

## TREATIES, CESSIONS, AND FEDERAL LAWS

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### CONSTITUTIONS

Revised Constitution of American Samoa
Constitution of the United States of America

### AGREEMENT OF 1872

In 1872, Navy Commander Richard Meade of the U.S.S. Narragansett visited Pago Pago. On March 2, 1872, Commander Meade, on his own responsibility, made an agreement entitled "Commercial Regulations, etc." with High Chief Mauga. In May of 1872, this agreement was submitted to the United States Senate by President Grant. President Grant stated that while he would not hesitate to recommend its approval, it seemed to pledge that the United States protect American Samoa, which he thought was not in accord with the foreign policy of the United States. The United States Senate did not ratify the agreement, and hence, it apparently never became legally effective. (H. Ex. Doc. 161 44 (41) Cong. 1 Sess. 6.)

### TREATY OF 1878

This "treaty of friendship and commerce" was made January 17, 1878, and after ratification, proclaimed February 13, 1878, between the United States and "the Government of the American Samoa Island." This treaty was annulled by treaty of December 2, 1899, between the United States, Germany, and Great Britain. It, therefore, has no present force or effect except with respect to any possible vested rights accrued thereunder. (2 Malloy Treaties 1574.)

### GENERAL ACT OF 1889

This treaty was concluded June 14, 1889, and after ratification, proclaimed May 21, 1890, between the United States, Germany, and Great Britain, and assented to by the Samoan Government "to provide for the security of the life, property and trade of the citizens and subjects of their respective Governments residing in, or having commercial relations with the Islands of Samoa; and at the same time to avoid all occasions of

dissensions between their respective Governments and people of Samoa, promoting as far as possible the peaceful and orderly civilization of the people of these Islands.” This treaty was also annulled by the treaty of December 2, 1899, and, therefore, has no present force or effect except with respect to rights which may have accrued and become vested thereunder especially by virtue of judgments rendered by the “Supreme Court” established and functioning thereunder during the life of the treaty. (Malloy Treaties 1576.)

### **CONVENTION OF 1899**

This treaty was entered into December 2, 1899, and after ratification proclaimed February 16, 1900, between the United States, Germany, and Great Britain “to adjust amicably the questions which have arisen between them in respect to the Samoan group of Islands, as well as to avoid all future misunderstanding in respect to their joint or several rights and claims of possession or jurisdiction therein.”

The body of the treaty is short and reads as follows:

#### **Article I**

The General Act concluded and signed by the aforesaid Powers at Berlin on the 14th day of June, A.D. 1889, and all previous treaties, conventions and agreements relating to Samoa, are annulled.

#### **Article II**

Germany renounces in favor of the United States of America all her rights and claims over and in respect to the Islands of Tutuila and all other islands of the Samoan group east of Longitude 171 degrees west of Greenwich.

Great Britain in like manner renounces in favor of the United States of American all her rights and claims over and in respect to the Island of Tutuila and all other islands of the Samoan group east of Longitude 171 degrees west of Greenwich.

Reciprocally, the United States of America renounces in favor of Germany all her rights and claims over and in respect to the Islands of Upolu and Savai'i and all other Islands of the Samoan group west of Longitude 171 degrees west of Greenwich.

#### **Article III**

It is understood and agreed that each of the three signatory Powers shall continue to enjoy, in respect to their commerce and commercial vessels, in all the islands of the Samoan group, privileges and conditions equal to those enjoyed by the sovereign Powers, in all ports which may be open to the commerce of either of them. (2 Malloy Treaties 1596.)

