the Int. Secretary's Order No. 3009, Amendment No. 1, Nov. 3, 1977, eff. Nov. 3, 1977.

**Section 3. Secretary.**

The Secretary of American Samoa, who may be referred to as Lieutenant Governor of American Samoa, shall have all the powers and duties of the Governor in the case of a vacancy in the office of Governor or the disability or temporary absence of the Governor. He shall record and preserve the laws and executive orders, and transmit copies thereof to the Secretary of the Interior. He shall have and perform such other duties as may be prescribed by law or assigned to him by the Governor.

**Section 4. Secretary of Samoan Affairs.**

The Secretary of Samoan Affairs shall be appointed by the Governor from among the leading registered matais. He shall hold office during the pleasure of the Governor. The Secretary of Samoan Affairs shall be the head of the Department of Local Government. In conjunction with the District Governors he shall co-ordinate the administration of the district, county, and village affairs as provided by law and also in conjunction with the District Governors he shall supervise all ceremonial functions as provided by law.

**Section 5. Militia and posse comitatus.**

The Governor may summon the posse comitatus or call out the militia to prevent or suppress violence, invasion, insurrection, or rebellion.

**Section 6. Executive regulations.**

The Governor shall have the power to issue executive regulations not in conflict with laws of the United States applicable to American Samoa, laws of American Samoa, or with this Constitution.

**Section 7. Supervision and control by Governor.**

The Governor shall have general supervision and control of all executive departments, agencies and instrumentalities of the Government of American Samoa Government.

**Section 8. Annual report.**

The Governor shall make an official report of the transactions of the Government of American Samoa Government to the Secretary of the Interior and the Legislature within three months after the close of each fiscal year.

**Section 9. Pardoning power.**

The Governor shall have the power to remit fines and forfeitures, commute sentences, and grant reprieves and pardons after conviction for offenses against the laws of American Samoa.

**Section 10. Recommendation of laws.**

The Governor shall give the Legislature information on the state of the Government and recommend for its consideration such measures as he may deem necessary and expedient. He may attend or depute another person to represent him at the meetings of the Legislature, and may give expression to his views on any matter before that body.

**Section 11. Appointment of officials.**

With the exception of elective officials, those appointed by the Secretary of the Interior, and those whose appointments are otherwise provided for, the officials of the Government of American Samoa Government including district, county, and village officials shall be appointed by the Governor. Prior to appointing a district governor, a county chief, or a pulenuu, the Governor through the Secretary of Samoan Affairs shall request the recommendation of the appropriate district council as to who shall be appointed in the case of a district governor; of the appropriate county council and district governor, in the case of a county chief; and of the appropriate village council, district governor and county chief, in the case of a pulenuu. The Secretary of Samoan Affairs may also make his own recommendations to the Governor,

**Section 12. Removal of officers; powers and duties of officers.**

The Governor may appoint or remove any officer whose appointment is not otherwise provided for. All officers shall have such powers and duties as may be conferred or imposed upon them by law or by executive regulation of the Governor not inconsistent with any law.

### **Section 13. Publication of laws.**

The Governor shall make provision for publishing laws within 55 days after the close of each session of the Legislature and for their distribution to public officials and sale to the public.

## **Article V Miscellaneous**

### **Section 1. Officers.**

For the public convenience and to insure continuity in the operation of the Government all officers of American Samoa, including district, county, and village officers, shall, subject to the right of resignation or removal as may be provided by law, continue to hold their respective offices until the expiration of the time for which they were respectively elected or appointed, except that senators elected at the general election in 1966 shall go out of office at noon on January 3, 1969.

Regardless of any other provision or provisions in this Constitution the House of Representatives shall, prior to noon, January 3, 1969, consist only of those members elected at the general election in 1966 while the Senate prior to noon January 3, 1969, shall consist only of the hold-over senators plus those elected at the general election in 1966. Also regardless of any other provision or provisions in this Constitution any vacancies occurring in either House prior to January 3, 1969 may be filled as provided in Article II, Section 13 of the Constitution which became effective on October 17, 1960.

### **Section 2. Existing laws.**

All laws of American Samoa not inconsistent with this Constitution shall continue in force until they expire by their own limitation, or are altered or repealed by competent authority.

### **Section 3. Amendments**

Any amendment to this Constitution may be proposed in either House of the Legislature, and if the same be agreed to by three-fifths of all members of each House, voting separately, such proposed amendment shall be entered on the journals, with the yeas and nays taken thereon. The Governor shall then be requested to submit such proposed amendment to the voters eligible to vote for members of the House of Representatives at the next general election. If a majority of such voters voting approve such amendment, the Governor shall, within 30 days after such approval shall have been officially determined submit the same to the Secretary of the Interior for approval or disapproval within 4 months after its receipt.

### **Section 4. Revision of the constitution.**

In view of the changing conditions in American Samoa, the Governor shall appoint a new Constitutional Committee five years after the effective date of this Constitution to prepare amendments or a revised draft constitution to be submitted to the Governor who shall call a constitutional convention to consider the same. The delegates to the convention shall be selected by their respective county councils. The number of delegates from each county shall be the number

obtained by dividing the population of the county, as shown by the last preceding Federal census, by 400, any fraction in the quotient obtained to be disregarded if such fraction shall be less than one-half and if such fraction shall be one-half or more it shall be considered to be one unit, provided that each county shall have at least one delegate, and provided further that Swains Island shall have one delegate selected in open meeting by the adult permanent residents of the island who are United States nationals. If the convention approves such amendments or draft constitution either with changes made therein by the convention or without changes, the same as approved shall be submitted by the Governor to the voters eligible to vote for members of the House of Representatives at the next general election; and if a majority of the voters voting approve the amendments or proposed revised constitution, the Governor shall submit the same to the Secretary of the Interior for his approval, and if he approves the same, then the amendments shall become part of the Constitution or the proposed revised constitution shall replace this constitution, as the case may be. Salaries of employees of the Convention and per diem for delegates shall be provided by law. The Government shall furnish the Convention with necessary supplies and other necessary services.

#### **Section 5. Existing rights and liabilities.**

Except as otherwise provided in this Constitution all existing actions, writs, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, decrees, sentences, orders, appeals, causes of action, contracts, claims, demands, titles, and rights shall continue unaffected notwithstanding the taking effect of this Constitution.

#### **Section 6. Oaths.**

All officers of American Samoa including district, county, and village officers, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath: “I, \_\_\_\_\_, of \_\_\_\_\_ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, and that I will well and faithfully uphold the laws of the United States applicable to American Samoa, and the Constitution and laws of American Samoa. “So help me God.”

#### **Section 7. Construction.**

In this Constitution titles shall not be used for the purposes of construction and wherever any personal pronoun appears it shall be construed to mean either sex; also in this Constitution a special or particular provision shall control a general provision should there be any inconsistency between a special or particular provision and a general provision.

#### **Section 8. Provisions self-executing.**

The provisions of this Constitution shall be self-executing to the fullest extent that their respective natures permit.

**Section 9. Seat of government.**

The seat of Government shall be at Fagatogo.

**Section 10. Political districts and counties.**

It is hereby recognized that there are three political districts in American Samoa, viz. Manu'a, composed of the political counties of Ta'u, Faleasao, Fitiuta, Olosega and Ofu; Eastern, composed of the political counties of Sua, Vaifanua, Saole, Ituau and Ma'uputasi Ma'oputasi; and Western, composed of the political counties of Fofu, Leasina ma Aitulagi, Tualatai, Lealataua and Ma'upu.

**Section 11. Effective date.**

Amendments or revisions to the 1967 Revised Constitution of American Samoa were approved by the Constitutional Convention held --- blank -- and voters in a general election on -- blank --- and submitted to the Secretary of Interior and President of the United States for their review and submission of amendments to Congress for approval. Congress in its Act of --- blank --- approved amendments to the 1967 Revised Constitution of American Samoa. The Revised Constitution of American Samoa shall be effective on --- blank ---.

~~This Constitution ratified and approved on June 2, 1967, by the Secretary of the Interior, action pursuant to the authority vested in him by Executive Order No. 10264, dated June 29, 1951, of the President of the United States, and approved by the Constitutional Convention of the people of American Samoa at its meeting in Fagatogo, American Samoa begun on September 26, 1966, and by a majority of the voters of American Samoa voting in the general election in 1966, shall become effective on July 1, 1967.~~

Stewart L. Udall  
Secretary of the Interior

~~We the undersigned, being the duly appointed Delegates to the 2022 Constitutional Convention, do hereby certify that the above and foregoing document was approved by us in Convention, assembled as the revised Constitution of American Samoa.~~

We the undersigned, being the duly selected Delegates to the 2022 Constitutional Convention, do hereby certify that the above and foregoing document was approved by us in the 2022 Constitutional Convention.







2022 Constitutional Convention  
American Samoa Government  
Pago Pago, American Samoa 96799  
(684) 633 4121 | (684) 633 6226



TUAOLO MANAIA E. FRUEAN  
CHAIRMAN

**FAPIVAE IULI ALEXANDER GODINET**  
VICE CHAIRMAN

**TI'ALEMASUNU DR. MIKAELE ETUALE**  
SECRETARY

**TAPA'AU DR. DANIEL AGA**  
EXECUTIVE DIRECTOR

September 7, 2022

Honorable L. P. S. Mauga  
Governor  
American Samoa Government  
Pago Pago, American Samoa 96799

Dear Governor Lemanu,

The Constitutional Convention of 2022 has completed the mandates outlined in Executive Order 001-2022, Executive Order 006-2022, and Executive Order 007-2022 for the purpose of amending or revising the 1967 Revised Constitution of American Samoa.

The amendments approved by the 2022 Constitutional Convention are marked in the text of the Revised Constitution of American Samoa that follows.

I believe that these amendments will help develop local government and respond to changing conditions in American Samoa.

Sincerely,

TUAOLO MANAIA E. FRUEAN  
Chairman  
2022 Constitutional Convention

Appendices

Executive Order 001-2022  
Executive Order 006-2022  
Executive Order 007-2022



**TUAOLO MANAIA E. FRUEAN**  
CHAIRMAN

**FA'IVAE IULI ALEXANDER GODINET**  
VICE CHAIRMAN

**Fono o le Faavae 2022**  
Malo o Amerika Samoa  
Pago Pago, Amerika Samoa 96799  
(684) 633 4121 | (684) 633 6226



**TI'ALEMASUNU DR. MIKAELE ETUALE**  
SECRETARY

**TAPA'AU DR. DANIEL AGA**  
EXECUTIVE DIRECTOR

Setema 7, 2022

Afioga Lemanu P.S. Mauga  
Kovana  
Malo o Amerika Samoa  
Pago Pago, Amerika Samoa 96799

Lau Afioga e Kovana Lemanu,

Ua mae'a nei ona faataunuaina e le Fono o le Faavae o le 2022 le galuega e tusa ma le poloa'iga na auiliiliina i le Poloa'iga Faaletulafono 001-2022, Poloa'iga Faaletulafono 006-2022, ma le Poloa'iga Faaletulafono 007-2022 e suia pe toe teuteu ai le Faavae Toe Teuteuina o Amerika Samoa 1967.

O suiga na faamaonia e le Fono o le Faavae 2022 o loo faailoga atu i le tusitusiga o le Faavae Toe Teuteuina o Amerika Samoa o loo tuuina atu iinei.

Ou te talitonu o le a fesoasoani nei suiga i le atiina'e o lo tatou malo faalotoifale ma tali atu i le suiga i Amerika Samoa.

Faamaoni lava,

**TUAOLO MANAIA E. FRUEAN**  
Ta'ita'ifono  
Fono o le Faavae 2022

Faapipii:  
Poloaiga a le Kovana 001-2022  
Poloaiga a le Kovana 006-2022  
Poloaiga a le Kovana 007-2022

# Summary of Amendments to the Revised Constitution of American Samoa Approved by the 2022 Constitutional Convention

## 1. THE CHIEF JUSTICE

This amendment removes the authority of the Secretary of Interior to appoint the Chief Justice of American Samoa and any Associate Justices.

Instead, the decision will be left to the Governor of American Samoa subject to confirmation by the Legislature. If approved, the Chief Justice and Associate Justices shall hold their offices during good behavior until resignation, retirement, death, or impeachment. (Amending Article III, Section 3).

## 2. THE SECRETARY OF INTERIOR

This amendment removes the authority of the Secretary to review or overturn a decision of the American Samoa High Court. (Adding Article III, Section 4).

## 3. THE VETO OVERRIDE

This amendment removes the authority of the Secretary of Interior to approve or disapprove a bill passed by the Legislature over the Governor's veto. (Amending Article II, Section 9 and Section 11).

## 4. HOUSE REAPPORTIOMENT

This amendment adds one (1) seat to Representative District No. 12 – Ituau and, adds one (1) seat to Representative District No. 15 - Ma'upu. If approved, the total number of seats in the House would increase from 20 to 22. (Amending Article II, Section 2).

## 5. MALAEIMI

This amendment adds the village of “Malaeimi” to Representative District No. 12 – Ituau. (Amending Article II, Section 2).

## **6. SWAINS ISLAND VOTE**

This amendment would grant the delegate from Swains Island the right to vote in the House of Representatives. (Amending Article II, Section 2).

## **7. MANU'A SENATORS**

This amendment increases the membership of the Manu'a District in the Senate from three (3) to five (5) members. (Amending Article II, Sections 2).

Each of the five counties of Manu'a would have one Senator. (Amending Article II, Section 4).

## **8. IMPEACHMENT**

This amendment provides an impeachment process of the Governor and Lt. Governor. (Adding Article II, Section 26).

## **9. AMERICAN SAMOA GOVERNMENT**

This amendment will insert "American Samoa Government" in place of "Government of American Samoa".

(Amending Article I, Section 3; Article I, Section 11; Article I, Section 12, twice; Article II, Section 20; Article III, Section 2; Article IV, Section 7; Article IV Section 8; Article IV Section 11).

## **10. MA'OPUTASI**

This amendment changes "Ma'uputasi" to "Ma'oputasi".  
(Amending Article II, Section 2, Article II, Section 4, and Article V, Section 10).

## **11. LEASINA MA AITULAGI**

This amendment adds "ma Aitulagi" to "Leasina" for the name "Leasina ma Aitulagi".  
(Amending Article II, Section 2 and Article V, Section 10).

# Revised Constitution of American Samoa

## Article I

### Bill of Rights

#### Section

1. Freedom of religion, speech, press, rights of assembly and petition.
2. No deprivation of life, liberty or property without due process.
3. Policy protective legislation.
4. Dignity of the individual.
5. Protection against unreasonable searches and seizures.
6. Rights of an accused.
7. Habeas corpus.
8. Quartering of militia.
9. Imprisonment for debt.
10. Slavery prohibited.
11. Treason.
12. Subversives ineligible to hold public office.
13. Retroactive laws and bills of attainder.
14. Health, safety, morals and general welfare.
15. Education.
16. Unspecified rights and privileges and immunities.

## Article II

### The Legislature

1. Legislature.
2. Membership.
3. Qualification of members.
4. Manner of election.
5. Elections.
6. Term of office
7. Qualifications of electors.
8. Legislative sessions.
9. Enactment of law; vetoes.
10. Passage of bills.
11. Powers of each house
12. Freedom from arrest.
13. Vacancies.
14. Public sessions.
15. Reading—Passage of bills.
16. Title.

17. Amendments and revisions by reference.
18. Appointment to new offices.
19. Effective date of laws.
20. Legislative counsel.
21. Quorum.
22. Qualifications and officers.
23. Adjourning Legislature.
24. Special or exclusive privileges not to be granted; local or special laws.
25. Compensation of the Legislature.

### **Article III**

#### Judicial Branch

1. Judicial power.
2. Independence of the courts.
3. Appointments.

### **Article IV**

#### **Executive Branch**

1. Appointments.
2. Governor.
3. Secretary.
4. Secretary of Samoan Affairs.
5. Militia and posse comitatus.
6. Executive regulations.
7. Supervision and control by Governor.
8. Annual report.
9. Pardoning power.
10. Recommendation of laws.
11. Appointment of officials.
12. Removal of officers; powers and duties of officers.
13. Publication of laws.

## Article V

### Miscellaneous

1. Officers.
2. Existing laws.
3. Amendments.
4. Revision of the Constitution.
5. Existing rights and liabilities.
6. Oaths.
7. Construction.
8. Provisions self-executing.
9. Seat of Government.
10. Political districts and counties.
11. Effective date.

### Preamble

Whereas the Congress of the United States, in its Act of February 20, 1929, provided that until the Congress shall provide for the Government of the islands of American Samoa, all civil, judicial, and military powers shall be vested in such person or persons and exercised in such manner as the President of the United States shall direct; and

Whereas by Executive Order No. 10264 the President of the United States directed that the Secretary of the Interior should take such action as may be necessary and appropriate and in harmony with applicable law, for the administration of civil government in American Samoa; and

Whereas it is appropriate that, in the process of developing self-government, the people of American Samoa should enjoy certain rights and responsibilities inherent in the representative form of government; and

Whereas it is desirable that these rights and responsibilities be clearly set forth in a Constitution, and the adoption of a Constitution is in harmony with applicable law; and

Whereas the Constitution adopted in 1960 provided for a revision thereof:

Now, therefore, the 1967 Revised Constitution of American Samoa and amendments adopted subsequently including amendments approved by the 2022 Constitutional Convention of the people of American Samoa and voters at the 2022 general election, and reviewed by the Secretary of Interior and ratified and approved by Congress in its Act of \_\_\_\_\_, are ~~this revised Constitution,~~



~~having been ratified and approved by the Secretary of the Interior and having been approved by a Constitutional Convention of the people of American Samoa and a majority of the voters of American Samoa voting at the 1966 election, is established to further advance government of the people, by the people, and for the people of American Samoa.~~

## **Article I Bill of Rights**

### **Section 1. Freedom of religion, speech, press, rights of assembly and petition.**

There shall be separation of church and government, and no law shall be enacted respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

### **Section 2. No deprivation of life, liberty or property without due process.**

No person shall be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use without just compensation.

### **Section 3. Policy protective legislation.**

It shall be the policy of the ~~Government~~ of American Samoa Government to protect persons of Samoan ancestry against alienation of their lands and the destruction of the Samoan way of life and language, contrary to their best interests. Such legislation as may be necessary may be enacted to protect the lands, customs, culture, and traditional Samoan family organization of persons of Samoan ancestry, and to encourage business enterprises by such persons. No change in the law respecting the alienation or transfer of land or any interest therein shall be effective unless the same be approved by two successive legislatures by a two-thirds vote of the entire membership of each house and by the Governor.

### **Section 4. Dignity of the individual.**

The dignity of the individual shall be respected and every person is entitled to protection of the law against malicious and unjustifiable public attacks on the name, reputation, or honor of himself or of his family.

### **Section 5. Protection against unreasonable searches and seizures.**

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. Evidence obtained in violation of this section shall not be admitted in any court.

**Section 6. Rights of an accused.**

No person shall be subject for the same offense to be twice put in jeopardy of life or liberty; nor shall he be compelled in any criminal case to be a witness against himself; and the failure of the accused to testify shall not be commented upon nor taken against him. In all criminal prosecutions, the accused shall have the right to a speedy and public trial, to be informed of the nature and the cause of the accusation and to have a copy thereof; to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence. Every man is presumed innocent until he is pronounced guilty by law, and no act of severity which is not reasonably necessary to secure the arrest of an accused person shall be permitted. All persons shall be bailable by sufficient sureties except where the judicial authorities shall determine that the presumption is great that an infamous crime, which term shall include murder and rape, has been committed and that the granting of bail would constitute a danger to the community. Bail shall be set by such judicial authorities. Excessive bail shall not be required, nor excessive fines imposed nor cruel or unusual punishments inflicted.

**Section 7. Habeas corpus.**

The writ of habeas corpus shall be granted without delay and free of costs. The privilege of the writ of habeas corpus shall not be suspended except by the Governor and then only when the public safety requires it in case of war, rebellion, insurrection or invasion.

**Section 8. Quartering of militia.**

No soldier or member of the militia shall, in time of peace, be quartered in any house without the consent of the owner or the lawful occupant, nor in time of war, except in a manner prescribed by law. The military authority shall always be subordinate to the civil authority in time of peace.

**Section 9. Imprisonment for debt.**

There shall be no imprisonment for debt except in cases of fraud.

**Section 10. Slavery prohibited.**

Neither slavery, nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist in American Samoa.

**Section 11. Treason.**

Treason against the ~~Government~~ of American Samoa Government shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or a confession in open court.

**Section 12. Subversives ineligible to hold public office.**

No person who advocates, or who aids or belongs to any party, organization, or association which advocates the overthrow by force or violence of the ~~Government of American Samoa~~ Government or of the United States shall be qualified to hold any public office of trust or profit under the ~~Government of American Samoa~~ Government.

**Section 13. Retroactive laws and bills of attainder.**

No bill of attainder, ex post facto law nor any law impairing the obligation of contracts shall be passed.

**Section 14. Health, safety, morals and general welfare.**

Laws may be enacted for the protection of the health, safety, morals and general welfare, of the people of American Samoa.

**Section 15. Education.**

The Government shall operate a system of free and non-sectarian public education. The government will also encourage qualified persons of good character to acquire further education, locally and abroad, both general and technical, and thereafter to return to American Samoa to the end that the people thereof may be benefited.

**Section 16. Unspecified rights and privileges and immunities.**

The enumeration of certain rights in this Constitution shall not be construed to impair or deny other rights retained by the people. No law shall be made or enforced which shall abridge the privileges or immunities of the citizens of American Samoa.

## **Article II** **The Legislature**

### **Section I. Legislature.**

There shall be a Legislature which shall consist of a Senate and House of Representatives. The Legislature shall have authority to pass legislation with respect to subjects of local application, except that:

1. No such legislation may be inconsistent with, this Constitution or the laws of the United States applicable in American Samoa;
2. No such legislation may conflict with treaties or international agreements of the United States;
3. Money bills enacted by the Legislature of American Samoa shall not provide for the appropriation of funds in excess of such amounts as are available from revenues raised pursuant to the tax laws and other revenue laws of American Samoa. Prior to his final submission to the Secretary of the Interior of requests for Federal funds necessary for the support of governmental functions in American Samoa, the Governor shall prepare a preliminary budget plan. He shall submit such plan to the Legislature in joint session for its review and approval with respect to such portions as relate to expenditures of funds proposed to be appropriated by the Congress of the United States. Amended 1971, S.J.R. No.4, effective March 19, 1971.
4. Legislation involving the expenditure of funds other than as budgeted shall include revenue measures to provide the needed funds.

### **Section 2. Membership.**

The Senate shall consist of ~~eighteen~~ twenty members, ~~three~~ five from the Manu'a District, six from the Western District, and nine from the Eastern District.