### **CESSION OF TUTUILA AND AUNU'U**

Chief of Tutuila

to

United States Government

April 17, 1900

Translation in the English language:

To all to whom these presents shall come:

Greeting,

Whereas the Governments of Germany, Great Britain, and of the United States of

America have on divers occasions recognized the sovereignty of the government and people of Samoa and the Samoan group of islands as an independent State; and whereas owing to dissensions, internal disturbances and civil war, the said governments have deemed it necessary to assume the control of the legislation and administration of said state of Samoa; and whereas the said governments have on the sixteenth day of February, by mutual agreement, determined to partition said State; and whereas the islands hereinafter described being part of the said State have by said arrangements amongst the said governments, been severed from the parent State, and the Governments of Great Britain and of Germany have withdrawn all rights hitherto acquired, claimed or possessed by both or either of them by treaty or otherwise, to the said islands in favor of the government of the United States of America; and whereas for the promotion of the peace and welfare of the people of said islands, for the establishment of a good and sound government, and for the preservation of the rights and property of the inhabitants of said islands, the Chiefs, rulers and people thereof are desirous of granting unto the said government of the United States full powers and authority to enact proper legislation for and to control the said islands, and are further desirous of removing all disabilities that may be existing in connection therewith and to ratify and to confirm the grant of the rule of said islands heretofore granted on the 2nd day of April, 1900.

Now know Ye:

1. That we, the Chiefs whose names are hereunder subscribed by virtue of our office as the hereditary representatives of the people of said islands, in consideration of the premises herein-before recited and for divers good considerations us hereunto moving, have ceded, transferred, and yielded up unto Commander B. F. Tilley of the U.S. "Abarenda," the duly accredited representative of the Government of the United States of America in the islands hereinafter mentioned or described for and on behalf of the said government. All these the islands of Tutuila and Aunu'u and all other islands, rocks, reefs, foreshores and waters lying between the 13th degree and the 15th degree of south latitude and between the 171st degree and 167th degree of west longitude from the meridian of Greenwich, together with all sovereign rights thereunto belonging and possessed by us, to hold the said ceded territory unto the Government of the United States of America; to erect the same into a separate District to be annexed to the said Government, to be known and designated as the District of "Tutuila".

2. The Government of the United States of America shall respect and protect the individual rights of all people dwelling in Tutuila to their lands and other property in said District; but if the said Government shall require any land or any other thing for Government uses, the Government may take the same upon payment of a fair consideration for the land, or other thing, to those who may be deprived of their property on account of the desire of the Government.

3. The Chiefs of the towns will be entitled to retain their individual control of the separate towns, if that control is in accordance with the laws of the United States of America concerning Tutuila, and if not obstructive to the peace of the people and the advancement of civilization of the people, subject also to the supervision and instruction of the said Government. But the enactment of legislation and the general control shall remain firm with the United States of America.

4. An investigation and settlement of all claims to title to lands in the different divisions or districts of Tutuila shall be made by the Government.

5. We, whose names are subscribed below, do hereby declare with truth for

ourselves, our heirs and representatives by Samoan Custom, that we will obey and owe allegiance to the Government of the United States of America.

In witness whereof we have hereunto subscribed our names and affixed our seals on this 17th day of April, 1900 A.D.

Fofo and Aitulagi  
Tuitele of Leone x  
Faiivae of Leone x  
Letuli of Iliili x  
Fuimaono of Aoloau x  
Satele of Vailoa x  
Leoso of Leone x  
Olo of Leone x  
Namoa of Aitulagi x  
Malota of Aitulagi x  
Tuanaitau of Pavaiai x  
Lualemana of Aasu x  
Amituagai of Ituau x

Sua and Vaifanua  
Pele x  
Mauga x  
Leiato x  
Faumuina x  
Masaniai x  
Tupuola x  
Soliai x  
Mauga x

The foregoing instrument of Cession (pages 1, 2, and 3) was duly signed by Leoso in the presence of, and at the request of, the Chiefs and Representatives of the Division of Fofo and Aitulagi, and by Pele in the presence of and at the request of the Chiefs and Representatives of Sua and Vaifanua in Tutuila in conformity with Samoan customs as to signatures to documents, in my presence at Pago Pago on the 17th day of April, 1900 A.D., immediately prior to the Raising of the United States Flag at the United States Naval Station, Tutuila.