The House of Representatives shall consist of ~~twenty~~ twenty-two members elected from the following representative districts, the number of representatives from each of the districts to be as indicated:

Representative District No. 1

Composed of Ta'u, Fitiuta and Faleasao: 2 Representatives

Representative District No. 2

Composed of Ofu, Olosega and Sili: 1 Representative

Representative District No. 3

Vaifanua — Composed of the Villages of Alao, Aoa, Onenoa, Tula and Vatia: 1 Representative

Representative District No. 4

Saole — Composed of the Villages of Aunuu, Amouli, Utumea and Alofau: 1 Representative

Representative District No. 5

Sua No. 1 — Composed of the Villages of Fagaitua, Amaua, Auto, Avaio, Alega, Aumi and Laulii: 1 Representative

Representative District No. 6

Sua No. 2 — Composed of the Villages of Sailele, Masausi, Masefau and Afono: 1 Representative

Representative District No. 7

~~Ma'uputasi~~ Ma'oputasi No. 1 — Composed of the Villages of Fatumafuti, Fagaalu and Utulei: 1 Representative

Representative District No. 8

~~Ma'uputasi~~ Ma'oputasi No. 2 — Composed of the Village of Fagatogo: 1 Representative

Representative District No. 9

~~Ma'uputasi~~ Ma'oputasi No. 3 — Composed of the Village of Pago Pago: 1 Representative

Representative District No. 10

~~Ma'uputasi~~ Ma'oputasi No. 4 — Composed of the Villages of Satala, Atuu and Leloaloa: 1 Representative

Representative District No. 11

~~Ma'uputasi~~ Ma'oputasi No. 5 — composed of the Village of Aua: 1 Representative

Representative District No. 12

Ituau — composed of the Villages of Nu'uuli, Fagasa, Matuu, Faganeanea, and Malaeimi: ~~2~~ 3 Representatives

Representative District No. 13

Fofo — composed of the Villages of Leone and Auma: 1 Representative

Representative District No. 14

Lealataua — composed of the Villages of Fagamalo, Fagalii, Poloa, Amanave, Failolo, Agagulu Seetaga, Nua, Atauloma, Afao, Amaluia and Asili: 1 Representative

Representative District No. 15

Ma'upu — composed of the Villages of Tafuna, Mesepa; Faleniu, Mapusaga Fou, Pavaiai, Iliili and Vaitogi: ~~2~~ 3 Representatives

Representative District No. 16

Tualatai- composed of the Villages of Futiga, Ituau (Malaelo), Taputimu and Vailoatai: 1 Representative

Representative District No. 17

Leasina ma Aitulagi — composed of the Villages of Aitulagi (Malaelo), Aolou and Asu: 1 Representative

Senators and representatives shall be reapportioned by law at intervals of not less than 5 years. The adult permanent residents of Swains Island who are United States nationals may elect at an open meeting a delegate to the House of Representatives who shall have all the privileges of a member of the House ~~except the right to vote~~.

### **Section 3. Qualifications of members.**

A Senator shall;

1. be a United States National;
2. be at least 30 years of age at the time of his election;
3. have lived in American Samoa at least 5 years and have been a bona fide resident thereof for at least 1 year next preceding his election; and
4. be the registered matai of a Samoan family who fulfills his obligations as required by Samoan custom in the county from which he is elected.

A Representative shall;

1. be a United States National;
2. be at least 25 years of age at the time of his election; and
3. have lived in American Samoa for a total of at least 5 years and have been a bona fide resident of the representative district from which he is elected for at least 1 year next preceding his election.

A delegate from Swains Island shall have the qualifications of a Representative except that in lieu of residence in a representative district, he shall have been a bona fide resident of Swains Island for at least one year next preceding his election.

No person who shall have been expelled from the Legislature for giving or receiving a bribe or being an accessory thereto, and no person who shall have been convicted of a felony under the laws of American Samoa, the United States, or the laws of any state of the United States, shall sit in the Legislature, unless the person so convicted shall have been pardoned and have had his civil rights restored to him.

No employee or public officer of the Government shall be eligible to serve in the Legislature while holding such position. The prohibition contained herein shall become effective on July 1, 1971. Amended 1971, S.J.R. No.3, approved by Secretary of the Interior, March 19, 1971.

#### **Section 4. Manner of Election.**

Senators shall be elected in accordance with Samoan custom by the county councils of the counties they are to represent, the number of senators from a county or counties to be as indicated: Fitiuta, one senator; Faleasao, one senator; ~~and~~ Ta'u, ~~two~~ one senators; Olosega, one senator and Ofu, one senator; Saole, one senator; Vaifanua, one senator; Sua, two senators; ~~Ma'uputasi~~ Ma'oputasi, three senators; Ituau, two senators; Ma'upu, two senators; Leasina ma Aitulagi, one senator; Tualatai, one senator; Fofu, one senator; and Lealataua, one senator. The decisions of the members of the county councils of the counties concerned shall be certified by the county chiefs of such counties.

Representatives shall be chosen by secret ballot of the qualified electors of their respective representative districts.

#### **Section 5. Elections.**

Elections shall be held biennially in each even numbered year beginning on the first Tuesday following the first Monday in November and ending not later than 4 weeks thereafter.

#### **Section 6. Term of office.**

Each senator shall hold office for a term of four years. Representatives including any delegates from Swains Island shall each hold office for a term of two years. The terms of all members of the Legislature including any delegate from Swains Island shall commence at noon on the third day of January following their election, except as otherwise provided.

#### **Section 7. Qualifications of electors.**

Every person of the age of 18 years or upwards who is a United States national and who has lived in American Samoa for a total of at least two years and has been a bona fide resident of the election district where he offers to vote for at least one year next preceding the election and who meets such registration requirements as may be prescribed by law shall be deemed a qualified elector at such election. No person under guardianship, non compos mentis, or insane shall be qualified to vote at any election; nor shall any person who has been convicted of a felony be qualified to vote at any election unless he has had his civil rights previously restored to him or unless he has maintained good behavior for 2 years following the date of his conviction or his release from prison whichever is the later.

### **Section 8. Legislative sessions.**

There shall be two regular sessions of the Legislature held each year, each session to last 45 days, the first session to begin on the second Monday in January each year and the second session to begin on the second Monday in July of each year. The Legislature may meet in special session at the call of the Governor who shall set the time for the beginning of such session and the number of days it may last. Amended H.J.R. No. 1, adopted Feb. 18, 1977, approved by voters Nov. 7, 1978, approved by Sec. of Int. Mar. 1, 1979; amended 1971 S.J.R. No. 3, effective March 19, 1971.

### **Section 9. Enactment of law; vetoes.**

The enacting clause of all bills shall be: "Be it enacted by the Legislature of American Samoa," and no law shall be enacted except by bill. Bills may originate in either House, and may be amended or rejected by the other. The Governor may submit proposed legislation to the Legislature for consideration by it. He may designate any such proposed legislation is urgent, if he so considers it.

Every bill, having passed both Houses, shall be signed by the President of the Senate and the Speaker of the House, and shall, before it becomes a law, be presented to the Governor for his approval. If he approves it, he shall sign it and it shall become a law, and he shall deposit it in the office of the Secretary of American Samoa. But if it be not approved by him, he shall return it with his objections to the House in which it originated which shall enter the same in their journal: Any bill not returned by the Governor within 10 days (Sundays excepted) after having been presented to him, shall become a law, whether signed by him or not, unless the Legislature by adjournment prevent such return, in which case it shall not become a law unless the Governor, within 30 days after adjournment shall sign it, in which case it shall become a law in like manner as if it had been signed by him before adjournment; and the Governor shall deposit it in the office of the Secretary of American Samoa.

Not later than 14 months after a bill has been vetoed by the Governor, it may be passed over his veto by a two-thirds majority of the entire membership of each House at any session of the Legislature, regular or special. A bill so repassed shall ~~be represented to the Governor for his approval~~ become law 90 days after the adjournment of the session in which it was repassed. ~~If he does not approve it within 15 days, he shall send it together with his comment thereon to the Secretary of the Interior. If the Secretary of the Interior approves it within 90 days after its receipt by him, it shall become a law; otherwise it shall not.~~

If a bill presented to the Governor should contain several items of appropriation of money, he may object to one or more of such items, or any part or parts thereof, portion or portions thereof, while approving the other items, parts, or portions of the bill. In such a case he shall append to the bill, at the time of signing it, a statement of the items, or parts or portions thereof, to which he objects and the items, or parts or portions thereof, so objected to shall not take effect. As used in this paragraph, the terms "items", "part", "portion" and "portions" shall include a proviso or provisos, a directive, a limitation, or other extraneous substantive legislation included in an appropriations bill or appended to any item of appropriation in such an appropriations bill.



Furthermore, nothing in this section shall be deemed to permit any change in the law respecting the alienation or transfer of land or any interest therein to be effective unless such change shall have been approved by two successive Legislatures by a two-thirds vote of the entire membership of each House and by the Governor as provided in Section 3 of Article I.

**Section 10. Passage of bills.**

A majority of all the members of each House, voting in the affirmative, shall be necessary to pass any bill or joint resolution.

**Section 11. Powers of each house.**

Each house shall keep a journal of its proceedings and publish the same, determine its rules of procedure, punish members for disorderly behavior, and, with the consent of two-thirds of its entire membership, may expel a member, but not a second time for the same offense. Each House shall sit upon its own adjournments, but neither House shall, without the concurrence of the other, adjourn for more than 3 days, nor to any other place than that in which it may be sitting.

**Section 12. Freedom from arrest.**

Senators and representatives and any delegate from Swains Island in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during a session (including a special joint session) of the Legislature, and in going to and returning from the same. No member of the Legislature shall be held to answer before any tribunal other than the Legislature itself for any speech or debate in the Legislature.

**Section 13. Vacancies.**

When vacancies occur in either House, the Governor or the person exercising the functions of Governor shall issue writs of election to fill such vacancies except that if any such vacancy shall occur within three months of the next regular election, no special election shall be held and the Governor shall appoint a qualified person to fill such vacancy. Prior to appointing such person, the Governor shall in the case of a representative consult with the county chief or county chiefs in the representative district concerned; and in the case of a senator, with the District Governor and county chiefs in the district concerned. A person elected to fill a vacancy or appointed by the Governor to fill a vacancy shall hold office during the remainder of the term of his predecessor.

**Section 14. Public sessions.**

The business of each House, and of the Committee of the Whole, shall be transacted openly and not in secret session.

**Section 15. Reading — Passage of bills.**

No bill shall be passed until copies of the same with amendments thereto shall have been made available for the use of the members; nor shall a bill become a law unless the same shall have been read on two separate days in each House previous to the day of the final vote thereon. On final passage of all bills, they shall be read at length, section by section, and the votes shall be by yeas and nays upon each bill separately, and shall be entered upon the journal. The provisions of this section respecting the reading of bills shall be subject to the exception that a bill which has been vetoed by the Governor and reintroduced for passage over the Governor's veto need only be read on the day of the final vote thereon.

**Section 16. Title.**

Every legislative act shall embrace but one subject and matters properly connected therewith, which shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such an act shall be void only as to so much thereof as shall not be expressed in the title.

**Section 17. Amendments and revisions by reference.**

No law shall be amended or revised by reference to its title only; but in such case the act, as revised, or section or subsection as amended, shall be reenacted and published at full length.

**Section 18. Appointment to new offices.**

No member of the Legislature shall, during the term for which he was elected and for one year thereafter, be appointed to any office which shall have been created or the salary of which shall have been increased by the Legislature during such term.

**Section 19. Effective date of laws.**

An act of the Legislature required to be approved and approved by the Governor only shall take effect no-sooner than 60 days from the end of the session at which the same shall have been passed ~~while an act required to be approved by the Secretary of the Interior only after its veto by the Governor and so approved shall take effect no sooner than 40 days after its return to the Governor by the Secretary of the Interior.~~ The foregoing is subject to the exception that in case of an emergency the act may take effect at an earlier date stated in the act provided that the emergency be declared in the preamble and in the body of the act.

**Section 20. Legislative counsel.**

A legislative counsel, who shall be learned in the law, shall be appointed by the President of the Senate and the Speaker of the House, to advise and assist the Legislature. The position of legislative counsel shall be a fulltime position and compensation for the counsel shall be budgeted by the Legislature at a grade level equivalent to that of Deputy Attorney General of the ~~Government of American Samoa~~ Government. The legislative counsel shall also be the director

of the Legislative Reference Bureau. Amended H.J.R. No. 3, Feb. 18, 1977, approved by voters Nov. 7, 1978, approved by Sec. of Int. Mar. 1, 1979.

**Section 21. Quorum.**

A majority of each House shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and may compel the attendance of absent members in such manner as each House may provide.

**Section 22. Qualifications and officers.**

Each House of the Legislature shall be the judge of the elections, returns, and qualifications of its own members and shall ~~ehuse~~ choose its officers.

**Section 23. Adjourning legislature.**

In case of disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper, but no such adjournment shall be beyond the time fixed for the next regular session of the Legislature.

**Section 24. Special or exclusive privileges not to be granted; local or special laws.**

The power of the Government to act for the general welfare of the people of American Samoa shall never be impaired by the making of any irrevocable grant of special or exclusive privileges or immunities. Corporations may be formed under general laws but shall not be created by special act except for municipal, governmental, or quasigovernmental purposes in cases where the objects of the corporation cannot be attained under general laws. All general laws or special acts passed pursuant to this section may be amended or repealed. The Legislature shall pass no local or special act if a general act can be made applicable.

**Section 25. Compensation of the legislature.**

The compensation of the members of the Legislature is provided by law. — Amended 1977. H.J.R. No. 6. eff., April 8, 1977.

**Section 26. Impeachment**

(a) The Governor and Lieutenant Governor are subject to impeachment and, upon conviction, shall be removed from office.

(b) The Legislature shall provide for the manner, procedure, and causes for impeachment including for conviction of felonies and for a course of conduct amounting to a gross abuse of power, as defined by law.

(c) The House of Representatives has the sole power to bring articles of impeachment upon a vote of at least 2/3 of the entire membership. The Senate has the sole power to try

impeachment, with the Chief Justice presiding, and, may not convict unless at least 2/3 of the entire membership concur. The members when sitting for that purpose shall be on oath or affirmation.

(d) Conviction shall extend only to removal from office and disqualification to hold and enjoy any office of trust, honor, or profit under the Territory. The party, whether convicted or acquitted, is also liable to other prosecution under the law.

## Article III

### Judicial Branch

#### Section 1. Judicial power.

The judicial power shall be vested in the High Court, the District Courts, and such other courts as may from time to time be created by law.

#### Section 2. Independence of the courts.

The judicial branch of the ~~Government of~~ American Samoa Government shall be independent of the executive and legislative branches.

#### Section 3. Appointments.

The ~~Governor Secretary of Interior~~ shall appoint a Chief Justice of American Samoa and such Associate Justices as he may deem necessary, subject to confirmation by the Legislature. The Chief Justice and Associate Justices shall hold their offices during good behavior until resignation, retirement, death, or impeachment.

#### Section 4. Limits of Secretary of Interior Powers

The Secretary of Interior shall not review, overturn or intervene in the appeal of a decision of the High Court of American Samoa.

**Article IV**  
**Executive Branch**

**Section 1.**

Superseded by U.S. Dept. of the Int. Secretary's Order No. 3009, §§ 2 and 4, Sept. 13, 1977, eff. Sept. 13, 1977, as amended in § 2 by U.S. Dept. of the Int. Secretary's Order No. 3009, Amendment No. 1, Nov. 3, 1977, eff. Nov. 3, 1977.

**Section 2. Governor and lieutenant governor.**

The Governor and the Lieutenant Governor of American Samoa shall, commencing with the first Tuesday following the first Monday of November 1977, be popularly elected and serve in accordance with the laws of American Samoa.

Amended 1977, U.S. Dept. of the Int. Secretary's Order No. 3009, §§ 2, 4, Sept. 13, 1977, as amended by U.S. Dept. of the Int. Secretary's Order No. 3009, Amendment No. 1, Nov. 3, 1977, eff. Nov. 3, 1977.

**Section 3. Secretary.**

The Secretary of American Samoa, who may be referred to as Lieutenant Governor of American Samoa, shall have all the powers and duties of the Governor in the case of a vacancy in the office of Governor or the disability or temporary absence of the Governor. He shall record and preserve the laws and executive orders, and transmit copies thereof to the Secretary of the Interior. He shall have and perform such other duties as may be prescribed by law or assigned to him by the Governor.

**Section 4. Secretary of Samoan Affairs.**

The Secretary of Samoan Affairs shall be appointed by the Governor from among the leading registered matais. He shall hold office during the pleasure of the Governor. The Secretary of Samoan Affairs shall be the head of the Department of Local Government. In conjunction with the District Governors he shall co-ordinate the administration of the district, county, and village affairs as provided by law and also in conjunction with the District Governors he shall supervise all ceremonial functions as provided by law.

**Section 5. Militia and posse comitatus.**

The Governor may summon the posse comitatus or call out the militia to prevent or suppress violence, invasion, insurrection, or rebellion.

**Section 6. Executive regulations.**

The Governor shall have the power to issue executive regulations not in conflict with laws of the United States applicable to American Samoa, laws of American Samoa, or with this Constitution.

**Section 7. Supervision and control by Governor.**

The Governor shall have general supervision and control of all executive departments, agencies and instrumentalities of the ~~Government of American Samoa~~ Government.

**Section 8. Annual report.**

The Governor shall make an official report of the transactions of the ~~Government of American Samoa~~ Government to the Secretary of the Interior and the Legislature within three months after the close of each fiscal year.

**Section 9. Pardoning power.**

The Governor shall have the power to remit fines and forfeitures, commute sentences, and grant reprieves and pardons after conviction for offenses against the laws of American Samoa.

**Section 10. Recommendation of laws.**

The Governor shall give the Legislature information on the state of the Government and recommend for its consideration such measures as he may deem necessary and expedient. He may attend or depute another person to represent him at the meetings of the Legislature, and may give expression to his views on any matter before that body.

**Section 11. Appointment of officials.**

With the exception of elective officials, those appointed by the Secretary of the Interior, and those whose appointments are otherwise provided for, the officials of the ~~Government of American Samoa~~ Government including district, county, and village officials shall be appointed by the Governor. Prior to appointing a district governor, a county chief, or a pulenuu, the Governor through the Secretary of Samoan Affairs shall request the recommendation of the appropriate district council as to who shall be appointed in the case of a district governor; of the appropriate county council and district governor, in the case of a county chief; and of the appropriate village council, district governor and county chief, in the case of a pulenuu. The Secretary of Samoan Affairs may also make his own recommendations to the Governor,

**Section 12. Removal of officers; powers and duties of officers.**

The Governor may appoint or remove any officer whose appointment is not otherwise provided for. All officers shall have such powers and duties as may be conferred or imposed upon them by law or by executive regulation of the Governor not inconsistent with any law.

### **Section 13. Publication of laws.**

The Governor shall make provision for publishing laws within 55 days after the close of each session of the Legislature and for their distribution to public officials and sale to the public.

## **Article V Miscellaneous**

### **Section 1. Officers.**

For the public convenience and to insure continuity in the operation of the Government all officers of American Samoa, including district, county, and village officers, shall, subject to the right of resignation or removal as may be provided by law, continue to hold their respective offices until the expiration of the time for which they were respectively elected or appointed, except that senators elected at the general election in 1966 shall go out of office at noon on January 3, 1969.

Regardless of any other provision or provisions in this Constitution the House of Representatives shall, prior to noon, January 3, 1969, consist only of those members elected at the general election in 1966 while the Senate prior to noon January 3, 1969, shall consist only of the hold-over senators plus those elected at the general election in 1966. Also regardless of any other provision or provisions in this Constitution any vacancies occurring in either House prior to January 3, 1969 may be filled as provided in Article II, Section 13 of the Constitution which became effective on October 17, 1960.

### **Section 2. Existing laws.**

All laws of American Samoa not inconsistent with this Constitution shall continue in force until they expire by their own limitation, or are altered or repealed by competent authority.

### **Section 3. Amendments**

Any amendment to this Constitution may be proposed in either House of the Legislature, and if the same be agreed to by three-fifths of all members of each House, voting separately, such proposed amendment shall be entered on the journals, with the yeas and nays taken thereon. The Governor shall then be requested to submit such proposed amendment to the voters eligible to vote for members of the House of Representatives at the next general election. If a majority of such voters voting approve such amendment, the Governor shall, within 30 days after such approval shall have been officially determined submit the same to the Secretary of the Interior for approval or disapproval within 4 months after its receipt.

### **Section 4. Revision of the constitution.**

In view of the changing conditions in American Samoa, the Governor shall appoint a new Constitutional Committee five years after the effective date of this Constitution to prepare amendments or a revised draft constitution to be submitted to the Governor who shall call a constitutional convention to consider the same. The delegates to the convention shall be selected by their respective county councils. The number of delegates from each county shall be the number

obtained by dividing the population of the county, as shown by the last preceding Federal census, by 400, any fraction in the quotient obtained to be disregarded if such fraction shall be less than one-half and if such fraction shall be one-half or more it shall be considered to be one unit, provided that each county shall have at least one delegate, and provided further that Swains Island shall have one delegate selected in open meeting by the adult permanent residents of the island who are United States nationals. If the convention approves such amendments or draft constitution either with changes made therein by the convention or without changes, the same as approved shall be submitted by the Governor to the voters eligible to vote for members of the House of Representatives at the next general election; and if a majority of the voters voting approve the amendments or proposed revised constitution, the Governor shall submit the same to the Secretary of the Interior for his approval, and if he approves the same, then the amendments shall become part of the Constitution or the proposed revised constitution shall replace this constitution, as the case may be. Salaries of employees of the Convention and per diem for delegates shall be provided by law. The Government shall furnish the Convention with necessary supplies and other necessary services.

#### **Section 5. Existing rights and liabilities.**

Except as otherwise provided in this Constitution all existing actions, writs, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, decrees, sentences, orders, appeals, causes of action, contracts, claims, demands, titles, and rights shall continue unaffected notwithstanding the taking effect of this Constitution.

#### **Section 6. Oaths.**

All officers of American Samoa including district, county, and village officers, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath: “I, \_\_\_\_\_, of \_\_\_\_\_ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, and that I will well and faithfully uphold the laws of the United States applicable to American Samoa, and the Constitution and laws of American Samoa. “So help me God.”

#### **Section 7. Construction.**

In this Constitution titles shall not be used for the purposes of construction and wherever any personal pronoun appears it shall be construed to mean either sex; also in this Constitution a special or particular provision shall control a general provision should there be any inconsistency between a special or particular provision and a general provision.

#### **Section 8. Provisions self-executing.**

The provisions of this Constitution shall be self-executing to the fullest extent that their respective natures permit.



**Section 9. Seat of government.**

The seat of Government shall be at Fagatogo.

**Section 10. Political districts and counties.**

It is hereby recognized that there are three political districts in American Samoa, viz. Manu'a, composed of the political counties of Ta'u, Faleasao, Fitiuta, Olosega and Ofu; Eastern, composed of the political counties of Sua, Vaifanua, Saole, Ituau and ~~Ma'uputasi~~ Ma'oputasi; and Western, composed of the political counties of Fofu, Leasina ma Aitulagi, Tualatai, Lealataua and Ma'upu.

**Section 11. Effective date.**

Amendments or revisions to the 1967 Revised Constitution of American Samoa were approved by the Constitutional Convention held --- blank -- and voters in a general election on -- blank --- and submitted to the Secretary of Interior and President of the United States for their review and submission of amendments to Congress for approval. Congress in its Act of --- blank --- approved amendments to the 1967 Revised Constitution of American Samoa. The Revised Constitution of American Samoa shall be effective on --- blank ---.

~~This Constitution ratified and approved on June 2, 1967, by the Secretary of the Interior, action pursuant to the authority vested in him by Executive Order No. 10264, dated June 29, 1951, of the President of the United States, and approved by the Constitutional Convention of the people of American Samoa at its meeting in Fagatogo, American Samoa begun on September 26, 1966, and by a majority of the voters of American Samoa voting in the general election in 1966, shall become effective on July 1, 1967.~~

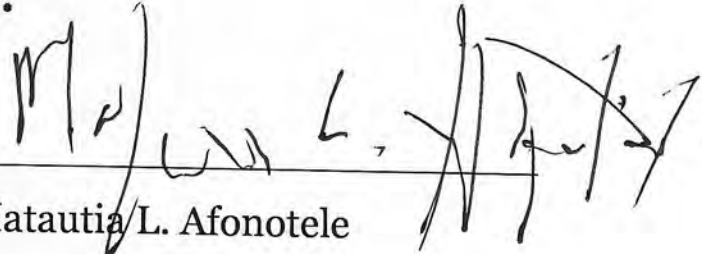
~~Stewart L. Udall  
Secretary of the interior~~


~~We the undersigned, being the duly appointed Delegates to the 2022 Constitutional Convention, do hereby certify that the above and foregoing document was approved by us in Convention, assembled as the revised Constitution of American Samoa.~~


We the undersigned, being the duly selected Delegates to the 2022 Constitutional Convention, do hereby certify that the above and foregoing document was approved by us in the 2022 Constitutional Convention.

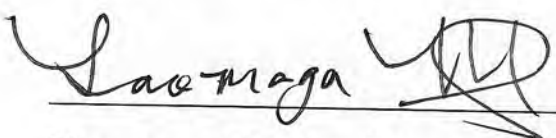
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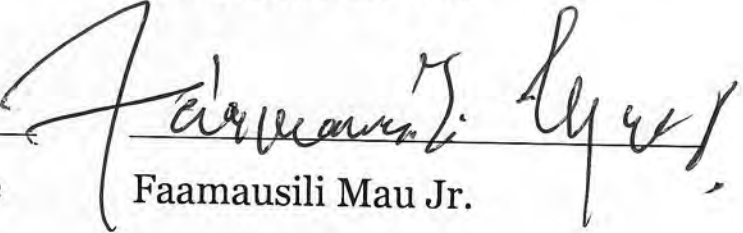
  
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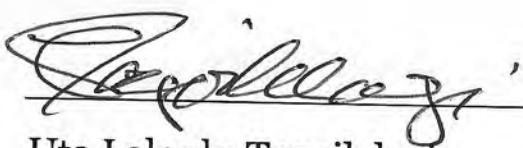
  
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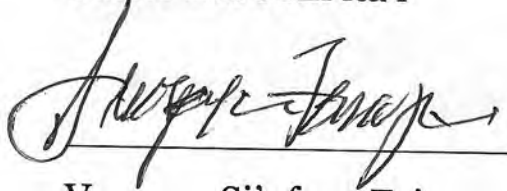
  
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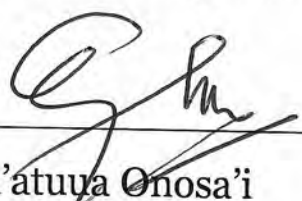
  
Faamausili Mau Jr.

**For and on behalf of Vaifanua County.**

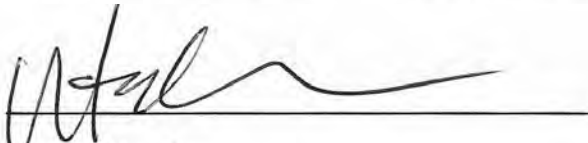
  
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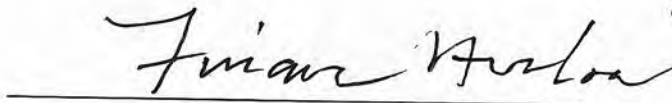
  
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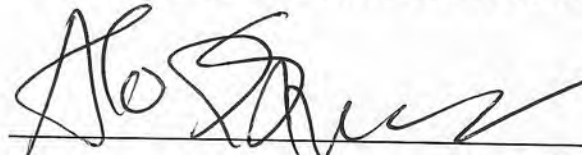
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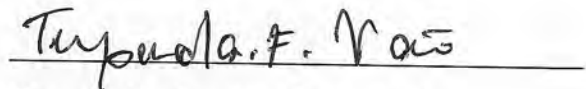
  
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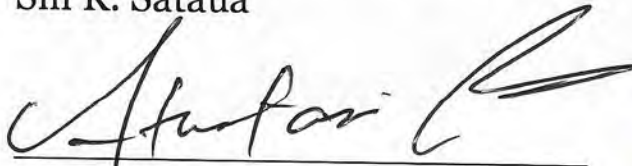
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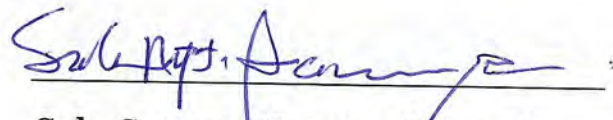
  
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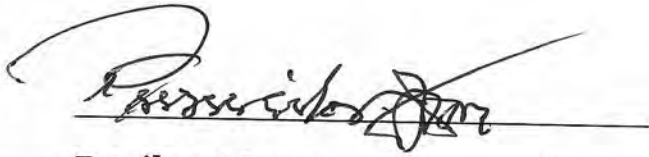
  
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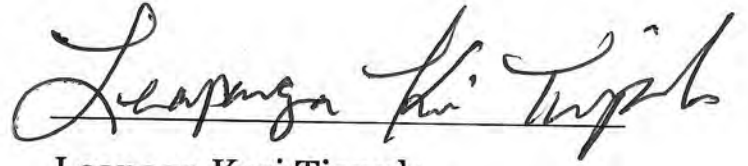
  
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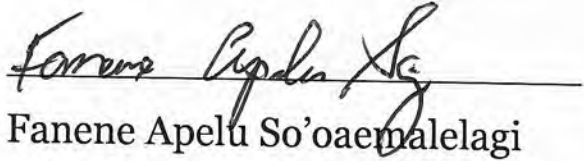
  
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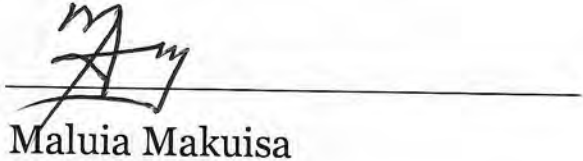
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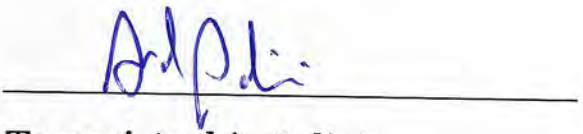
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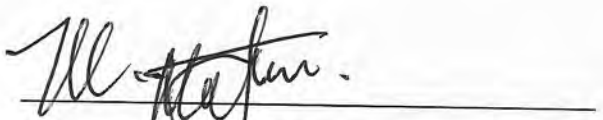
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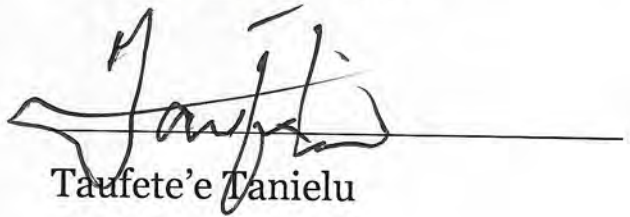
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Taotasi Archie Soliai



Logoituau Mark Atafua



Taufete'e Danielu

**For and on behalf of Ma'uputasi County.**



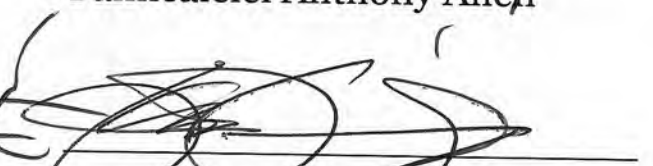
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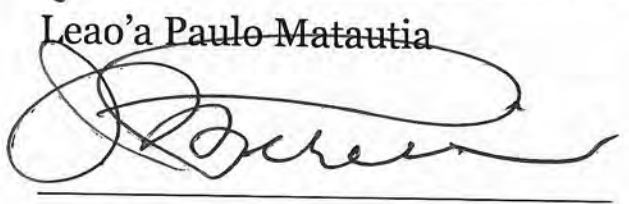
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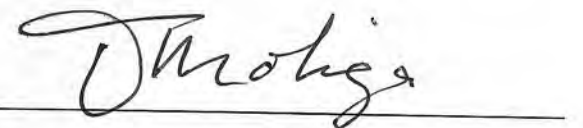
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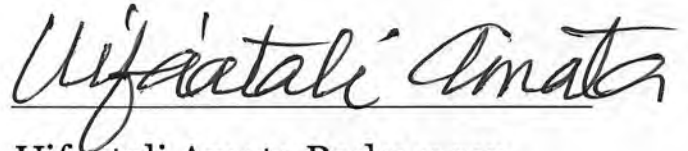
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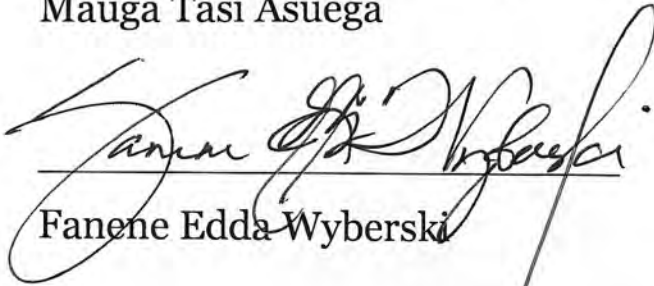
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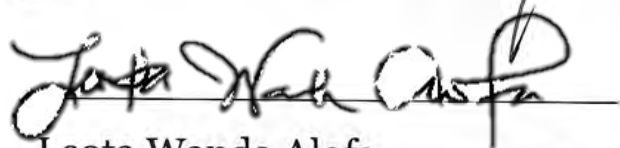
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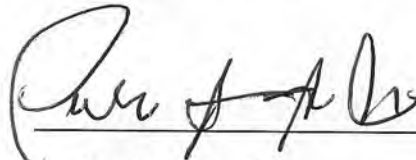
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Tavai Elia Tavai



Leota Wanda Alofa



Pulu Ae Ae Jr.



Tuaolo Manaia E. Fruean



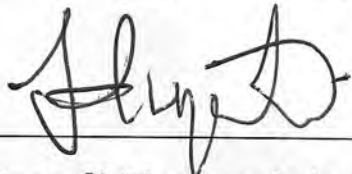
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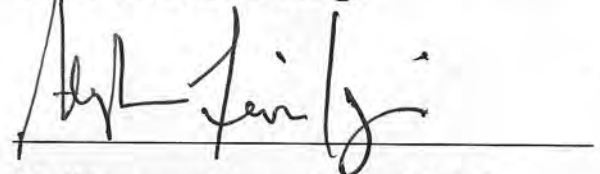
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Taesali Sam Matagi



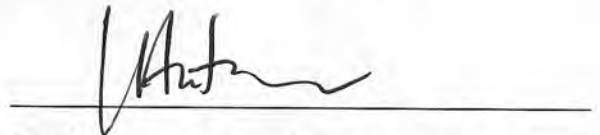
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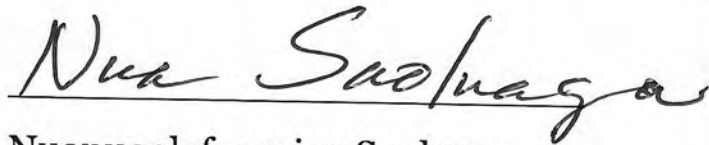


Fano Frank Mitchell Shimasaki



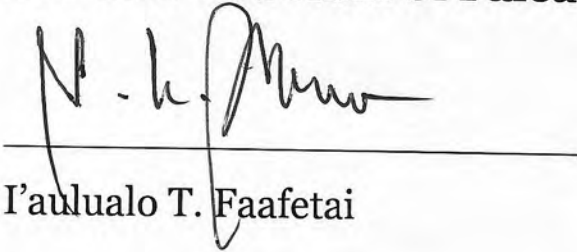
Vailoata Eteuati Amituana'i

**For and on behalf of Tau County.**



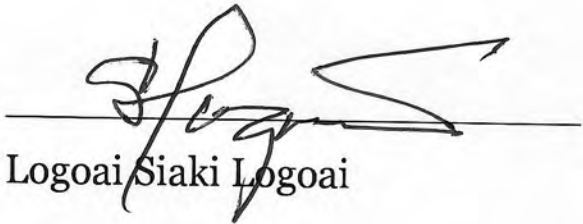
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**For and on behalf of Faleasao County.**



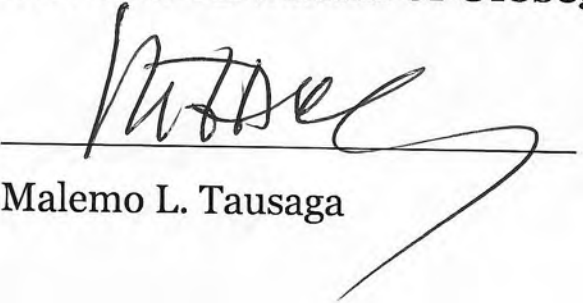
I'aulualo T. Faafetai

**For and on behalf of Fitiuta County.**



Logoai Siaki Logoai

**For and on behalf of Olosega County.**



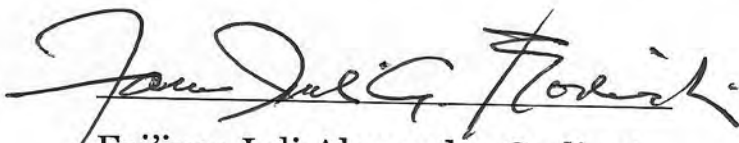
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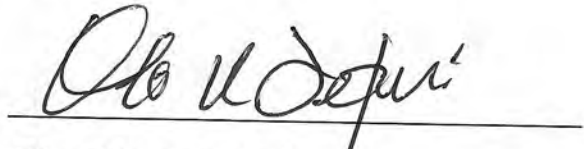
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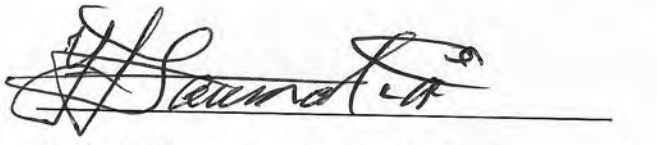


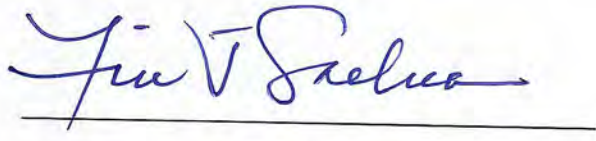
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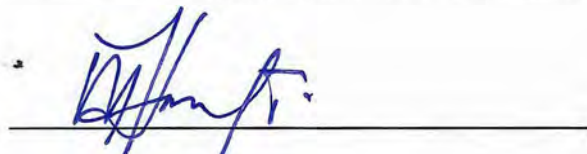
**For and on behalf of Fofu County.**


  
Fai'ivae Iuli Alexander Godinet


  
Olo Ulua'o Letuli

  
Tuiteleleapaga John Sefo Laumatia

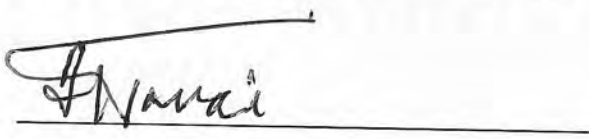
  
Fiu Johnny Saelua


  
Maiava Fidelis Leota


  
Aumavae Kenape Aumavae


  
Matu'u Timo Matu'u

**For and on behalf of Leasina County.**

  
Tuiagamo'a Tomasi Tavai

  
Vaitagaloa Neueli Tuiolemotu

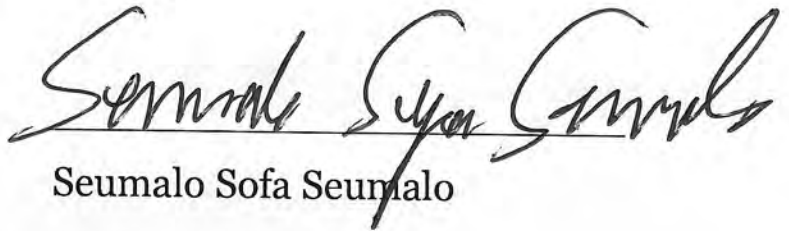
  
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Lefotu Vila

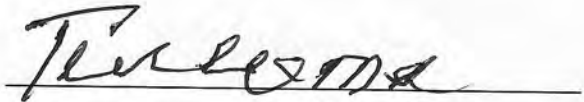
**For and on behalf of Tualatai County.**



Fa'auaa Kataferu Elisara



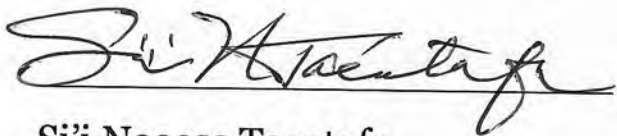
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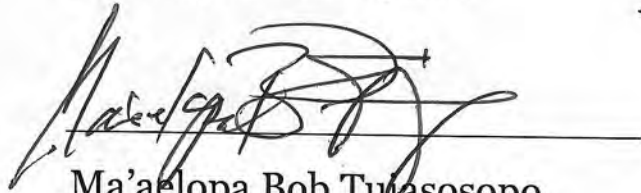
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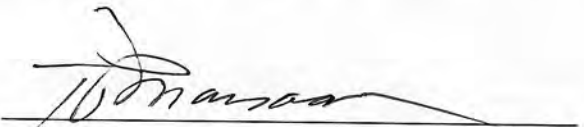
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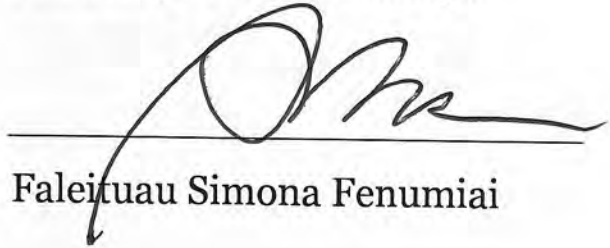
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Ma'aelopa Bob Tulasosopo

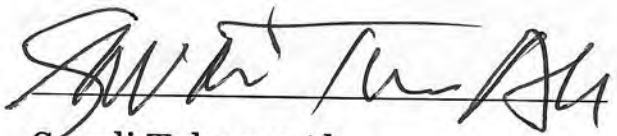


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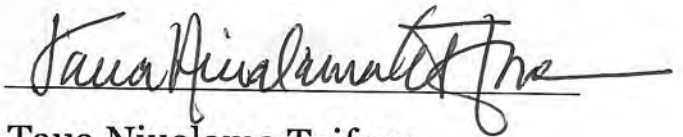


Faleituau Simona Fenumiai

**For and on behalf of Lealataua County.**



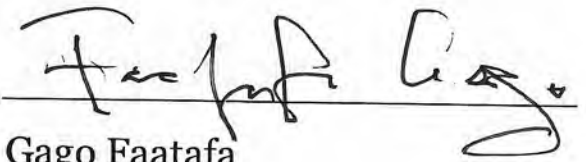
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Tauga Niualama Taifane



Noa Faimafili Vae

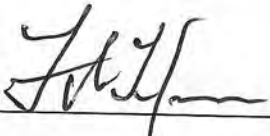


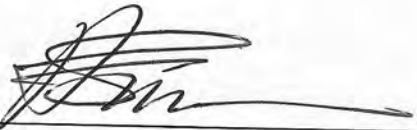
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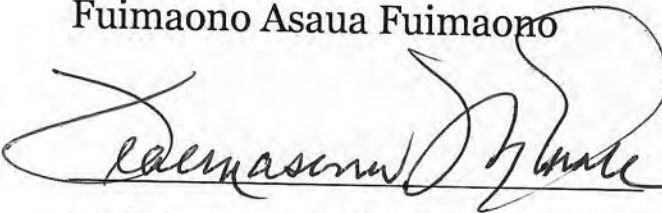
**For and on behalf of Ma'upu County.**


  
Eseta Samuelu


  
Luatua Filisouaiga Ta'afua

  
Fuimaono Asaua Fuimaono

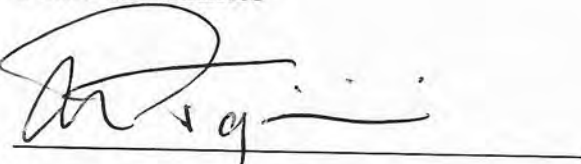
  
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Tialemasunu Mikaele Etuale


  
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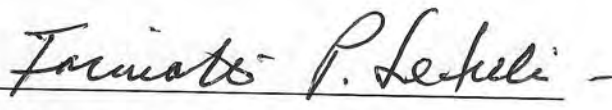
  
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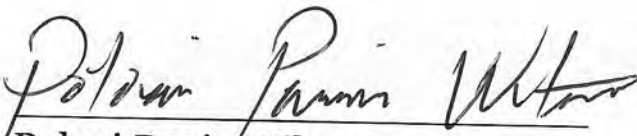
  
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Tuana'itau Malaki P. Togiola


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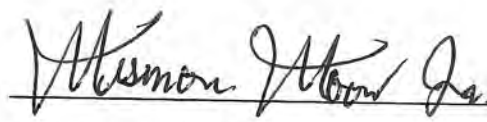
  
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Poloai Pania Wilson

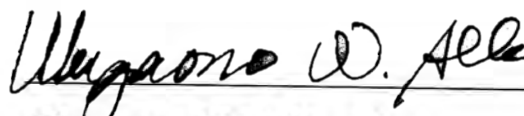
  
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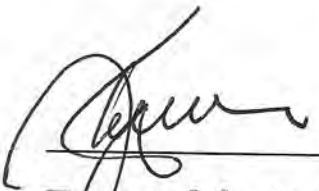
  
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Sinasina Joseph Langkilde


  
Ufuti Faafetai Ieremia


  
Ulugaono Waldie Allen

  
Leuaea Kirisimasi Ti

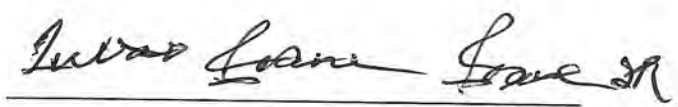
  
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Toafala Iafeta

  
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Alofaatasi Joseph Mulivanu

  
Mase Akapo

  
Tuvao Ioane Ioane Jr.