/s/E.W.Gurr

Barrister of the Supreme Court of Samoa.

### **CESSION OF MANU'A ISLANDS**

King and Chiefs of Manu'a

U.S. Government

To All To Whom These Presents Shall Come,

Greeting:

Whereas, the Islands of the Samoan Group lying east of Longitude 171 degrees west of Greenwich were, on the 16th day of February, 1900, by arrangement between the Governments of Germany, Great Britain, and the United States of America, placed under the protection of the Government of the United States of America;

And Whereas, on the 17th day of April, in the year 1900, the Islands of Tutuila and Aunuu, being portion of said Islands of the Samoan Group lying east of Longitude 171 degrees west of Greenwich, were, by the chiefs and rulers of Tutuila and Aunuu, ceded to and placed under the sovereignty and protection of the United States of America, and the government of said Islands was thereupon assumed by said United States;

And Whereas, in administering said government, the Islands hereinafter described, known as the Manu'a Islands, being the remainder of said Islands of the Samoan Group lying east of Longitude 171 degrees west of Greenwich, have been under the protection of the United States of America, and controlled and governed in conjunction with the islands of Tutuila and Aunuu;

And Whereas, at the request of Tuimanu'a, the King of Manu'a, and his chiefs, the United States Flag was, on the 15th day of June, 1900, raised on the Islands of Tau, of the Manu'a Group, for the purpose of granting protection to the people of the Manu'a Islands;

And Whereas, Tuimanu'a and his chiefs, being content and satisfied with the justice, fairness, and wisdom of the government as hitherto administered by the several Commandants of the United States Naval Station, Tutuila, and the officials appointed to act with the Commandant, are desirous of placing the Islands of Manu'a hereinafter described under the full and complete sovereignty of the United States of America to enable said Islands, with Tutuila and Aunuu, to become a part of the territory of said United States;

Now Know Ye: (1) That we, Elesare Tuimanu'a and the Chief whose names are hereunder subscribed, in consideration of the premises hereinbefore recited, have ceded, and, by, These Presents Do Cede, unto the Government of the United States of America, All Those, The Islands of the Manu'a Group, being the whole of eastern portion of the Samoan Islands lying east of Longitude 171 degrees west of Greenwich and known as Tau, Olosega, Ofu, and Rose Islands, and all other, the waters and property and adjacent thereto, together with all sovereign rights thereunto belonging and possessed by us.

To hold the said ceded territory unto the Government of the United States of America, to erect the same into a territory or district of the said Government.

(2) It is intended and claimed by these Presents that there shall be no discrimination in the suffrages and political privileges between the present residents of said Islands and citizens of the United States dwelling therein, and also that the rights of the Chiefs in each village and of all people concerning their property according to their customs shall be recognized.

Done at the place of Faleula in Tau, in triplicate, in both the Samoan and the English languages, on this 14th day of July, in the year 1904, A.D.

King of Manu'a

and

District Governor Tuimanu'a

County Chief of Fitiuta Tufele

County Chief of Ofu Misa

County Chief of Olosega Tuiolosega

County Chief of Faleasao Asoau

District Clerk P. Logoai

United States Naval Station, Tutuila

District Court of Tutuila )

No.5 )

Held at Tau, in Manu'a )

I Hereby Certify that on this 16th day of July, in the year 1904, before me, Edwin W. Gurr, Judge of the District Court of Tutuila, personally appeared Tuimanua, the Governor of Manu'a; Tufele, County Chief of Fitiuta; Misa, County Chief of Ofu; Tuiolosega, County Chief of Olosega; Asoau County Chief of Faleasao; and Logoai, District Clerk of Manu'a; personally known to me to be the Tuimanua, high chiefs, and representatives of the people of the Islands of Manu'a, who, each for himself, acknowledged that he executed the attached Instrument of Cession, and affixed his seal thereto, freely and

voluntarily, for the uses and purposes therein mentioned.

In Testimony Whereof I have caused the seal of the court to be affixed this 16th day of July in the year 1904.