  
Richard A. Ieremia

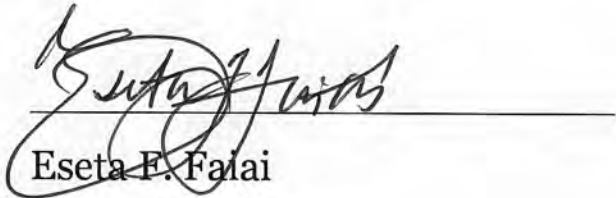
  
Fonoti Aufata



Larry Sanitoa



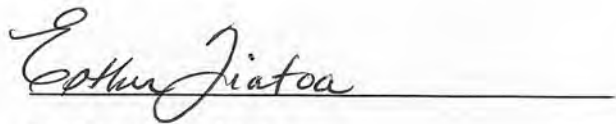
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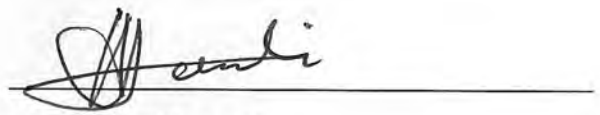
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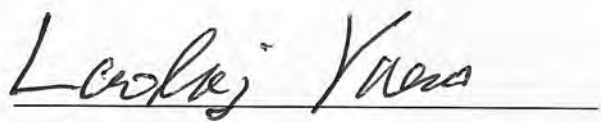
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Esther Fiatoa



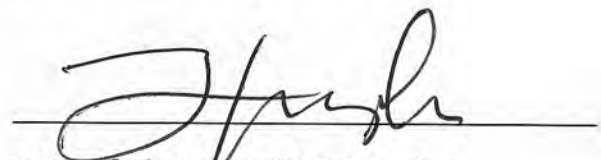
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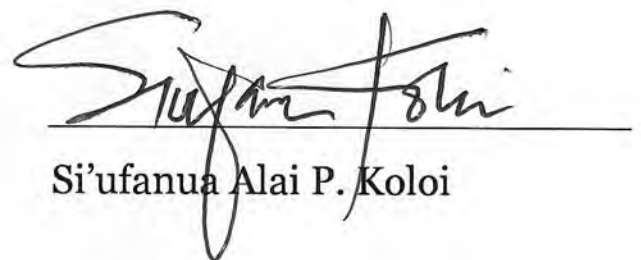
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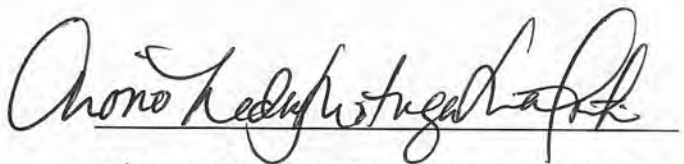
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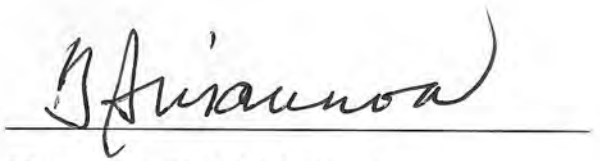
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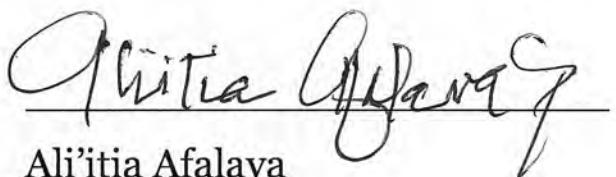
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Aiono Nedley Motuga Mata'utia



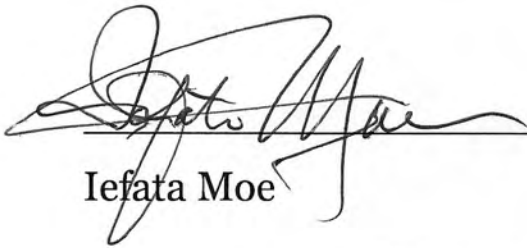
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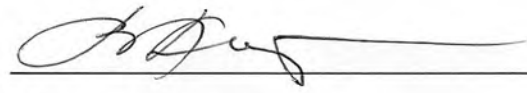


Ali'itia Afalava





Nathan Magalei

  
Iefata Moe

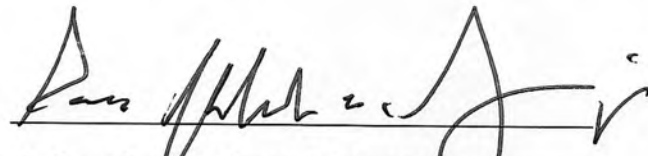
  
Roseann Tuiasosopo

  
Lefiti Pese

  
Fetui Fetui Jr.

  
Lago Aloalo F. Olo

**For and on behalf of Swains Island.**

  
Su'a Alexander Eli Jennings



**OFFICE OF THE GOVERNOR  
AMERICAN SAMOA GOVERNMENT**

**EXECUTIVE ORDER 001 – 2022**

**AN ORDER CREATING THE AMERICAN SAMOA CONSTITUTIONAL REVIEW  
COMMITTEE, DEFINING ITS DUTIES, RESPONSIBILITIES, AND POWERS AND  
APPOINTING THE INITIAL MEMBERSHIP**

**Section 1: Authority**

This executive order is hereby issued in accordance with the powers and authority granted to the Governor by Article IV, Sections 6 and 7 of the Revised Constitution of American Samoa, and the American Samoa Code Annotated, Sections 4.0111 (b) and 4.0302.

**WHEREAS**, in 1960 the Constitution of American Samoa was said to represent the “greatest step forward” in the political development of the territory since the raising of the American flag on the island of Tutuila in 1900;

**WHEREAS**, the last Constitutional Convention was in 2010;

**WHEREAS**, in the process of developing self-government, the people of American Samoa should enjoy certain rights and responsibilities inherent in the representative form of government clearly set forth in the Constitution;

**WHEREAS**, the Constitution provides an amendment process allowing the people to revisit, improve, or correct it and ensure it continues as a “living document”;

**WHEREAS**, the purpose of constitutional change must not simply be “*to make new rules for the passing hour, but to state principles for an expanding future*” – principles such as limited government and the bill of rights, popular sovereignty with free and fair elections, fair representation, the separation of powers, checks and balances, judicial independence, the rule of law, self-government, accountability and justice;

**WHEREAS**, it is prudent and wise to examine American Samoa’s past including its cultural heritage and the body of knowledge from past political status studies, constitutional conventions and historical events;

**WHEREAS**, the people must determine whether the constitution is in tune with the values of present times and respond to the range of political, economic, social,

environmental, technological, demographic and health conditions including the findings from the 2020 US census and the status of women;

**WHEREAS,** the people must determine whether and how the commitment to the protection of Samoan land, culture and natural resources remains a compelling interest and worthy goal;

**WHEREAS,** the constitution building process must engage the people in an authentic, participatory and transparent manner;

**NOW THEREFORE, I, LEMANU P. S. MAUGA,** Governor of American Samoa, by virtue of the authority vested in me by the Revised Constitution of American Samoa and the American Samoa Code Annotated, hereby execute this order.

### **Section 3: Duties and Responsibilities**

There is herewith created the American Samoa Constitutional Review Committee, which is tasked with the following duties, responsibilities, and powers:

- (a) The Committee shall review the entire Constitution and consider all proposals for revision as submitted through designated meetings, gatherings, and discussions, as held by and through the Political Status, Constitutional Review and Federal Relations Office and the Office of the Governor, as well as reports and requests as submitted by lawfully appointed bodies including but not limited to the Fono, the Judiciary, the political status study committees, local government, and the public.
- (b) The Committee shall keep a journal and records of all public proceedings according to date and subject.
- (c) The Committee is authorized to adopt bylaws which do not conflict with this order or any applicable laws of American Samoa, to govern its own affairs and to aid in executing the tasks which the Committee may undertake in effectuating this Order.
- (d) The first meeting of the Committee shall be Tuesday, February 8, 2022, at 9:00 am at the Governor H. Rex Lee Auditorium.

### **Section 4: Initial Membership**

The following people are appointed as members of the Committee. Each and every member shall be granted an equal and fair opportunity to state their views without fear of being removed or threatened.

Chairman and Vice-Chairman of the Committee

1. Talauega E. V. Ale, Lieutenant Governor, Chairman of the Committee
2. Tauese V. Sunia, Deputy Director of Samoan Affairs, Vice-Chairman of the Committee

Governor's Staff

1. Tuimavave T. Laupola
2. Tapa'au Dr. Dan Aga
3. Earl Mokoma
4. Ufagafa Tulafono
5. Timusa T. Lam Yuen

American Samoa Senate:

1. President Tualo Manaia E. Fruean
2. Senator Soliai Tuipine Fuimaono
3. Senator Tuiagamoia Tavai
4. Senator Satele Lili'o
5. Senator Malaepule S. Moliga

American Samoa House of Representatives

1. Speaker of the House Savali Talavou Ale
2. Representative Alumamalu Ale Sea Filoialii
3. Representative Avagafono Tuavao Vaimaga Maiava
4. Representative Vailiuama Stephen Leasiolagi
5. Representative Manavaalofa Tutuila Manase

Members of the Cabinet

1. Petti Tagipo Matila, Director, Department of Commerce
2. Talauega Samasoni Asaeli, Director, Department of Education
3. Lynn Pulou Alaimalo, Director, Department of Human Resources
4. Muavaefa'atasi J. Suisala, Director, Department of Human and Social Services
5. Lefiti Falelailii Pese, Commissioner, Department of Public Safety
6. Rosevonne M. Pato, President, American Samoa Community College
7. Ruth S. Matagi, President, Development Bank of American Samoa
8. Sandra King Young, Director, Medicaid State Agency
9. Dr. Salote Aoelua-Fanene, Director, Department of Youth and Women's Affairs
10. Faumuina J. Faumuina, CEO, LBJ Tropical Medical Center
11. Paepaetele Mapu Jamias, Veteran's Affairs Office
12. Fuata Fa'asamisamia Male Tiumalu, Executive Director, Arts Council
13. Mariana Timu-Fai'ai, Director, Criminal Justice Planning Agency

Clergy

1. Reverend Elder Dr. Siulagi Solomona, Victory Chapel Christian Church
2. Reverend Elder Faaeteete Saifoloi, EFKAS
3. Monsignor Viane Etuale, Monsignor, Roman Catholic Diocese of Samoa-Pago Pago
4. Reverend Elder Faamao Asalele, CCJS
5. Reverend Pa'u Tuavela, Seventh Day Adventist
6. Reverend Asi Tuisalega, American Samoa Methodist Church Synod
7. Elder O. Vincent Haleck, The Church of Jesus Christ of Latter-day Saints

Members of the Bar

1. Marcellus Talaimalo Uiagalelei, Esq.
2. Aitofiele B. Sunia, Esq.

Federal:

1. Lydia Faleafine-Nomura, Department of Interior, Office of Insular Affairs

Private Sector:

1. Toaalii Scanlan
2. Olivia Reid

Youth:

1. Nerisa Taua Ve'e
2. Joseph Zodiacal
3. Gabrielle Langkilde
4. Manino Oilau Iseula Reed

Public/Other

1. Fanuatele Dr. Toafa Vaiaga'e
2. Tufaga Dr. John Mapu
3. Alagaimalo Dr. Solomon Tuisamatatele

Women

1. Vaitinasa Dr. Salu Hunkin
2. Reverend Filomena Hunt-Leituala
3. Tauaisafune N. Taifane
4. Patricia Fuiava
5. Moelili'a Seui

**Section 5: Support and Funding**

Staff and financial support for Committee activities shall be provided through the Office of the Governor and the Constitutional Review Office.

**Section 6: Effective Date**

This Order shall take effect immediately and shall remain in effect until the conclusion of the Constitutional Convention.

Date: 2/04/22



LEMANU P. S. MAUGA  
Governor of American Samoa





**OFFICE OF THE GOVERNOR  
AMERICAN SAMOA GOVERNMENT**

**EXECUTIVE ORDER 006-2022**

**AN ORDER CALLING THE CONSTITUTIONAL CONVENTION OF 2022**

**Section 1: Authority**

This executive order is hereby issued in accordance with the powers and authority granted to the Governor by Article IV, Sections 6 and 7 of the Revised Constitution of American Samoa, and the American Samoa Code Annotated, Section 4.0111 (b).

**Section 2: Preamble**

**WHEREAS**, the Congress of the United States, in its Act of February 20, 1929, provided that until the Congress shall provide for the Government of the islands of American Samoa, all civil, judicial, and military powers shall be vested in such person or persons and exercised in such manner as the President of the United States shall direct; and

**WHEREAS**, by Executive Order No. 10264 the President of the United States directed that the Secretary of the Interior should take such action as may be necessary and appropriate and in harmony with applicable law, for the administration of civil government in American Samoa; and

**WHEREAS**, it is appropriate that, in the process of developing self-government, the people of American Samoa should enjoy certain rights and responsibilities inherent in the representative form of government; and

**WHEREAS**, it is desirable that these rights and responsibilities be clearly set forth in a Constitution, and the adoption of a Constitution is in harmony with applicable law; and

**WHEREAS**, the Constitution adopted in 1960 having been ratified and approved by the Secretary of Interior and having been approved by a Constitutional Convention of the people of American Samoa and a majority of the voters of American Samoa voting at the 1966 election, is established to further advance government of the people, by the people, and for the people of American Samoa; and

**WHEREAS**, Congress enacted under 48 U.S.C. §1662a, the law which now states: “Amendments of, or modifications to, the Constitution of American Samoa, as approved by the Secretary of the Interior pursuant to Executive Order 10264 as in effect January 1, 1983, may be made only by Act of Congress”; and

**WHEREAS**, the Constitution provides an amendment process allowing the people to revisit, improve, or correct it and ensure it continues as a “living document”; and

**WHEREAS**, the 2022 Constitutional Review Committee has presented its Report to the Governor with amendments and proposals approved by the Constitutional Review Committee in preparation for a 6th Constitutional Convention of American Samoa;

**NOW THEREFORE, I, LEMANU P. S. MAUGA**, Governor of American Samoa, by virtue of the authority vested in me by the Revised Constitution of American Samoa and the American Samoa Code Annotated, hereby execute this order.

**Section 3: Order**

The Constitutional Convention of 2022 is hereby called. It shall convene on August 29, 2022 and shall adjourn on September 2, 2022. Delegates to the convention shall consider, discuss, debate and vote on amendments to the Revised Constitution of American Samoa of 1967 or a revised draft constitution presented by the Constitutional Review Committee.

The delegates to the convention shall be selected by their respective County Councils in accordance with the Revised Constitution of 1967 and Executive Order 007-2022.

If the Convention approves amendments to the Revised Constitution of 1967 or a revised draft constitution by a simple majority vote, such amendments or such a draft will be submitted by the Governor to voters eligible to vote for members of the House of Representatives at the next general election.

**Section 4: Effective Date**

This order shall take effect immediately.

Date: June 20, 2022



LEMANU P. S. MAUGA  
Governor



**OFFICE OF THE GOVERNOR  
AMERICAN SAMOA GOVERNMENT**

**EXECUTIVE ORDER 007-2022**

**AN ORDER CALLING UPON ALL COUNTY COUNCILS OF THE TERRITORY  
TO SUBMIT THEIR LIST OF DELEGATES TO THE  
AMERICAN SAMOA 2022 CONSTITUTIONAL CONVENTION**

**Section 1: Authority**

This executive order is hereby issued in accordance with the powers and authority granted to the Governor by Article IV, Sections 6 and 7 of the Revised Constitution of American Samoa, and the American Samoa Code Annotated, Section 4.0111 (b).

**Section 2: Preamble**

**WHEREAS,** on September 23, 2021, the Governor signed Public Law 37-6 which provides for the budget of the American Samoa Constitutional Convention;

**WHEREAS,** American Samoa last reviewed our Constitution in 2010, and in light of ever changing conditions, including a global pandemic, a Constitutional Convention is both timely and warranted;

**WHEREAS,** the Constitutional Review Committee was appointed on February 4, 2022 and convened on February 8, 2022, immediately undertaking suggested revisions and amendments to Constitutional provisions for consideration by the Convention;

**WHEREAS,** on June 17, 2022 the Constitutional Review Committee completed its work on suggested revisions and amendments to the Constitution for official review by the Convention delegates;

**WHEREAS,** Article V, Section 4 states the “delegates to the convention shall be selected by their respective county councils”;

**WHEREAS,** Article V, Section 10 states the political district of Manu’a is composed of the political counties of Ta’u, Faleasao, Fitiuta, Olosega and Ofu;

**WHEREAS,** the Eastern political district is composed of the political counties of Sua, Vaifanua, Saole, Ituau and Ma’uputasi;

**WHEREAS**, the Western political district is composed of the political counties of Fofu, Leasina, Tualatai, Lealataua and Ma'upu (Tualauta);

**WHEREAS**, each county shall have at least one delegate;

**WHEREAS**, the number of delegates from each county shall be the number obtained by dividing the population of each county, as shown by the last preceding Federal census, by 400;

**WHEREAS**, Swains Island shall have one delegate selected in open meeting by the adult permanent residents of the island who are US nationals;

**WHEREAS**, Executive Order No. 006-2022 calls for a Constitutional Convention to meet August 29 to September 2, 2022; and

**WHEREAS**, the Territory should move forward with the consideration of these important matters as well as others that will be made clearer in the near future.

**NOW THEREFORE, I, LEMANU P. S. MAUGA**, Governor of American Samoa, by virtue of the authority vested in me by the Revised Constitution of American Samoa and the American Samoa Code Annotated, hereby execute this order calling upon all county councils of the Territory to begin meeting and discussing the appointment of official delegates to the Constitutional Convention to be held August 29 through September 2, 2022.

### **Section 3: Order**

The County Councils of the Territory are encouraged to begin meeting to discuss and appoint their respective delegates to the Constitutional Convention.

The following considerations are non-binding on the Councils. It is preferred to have delegates who are experienced in their communities and those with advanced education. It is in our best interest as a Territory to have broad representation including women, youth, the elderly, and people with disabilities. Councils should strive to appoint delegates who represent the demographics of their counties.

County Councils must submit, in writing, the names of their appointed delegates to the Office of Political Status, Constitutional Review and Federal Relations by **August 8, 2022**. That Office shall work closely with the Secretary of Samoan Affairs to coordinate the receipt of delegate names by the date noted above.

Delegate numbers shall conform to the following, as specified in Article V, Section 4 of the Revised Constitution of American Samoa and as outlined in the Preamble:

<b>Political Counties</b>	<b>Delegates</b>
Fitiuta	1
Faleasao	1
Ta'u	1
Olosega	1
Ofu	1
Vaifanua	4
Sua	6
Saole	3
Ma'uputasi	21
Ituau	18
Ma'upu (Tualauta)	48
Tualatai	8
Leasina	4
Fofo	7
Lealataua	4
Swains Island	1
<b>Total Delegates</b>	<b>129</b>

#### **Section 4: Effective Date**

This order shall take effect immediately.

Date: June 20, 2022




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LEMANU P. S. MAUGA  
Governor

REVISED CONSTITUTION OF AMERICAN SAMOA

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**HEARING**  
**BEFORE THE**  
**SUBCOMMITTEE ON**  
**ENERGY CONSERVATION AND SUPPLY**  
**OF THE**  
**COMMITTEE ON**  
**ENERGY AND NATURAL RESOURCES**  
**UNITED STATES SENATE**  
**NINETY-EIGHTH CONGRESS**  
**SECOND SESSION**  
**ON THE**  
**REVISED CONSTITUTION OF AMERICAN SAMOA**

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MAY 8, 1984



Printed for the use of the  
Committee on Energy and Natural Resources

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U.S. GOVERNMENT PRINTING OFFICE

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**JAMES A. McCLURE** and **J. BENNETT JOHNSTON** are *Ex Officio* Members of the Subcommittee  
**JAMES P. BEIRNE**, *Counsel*

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# REVISED CONSTITUTION OF AMERICAN SAMOA

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TUESDAY, MAY 8, 1984

U.S. SENATE,  
SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 1 p.m., in room SD-366, Dirksen Office Building, Hon. Lowell P. Weicker, Jr., presiding.

Present: Senator Weicker.

Also present: James P. Beirne, counsel; D. Michael Harvey, chief counsel for the minority; and Craig Gannett, counsel for the minority.

## OPENING STATEMENT OF HON. LOWELL P. WEICKER, JR., A U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator WEICKER. This afternoon, the Subcommittee on Energy Conservation and Supply will conduct oversight hearings on the Revised Constitution of American Samoa.

Last year, a section was added as an amendment to Public Law 98-213, the omnibus territory bill. This section requires that any changes to the Constitution of American Samoa should be approved by the Congress of the United States.

More recently, representatives of the people of American Samoa have gathered together in a constitutional convention to revise their constitution and strengthen, in law, those values and ideals which will protect their society and traditional culture.

I, for one, stand in support of the wishes of the people of American Samoa, and would oppose undue Federal intervention into local governance.

Today, prior to exercising our responsibility under Public Law 98-213, the subcommittee has scheduled this oversight hearing as a forum to permit representatives from Samoa and the administration to discuss the proposed revision and determine whether there are any potential or actual conflicts with the U.S. Constitution which require further discussion.

And our first witness is the Honorable Fofu Sunia, Delegate from American Samoa.

If you will step up to bat, why we're ready to go.

We welcome you, Congressman.

**STATEMENT OF HON. FOFO I. F. SUNIA, DELEGATE FROM  
AMERICAN SAMOA**

**Mr. SUNIA.** Thank you, Mr. Chairman. It's a pleasure and a privilege once again to come before you today to speak about a matter that relates to the territory which I represent here.

I know the pressure of nationally important issues and your particular time and your great interest and involvement in those issues, and we appreciate more, therefore, your allowing time to hear this particular question on the Constitution of American Samoa which, as you so amply and clearly stated, came before Congress last year.

The action, Mr. Chairman, was taken to meet a specific need which since then has been met. And I appreciate again Congress' action in that regard.

I do have a prepared statement that I asked be made a part of the record of these hearings, Mr. Chairman.

**Senator WEICKER.** The statement in its entirety will be included in the record.

**Mr. SUNIA.** Very briefly then, in addition to that, let me say that we have here in the Nation's Capital today our leader, the Governor of our territory, as well as the chairman of the convention, the constitutional convention that was recently held in Pago Pago, and members representing delegates to that convention, as well as some of our traditional leaders.

I will, therefore, not speak details to the revised Constitution. I simply wish to express my appreciation for your allowing this hearing.

I would like, however, for our leaders to speak the details of that particular constitution. And if I may, Mr. Chairman, I would like to have them speak now.

[The prepared statement of Mr. Sunia follows:]

## AMERICAN SAMOA CONSTITUTION OVERSIGHT HEARING

CONGRESSMAN FOFŌ I.F. SUNIA

MAY 8, 1984

MR. CHAIRMAN,  
MEMBERS OF THE COMMITTEE,

AS ALWAYS, IT IS A PLEASURE TO COME BEFORE YOU TO SPEAK ON A MATTER THAT RELATES TO AMERICAN SAMOA, THE UNITED STATES TERRITORY WHICH I AM PRIVILEGED TO REPRESENT IN THE UNITED STATES CONGRESS. I THANK AND COMMEND YOU FOR THE PRIORITY YOU HAVE GIVEN THIS ITEM, AS THE EXPEDITIOUS MANNER IN WHICH YOU ARE HANDLING IT TESTIFIES. I AM AWARE THAT YOUR MANY INTERESTS AND OF THE DEMANDS OF NATIONALLY IMPORTANT ISSUES WEIGH HEAVILY ON YOUR TIME. MR. CHAIRMAN, WE SINCERELY APPRECIATE YOUR PROMPT ATTENTION TO OUR CONCERNS.

WE ARE HERE BECAUSE CONGRESS PASSED A LAW LAST YEAR REQUIRING ALL CHANGES TO THE CONSTITUTION OF AMERICAN SAMOA TO BE MADE ONLY BY AN ACT OF CONGRESS. WHY DID CONGRESS DO THAT? FOR ONE REASON AND FOR ONE ONLY: TO REMOVE FROM THE SECRETARY OF THE INTERIOR THE AUTHORITY UNILATERALLY TO MAKE AMENDMENTS TO THE TERRITORY'S CONSTITUTION.

THE NEED BECAME URGENT WHEN THE PREVIOUS ASSISTANT SECRETARY OF THE INTERIOR FOR TERRITORIAL AFFAIRS THREATENED THE STEADY DEVELOP-

MENT OF OUR TERRITORIAL GOVERNMENT WITH ORDERS TO AMEND OUR CONSTITUTION. SUCH CHANGES WOULD HAVE BEEN FOR THE PURPOSE OF IMPOSING HIS OWN IDEAS ON HOW TO RUN THE GOVERNMENT OF AMERICAN SAMOA.

MR. CHAIRMAN, WE HERE IN CONGRESS FOUND THAT NOTION TO BE UN-AMERICAN AND UNDEMOCRATIC. A PEOPLE'S CONSTITUTION, ITS BASIC GOVERNING DOCUMENT, CANNOT BE PLACED AT THE MERCY OF ONE MAN. BY GIVING ITSELF THE AUTHORITY TO ACT ON ANY AND ALL CHANGES, CONGRESS MADE CERTAIN THAT THE SECRETARY OF THE INTERIOR DID NOT HAVE UNILATERAL AUTHORITY TO CHANGE THE AMERICAN SAMOA CONSTITUTION AND THAT THE TERRITORIAL GOVERNMENT WAS ALLOWED TO DEVELOP IN AN ORDERLY, DEMOCRATIC FASHION.

AS TO BE EXPECTED, THERE WAS A GREAT DEAL OF DEBATE OVER THIS ISSUE, BOTH HERE AND IN THE TERRITORY. THE PRIMARY CONCERN OF SOME POLITICAL LEADERS IN AMERICAN SAMOA WAS THAT CONGRESS WOULD BE TOO BUSY TO FIND TIME TO ATTEND TO OUR PROPOSALS FOR CHANGES, AND THAT BY SUBJECTING OUR CONSTITUTION TO CONGRESSIONAL ACTION, WE WERE OPENING UP THE AREAS OF LAND OWNERSHIP AND MATAI TITLES TO POSSIBLE REVIEW BY FEDERAL COURTS. IN ADDITION, THEY FEARED A LOSS OF DEPARTMENT OF INTERIOR ADVOCACY.

I FEEL THAT FIRST CONCERN IS SATISFIED BY THE SPEED WITH WHICH YOU HAVE AGREED TO CONDUCT A HEARING ON THE PROPOSED REVISED CONSTITUTION. AS TO THE SECOND AND MORE DEEP-SEATED FEAR ABOUT JEOPARDIZING THE SAFETY OF OUR LAND AND MATAI SYSTEM, I BELIEVE CONGRESS IS AWARE OF THE SAME CONCERN AND IS PREPARED TO HONOR THE U.S. COMMITMENT MADE IN THE TREATY OF CESSION - A COMMITMENT TO PROTECT AND PRESERVE

AMERICAN SAMOA'S CUSTOMS AND TRADITIONS. AND THERE IS NO EVIDENCE THAT THE OFFICE OF TERRITORIES HAS LOST INTEREST. IN FACT, UNDER THE PRESENT ADMINISTRATION OF OTIA, THERE IS MORE ASSISTANCE THAN EVER BEFORE.

MR. CHAIRMAN THERE WAS NEVER ANY INTENT IN BRINGING THIS MATTER BEFORE CONGRESS EITHER TO DISTURB TRADITIONS OR TO DISRUPT THE RELATIONSHIPS WITH THE FEDERAL GOVERNMENT. IT IS MY CONTENTION THAT CONGRESS IN ITS WISDOM CAN PROVIDE PROTECTION FOR THE UNIQUE SYSTEM OF LAND OWNERSHIP IN AMERICAN SAMOA. CONGRESS HAS ENACTED PROTECTIVE LEGISLATION FOR HAWAIIAN, ALASKAN AND INDIAN LANDS, AND THE FEDERAL COURTS HAVE UPHELD THE CONCEPT OF THIS PROTECTIVE LEGISLATION. AS THE MEMBER OF CONGRESS FROM AMERICAN SAMOA, I PLAN TO ASK FOR THE PASSAGE OF SUCH LAWS.

IN JANUARY 1984, A CONSTITUTIONAL CONVENTION WAS HELD IN THE TERRITORY. SEVERAL CHANGES WERE PROPOSED. THESE PROPOSALS ARE NOW BEFORE YOU AND ARE THE SUBJECT OF THIS REVIEW.

I AM TOLD THAT AFTER A PRELIMINARY INVESTIGATION OF THE PROPOSED DOCUMENT, STAFF AT JUDICIARY, INTERIOR, AND ALSO HERE IN CONGRESS HAVE DISCOVERED PROBLEMS THEY WISH TO STUDY FURTHER. AS THESE HEARINGS ARE IN THE FORM OF OVERSIGHT, AND ARE HELD WITHOUT LEGISLATION, I WOULD LIKE TO SUGGEST, MR. CHAIRMAN, THAT OUR GOVERNOR AND TERRITORIAL LEADERS RECEIVE ALL THESE CONCERNS, AND THAT THEY BE ALLOWED TO RECONSIDER THE PROPOSALS IN THE LIGHT OF THESE CONCERNS. AFTER SUCH RECONSIDERATION IN PAGO PAGO, AND WITH SOME CONSULTATION WITH THE APPROPRIATE AGENCIES HERE IN WASHINGTON, A FINAL VERSION CAN THEN BE SUBMITTED TO THIS CONGRESS FOR ENACTMENT.

I MAKE THESE SUGGESTIONS ONLY IN THE SPIRIT OF ASSISTING YOUR COMMITTEE IN ITS EFFORTS TO FACILITATE THE REVIEW OF THE AMERICAN SAMOA CONSTITUTION AND TO INSURE MAXIMUM PROTECTION FOR THE TRADITIONAL SYSTEMS IN SAMOA.

AS YOU MAY HAVE NOW SURMISED, SIR, I HAVE MADE NO COMMENTS OR REMARKS ABOUT THE MERITS OF THE VARIOUS PROPOSED CHANGES. I LEAVE THAT TO MY LEADERS FROM THE TERRITORY TO INTRODUCE AND DISCUSS.

IF I MAY, SIR, I WOULD LIKE AT THIS TIME, TO PERFORM ONCE AGAIN A TASK I ENJOY AND FEEL VERY HONORED TO PERFORM. I WOULD LIKE TO INTRODUCE THE LEADER OF OUR GOVERNMENT AND MY GOVERNOR, THE HONORABLE UIFAATALI PETER COLEMAN, GOVERNOR OF AMERICAN SAMOA.

Senator WEICKER. First of all I would like to say this Congressman I think you do a superb job in representing the interests of your constituency and all those that are here from American Samoa should know the very hard, detailed efforts that your representative has done for you.

What is the specific need that was met last year that you referred to?

Mr. SUNIA. Mr. Chairman, there were differences of opinion last year as to the authority of the Secretary of Interior over the territory. And, as you will recall, the previous Assistant Secretary, who is the Director of the Office of Territories, insisted that Secretary of the Interior had the right and the authority to unilaterally amend the Constitution of American Samoa and, in fact, proceeded to threaten to make one amendment which, in that particular case would have given him the authority to change the attorney general of the Government, who is a member of the Governor's cabinet, appointed by the local Governor, and confirmed by the Legislature of American Samoa.

We did not feel at that time that that was the right thing for him to do, to impose his own will on the government of—I mean the elected government of the people, and so we sought to have Congress pass an act that would remove from the Secretary of the Interior unilateral authority—if he did, in fact, have one, to unilaterally amend the constitution of the territory.

Senator WEICKER. Well, I know that that is the case. I just have to point out, the reason for the difficulty. The difficulty with tailoring laws or constitutions to individuals is exactly what has happened here; which is, you do it in the one instance, and then that reason disappears. This is why we have to turn around and bring things back into balance.

Constitutions and law should be written in the sense of general principle and for all time, if you will, and not because of various individuals who may be on the scene today and gone tomorrow.

I can appreciate your apprehension as to the individual that was there and who is gone today. But it also shows in terms of what needs to be done vis-a-vis our relationship between the United States and American Samoa. Those terms should really be based on broad principle and respect rather than whoever happens to be in Washington or not, as the case may be.

In any event, I appreciate everything, Congressman, that you have done to expedite matters here. Why don't you go ahead and proceed to bring to the witness table and introduce those that you would like to have testify.

Mr. SUNIA. Thank you very much, Mr. Chairman. I have the honor to introduce our Governor, who is the leader of our territory, Hon. Uifaatali Peter Coleman; and next to him is the president of our Senate, Hon. Galeai Poumele. And I'm sure you remember the older gentleman, who is the chairman of the recently held Constitutional Convention, High Chief Salaono. And behind him is High Chief Fuimaono, who once held the post of delegate to Washington; and High Chief Mulitauaopele, and High Chief Faiivae, who assisted the chairman in the recently held convention. And behind them is our attorney general. On the far end over there is the Speaker of the House, Hon. Tuana'itau Tuia, and next to him is Representative Mulai. We also have in the room Senator Ulu Fona, and I'm sure Senator Luto is here somewhere, as well as the High Chief Moniteli, who is a member of the Convention.

I believe that logs out the delegation from the territory.

Senator WEICKER. Is there anybody left on the island? [Laughter.]

Mr. SUNIA. Well, Senator, this is a matter of great importance and it was necessary to—

Senator WEICKER. Well, I think, as I said, nothing is more important.

Mr. SUNIA. And while I have the floor, and before the Governor takes over, may I say, sir, that there is another omnibus bill for 1984 that is currently working in the House. There will be hearings again on that this afternoon. And we are contemplating revising and broadening this particular area, and I am seeking the advice of Mr. Bernie, whom I consider to be an old hand in this and very experienced in these matters of the territories, and in due time it will come before you, and we hope that you will have time to look at it.

Senator WEICKER. We will. And I suggest you also continue consultations with both Kim Elliot, who is my legislative assistant, and Al Stayman, who is my assistant on this committee, with regard to the territorial affairs.

Mr. SUNIA. Thank you.

Senator WEICKER. Why don't we have the Governor come forward. Proceed in any way that you and those that represent you want to, Governor. This is your opportunity, in other words, to give expression, and I want that to be had in a way that is most convenient and most proper as far as you are concerned.

**STATEMENT OF HON. PETER TALI COLEMAN, GOVERNOR OF  
AMERICAN SAMOA**

Governor COLEMAN. Mr. Chairman, we deeply appreciate the privilege and pleasure of being here to appear before your committee on the matter of the Constitution of American Samoa.

I have already prepared my statement in written form, and I request that it be made a part of the record.

Senator WEICKER. It will be included in the record in its entirety.

Governor COLEMAN. And I will highlight the statement to cover certain points.

The history of constitutional development in American Samoa is one that started back in 1955, where we drafted a constitution. There were two approaches before us at the time. One was the approach to develop the constitution locally, and make the people part of that development, or, one to have an Organic Act through the Congress.

Our people at that time, and our leaders, decided to develop our constitution locally because of the uniqueness of our culture, the land tenure system, and our way of life.

The way of life that we're trying to protect, sir, is a way of life that had existed more than 1,000 years ago.

Our people come from a great heritage in the past. As you may know, we are known as the first navigators, even before the Vikings. So our people brought a form of government and a social system that is still in existence today.

The Treaty of Cession with the United States in 1900 protected that culture and that land tenure system. So as we develop along in our constitution development effort, we realize that we have to walk a very tight line, because the full impact of the U.S. Constitution can be very devastating to a culture like ours.

So what we have done then is to update our constitution about every 5 years. But what happened last year, as our distinguished Congressman, Congressman Fofu had indicated, we ran into some problems for the first time in the history of our relationship with the United States and with the Interior Department. We had some very strong differences on matters concerning self-government in American Samoa.

At the time, the Assistant Secretary then, had undertaken certain steps which I felt, and all of us in Samoa felt were too much in the extreme to the point where it would cause very serious embarrassment to our people before the whole Pacific Island community, and that was our concern.

When the matter came up for congressional action, it was our thought that the authority of the Secretary of the Interior to change, modify or amend the constitution should be checked. And we thought at that time the check would be in the Congress.

However, as time went on, as you indicated, Mr. Chairman, the change in personnel and the present Assistant Secretary of the Department of the Interior is a person of great sensitivities, and the sense of human awareness, so that the relationship now with the Office of Territorial and International Affairs is that of a very close operation and mutual respect for one another.



But we have found in developing our constitution that in bringing it before the Congress, that after extensive discussions and studies, that a congressional action might result in hurting our own culture and our way of life.

It is not that we do not respect the fundamental rights guaranteed by the U.S. Constitution, it's that we feel that without the protection of our land, we will have no culture; and, without any culture in our way of life, then we have nothing left, other than existence.

So with the problem now facing us, we want to respectfully request, sir, to hold off the final decision of your committee, sir, and the Congress on this matter so that we would have a chance to review more closely the omnibus bill that transferred the authority of the Secretary of the Interior to the Congress.

And we would like to recommend that that authority be returned to the Interior Department, with the provision that if the Secretary of the Interior decided to change or amend the constitution without consultation with our people—and we feel strongly that such a change must be returned to our people, and our people give it the approval through referendum.

And so we feel that at the present time in our level of political development we have not reached that point where we can find complete compatibility between our local constitution and the constitution of the United States.

And we appreciate very much, sir, your kindness and consideration in using this hearing here to enable us to appear.

A good number of our people came up for our budget hearings, both in the Senate and in the House, so the additional members are some of the representatives of the Constitution Convention Delegates, and with us is one of our senior statesmen, the High Chief Salaono, who was the Chairman of our Convention.

Thank you very much, Mr. Chairman.

[The prepared statement of Governor Coleman follows:]

STATEMENT OF THE HONORABLE PETER TALU COLEMAN  
GOVERNOR OF AMERICAN SAMOA  
BEFORE THE UNITED STATES SENATE SUBCOMMITTEE  
ON ENERGY CONSERVATION AND SUPPLY  
TUESDAY, MAY 8, 1984

Chairman Weicker, it is truly a pleasure to be here with you and the members of your committee. I want you to know that we take great pride in being a part of the official family of the United States of America. The relationship of American Samoa and the United States has been characterized by a strong mutual bond of friendship, respect and reliance. This relationship goes back almost a full century, when the people of American Samoa made available the rich abundance of our islands to benefit the United States Navy in the South Pacific. The United States in turn has guaranteed protection to American Samoa not only of our islands themselves but also of our land, customs and traditions.

I would now like to take this opportunity to introduce the members of the official American Samoa Constitutional Convention delegation [Governor introduces delegation].

I am honored to be in the company of these men, particularly High Chief Salanoa, whose life has spanned many important periods in the history of American Samoa. We all have lived through many interesting and difficult challenges. In my own career in American Samoa, first as the Public Defender in 1952, the Attorney General in 1955, later as the first and only Samoan

to be appointed Governor in 1956, then as the first elected Governor in 1977 and 1980. I come here with many rich and interesting memories and a great pride in having been a small part in the development of the American Samoa government.

In order to further develop our government to meet the challenges of the 80's and beyond, we convened a Constitutional Convention earlier this year to make recommendations for the revision of our present Constitution which was adopted in 1966 and became effective in 1967.

There has been a continued development process in our constitutional history beginning in the late 1940's and culminating in the adoption of our first Constitution in 1960. All members of our delegation are concerned that this process continues uninterrupted. We are equally concerned that we do not risk doing damage to our traditional Samoan land system or our language, culture and way of life.

The members of the delegation and I have spent many long hours discussing this hearing and the impact of Public Law 98-213 Section 12, which states:

"Amendments of, or modifications to, the Constitution of American Samoa, as approved by the Secretary of the Interior pursuant to Executive Order 10264 as in effect January 1, 1983, may be made only by an Act of Congress.

We are pleased that you have scheduled this as an oversight hearing and have allowed us an opportunity to express our

concerns and our wishes as to the future of our Constitutional developmental and review process.

It has always been my thought that the Constitutional review function remain with the Secretary of the Interior as long as there is a system of checks and balances which would prevent arbitrary actions of officials which could have harmful effect on our Constitution or our customs and traditions. The members of this delegation and I agree that a formal submission of our Constitution to your committee or to Congressman Won Pat's committee in the House of Representatives would be premature and could put many of our traditional Samoan institutions and customs in jeopardy.

It is my feeling that the needed checks on arbitrary changes in our Constitution should flow from the people of American Samoa, therefore I would propose the following as substitute legislative language for P.L. 98-213 §12.

"In addition to the rights already possessed, the Territory of American Samoa has the right to provide for its common welfare and may adopt an appropriate constitution, which constitution shall become effective when approved by a majority of the registered voters residing in American Samoa, at a general election or a special referendum called by the Governor.

Amendments, revisions or modifications to the Constitution of American Samoa shall be approved in the same manner.

Such Constitution, amendment, revision or modification shall not be referred to the voters until the Governor of American Samoa has forwarded same to the Secretary of the Interior, pursuant to Executive Order 10264, for review and approval within 120 days from date of submission. The Secretary may review to insure that adequate protection has been provided

for the traditional American Samoan land system, language, culture and way of life."

I hope that you share my feelings on this matter and that you find the suggested change to be beneficial. If you agree that the Office of the Secretary of the Interior is the proper forum of review for the Constitution of American Samoa than I would respectfully request that the committee take no action at this time so that we may begin to work with the Department of the Interior officials to make further revisions so that our Constitution will protect our Samoan land system, language, culture and traditions and still be compatible with our being part of the official family of the United States of America.

Senator WEICKER. Thank you very much, Governor.

**STATEMENT OF HON. SALANOA S. P. AUMOEUALOGO, CHAIRMAN,  
CONSTITUTIONAL CONVENTION**

Mr. AUMOEUALOGO. Thank you very much, Mr. Chairman, and honorable members of the committee.

As the Chairman of our 1984 constitutional convention, I would like to make a brief statement. I think you have copies of my statement.

Our Constitution is based on our political status; that is, unorganized, unincorporated. We have been here. I was the chairman of our political status study commission in 1969, and also in 1979. We came down here in 1969, and we had a conference with the Senate Judiciary Subcommittee. So we discussed the matter then. Then all these two Political Study Commission reported to maintain our status quo, because we would like the protection of our lands, our customs and our way of life.

We feel that any act of Congress, the Constitution of the United States will apply there. So that is the reason why we ask this committee—I've tried to comply with our Governor's request, that our constitution be returned back to us so that we may look to it again and try to comply with our present status.

I think our present status, our people are happy. With respect to this law recommended, we just learned of this law after it was passed, this Public Law 98-213, 6, and 12.

So I don't want to take much time. I thank you very much.

[The prepared statement and additional material submitted by Mr. Aumoeualogo follow:]

TESTIMONY OF HC/SALANOA S.P. AUMOEUALOGO  
BEFORE THE UNITED STATES SENATE SUBCOMMITTEE  
ON ENERGY CONSERVATION AND SUPPLY

WASHINGTON, D.C.

(TUESDAY, MAY 8, 1984)

Mr. Chairman, Senator Lowell P. Weicker, Jr.,  
Distinguished Members of the Subcommittee on Energy  
Conservation and Supply

Good Afternoon:

My name is Salanoa S.P. Aumoeualogo. I am indeed honored to have this privilege of addressing you and bringing to you the alofas and warm greetings of our people back home.

I am particularly honored as Chairman of the recently concluded 1984 Constitutional Convention of American Samoa, to present to you our completed work, and I would like to present each of you with a copy of the Resolution expressing the Convention's position concerning the proposed Constitution of American Samoa.

This document best expressed the desires of our people in not only maintaining our relationship with this great Nation of the United States, but at the same time, preserve, foster and maintain our own Samoan way of life. We are extremely proud as Samoan People to be part of the greatest Country on the face of this earth and being a member of this great family, the American Family.

The United States and especially this great Body, the United States Congress, since April 1900 when the United States Flag was first raised over American Samoa soil, has shown sensitivity to the needs of our people and more specifically, the preservation of our Samoan way of life.

As your household in the South Pacific, the Territory of American Samoa enjoys a unique and meaningful partnership with the United States. We began this beautiful relationship when our forefathers ceded Tutuila and Manu'a to this great country in 1900 and 1904 as reflected in the Treaties of Cessions implementing the agreements and desires of our people with the United States to become members of this great Family. We know, we both have lived up to our respective parts of our agreements. American Samoa is perhaps the smallest member of the American Household, but we have tried in our own little ways to contribute to this great Nation that we are most proud to be part of.

I humbly address you with some authority as I am now 72 years old and has personally participated throughout the political development of American Samoa starting from the establishment of our Fono (Legislature) in 1948, then the change over from the Naval Administration to Interior. I am a founding member of our Legislature and President of our Senate for many years; participated in all three (3) previous constitutional conventions and was Chairman of the First and Second Future Political Study Status Commission of the Territory.

In the past 15 years culminating to the 1984 Constitutional Convention, our people have been deliberating long and hard as to our political status, and particularly, our relationship with this great Nation. I am proud to state to you Mr. Chairman and before this Subcommittee, that American Samoa

enjoy and welcome our present status as an unincorporated and unorganized territory of the United States. It signifies our desire to be part of the American Family, and at the same time, it preserves and protects our communal land and matai systems, the basic core of our Samoan way of life.

Please make no mistake about it, we have no desire of an 'organic act' for American Samoa.

The United States Congress has played, and we pray, that it will continue to play, a meaningful role in our development, and particularly, the role of being the protector of our Samoan way of life. Congress participated in permitting us to popularly elect our own Governor and of course the sending of American Samoa's delegate to the United States Congress. We truly appreciate this increased autonomy as we move forward through the process of our economic and political developments.

There are but just a few noted changes of amendments we have made in this 1984 Constitution, our basic and most vital concern however, is the protection of our communal land and matai systems from interference, however good intentioned they may be, with our free exercise of our customs, culture and tradition that sometimes may perhaps conflict with your own way of doing things here in the United States. We ask for your understanding and tolerance.

As you know, American Samoa is very small consisting of only 76 square miles 2/3 of which are mountains and hills. There are only about 32,000 of our people living in the Territory. Thus understandably, the basic theme in the Constitution is to ensure protection of our culture and the small amount of land we have. No laws are more central to the preservation of our way of life than those restricting land ownership and



alienation, necessary so that our children and their children and grandchildren, would live to enjoy this small but unique Territory of the United States in the South Pacific. We are likened to a very small fish that swims on the reef but never beyond, because once it wanders beyond the reef and into the deep ocean, it will be immediately swallowed by a big fish.