/s/E.W.Gurr  
District Judge of Tutuila

### ACCEPTANCE OF CESSIONS

The Judge Advocate General of the Navy in 1921, referring to the above cessions, said:

“These cessions were accepted by the President of the United States, and full information with respect thereto was communicated to Congress and the action of the Chief Executive relative thereto adopted and approved in a number of separate statutory enactments.” (File 3931-1429 :36, Dec. 23, 1921), LRNA, Supp. 25.

### ACTS OF CONGRESS

Title 48 U.S.C. §§ 1661, 1662 provide:

**“§ 1661. Islands of Tutuila, Manu'a, and eastern Samoa; ceded to and accepted by United States; revenue; government.**

“(a) The cessions by certain chiefs of the islands of Tutuila and Manu'a and certain other islands of the Samoan group lying between the thirteenth and fifteenth degrees of latitude south of the Equator and between the one hundred and sixty-seventh and one hundred and seventy-first degrees of longitude west of Greenwich, herein referred to as the islands of eastern Samoa, are accepted, ratified, and confirmed, as of April 10, 1900, and July 16, 1904, respectively.

“(b) The existing laws of the United States relative to public lands shall not apply to such lands in the said islands of eastern Samoa; but the Congress of the United States shall enact special laws for their management and disposition: Pro vided, That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the said islands of eastern Samoa for educational and other public purposes.

“(c) Until Congress shall provide for the government of such islands, all civil, judicial, and military powers shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned. (Feb. 20, 1929, ch. 281, 45 Stat. 1253; May 22, 1929, ch. 6, 46 Stat. 4.)”

**§ 1662. Sovereignty of United States extended over Swains Island.**

“The sovereignty of the United States over American Samoa is extended over Swains Island, which is made a part of American Samoa and placed under the jurisdiction of the administrative and judicial authorities of the government established therein by the United States. (Mar. 4, 1925, ch. 563, 43 Stat. 1357.)”

### DELEGATE TO HOUSE OF REPRESENTATIVES

Public Law 95-556, Oct. 31, 1978, 92 Stat. 2078, provided:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Territory of American Samoa shall be represented in the United States Congress by a nonvoting Delegate to the House of

Representatives, elected as hereinafter provided.

Sec. 2. (a) The Delegate shall be elected by the people qualified to vote for the popularly elected officials of the Territory of American Samoa at the general Federal election of 1980, and thereafter at such general election every second year thereafter. The Delegate shall be elected at large, by separate ballot, and by a majority of the votes cast for the office of Delegate. If no candidate receives such majority, on the fourteenth day following such election a runoff election shall be held between the candidates receiving the highest and the second highest number of votes cast for the office of Delegate. In case of a permanent vacancy in the office of Delegate, by reason of death, resignation, or permanent disability, the office of Delegate shall remain vacant until a successor shall have been elected and qualified.

(b) The term of the Delegate shall commence on the third day of January following the date of the election.

Sec. 3. To be eligible for the office of Delegate a candidate shall;

(a) be at least twenty-five years of age on the date of the election;

(b) have been a United States citizen for at least seven years prior to the date of the election ;\*

(c) be an inhabitant of the Territory of American Samoa; and

(d) not be, on the date of the election, a candidate for any other office.

Sec. 4. Acting pursuant to legislation enacted in accordance with section 9, article II of the American Samoan Revised Constitution, the territorial government will determine the order of names on the ballot for election of Delegate, the method by which a special election to fill a vacancy in the office of Delegate shall be conducted, the method by which ties between candidates for the office of Delegate shall be resolved, and all other matters of local application pertaining to the election and the office of Delegate not otherwise expressly provided for herein.

Sec. 5. Until the Rules of the House of Representatives are amended to provide otherwise, the Delegate from American Samoa shall receive the same compensation, allowances, and benefits as a Member of the House of Representatives, and shall be entitled to whatever privileges and immunities that are, or hereinafter may be, granted to the nonvoting Delegate from the Territory of Guam: Provided, That the clerk hire allowance for the Delegate from American Samoa shall be a single per annum gross rate that is 50 per centum of the clerk hire allowance of a Member of the House of Representatives.