As you know, we are simple people with very simple needs. We are extremely reluctant to be involved in the complicated and complex federal way of doing things. We feel much safer and comfortable swimming in shallow and calm waters so that the big fishes will not be tempted to even consider us a meal of any kind.

Our Senators are elected not by the electorate, but selected based on Samoan customs among the matais from each representative district. I am proud to state that this was one of the recommendations made by the Mile's Congressional Commission that visited American Samoa in the 1950's and recommended that our Senate be constituted based on Samoan customs and that our House of Representative be popularly elected as in the United States. I am more proud to state that this manner of selecting and electing members to our Legislature is working and am positively sure, will continue to work.

As stated above, the American Samoa Constitution meant to preserve the core of the "FAA-SAMOA" - our system of land ownership and property rights with our matais as administrators thereof. Our local courts have upheld it; you have allowed us to continue it. It has worked for us since times immemorial and has been working, and still is, for the

past 84 years we have been members of the American Family. We know, it is going to work for many years to come. All we ask is that you continue to let our people decide and determine for ourselves. If it stops working, our people will advise us. I ask to please have faith in the wisdom of our people to determine and plot our future.

Land to the American Samoan is life itself. He cherishes the land where his ancestors came thousands of years ago, and where he and his family and children were born. Land is the only thing he values above anything else because it belongs to him and his family and will belong to their children, just as it belonged to his predecessors for centuries past. Land is what he lives from, for it is only on the land that he can plant, nurse, and grow his plantations of coconuts, papayas, taro, avodacos, breadfruit, bananas, mangos, quavas, pineapples, citrus, vegetables, and other food. Land is where he cooks his food. Land is where the bodies of his beloved ancestors are buried. Land is where he builds his fale, large or small. Land is the material thing he lives most, after his children. Land is the most valuable inheritance he can leave his family and children when he dies. Land is his horizon between the sea and the sky. Land is the great gift from God to him on this earth, after life itself.

The whole fiber of the social, economic, traditional and political pattern in American Samoa is woven fully by the strong thread which we place in the ownership of land. Once this protection for the benefit of American Samoans is broken, once this thread signifying the ownership of land is pulled, the whole fiber and foundation, the whole pattern of our Samoan way of life will be forever destroyed.

Mr. Chairman, there are not enough words in my language, or enough words of your language that I know, to express to you or impress upon this distinguished Subcommittee the importance to us of preserving our Samoan way of life. I pray and trust that our Heavenly Father assists me in explaining to you what is dear and cherished by all of us.

You are undoubtedly aware of the concern of all the people of the Pacific about nuclear testings in our area. We are also very much concern about them. We ask Congress to help us in advising other nations to cease these irresponsible actions because they are not only real threats to our future and those of our children, but these nuclear testings are also destroying the most dependable source of our economic development contain in the ocean. The ocean waters around American Samoa and in the Pacific are perhaps the last undeveloped part of this earth left. America must and should be the leader in ensuring that our ocean waters and the resources therein are not destroyed or exploited by other nations.

To enable us to meaningfully plan and mold the course of our political development, we must give and let our own people decide and make these plans. We have therefore accordingly defined the term American Samoan citizen to meet this need.

We believe that this document strikes an effective balance. We want to work with Congress. We need your input, your advise, your praise, and of course your criticisms. Most of all, we need your understanding. Your dedication and assistance will ensure that we have the best possible framework from which to mold our future, formulate our government, our policies, our very way of living. We need your help and we welcome it.


As I understand the procedures you have already set out, the People of American Samoa will have the ultimate decision as to whether this Constitution becomes a reality. I am really thankful to you for that and I very much appreciate your letting our people be the final decision-makers of this document. I truly believe that this Constitution, as amended, is in the best interest of all the people of American Samoa. With your guidance, we know that we will leave Washington with great confidence that this would be the best possible blueprint for our future and that our people will also be similarly convinced and will give their approval. And, when this Constitution becomes a reality, hopefully within the near future, American Samoa will have taken one more stride in strengthening our partnership and friendship with this great Nation. I am reminded by what the famous American writer Emerson once said, "America was built by practical men, it will continue to be built by practical men." America is known throughout the Pacific as the 'protector' of the free world and champion of the little and common man. We as a member of the American Family have tried and will continue to live up to this outstanding image of America so that the world can see that America really and truly is the champion of the common man. Our Delegation is consisted of some of our leaders who also chaired the main committees in the Constitutional Convention, and our legal advisor. They will be glad to answer any question or explain further any of the new amendments to the Constitution.

In conclusion, I ask to please let us all look into this document, the Constitution of American Samoa, as proposed, from the same window, instead

of from different windows, so that we could all have seen the beauty of the scenic realities of things God has given us from the same perspective, and to utilize them to glorify HIS Nation on earth as it is in Heaven.

God bless the United States. God bless American Samoa. Faafetai tele.

SOIFUA,



SALANOA S.P. SALAFUA  
Chairman, 1984 Constitutional  
Convention of American Samoa

**HIGH CHIEF SALANOA S.P. AUMOEUALOGO'S  
SPEECH BEFORE THE U.S. HOUSE OF REPRESENTATIVE  
SUBCOMMITTEE OF INSULAR AFFAIRS**

1 Mr. Chairman, and Members of the House Subcommittee on  
2 Insular Affairs. I am honored to have this privilege of address-  
3 ing you, and members of Congress who serve on this important  
4 subcommittee. I come before you as the Chairman of the recent  
5 Constitutional Convention of American Samoa. As such, I would  
6 like to present each of you with a copy of a Resolution by the  
7 1984 American Samoa Constitutional Convention expressing the  
8 Convention's position concerning the proposed constitution of  
9 American Samoa. In addition, I come before you not only as a  
10 Samoan, but also as an American Samoan with a proud heart being  
11 a member of this great family - the American family.

12 I, and all our people, are proud of our Samoan heritage,  
13 as our heritage is our identity of the past which makes us what  
14 we are as of today. I, and all of our people also are equally  
15 proud of our long friendship, common interests, and being members  
16 of this great American family.

17 As your southern-most household, the Territory of  
18 American Samoa enjoys a unique and meaningful partnership with  
19 the United States. We have been deliberated over the last 15  
20 years as to our political status, initially at the 1969 American  
21 Samoa Political Status Commission, and again in 1979, and up  
22 to this moment the people of American Samoa enjoy and welcome  
23 our present status as an unincorporated and unorganized territory  
24 of the United States.

25 Some of you have been in American Samoa. I wish all of

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1 you would have an opportunity to participate and witness our  
2 Flag Day Celebration which is annually held on April 17. It is  
3 the biggest celebration of the year not only to commemorate our  
4 strong ties with this great nation, but also to honor our fore-  
5 fathers' wishes and desires as embodied in the 1900 and 1904  
6 Treaties with the United States to become members of this great  
7 family. The present arrangement will continue to work well for  
8 both of us.

9 As an unincorporated and unorganized Territory, we have  
10 been recently experienced considerable local autonomy as you  
11 have granted us. Our people have been given the right to popular-  
12 ly elect Our own Governor. You have also permitted us to send a  
13 Delegate to the United States Congress. We appreciate this  
14 increased autonomy as we move forward through processes of  
15 economic and political developments.

16 More important, we very much appreciate your allowing us  
17 to live as Samoans and practice our own customs and traditions,  
18 the things that have made us and our ways of life so special.  
19 We cherish what we are even as we move forward economically and  
20 politically. Ours is a special culture, a beautiful way of life  
21 and we want to maintain it - even as we move forward together.  
22 Not only can the old and new blend, in our islands, they are  
23 blending in a unique and harmonial fashion.

24 Our constitution, as presently in force, and the new  
25 changes as proposed, represents our efforts to continue this

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High Chief Salanoa S.P. Aumoeualogo's Speech PAGE 2  
Before the House of Representative Subcommittee  
on Insular Affairs

1 blending process. It is intended to preserve our customs and  
 2 traditions and especially our land system as we move forward  
 3 with you to face the coming times of change with confidence and  
 4 hope. Our land policy and the way our bicameral legislature is  
 5 set up as contained in Articles I and II of the Constitution  
 6 are illustrations of the point made. We are proud to be  
 7 among the very few Pacific Island people who are able to keep and  
 8 maintain most of our customs and traditions harmoniously along  
 9 with long exposure to western ways of life. That is because we  
 10 place a lot of values into our customs and traditions. They are  
 11 our natural and inalienable possessions. The Samoan spirit is  
 12 one of partnership and optimism for the future, with appreciation  
 13 for the past.

14         The American Samoa Constitution meant to preserve the core  
 15 of the "FAA-SAMOA" - our system of land ownership and property  
 16 rights with our matais as administrators thereof. Our local  
 17 courts have upheld it; you have allowed us to continue it. It  
 18 has worked for us since times immemorial and has been working,  
 19 and still is, for the past 84 years we have been under the U.S.  
 20 flag. We know, it is going to work for many years to come. All  
 21 we ask is that you continue to let our people decide and determine  
 22 for ourselves. If it stops working, our people will advise us.  
 23 I ask to please have faith in the wisdom of the Samoan people to  
 24 determine and plot our future while at the same time preserving

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1 our FAA-SAMOA.

2           It is my belief that this document strikes an effective  
3 balance. We want to work with you. We need your input, your  
4 advise, your praise, and of course your criticisms. Your  
5 dedication and assistance will ensure that we have the best  
6 possible framework from which to formulate our government, our  
7 policies, our very way of living. We need your help and we  
8 welcome it.

9           As I understand the procedures you have already set out,  
10 the people of American Samoa will have the ultimate decision as  
11 to whether this constitution becomes a reality. I am really  
12 thankful to you for that and I very much appreciate your letting  
13 our people to be the final decision-makers of this document. I  
14 respectfully believe that this constitution, as amended, is in  
15 the best interests of all the people of American Samoa. With  
16 your guidance, we know we will leave Washington with great  
17 confidence that this would be the best possible blueprint for  
18 our future and that our people will also be similarly convinced.


19           And, when this constitution becomes a reality, American  
20 Samoa will have taken one more stride in strengthening our  
21 partnership and friendship with with greatest nation on this  
22 earth - the United States of America.

23           In conclusion, I ask to please let us all look into  
24 this document, the Constitution of American Samoa, as proposed,

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1 from the same window, instead of from different windows, so that  
2 we could all have seen the beauty of the scenic realities of  
3 things God has given us from the same perspective, and to  
4 utilize them to glorify HIS Nation on earth and in Heaven. May  
5 God bless the people of the United States as well as the people  
6 of American Samoa.

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8 IA SOIFUA,

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12 SALANOA S.P. AUMOEUALOFO,  
13 Chairman, 1984 Constitution  
14 Convention of American Samoa  
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**RESOLUTION BY THE 1984  
AMERICAN SAMOA CONSTITUTIONAL CONVENTION**

**A RESOLUTION EXPRESSING THE POSITION OF THE PEOPLE OF  
AMERICAN SAMOA TO THE UNITED STATES CONGRESS REGARDING THE  
THE MATTERS OF THEIR POLITICAL STATUS, AND DESIRE TO PROTECT  
THEIR LANDS, PEOPLE, TRADITIONS AND CUSTOMS.**

**WHEREAS**, the islands of Tutuila and Manu'a collectively known as American Samoa were in April 17, 1900 and July 14, 1900 respectively ceded to the protection of the United States Government;

**WHEREAS**, American Samoa has been, for the last eighty-four years, under the governing and administration of the United States Government as an unincorporated and unorganized territory of the United States; and

**WHEREAS**, American Samoa appreciates some of the progresses seen in its political, social, and economic developments, although its people are mindful of their Samoan heritage and traditions which makes it a unique territory under the U.S. flag; and

**WHEREAS**, it is the desire and mandate of the people of American Samoa to preserve and protect their lands, customs and traditions from being affected by outside forces including but not limited to congressional Act or Acts, or by federal judicial decisions; and

**WHEREAS**, Congress has enacted Public Law 98-213 known as the Compact bill, and was approved by the President of the United States wherein it is provided,

"Section 12. Amendments of, or modifications to, the constitution of American Samoa, as approved by the Secretary of the Interior pursuant to Executive Order 11204 as in effect January 1, 1963, may be made only by Act of Congress"; and

WHEREAS, the people of American Samoa, by and through their elected delegates have convened in a constitutional convention in Fagaofo, American Samoa, in order to deliberate their fundamental rights as a people and their duties and obligations as a government; and

WHEREAS, the people of American Samoa have by and through their Delegations to the 1964 Constitutional Convention, after having reviewed and revised their constitution, are desirous of maintaining their mandate in protecting their Samoan traditions, customs, system of land, their language and their way of life, and have implanted therein certain languages and provisions to further documented their commitment and desire to protect American Samoa and her identities as properly summarized in the Preamble to the said constitution, and

WHEREAS, the people of American Samoa are concerned that the United States Congress might contemplate a unilateral attempt to develop an organized Government for American Samoa, or similar means of development, which might alter our systems of land, our Samoan customs and traditions, and our Samoan way of life would be affected without the express consent of the people of American Samoa.

NOW THEREFORE, BE IT RESOLVED BY THE 1964 AMERICAN SAMOA CONSTITUTIONAL CONVENTION that, we the Delegates thereto, wish to submit this revised Constitution of American Samoa to the Congress of the United States as a document containing therein what the people of American Samoa have decided to be general rules and laws to govern their existence as a government and a territory of the United States; and

BE IT FURTHER RESOLVED that, Congress shall consider the uniqueness of our territory and its people, lands, customs and traditions in their deliberation over the proposed Constitution of American Samoa; and

BE IT FURTHER RESOLVED that, the people of American Samoa, speaking through their delegates to this 1964 Constitutional Convention, do not wish the Congress of the United States to

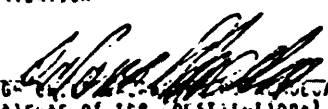
purpose or consider an organic act or an organized status for American Samoa without the express consent and approval of the people of American Samoa, and that such express consent and approval are to be expressed only by public referendum and not be left to matter or political interpretations by public officials; and

BE IT FURTHER RESOLVED that, Congress shall adopt and maintain the present political status of American Samoa as an unincorporated, unorganized territory of the United States, until and unless otherwise expressly recommend by the people of American Samoa, and

BE IT FURTHER RESOLVED that, our prayers call for the blessings of the Almighty God be upon the United States Congress, the President, the Judiciary, and all the people of the United States and its leaders, as well as upon the people of American Samoa and its leaders, so that we all may see HIS LIGHT and dwell in HIS PEACE; and

BE IT FURTHER RESOLVED that, certified copies of this Resolution shall be transmitted to the Honorable Strom Thurmond, President Pro-tem of the Senate, Honorable Thomas H. White, Jr., Speaker of the House of Representatives, Honorable Howard Baker, U.S. Senate Majority Leader, Honorable Robert C. Byrd, U.S. Senate Minority Leader; Honorable James McClure, Chairman, U.S. Senate Committee on Energy and Natural Resources; Honorable G. Bennett Johnston, Ranking Minority Member, Honorable Lowell P. Weicker, Jr., Chairman, Senate Subcommittee on Energy Conservation and Supply; Honorable Morris Udall, Chairman, U.S. House of Representatives Committee on Interior and Insular Affairs; Honorable Antonio B. Bon Pat, Chairman of the House of Representatives Subcommittee on Territories and Insular Affairs; Honorable William P. Clark, Secretary, Department of Interior; Honorable Richard T. Montoya, Assistant Secretary for Territories and International Affairs; Honorable Tulo I. F. Sunia, American Samoa's Delegate to the U.S. Congress; Honorable Peter Uifaatali Coleman, Governor of American Samoa; Honorable Galea'i P. Pounelo, President of the Senate; Honorable Tuana'itau F. Tula, Speaker of the House of Representatives; and the original thereof shall be transmitted to the President of the United States.

FOR AND ON BEHALF OF THE 1986  
AMERICAN SAMOA CONSTITUTIONAL  
CONVENTION

  
FEBRUARY 1986  
Chairman of the Constitutional  
Convention

SUMMARY OF CHANGES IN PROPOSED  
CONSTITUTION OF AMERICAN SAMOA

Article I - Bill of Rights

Section 2 "Communal" property and "private property" are being particularized as property that comes under the "taking" clause.

The other change calls for the government to give back any property it "takes" if the property is not used for a public purpose within (5) years of the initial taking.

Section 3 The new provision states that no new business shall be allowed in American Samoa (exception = a new business not in direct competition with an existing business); unless 51 ownership and control of such business be vested in persons of American Samoan ancestry.

Section 6

(b) In all criminal prosecutions, the accused would now have the right to a written copy of the accusation made against him. The accused also would have the right to a jury trial if conviction could result in six (6) months or more in prison.

(d) This gives a court discretion to deny bail if release of the accused would constitute a danger to the community-in serious cases.

Section 11 (new provision)

The Government school system shall stress academic and vocational skills and it shall instruct its students in the Samoan language and customs.

Article II - The Legislature

Section 1 The first addition gives the Legislature the general "police power" that states have.

(c) This allows legislation to protect the Samoan people from nuclear harm or other damage to its fish, ocean products or other resources within territorial waters.

Section 2 This provision re-confirms that the Senate will be constituted according to Samoan customs and increases the membership in both houses of the Legislature.

Section 3 This requires that a member of the Legislature must, in addition to all previous and current requirements, also be a citizen of American Samoa.

Section 4 This states the new Senate districts.

Section 7 This change would allow a convicted felon to vote if he maintains good behavior for two (2) years following the date of conviction, or his release and discharge (the discharge requirement currently in effect) from prison, or discharge from prison on or parole (new), whichever is later.

Section 8 This clarifies that a bill passed over the Governor's veto by a two-thirds (2/3) majority of both houses of the Legislature shall become law.

Section 20 This change provides for Legislative Counsel and Staff for both the Samoa House and Senate.

Section 25 This change would mandate that the compensation due the members of the Legislature cannot be changed to take effect during that current term.

Section 26 This is a new section. It deals with which Government officials may be impeached and under what circumstances. It also provides for recall elections under certain conditions.

Section 27 This new section gives the Senate sole power to confirm some appointments of the Governor.

### Article III - Judicial Branch

Section 1 This section vests judicial power in the American Samoa Supreme Court, trial courts and a Land & Titles Court as well as the district courts. The Legislature still may establish other courts as it sees fit.

Section 2 This new section describes the makeup and authority of the prospective Supreme Court.

Section 3 This new section discusses how the Chief Justice would administrate the Supreme Court.

Section 5 This new section sets forth the jurisdiction of the various American Samoa courts.

Section 6. This new section states that the Secretary of the Interior shall appoint the Chief Justice and Associate Justices of the Samoa Supreme Court, subject to advice and consent of the Samoan Senate. Also, the procedure to appoint Samoan Associate Justices is set forth.

Section 7 This new section establishes the Land & Titles Court and spells out its jurisdiction, judicial membership, appeals system and rule making process.

Section 8 This new section gives the Supreme Court power to make rules governing practice and procedure in all courts, subject to Legislature approval.

Section 9 This new section defines the crime of treason and provides that no one shall be convicted of treason except on the testimony of two (2) witnesses to the same overt act, or a confession in open court.

#### Article IV - Executive Branch

Section 1 This change vests the executive power with the Governor.

Section 2 This change gives the Lt. Governor powers and duties prescribed by this Constitution, the laws of American Samoa or powers not inconsistent therein that may be given to him by the Governor.

Section 3 This new section provides that the Governor and Lt. Governor shall be elected jointly by the people at the same time as U. S. Presidential elections, and it also forbids a Governor from holding more than (2) successive terms.

Section 4 The Secretary of Samoan Affairs is directed to act as is provided for in the laws of Samoa.

Section 5 This new section states the qualifications necessary in order to be eligible to hold the office of Governor or Lt. Governor.

Section 6 This new section provides that the compensation of the Governor and Lt. Governor shall be prescribed by



law, but shall not be changed during the current term of office.

Section 8 This gives the Governor power to remove for cause (as well as appoint) certain local officials.

Section 9 This states that the Governor may issue executive regulations which are not consistent with applicable laws.

Section 12 This new section delineates the line of succession in cases of temporary disability, absence, or permanent disability or vacancy of the Governor and/or Lt. Governor.

Section 13 This section directs the Governor to give an annual report to the people of the American Samoa Government to certain officials (as well as the Samoan Legislature) 30 days after the close of each fiscal year, as provided by the laws of American Samoa.

#### Article 4 - Miscellaneous

Section 4 Section 4 directs when and how a proposed new constitution shall be submitted to the voters, how delegates to a constitutional convention would be chosen, and states that if a future proposed constitution is rejected by the voters or the U.S. Congress, the Governor shall call another constitutional convention five (5) years from the date of the previous constitutional convention.

Section 11 This proposed new section defines a "Citizen of American Samoa" as a person who was born in American Samoa of American Samoa ancestry; or a person born in the United States or any of its territories or possessions of American Samoa ancestry.

Section 12 This proposed new section states that no organic act or similar legislation alienating Samoan Communal land or destroying the Samoan way of life shall be enacted by or for the American Samoa Government without the consent of the leaders and the people of American Samoa.

Section 13 This proposed new section would forbid persons convicted of treason or a felony, subversives or aliens, to hold public office

Senator WEICKER. Are there others, Governor, that care to speak before I go to questions?

Mr. SUNIA. I think, Mr. Chairman, our Governor and the chairman of our Constitutional Convention have spoken on our behalf. Thank you very much.

Senator WEICKER. As I understand it now, what is being asked is that matters return to the status quo, as far as the powers vested in the Secretary of the Interior's Office are compared to having congressional oversight.

Governor COLEMAN. Yes, sir, but up to a certain point. We feel that if when the power is returned to the Secretary of the Interior, that any changes or modification or amendments made arbitrarily by the Department of the Interior must be forwarded to our people, and our people will make the decision on these changes through referendum.

Senator WEICKER. So in effect, the oversight function, the approval function would rest in your people rather than the Congress?

Governor COLEMAN. That's right, at this phase of political development.

Senator WEICKER. Well, it certainly sounds to me to be the best possible solution, I assure you that.

If the authority for approving constitutional revisions is returned to the Secretary of the Interior, with some other check on unilateral action, then would American Samoa continue to consider correcting the problems in this proposed constitution? Have there been questions raised as to the work of the Constitutional Convention by authorities in the United States?

Governor COLEMAN. Yes, Mr. Chairman.

Senator WEICKER. Well, I find this very difficult to adjudicate, but my own feeling is that you ought to have your own constitution, period. I don't really think that the Congress of the United States or the Secretary of the Interior or anybody else ought to be involved. So my questions are not a reflection of my own personal feelings on the matter as much as trying to make sure that we try to straighten out this impasse and have it done to the satisfaction of the people of Samoa.

Governor COLEMAN. Yes, sir.

I think the best situation will be that the authority for approval rests with the people of American Samoa. But at the present time we have a close relationship with the Department of Interior. Our budgeting process, for instance, requires us to submit our budget to the Department of Interior, and we would like to maintain that close relationship.

Senator WEICKER. In other words, your feeling is that there is no reason why the control of the matter isn't sufficient in terms of the budget without getting into the matter of the constitutional laws. Is that correct?

Governor COLEMAN. That's right, sir.

I think as an eventual phase of our constitutional development, any changes in our Constitution must remain with our people.

Senator WEICKER. Oh, I have no argument with that.

I really don't have any further questions, as much as I will have questions of the Assistant Secretary and with the Justice Department.

Is there anything further that you would like to say while you're here before I move on to the next witnesses?

Governor COLEMAN. No, sir, we don't have anything further to say, just to thank you, sir, for this opportunity to be here.

Senator WEICKER. Anybody else? Congressman?

Mr. SUNIA. Nothing further, Mr. Chairman, except to say that the Governor's point is, in fact, the point that I mentioned or alluded to earlier in that we're working on developing the proper wording to satisfy that need. And hopefully it will be part of the Omnibus bill this year, sometime in the very near future. It's being heard in the House Subcommittee on Insular Affairs again.

Senator WEICKER. Thank you very much. I appreciate your testimony.

I imagine that you will be staying here in the room so that you will have an opportunity to hear the responses from the Interior and the Justice Department in case there is some matter that's raised that you might like to ask about. I want you to feel free, I might add, during the testimony of the Department of the Interior or the Justice Department that if there is some point that is raised that either you disagree with or you would like further clarification, if you will be good enough to indicate to the Chair, and I'll be glad to recognize you for purposes of asking a question. We're all under the same roof here, and it's a long trip back to Samoa, and there's no point in going back and forth while we're here we might as well try to iron out as much as we can iron out this morning.

Thank you very much.

Governor COLEMAN. Thank you, Mr. Chairman.

Senator WEICKER. The next witness is the Honorable Richard Montoya, the Assistant Secretary of the Interior for Territorial and International Affairs.

Mr. Secretary, welcome. Your statement in its entirety will be included in the record. Why don't you proceed in such way as you deem.

**STATEMENT OF RICHARD T. MONTOYA, ASSISTANT SECRETARY FOR TERRITORIAL AND INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR**

Mr. MONTOYA. Thank you, Mr. Chairman. It's good to be here, particularly discussing this issue, the revision of the Constitution of the American Samoa.

As you know, this administration has been committed to providing as much self-determination to the territories as possible.

In my short tenure at the Department of the Interior, I have had a crash course in the Samoan way of life. And I very much admire the leadership that the Samoan people have in their elected representative, Mr. Sunia, Governor Coleman, and their legislative body, the Fono.

They entered into a herculean task in revising this American Samoan Constitution, and they handled it in a mature way. They handled it in an expeditious way. And I think that speaks highly of their desire to govern themselves as much as possible.

Last year when we had the financial crisis there, the leadership all worked together and showed that they could get the job done and keep a bad situation from just turning into a disaster.

So I have nothing but high regard and deep admiration for the people of Samoa and their leadership.

We have had a good working relationship. We have discussed the work of the Constitutional Convention, and I feel certain that if the chairman would like us to, we can get back with the leadership and discuss any further fine tuning of the document that might be necessary, or to implement whatever changes are agreed upon.

Thank you for the opportunity, Mr. Chairman.

[The prepared statement of Mr. Montoya follows:]

STATEMENT OF RICHARD T. MONTOYA, ASSISTANT SECRETARY OF THE INTERIOR FOR  
TERRITORIAL AND INTERNATIONAL AFFAIRS BEFORE THE SENATE COMMITTEE ON ENERGY  
AND NATURAL RESOURCES REGARDING THE REVISED CONSTITUTION OF AMERICAN SAMOA,  
MAY 8, 1984

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Mr. Chairman and Members of the Committee. I am pleased to appear today to discuss the revised Constitution of American Samoa adopted on February 16, 1984, by delegates to the American Samoa constitutional convention.

As you may know, on behalf of the Secretary of the Interior, my predecessor conferred authority on the Governor of American Samoa to call a constitutional convention. The convention was convened on January 23, 1984. The revised Constitution of American Samoa, adopted on February 16, 1984, is the work product of the convention.

The delegates to the convention are to be commended for the work they accomplished in a very short period of time. The delegates went about their job with dispatch and decorum. As this nation's Founding Fathers have attested through their writings on our own constitutional convention nearly 200 years ago, drafting a constitution is always a difficult and weighty responsibility.

Additional procedures necessary to make the revisions effective include Congressional approval and approval by a majority of American Samoan voters.

Procedure

With regard to procedure, we note that, according to the existing Revised Constitution of American Samoa, changes in the Revised Constitution will become effective upon approval by the Secretary of the Interior. This procedure was modified by Congress in section 12 of Public Law 98-213, approved December 8, 1983, which states:

Amendments of, or modifications to, the Constitution of American Samoa, as approved by the Secretary of the

Interior pursuant to Executive Order 10264 as in effect January 1, 1983, may be made only by Act of Congress.

Communications regarding the February 16, 1984, constitution have referred to the document as the "revised" Constitution of American Samoa. We are uncertain as to whether or not this is an entirely new constitution or a series of amendments to the existing revised constitution. If it is the former, we do not believe it needs congressional approval. A minor modification of Public Law 98-213 could clear up these uncertainties.

#### Substantive Provisions

Procedure aside, I am concerned with the effect of a number of substantive provisions contained in the draft constitution.

The Department of the Interior historically has been committed to self-government in the territories. The Legislature, or Fono, existed in American Samoa for sometime prior to the Interior Department being given administrative authority over American Samoa in 1951. It was granted genuine legislative authority in 1960 when the Secretary of the Interior approved the first Samoan constitution. The referendum on elections of the governor was mandated by the Secretary in 1977. We remain committed to increasing self-government in American Samoa, which includes the drafting of constitutions that provide the framework of government.

We would be remiss, however, if we did not note issues presented by the 1984 draft constitution that may have a significant bearing on the American Samoan government, society, and way of life. We would not want to see the

traditional social system of American Samoa, the matai system, hobbled by a constitution whose framers are attempting to preserve the Samoan way of life.

While there are a number of minor issues or typographical errors that should be dealt with in any final action on the 1984 constitution, we wish to discuss five major issues.

First, we note that Article V, section 12, contains a purported limitation on actions by the United States Congress. Even if explicitly approved by Congress, such a provision would be unconstitutional and of no effect.

Second, several provisions in the 1984 draft constitution raise the constitutional issue of equal protection of the laws. Article V, section 11, contains the following definition of "citizen of American Samoa:"

Section 11 - Definition: As used in this Constitution "Citizen of American Samoa" means a person who was born in American Samoa of American Samoan ancestry; or a person born in the United States, or any of its territories or possessions of American Samoan ancestry.

Article II, section 7, requires that a person be a "citizen of American Samoa" in order to vote. This citizenship requirement is also a factor in the eligibility of a person to be Governor, Lieutenant Governor, a Senator, or a Representative in the Legislature. With its exclusionary and imprecise definition, the citizenship requirement could present an equal protection question should the issue come before the courts in the context of voter or office qualifications. If the equal protection grounds are sustained, the rationale could be used to challenge the composition of the Senate and the entire communal land tenure and matai system.

Third, the draft constitution removes the Secretary's powers with regard to veto override and severely limits those powers with regard to judicial appointments, thus, weakening the connection between American Samoa and the Department of the Interior. With such a tenuous relationship, it is possible that a Federal court may be more likely to say that issues in territories like American Samoa are Federal matters and thus subject to the Federal judicial system. With such an assertion of jurisdiction, we may find that the application of United States constitutional principles may run counter to the traditional way of life in American Samoa.

As a side issue, we in the Department of the Interior would not object to the power of appointment of justices being placed in a high official of the American Samoa government. Neither would we object if these appointments remain with the Secretary. We do object, however, to placing a Federal official, the Secretary, in the possible position of having a nominee rejected by the Fono, a legislative body at a different level of government. In addition, based on past judicial workload, we question the need to appoint three justices and two judges to the Supreme Court.

Fourth, Article III, section 1(c), dealing with the American Samoa legislature raises two national policy questions. The provision is as follows:

- (c) Legislation may be enacted for the protection of our people against nuclear harm or from damages or use by others of fish, ocean products, and all other natural resources within its territorial waters;

Congressional approval of the draft constitution might be viewed as authorization for excluding nuclear materials or ships from American Samoa when that may not be the policy of the Congress with regard to the 50



states and other territories. Likewise, because of the use of terms like "our people" and "others", the provision might be viewed as excluding United States citizens or persons who are not "citizens of American Samoa" from harvesting or recovering resources within the territorial waters of the United States surrounding American Samoa. National policy issues such as these may be more appropriately left to specific legislation by the United States Congress. If the constitutional convention did not intend section 1(c) to be construed as broadly as I have outlined, additional drafting to limit the section to encompass only local issues may be in order.

Fifth, Article I, section 3, deals with two issues of local American Samoan policy, and, therefore, our comments may be somewhat gratuitous. We think, however, that they may be worth consideration.

Article I, section 3, provides: "It shall be the policy of the American Samoan Government to protect persons of American Samoan ancestry against alienation of their lands." This might be construed as allowing passage of legislation against the sale of any land whatsoever in American Samoa, even to other Samoans. The constitutional convention may wish to give further consideration to this land alienation issue.

In addition, Article I, section 3, provides:

No new business in whatever form, except businesses not in direct competition with same, shall be permitted to engage in business in American Samoa unless fifty-one per cent (51%) ownership and control of such business be vested in persons of American Samoan ancestry.

I personally believe that this is undesirable public policy. We know from experience in other areas of the Pacific that such a policy either limits outside investment and therefore retards economic development, or may provide an opportunity for unsavory persons to ally themselves with a local person and enforce control by undesirable means.

The fact, however, that the 51st provision is included in the constitution is a complicating factor. Should a change in the provisions be desired because it is causing economic disruption in the territory, American Samoa could lose a great deal of precious time in changing the provision. Months or years could be involved in drafting the constitutional amendment, submitting it to the voters and waiting for congressional approval as required by Public Law 98-213.

We believe that the entire concept should be reconsidered. If, in that reconsideration, however, the 51st provision retains support, we suggest that it be enacted as a public law of American Samoa rather than being given effect as a constitutional provision. Modification or repeal would be facilitated should the provision be shown to be harmful to economic development in American Samoa.

Senator WEICKER. Mr. Secretary, is your understanding of the situation that precipitated this hearing today the same as has been recounted by the parties and is it what we want to do now? Are you also of one mind, that this should go back into the Secretary's office rather than being a matter for the Congress to pass upon?

Mr. MONTOYA. My understanding of the situation that precipitated—

Senator WEICKER. I'm not asking your analysis of what occurred. I think we all understand that.

Mr. MONTOYA. I agree.

Senator WEICKER. All I'm trying to find out is, is it the view of the Department, the administration, now yourself, now that these matters should, No. 1, vest back in the Secretary rather than have the oversight by the Congress; and, 2, that the check on the Secretary should be provided by the Samoan people?

Mr. MONTOYA. We, Mr. Chairman, discussed this issue last week. The likelihood of this happening again is minuscule. It was a unique situation, which was unfortunate. It did happen.

The change that was recommended was never implemented. I would have to say that it makes some sense to continue with the policy of this administration, which is to bring the government back to the people and get it at the closest possible level to the people affected by same.

Senator WEICKER. Well, I know where your heart is in the matter. I just have to make it clear from the point of view of the committee as to what the problem is. Is there any dispute that we are better off with the structure being as it was before, in terms of the Secretary making the decisions rather than the Congress of the United States? Is there any dispute on that?

Mr. MONTOYA. No, sir.

Senator WEICKER. Now, my question is, how do you provide a check? And I gather—I'm only surmising this because you and I haven't discussed it, I suppose the alternatives are that that decision—whoever the Secretary happens to be—either is not subject to any review, or subject to congressional review, or subject to Samoan review. That really seems to me to be the three, or some combination of that maybe, but that's what we're talking about.

Mr. MONTOYA. That is, indeed, the issue.

And in preparing for this particular talk, one thing that I was interested in—in the way that it operated prechange, where approval came back to the Congress—was the few times that there had been a change made by the Secretary of the Interior of any of those policies having an impact on American Samoa it was very small, to the best of my knowledge. Then this incident occurred, and then the change took place where the concurrence was passed on to Congress.

But the way it was established before, it provided the flexibility and the access of the American Samoan people to make some immediate changes if those changes were necessary and they were requested by the leadership of American Samoa.

I can say with a clear conscience that during our tenure there that any changes that will come about should this revert back to the way it was in the past would have to be something that we

would be in complete agreement with the elected leadership of American Samoa.

I do not see the U.S. Department of the Interior trying to attain a role for us to dictate a Samoan way of life. It is a role that I think we are not comfortable with.

Again, if there is a change that is necessary, I am sure that the elected delegates, the Governor, and the Fono, and the Secretary of the Interior or myself could arrive at some expedient solution to whatever problem comes up.

Senator WEICKER. I suppose the difficulty, or the concern sort of relates back to ours as a government of laws, not of men. And I have total confidence, as I have expressed to the Assistant Secretary many times, in his handling of his position and doing an outstanding job. So I don't worry about you. Obviously, there was worry about other individuals, otherwise we wouldn't be here now. And something has got to be constructed here that really can take care of friend and foe alike. We can't just change the law every time there's a change in personnel of the Department of the Interior.

I would hope two things; No. 1, that certainly during this visit with the Governor—have you had a chance to sit down and do any fine-tuning with the Governor and with the Congressman and various representatives that are here. Have you all had a chance to meet?

Mr. MONTOYA. We have met, yes, sir.

Senator WEICKER. And where do we stand?

Mr. MONTOYA. I think where we stand is that there is general agreement that the delegation would ask this body to put us on hold for a while until all the players have had a chance to get together and tighten up the document, tie up some loose ends, so to speak, Mr. Chairman.

Senator WEICKER. Well, all right. If that's everybody's wish, certainly I have no objection to it.

I don't mind stating publicly, I am only one member of this subcommittee, and happen to be its chairman, but I don't think this is very far apart, frankly, from the administration, which I usually am very far apart from. My own inclination would be to take a one-sided position, which is to allow the Samoans, in other words, to decide their own matters. And if there is something that is raised by a Secretary of the Interior that flies in the face of their culture, that that's something they should have a right to go ahead and pass on.

I don't see how we could possibly expect to do the right thing by our friends in American Samoa by in any way using our standards and our criteria and our heritage, and so forth, to determine their future. I mean I don't think that's going to work, it just isn't. And I know that this administration certainly is committed to, quote, "local autonomy," which is what we're talking about. There's never been any argument on that point.

Mr. MONTOYA. And I am confident that this policy will continue for the next 4½ years. After that I think Mr. Bush will have to decide how that's going to be. [Laughter.]

When I started out, the point that I was trying to make is, this system has worked for American Samoa, and that's the system of

the traditional leaders and the elected officials. They work hand in hand. It's a good leadership. And, as we say in Texas, if it ain't broke, don't fix it.

Mr. SUNIA. Mr. Chairman, may I?

Senator WEICKER. Yes, Congressman.

Mr. SUNIA. I don't rise to object to the idea of 4½ more years. As a matter of fact, I would like that very much, as long as it's guaranteed that we have Rick for another 4½ years. He's been very good for us and to us.

I do want to make one point clear, that when the Secretary makes reference to holding the document in hand while we get a few things straightened out, he is referring to the proposed revision.

Senator WEICKER. That's correct.

Mr. SUNIA. That's No. 1. That's other than the constitution which is now in place, which was the subject of the law that was passed last year.

I would suppose, sir, that the scenario would be that while the proposed revision is held in abeyance and while maybe the leadership and convention goes back and ties up some loose ends, as the Secretary referred to them, in the meantime we work out here the procedure for the submission once all those loose ends are tied up. I just wanted to make that point clear, Mr. Chairman.

Senator WEICKER. I'm glad you made that clear, and I gather the Secretary is in agreement on that point.

Mr. MONTOYA. We're in agreement with that.

Senator WEICKER. So that if anything you want to facilitate this process and you will, as I said before, be in consultation with my staff and we will do it that way.

I have no ideas to impose either on you or on you. We're here to try to facilitate this matter to the satisfaction of the people of the American Samoa.

Mr. MONTOYA. I couldn't agree with you more, sir.

Senator WEICKER. It's as simple as that.

Mr. Secretary, it's always nice to have you here.

Mr. MONTOYA. It's a pleasure.

Senator WEICKER. Thank you very much.

Our next witness is Mr. Robert Shanks, the Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice.

**STATEMENT OF ROBERT B. SHANKS, DEPUTY ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL COUNSEL, DEPARTMENT OF JUSTICE; ACCOMPANIED BY HERMAN MARCUSE**

Mr. SHANKS. Good afternoon, Mr. Chairman. I'm accompanied today by Mr. Herman Marcuse, who is also of the Office of Legal Counsel, Department of Justice.

You have our written statement, and we would like to request that it be placed in the record.

Senator WEICKER. It will be placed in the record in its entirety.

Mr. SHANKS. Thank you. I would like to just summarize it now.

To begin, our statement is somewhat more qualified than we would usually like to make under these kinds of circumstances,

and that is partly because we were laboring under a certain lack of knowledge.

First of all, we were not entirely sure about what the contours were of the document that's before the Congress, or was before the Congress for approval. We were not sure whether the entire new constitution was here for approval, or whether certain amendments which were placed in the document for the sake of convenience were here for approval.

Second, we were somewhat uncertain as to the scope of congressional approval that was being requested; essentially, whether Congress was being asked to approve the constitution and all the provisions in it, or whether congressional approval would merely authorize the Secretary of the Interior to approve the constitution pursuant to the 1929 joint resolution.

And the third reason for our qualification, frankly, was just our lack of familiarity in the Justice Department with the Samoan culture.

We know that it's based on the Matai system, which involves communal holding of land, and we know that there is also a hierarchy of chiefs, but basically we know simply that it is a culture that is different from our own, and we are uncertain about the particular ways in which imposition of the American Constitution might conflict with that culture and that system.

Nevertheless, we have attempted to analyze the proposed constitution of American Samoa against the background of the U.S. policy of protecting the American Samoan culture and the American Samoan way of life. As you know, that policy has been based partly on treaty and partly simply on our sense of obligation of not imposing our ways arbitrarily upon others. That protection of the American Samoan customs has been accomplished in part through a legal isolation of American Samoa, which stems in part from the fact that American Samoans are noncitizen nationals rather than American citizens.

There has been no Organic Act applicable to American Samoa, and the joint resolution of 1929 vested all civil judicial and military power in Samoa in the President. Since 1959, that power has been vested in the Secretary of Interior by delegation.

The effect of these factors taken together has been that decisions of American Samoan courts have not been directly reviewable in U.S. courts, rather they have been potentially reviewable by the Secretary of the Interior. The practical effect of this is that, with one exception, which is the *King* case mentioned in our written submission, there has been no judicial review of American Samoan customs by our courts. So in changing the constitution and in changing this relationship, we have to be concerned about the effect of that change upon this protective wall which protects the American Samoan culture.

Now, under article 3, sections 2 and 4 of the proposed constitution, the Supreme Court of Samoa, American Samoa, will become the court of last resort. Presumably, this would eliminate the possibility of any review by the Secretary of the Interior. If there's no more review, then there's no more requirement for exhaustion of administrative remedies. And we are concerned that this might tempt Federal courts to become more active in reviewing decisions

of American Samoan courts, either on appeal, or possibly on mandamus, because the judges of American Samoan courts are appointees of the Secretary of the Interior. So we are, therefore, concerned generally about the possibility of opening the American Samoan institutions and culture to review by American courts that might not be familiar with that culture.

I'd like to turn now to questions and potential problems that we face from the text of the revised constitution. There are a number of minor technical and drafting matters which I don't plan to address. I think that these are minor things which we could resolve in discussions with the American Samoa representatives. We have dealt in our written statement with some potential problems which we think are more significant, and I'd like to just mention a few of them here.

Before going to the specific questions, there are a couple of general questions which I think pervade the constitution, and I'd like to just mention them. First of all, the qualification for officers of the government throughout the constitution is that they must be citizens of American Samoa. That appears in article 2, section 3, for senators and representatives; it appears in article 4, section 5 for the Governor and Lieutenant Governor. The term "citizen of American Samoa," which appears in article 5, section 11, however includes the requirement that those persons be of American-Samoan ancestry. But this term, which also appears in another provision which I will mention, dealing with alienation of land, is not defined anywhere in the constitution. We think it is imperative that this term be defined in the constitution. As we have pointed out in our written statement, this question has been successfully resolved, both in the case of the Northern Mariana Islands and in the case of native Hawaiians. Second, the term "United States national," which is used throughout in the constitution, is nowhere defined, and we think that is important to have that defined also.

In terms of specific observations or possible problems, I point first to the first two sentences of article 1, section 3, which provide as follows:

It shall be the policy of the American Samoan Government to protect persons of American Samoan ancestry against alienation of their lands and destruction of the Samoan way of life and language, contrary to their best interest. Such legislation as may be necessary may be enacted to protect the communal or individually owned lands, customs, culture, and traditional Samoan family organizations of persons born of American Samoan ancestry, and to encourage and protect business enterprises by such persons.

Well, first of all, as you're very aware, Mr. Chairman, restrictions on alienability of land, especially those based on racial criteria, are extremely suspect under our constitutional system. We do believe it's possible, however—and this has been done in the case of native Hawaiians and citizens of the Northern Mariana Islands—to protect the local culture based on land ownership from exploitation by economically more advanced outsiders.

But since this provision appears to be an important one in the constitution, we would like to also point to some apparent drafting flaws. First of all, it's not clear whether the provision is intended to protect persons of American Samoan ancestry from all land alienation, or only alienation to persons not of American Samoan

ancestry; and second, as we pointed out, the constitution doesn't define American Samoan ancestry.

Elsewhere in article I, I think it bears mentioning that the Bill of Rights omits certain key provisions that were found in the original constitution. These provisions required, for example, separation of church and government, the exclusionary rule of evidence, the requirement that public education be free, and the privileges and immunities clause. Article I, section 6 contains a new provision that would prohibit bail where it is reasonably presumed under circumstances of a serious case that release of the accused would constitute a danger to the community. Finally, the constitution lacks an equal protection clause.

Turning to article II, section 1(c). That section would authorize enactment of legislation, "For the protection of our people against nuclear harm or from damages or use by others of fish, ocean products, or all other resources within its territorial waters."

As we pointed out in our written statement, we think this provision raises some questions about Federal supremacy in the areas of defense and commerce which should be addressed.

There are several provisions relating to the composition of the legislature and voting franchise which we think needs some attention.

Article II, section 3, dealing with senators and representatives, states that they must be citizens of American Samoa; in other words, they must be of American Samoan ancestry. Assuming arguing that preservation of Samoan culture would permit such classifications based on racial considerations, these requirements need to be more clearly defined.

Also, article II, section 4, provides that senators are to be elected in accordance with Samoan customs by county councils. This provision, we think, could well violate the one-man-one-vote rule of *Reynolds v. Sims*. We don't think that this necessarily ends the inquiry, because as I mentioned in our written statement, we have called your attention to a similar provision in the Northern Marianas covenant. In that case, the provision was justified as condition upon the accession of the Northern Marianas.