Approved October 31, 1978.

**\*Amended to read "owe allegiance to the United States". See Public Law 95-584, 4 3, set out below.**

Section 3 of Public Law 95-584, Nov. 2, 1978, 92 Stat. 2483, amended Public Law 95-556, Oct. 31, 1978, 92 Stat. 2078, as follows:

Sec. 3. Subsection 3(b) of the Act entitled "An Act to provide that the Territory of American Samoa be represented by a nonvoting Delegate to the United States House of Representatives, and for other purposes" is hereby amended to read as follows: "(b) owe allegiance to the United States".

Approved November 2, 1978.

## **ESTABLISHMENT OF NAVAL STATION**

General Order  
No. 540

Navy Department  
Washington, February 19, 1900

The Department publishes herewith, for the information and guidance of the service, a copy of an Executive Order, dated February 19, 1900, placing certain islands of the Samoan Group under the control of the Navy Department.

### **EXECUTIVE MANSION**

Washington, D.C. February 19, 1900

The Islands of Tutuila, of the Samoan Group and all other islands of the group east of Longitude 171 degrees west of Greenwich are hereby placed under the control of the Department of the Navy, for a Naval Station. The Secretary of the Navy will take such steps as may be necessary to establish the authority of the United States, and give to the islands, the necessary protection.

William McKinley.

In accordance with the foregoing, the Islands of Tutuila, of the Samoan Group, and all other islands of the group east of Longitude 171 degrees west of Greenwich, are hereby established into a Naval Station to be known as the Naval Station, Tutuila, and to be under the command of a Commandant.

John D. Long,  
Secretary

### **OPINION OF THE JUDGE ADVOCATE OF THE NAVY**

The Judge Advocate General of the Navy in 1921 said: "The Government established by the President of the United States in American Samoa, having been recognized and acquiesced in by Congress, said government must be recognized by all individuals who have occasion .to deal therewith as the lawfully established government of American Samoa until Congress see fit to provide otherwise. The Congress of the United States, the President, the Attorney General and the Secretary of the Navy have all concurred in recognizing American Samoa as a possession of the United States and a part of its territory administered by a governor commissioned by the President, whose agent he is for the purpose of executing the orders communicated to him through the Secretary of the Navy, except in so far as Congress may see fit from time to time to legislate directly in relation thereto Under the system of government which has been established in American Samoa, the individual commissioned by the President as Governor thereof possesses supreme legislative, executive, and judicial power of government in relation thereto, except in so far as restricted by the President or by enactments of Congress." (File 3931-1429; 36, Dec. 23, 1921) LRNA, Supp. 25. However, in American Samoa, under the present code and under this new code the Governor has, through his legislative powers, vested the judicial powers in the courts and the Chief Justice and other judges of American Samoa.

### **TRANSFER OF ADMINISTRATION TO THE SECRETARY OF THE INTERIOR**

**Executive Order No. 10264**

June 29, 1951, 16 F.R. 6419

Transfer of Administration of American Samoa

1. The administration of American Samoa is hereby transferred from the Secretary of



the Navy to the Secretary of the Interior, such transfer to become effective on July 1, 1951.

2. The Department of the Navy and the Department of the Interior shall proceed with the plans for the transfer of administration of American Samoa as embodied in the abovementioned memorandum of understanding between the two departments.

3. When the transfer of administration made by this order becomes effective, the Secretary of the Interior shall take such action as may be necessary and appropriate, and in harmony with applicable law, for the administration of civil government in American Samoa.

4. The executive departments and agencies of the Government are authorized and directed to cooperate with the Departments of the Navy and Interior in the effectuation of the provisions of this order.

5. The said Executive order of February 19, 1900 [Ex.Ord. 125—A], is revoked, effective July 1, 1951.

## **DELIMITATION OF GOVERNMENT AUTHORITY**

### **United States Department of the Interior**

#### **Secretary's Order No. 2657**

As Amended

*Sec. 1 Purpose.* The purpose of this document is to delimit the extent and nature of the authority of the Government of American Samoa, as it will be exercised under the jurisdiction of the Secretary of the Interior pursuant to Executive Order No. 10264 of June 29, 1951, pending enactment of organic legislation by the Congress, and to prescribe the manner in which the relationships of the Government of American Samoa with the Congress, with the Department of the Interior and other Federal agencies, and with foreign governments and international bodies shall be established and maintained.

*Sec. 2 Laws and legislative authority.* (a) The laws of American Samoa in effect on July 1, 1951 and the procedure for formulating and amending the laws shall remain in effect until changed by competent authority: *Provided, however,* That the power formerly exercised by the Secretary of the Navy or his designated representative shall be exercised by the Secretary of the Interior or his designated representative.

(b) No measure affecting the powers of the legislature shall become effective without the approval of the Secretary of the Interior.

*Sec. 3 Executive authority.* (a) The executive authority of the Government of American Samoa shall be vested in the Governor and other officials appointed pursuant to law, and shall be exercised under the supervision and direction of the Secretary of the Interior.

(b) The relations of the Government of American Samoa with the Congress of the United States on all legislative matters, including appropriations shall be conducted through the Department of the Interior.

(c) With freedom to consult directly with the Secretary when necessary, the Governor of American Samoa shall normally communicate with the Secretary of the Interior through the Deputy Assistant Secretary for Territorial Affairs. The Governor shall be responsible for all United States property in American Samoa which is required for the operation of the Government of American Samoa and to which the Department of the Interior has custodial title or which it may use under permit. The Governor shall perform such other functions for the Department of the Interior in American Samoa as may be delegated to him by the Secretary.

(d) Initial contact by the Government of American Samoa with Federal agencies outside the Department of the Interior on other than routine matters shall be established through the Deputy Assistant Secretary for Territorial Affairs of the Department of the Interior. Once the relationship has been established, direct contact between the Government of American Samoa and the Federal agencies concerned may be maintained and the Deputy Assistant Secretary for Territorial Affairs kept informed of significant developments in the relationship. Federal agencies should be encouraged to extend their normal Federal services and assistance to American Samoa wherever practicable, and the Government of American Samoa should be reimbursed for services which it performs for such Federal agencies.

(e) Communications of the Government of American Samoa with foreign governments and international bodies shall be cleared through the Department of the Interior for transmittal by the Department of State, unless some other procedure is approved by the Secretary of the Interior.

*Sec. 4 Judicial authority.* The judicial authority shall be independent of the executive and legislative powers. Budgetary requests for the territorial judiciary, with supporting justification, should be drawn up by the Chief Justice of American Samoa and submitted for the approval of the Department of the Interior by the Governor of American Samoa as a separate item in the annual budget for American Samoa. The Governor should call the attention of the Department to any questions which he may have regarding the budget for the judiciary. Laws or regulations bearing on the organization or operation of the judiciary shall be submitted to the Secretary of the Interior for approval prior to promulgation. The High Court of American Samoa is hereby given jurisdiction to effect the judicial enforcement of the Occupational Safety and Health Act of 1970 (PL 91-596; 84 Stat. 1590).

**PROVISION FOR ELECTED GOVERNOR AND LIEUTENANT GOVERNOR,  
AND CREATION OF OFFICE OF GOVERNMENT COMPTROLLER**

**United States Department of the Interior**

**Secretary's Order No. 3009**

September 13, 1977

*Sec. 1 Purpose.* The purpose of this order is to provide for an elected Governor and Lieutenant Governor in American Samoa and to create the Government Comptroller for American Samoa in the Office of the Secretary of Interior. The electorate of American Samoa in an official referendum of August 31, 1976, voted by 3044 affirmative votes to 1366 negative votes to elect the Governor and Lieutenant Governor by popular vote. Subsequently, the Legislature of American Samoa on March 28, 1977, in Special Session enacted enabling legislation to provide procedures for an elective local Governor and Lieutenant Governor. Approved by the Governor of American Samoa, as PL 15-23 on May 16, 1977, this law officially requested the Secretary of Interior to provide through the issuance of a Secretarial Order authority for the popular election of the Governor and Lieutenant Governor.