Just a couple more problems that I think bear mentioning. Article 5, section 12, under "Congressional Limitations," provides that no Organic Act or similar legislation alienating Samoan communal land, or destroying the Samoan way of life, including its customs and traditions, shall be enacted by or on behalf of the American Samoan government without the express consent and approval of the traditional leaders and people of American Samoa. Obviously, a local constitution can't limit the powers of Congress, but even so, I think that we would caution against such a vague undertaking. We think basically the language here needs to be tightened up.

Senator WEICKER. Tell me something. Did the Justice Department, at the time the Samoans were deliberating on this matter of the constitution, did you people assist in any way?

Mr. SHANKS. No, Mr. Chairman, we didn't. As a matter of fact, we just became aware of it a couple of—at least I became aware of it a couple of weeks ago. We have not been involved.



Senator WEICKER. It seems to me it would be very helpful if both Interior and Justice were a part of that process to begin with, rather than arrive at this point.

Mr. SHANKS. Well, we would be happy to help out in any way that we can.

Senator WEICKER. I'm sorry, go ahead.

Mr. SHANKS. I just have one more that I would like to mention.

There's another provision contained in article I, section 3. It's basically an economic provision which states that no new business in whatever form, except businesses not in direct competition with American Samoan businesses, should be permitted to engage in business in American Samoa "unless 51 percent ownership and control of such business be vested in persons of American Samoan ancestry."

Now, apart from some phrasing which we think needs to be tightened up there, we would caution against including a very specific economic provision of this sort in a constitution, because we think this is the type of thing which may need to be subject to change and, therefore, should be put in legislation rather than cemented in the constitution.

As I mentioned, there are some problems of drafting or inconsistent phraseology. They are minor problems. We would be glad to work with the American Samoan representatives and be of any assistance that we can on these, but I don't think it's worth mentioning them here.

That is the end of our prepared statement. Mr. Marcuse and I would be happy to try to answer your questions, if you have any.  
[The prepared statement of Mr. Shanks follows:]



# Department of Justice

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STATEMENT

OF

ROBERT B. SHANKS  
DEPUTY ASSISTANT ATTORNEY GENERAL  
OFFICE OF LEGAL COUNSEL

BEFORE

THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES  
SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY  
UNITED STATES SENATE

CONCERNING

REVISED CONSTITUTION OF AMERICAN SAMOA

ON

MAY 8, 1984

Mr. Chairman:

My name is Robert B. Shanks. I am a Deputy Assistant Attorney General in the Office of Legal Counsel of the Department of Justice. I am accompanied by Herman Marcuse, who is an Attorney-Adviser in the Office of Legal Counsel.

I am pleased to comply with your request for the views of the Department of Justice on the Revised Constitution of American Samoa, approved by a Constitutional Convention on February 16, 1984. As I shall explain presently, however, I must advise you that, for reasons that are beyond our control, our advice will be less conclusive and more qualified than we usually care to give.

First, we are not yet certain with regard to the contours of the document which is before Congress for approval. Nor are we clear on the scope of the Congressional approval requested. Your letter of April 10, 1984, advised us that the Constitutional Convention of Samoa approved a Revised Constitution which has been transmitted by the Governor of Samoa to Congress. According to § 12 of Public Law 98-213, 97 Stat. 1462, enacted last December, amendments or modifications to the Constitution of American Samoa, as it existed on January 1, 1983, "may be made only by Act of Congress."

There appears to be some uncertainty whether the Constitutional Convention adopted an entirely new Revised Constitution, or whether the Convention merely approved a number of amendments and inserted them in the body of the existing Constitution as a matter of convenience, so that Congress might evaluate what the Constitution would look like after the approval of the amendments and their incorporation into the Constitution. Absent a clarification of this point, the Department of Justice is uncertain whether the Revised Constitution as a whole, including the provisions of the original Constitution incorporated in it, or only the amendments to the existing Constitution made by the Constitutional Convention, are before Congress.

Second, the purpose and effect of Congressional approval under § 12 of the 1983 Act are not immediately evident. It is not certain whether under that provision Congress itself approves the amendments to the original Constitution, or whether Congress merely authorizes the Secretary of the Interior to amend, or to ratify any amendment of, the Constitution. In view of ambiguities surrounding the legislative history, we shall assume for the purposes of this testimony that Congress approves the Constitution and does not merely authorize the Secretary of the Interior to do so.

Third, our familiarity with the Samoan culture is very limited. We are therefore under a severe handicap in evaluating the provocative and difficult question whether approval of the Samoan Constitution could subject Samoan customs and practices to review under our constitutional system, and thereby inadvertently jeopardize the Samoan culture. According to our rudimentary information on this subject, the Samoan culture and way of life are based on the communal holding of property by an extended family, headed by an elected leader, the Matai, who directs the cultivation of the lands and the distribution of the harvest, as well as most of the social and religious life of the group. In addition, there is a hierarchy of chiefs and high chiefs. This type of society clearly differs from our more egalitarian and individualist culture, which has been incorporated in our legal and constitutional systems.

It has been the constant policy of the United States, partly as a matter of honor, partly as the result of treaty obligations, not to impose our way of life on Samoa. While the Treaty of 1900, under which the United States acquired the western part of American Samoa, is silent on this issue, this policy was apparently implied in that agreement. President Theodore Roosevelt's official recognition of the cession, dated July 21, 1902, stated expressly that local rights and privileges would be respected. S. Rept. No. 984, 70th Cong.,

1st Sess. 2 (1928); H.R. Rep. No. 2451, 70th Cong., 2d Sess. (1929); 70 Cong. Rec. 3411 (1929). This legislative history relates to the Joint Resolution of February 20, 1929, 45 Stat. 1253, 48 U.S.C. 1661, which formally extended United States sovereignty over American Samoa. The treaty with the King and chiefs of Manu'a of 1904, under which the United States acquired sovereignty over the eastern part of American Samoa, provided specifically "that the rights of the Chiefs in each village and of all people concerning their property according to their customs shall be recognized."

The main technique used to "protect" the Samoan culture from incursions by American mainland political, economic, and societal influences has been to isolate American Samoa legally from the rest of the United States. The American Samoans are not American citizens but rather are non-citizen nationals of the United States. Congress has not enacted an organic act. Section 1(c) of the Joint Resolution of February 29, 1929, has vested all civil, judicial, and military powers on Samoa in the President, to be exercised by such persons and in such manner as he directs. Since 1951 the President's delegate has been the Secretary of the Interior. Executive Order No. 10264 of June 29, 1951. In the same vein, the decisions of the Samoan courts are not reviewable in the United States federal courts, but rather potentially by the Secretary of

the interior by virtue of the delegation to him of the President's judicial powers.

This legal isolation of American Samoa from the rest of the United States has resulted in a minimal intrusion of the American legal system into those islands. The only exception of which we are aware is the King case (King v. Morton, 520 F.2d 1140 (D.C. Cir. 1975) and King v. Andrus, 452 F.Supp. 11 (D.D.C. 1977)), which held that the United States constitutional requirement of trial by jury extends to American Samoa. A reading of the District Court's decision demonstrates the difficulties inherent in the evaluation of the Samoan culture by judges steeped in our common law and individualistic private property traditions, and using the common law methods of proof. Parenthetically it might be suggested that if litigation involving American Samoa is at all to be decided by federal courts, jurisdiction over such cases might preferably be conferred on the courts in the Ninth Judicial Circuit, which is closer to, and deals more frequently with, problems arising in the Pacific.

As the result of this legal isolation of American Samoa, the Department of Justice has had little contact with Samoan institutions and with the ways in which they operate. In view of our ignorance on this subject, my testimony today

must be, at best, tentative. We have been promised by the Samoan authorities that they will help us to remedy this defect in our understanding, if it should become necessary.

A fourth reason for our tentativeness is the question of the effect which Congressional approval of the Constitution would have on the Joint Resolution of 1929, which vests in the President all civil and judicial powers relating to Samoa. An argument could be made that approval could be construed as repealing the 1929 legislation by implication and as transferring those civil and judicial powers to the local officials and courts to the extent provided for in the Constitution. In that case, the relationship between the Federal Government, especially the Executive Branch, and American Samoa would be virtually undefined and it would be necessary to fill the gap by the enactment of legislation in the nature of a Samoan Federal Relations Act, or an Organic Act. On the other hand, if Congressional approval is not designed to affect the President's powers under the Joint Resolution of 1929 legislation, the powers of the Samoan authorities under the Samoan Constitution would remain subject to the President's paramount civil, judicial and military powers under the Joint Resolution.



If this Committee should decide that further hearings on this Constitution should be held after these and other uncertainties have been resolved, we expect to be able to give more precise answers to those questions.

In view of the past policy of protecting the Samoan culture by preventing direct access to the federal courts, I shall now touch briefly on the question whether Congressional approval of the Constitution might have the unexpected effect of undermining that protective wall.

First, under Article III §§ 2, 4 of the Constitution, the Supreme Court of American Samoa would be a court of last resort. This would presumably eliminate the possibility of the review of its decisions by the Secretary of the Interior. In the past, review of the decisions of the Samoan courts by the federal courts was precluded until the administrative remedy -- review by the Secretary of the Interior -- had been exhausted. As a practical matter, disputes have been successfully resolved without resort to the federal courts, with the exception of the King case. That exhaustion requirement would no longer exist if the Supreme Court of Samoa truly became a court of last resort. In that situation, the federal courts might be tempted to review the decisions of the Supreme Court of American Samoa, on appeal or, since the judges are

appointees of the Secretary of the Interior, by mandamus. As shown by the discussions in the opinions in Guam v. Olsen, 431 U.S. 195 (1977), involving the authority of Guam to establish an appellate court in the absence of federal legislation providing for the review of its decisions by the federal courts, the federal courts are troubled by the establishment of territorial courts, the decisions of which are not reviewable in the federal judicial system.

In addition, I feel constrained to bring to your attention a case now pending in the Supreme Court of the United States on petition for a writ of certiorari. This case raises the seemingly paradoxical possibility that the very Congressional approval of the Samoan Constitution, in particular of those provisions which might be inconsistent with the Constitution of the United States, could facilitate scrutiny and possible invalidation of Samoan institutions by the federal courts under our own Constitution. That case, Atalig v. Commonwealth of the Northern Mariana Islands, No. 83-6424, involves the constitutionality of § 501 of the Covenant with the Northern Mariana Islands pursuant to which, in the local courts of those islands, trial by jury would be required only to the extent prescribed by local law.

The Appellate Division of the District Court for the Northern Mariana Islands held that Congress lacked the power

to grant exemptions from the constitutional requirement of trial by jury. The Court of Appeals for the Ninth Circuit reversed. Commonwealth of the Northern Mariana Islands v. Atalig, 723 F.2d 682 (9th Cir. 1984). Atalig filed a petition for a writ of certiorari in the Supreme Court presenting the question "whether Congress has power to authorize governments of unincorporated territories to dispense with rights that have been found by the Supreme Court to be fundamental under the Constitution for the inhabitants of the fifty states." Should the Supreme Court grant the petition for a writ of certiorari in Atalig and ultimately reverse the decision of the Court of Appeals, Congressional approval of the Samoan Constitution and the provisions of that document could be subject to judicial review, since as I will show presently, the Constitution appears to contain a number of departures from the Constitutional provisions applicable to the States on the ground that the latter are incompatible with the Samoan culture.

The current pendency of the Atalig case before the Supreme Court and the uncertainties created by it may add to the consideration that this may not be an auspicious time for the approval of a new Samoan Constitution.

An examination of the text of the Revised Constitution raises a number of questions and potential problems. We are

confident that many, if not most, of these problems, which are of a technical or drafting nature, can be solved easily by discussing them with the Samoan representatives; hence, there appears to be no need to burden this Committee with them. Only a few points are worth mentioning here.

Before entering into a discussion of any specific provision, however, we should like to draw your attention to two questions involving definitions which pervade the entire Constitution.

First, many of the sections dealing with government offices include the qualification that certain officers must be citizens of American Samoa. See e.g., Art. II, § 3 (Senator, Representative); Art. IV, § 5 (Governor and Lieutenant Governor). The definition of the term "citizen of American Samoa" in Art. V, § 11 includes the requirement that the person be of "American Samoan ancestry." That term, which also appears in Art. I, § 3 (protection against the alienation of land), however, is nowhere defined in the Constitution. Obviously it is imperative that there be no uncertainty as to the qualifications for government offices in Samoa. Hawaii and the Northern Mariana Islands, which were faced with similar definitional problems, were able to solve them. See the definitions of "native Hawaiian" in the Hawaiian Homelands legislation, 48 U.S.C. § 692(a)(5), and of "persons of Northern

Marianas descent" in Constitution of the Northern Mariana Islands, Art. XII, Section 4.

Second, the Constitution frequently uses the term "United States National" (see e.g., Art. II §§ 2, 7; Art. V § 4). Here it is not clear whether the term is used in the sense of "United States citizens or United States non-citizen nationals" (8 U.S.C. § 1101(a)(22)), or whether it is limited to non-citizen nationals, i.e., a person who, although owing permanent allegiance to the United States, is not a citizen thereof. 8 U.S.C. § 1101(a)(22)(B).

We have the following more specific, but by no means all-inclusive, observations, which may serve as examples of the problems presented by the various uncertainties as to the scope and effect of Congressional approval of the Constitution.

1. The second sentence of Article I, § 2 would provide:

"Any private or communal property taken for public use, and has not been used for public purpose within five (5) years from the initial taking, shall be returned to the owner of such property together with any improvement thereon without further compensation."

It is not apparent whether this sentence is intended to apply only to property taken under a Samoan eminent domain statute, or also applies to property acquired under federal law.

This provision raises the further question whether Congressional approval of the Constitution could have the effect of acquiescence by the Federal Government in the provision requiring the return to the original owner of property not put to public use where the property was acquired by the United States under the Federal Eminent Domain Statutes.

2. The first two sentences of Art. I, § 3 would provide:

**"Section 3 - Policy Protection Legislation:**

It shall be the policy of the American Samoan Government to protect persons of American Samoa ancestry against alienation of their lands and the destruction of the Samoan way of life and language, contrary to their best interest. Such legislation as may be necessary may be enacted to protect the communal or individually owned lands, customs, culture, and traditional Samoan family organizations of persons born of American Samoan ancestry, and to encourage and protect business enterprises by such persons."

Provisions limiting the alienability of land, especially where they are based on racial criteria, raise prima facie the question of an unconstitutional invidious discrimination. We believe, however, that such limitations may be permissible to protect a local culture based on land ownership from exploitation by aggressive and economically more advanced outside groups. As shown in the section-by-section analysis prepared by this Committee on the Joint Resolution approving the Covenant with the Northern Mariana Islands, similar legislation has been enacted to protect Indians, native Hawaiians and persons of Northern Mariana Islands descent. See S. Rept. No. 433, 94th Cong., 1st Sess. 87-88 (1975). I might add that the outcome of the Ataliq litigation may have some bearing on the extent to which this provision may be subject to the scrutiny of courts unfamiliar with the Samoan culture.

Since this provision appears to be the cornerstone of the Samoan Constitution, I wish to call attention to several drafting flaws in it. First, it is not clear whether the section is designed to protect persons of American Samoan ancestry against the alienation of their land altogether, or only against alienation to persons who are not of American Samoan ancestry. Second, as we have pointed out above, the Constitution does not define the term "American Samoan ancestry."

Before leaving Art. I of the Constitution, which contains the Bill of Rights, I wish to bring to your attention that this Bill of Rights omits several significant provisions that were encompassed in the original Constitution. The omissions include the provision requiring the separation of church and government in Art. I, § 1; the exclusionary rule of evidence in Art. I, § 5; a requirement that public education be free in Art. I, § 11; and the Privileges and Immunities clause in Art. I, § 12. Art. I, § 6(d) contains a new clause which would prohibit the grant of bail "where it is reasonably presumed under circumstances of a serious case that release of the accused would constitute a danger to the community." The Constitution also lacks an Equal Protection Clause.

3. Art. II, § 1(c) would authorize the enactment of legislation:

(c) "for the protection of our people against nuclear harm or from damages or use by others of fish, ocean products, and all other resources within its territorial waters."

Here again the question arises, as it does under Art. I, § 2, whether Congressional approval of the Constitution would



constitute a waiver of the federal supremacy in the fields of defense and commerce.

4. The Constitutional provisions relating to composition of the legislature and to the voting franchise raise a number of problems.

a. According to Art. II, § 3, the Senators and Representatives must be citizens of American Samoa, which means, according to Art. XII, § 5 discussed above, that they must be of American Samoan ancestry. Assuming *arguendo* that the preservation of the Samoan culture permits qualifications for public office based on racial considerations, it should be required at a minimum that this requirement be clearly defined.

b. According to Art. II, § 4, Senators shall be elected in accordance with Samoan custom by the county councils they are to represent. This provision would probably, in its practical application, violate the "One Man - One Vote" rule of Reynolds v. Sims, 377 U.S. 533 (1964). In the case of an analogous departure from that rule in § 203(c) of the Covenant with the Northern Mariana Islands, the departure was rationalized on the ground that it constituted a compromise without which the accession of the Northern Mariana Islands to the United States could not have been accomplished. See S. Rep. No. 433, 94th Cong., 1st Sess. 69 (1975). Here it might be said

that this departure from the "One Man - One Vote" rule complies with the previously mentioned undertakings of the United States to respect the local rights and privileges.

c. Art. II, § 7 would impose a voting qualification of two years of residence in American Samoa and of one year in the election district. These residence requirements are inconsistent with Dunn v. Blumstein, 405 U.S. 330 (1972). Here again it might be argued that the standards established for the highly mobile society in the United States need not necessarily apply to the Samoan way of life which, to our knowledge, is of a less transient nature.

d. Similar considerations apply to Art. IV, § 5 establishing the qualifications for the offices of Governor and Lieutenant Governor.

5. We have serious difficulties with Art. V, § 12 entitled "Congressional Limitations," which provides:

"No organic act or similar legislation alienating Samoan communal land or destroying Samoan way of life including its customs and traditions, shall be enacted by or on behalf of American Samoa Government without the expressed consent and approval of the traditional leaders and people of American Samoa."

Obviously a local constitution cannot by itself limit the powers of Congress. In evaluating the effect that Congressional approval of the Constitution might have, however, one must begin with the normal rule that one Congress cannot limit the legislative powers of subsequent Congresses. There are, however, limited exceptions to this rule, e.g., where Congress creates vested rights or where a Congress agrees in the context of a negotiating process not to exercise certain legislative rights unilaterally. This was done, for instance, in the Mutual Consent provisions of § 105 of the Covenant with the Northern Mariana Islands. See S. Rept. No. 94-433, 94th Cong., 1st Sess. 67 (1975). The approval of the Samoa Constitution, however, would be a unilateral act of Congress, not arrived at in a negotiation process.

Moreover, even if Congress had the power to limit the exercise of its legislative powers over American Samoa, we would counsel against an undertaking as broad as not to enact legislation "destroying [the] Samoan way of life including its customs and traditions." The application of almost any American statute to American Samoa might conceivably be challenged, with some justification, on the ground that it

somehow destroys the Samoan way of life or its customs or traditions.

I turn now to the third sentence of Art. I, § 3. That provision raises the question of the wisdom of including in the Constitution a provision which is of an economic nature and which may have to be modified speedily. That sentence would provide:

"No new business in whatever form, except businesses not in direct competition with same, shall be permitted to engage in business in American Samoa unless fifty-one per cent (51%) ownership and control of such business be vested in persons of American Samoa ancestry."

Apart from the somewhat ambiguous phrasing of that sentence, and the uncertainty of the meaning of the term "American Samoa ancestry", which I have already discussed, I do not think a provision of that nature belongs in a Constitution. As circumstances change, experience could demonstrate that such a provision could burden the economic development of Samoa by preventing or discouraging needed outside investments. Such a provision, which may require expeditious modification, should not be frozen into a Constitution but rather should be

embodied in simple legislation, which can be amended more readily.

As mentioned before, there are a number of provisions in the Constitution which present drafting problems or contain inconsistent phraseology. This hearing is obviously not the time and place to discuss them. We have noted them and would be happy to discuss them with the Samoan authorities.

I am at the end of my prepared statement. If you have any questions Mr. Marcuse and I shall endeavor to answer them to the best of our ability.

Senator WEICKER. Well, I think you have been pretty complete in your rundown.

It almost sounds like you would like to have them adopt the Constitution of the United States verbatim as——

Mr. SHANKS. Not at all, Mr. Chairman.

Senator WEICKER [continuing]. Their Constitution. That's what really brings us here. I'm proud of our Constitution. As you know, I spend half my time on the Senate floor.

Mr. SHANKS. I know, Mr. Chairman, but we——

Senator WEICKER. I just don't know how that sits with the American Samoans. It's their life.

Mr. SHANKS. Not at all. The last thing that we're interested in is trying to impose American institutions, even our Constitution, of which we're all very proud, on them.

Our concern here is simply that we may unwittingly subject their culture to review by American courts and——

Senator WEICKER. I understand that.

Mr. SHANKS [continuing]. Impose those constitutional values on them without meaning to.

Senator WEICKER. Have you ever had a request, as a matter of legal history, by an American Samoan for review? Have we received an appeal through our process from an American Samoan?

Mr. SHANKS. We have received one case—not by an American Samoan. The *King* case involved an American citizen who was tried in American Samoa without a jury. That led to a decision by the court of appeals here in the District of Columbia extending the right of trial by jury to American Samoa. But that's the only one that I'm aware of.

I think that the lack of judicial review has been a function of the relationship which we have had, and of the policy of attempting to protect the American Samoan traditions.

Senator WEICKER. Governor, during the course of all these delib-

erations, vis-a-vis the Constitution, and the relationships with the Congress, and the difficulties that you have had 1 year ago, what is the attitude of the American Samoan people as to the status that they would prefer? This is just out of curiosity. I don't mean to raise something that might be politically sensitive, but I'd like to ask that question just from my point of view.

Are the American Samoans pleased insofar as the present legal relationship—I'm not talking about their attitudes toward the United States, I assume that we're friends, but as to the legal status. What do you think most people would want in American Samoa?

Mr. COLEMAN. We had a Political Status Commission that studied the question of our political status extensively in some form. And their conclusion was to maintain the status quo. The present relationship is satisfactory to us, because we feel it's a little bit too early to impose fully the impact of the U.S. Constitution. And we know that if we are tied into the U.S. legal system, that there will be judges sitting there to determine questions without sufficient background on their part to decide the future of our culture.

So even though we—some of us are U.S. nationals, some of us are U.S. citizens, but those who are U.S. nationals may become American U.S. citizens at any time. They do not require special immigration requirements, but they can join and volunteer in the armed services, for instance.

So under the present status, we are participating fully in meeting our own obligations to our country, the United States, joining the armed services and performing other work, people work in the Federal Government without changing our political status.

Senator WEICKER. I thank you very much.

And I thank Mr. Shanks for his testimony.

Are there any other matters that anybody cares to raise, if so please speak, otherwise, the hearing will be adjourned.

[No response.]

[Whereupon, at 2:05 p.m., the hearing was adjourned.]