*Sec. 2 Election of Governor and Lieutenant Governor.* In accordance, therefore, with the expressed wishes of the electorate and the subsequent action of the Legislature of American Samoa, Article IV of the Revised Constitution of American Samoa is hereby revised to provide as follows:

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

elected and serve in accordance with the laws of American Samoa.

*Sec. 3 Creation of the Office of Government Comptroller.* There is hereby created in the Office of the Secretary of Interior the Office of Government Comptroller for American Samoa. The Government Comptroller for American Samoa shall report to the Secretary of Interior and have such additional staff as the Secretary deems appropriate for him to discharge his duties, responsibilities and functions.

(a) The principal responsibility of the Government Comptroller for American Samoa shall be to perform specific and comprehensive audits of all activities, entities, and branches of the Government of American Samoa. These audits shall include but not be limited to financial, compliance, management, organization and program reviews. In addition, other types of audits shall be made as appropriate at the request of the Secretary of Interior. All transactions of the Government of American Samoa shall be audited in accordance with the U.S. Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities and Functions." The Government Comptroller for American Samoa shall make audit reports which will be addressed to the Governor of American Samoa. A copy of all reports will be sent to the Secretary of Interior, and by him to the appropriate Committees of the U.S. Congress. The Governor of American Samoa shall respond in writing to the findings reported by the Government Comptroller for American Samoa within forty-five (45) days from the date of each report and shall indicate what actions will be taken to correct the deficiencies noted and to comply with the recommendations contained therein.

(b) If the Government Comptroller for American Samoa finds that an expenditure is irregular or not pursuant to law, he may take an exception against the certifying officer. The certifying officer will be responsible for clearing the exception by recovering the expenditure or taking appropriate actions. It is required that all certifying officers be bonded and that no bond be released until all exceptions are cleared. Any exceptions deemed necessary by the Government Comptroller to be brought to the attention of the Secretary shall also be brought to the attention of the Chairman of the appropriate Committees of the Congress.

(c) An audit decision by the Government Comptroller for American Samoa may, within six months from the date thereof, be appealed to the Secretary of Interior by the party aggrieved or the head of the department or office concerned. Such appeal must be in writing and shall set forth the particular action of the Government Comptroller for American Samoa to which exception is taken, together with the reasons and authorities relied upon for reversing such decision. The decision of the Secretary of Interior on such appeal shall be final. The decision of the Secretary shall, if possible, be made within ninety (90) days from the date the appeal is received.

(d) As soon after the close of each fiscal year as the accounts of said fiscal year may be examined and adjusted, the Government Comptroller for American Samoa shall submit to the Governor of American Samoa, and to the Secretary of Interior an annual report of the fiscal condition of the government showing the receipts and disbursements of the various departments and agencies of the government together with his comments and recommendations. The Secretary shall submit such report, along with the Secretary's comments and recommendations, to the appropriate Committees of the U.S. Congress. Interim audits may be performed quarterly so as to complete the annual audit and report on a timely basis and to provide for the early identification of major problem areas.

(e) The Government Comptroller for American Samoa is authorized to communicate directly with any person or with any department officer or person having official relation

with his office, and he may summon witnesses and administer oaths.

(f) All departments, agencies, and establishments shall furnish to the Government Comptroller for American Samoa such information regarding the powers, duties, activities, organizations, financial transactions, and methods of business of their respective offices as he may from time to time require of them; and the Government Comptroller for American Samoa or any of his assistants or employees, when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department, agency or establishment.

(g) In addition to his other duties, the Government Comptroller for American Samoa shall, upon request of the Governor, provide advice and assistance to the Governor, particularly in the area of financial matters of Federal interest.

Sec. 4 *Amendment of Executive Order No. 2657*. Section 3 of Executive [sic] Order No. 2657, as amended, dealing with executive authority of the Government of American Samoa, is hereby superseded.

Sec. 5 *Ultimate Responsibility of the Secretary*. Until the Congress of the United States provides further for the civil government of American Samoa, the President of the United States, through the Secretary of Interior, has the ultimate responsibility for the administration of the Territory of American Samoa.

Sec. 6 *Effective Date*. This Order is effective immediately. Its provisions shall remain in effect until amended, superseded or revoked, whichever occurs first.

**Reviser's Comment:** Former Section 4, enacted by Secretary's Order No. 3009, Amendment No. 1, November 3, 1977, which provided for the selection and appointment of Attorney General, was rescinded by Amendment No. 2, June 27, 1978.

## 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.**
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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, 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.

#### **Case notes:**

Blanket imposition of religious programs on unconsenting inmate violates establishment and freedom of religion clauses of both federal and territorial constitutions. U.S. Const. Amend. I; Rev'd Const. Am. Samoa Art. I, §1. *American Samoa Government v. Agasiva*, 6 A.S.R.2d 32 (1987).

The power to govern a congregational church vests in the whole congregation, or in persons or entities

which the majority of the congregation may select as the governing authority for general or particular purposes. U.S. const. Amend. I; Rev. const. Am. Samoa Art. I, § 1. *Lefiti v. Tauanu'u*, 24 A.S.R.2d 68 (1993).

When the identity of the governing authority or authorities within a church is substantially at issue, civil courts must refrain from delving into ecclesiastical laws and practices that may be paramount to resolving the controversy. U.S. const. Amend. I; Rev. Const. Am. Samoa Art. I, § 1. *Lefiti v. Tauanu'u*, 24 A.S.R.2d 68 (1993).

## **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.

**Amendments:** 1967 Section formerly provided for payment of compensation "before" the taking of property and for reversion to owner after 3 years of non-user. H.C.R. No. 45, 10th Leg. 1st Spec. Sess., requested Secty. of Int. to revise the section to its present form. This was done at the time of ratification and approval on June 2, 1967.

### **Case Notes:**

Due process clause does not require jury trial; however the Chief Justice may so provide by rule. *Pelesasa V. Te'o*, ASR (1978).

Substantive due process is a fundamental right as such must be accorded litigants, nurses suspended by Personnel Advisory Board. *Reed v. Personnel Advisory Board*, ASR (1977).

Argument that license was "revoked" without procedural due process was unfounded where evidence shows license was never granted. Am. Samoa. Const. Art. I § 2. *Ferstle v. American Samoa Government*, 7 A.S.R. 2d 26 (1988).

Procedural due process requirements are not fixed, but vary with circumstances and particular demands of the case; however, some sort of notice and hearing is required before and individual is finally deprived of a property interest. Am. Samoa. Const. Art. I § 2. *Ferstle v. American Samoa Government*, 7 A.S.R. 2d (1988).

Notice and hearing afforded to satisfy procedural due process need not be full judicial hearing. Am. Samoa. Const. Art. I § 2. *Ferstle v. American Samoa Government*, 7 A.S.R.2d 26 (1988).

To satisfy requirement of procedural due process, opportunity to be heard must be granted at a meaningful time and in a meaningful manner, but need not always be granted prior to the initial deprivation of property. Am. Samoa. Const. Art. I § 2. *Ferstle v. American Samoa Government*, 7 A.S.R.2d 26 (1988).

Ordinarily, due process is satisfied by proceedings less than a full evidentiary hearing prior to adverse administrative action, and the sufficiency of such proceedings is to be determined in light of 1) the private interest that will be affected by the official action, 2) the risk of an erroneous deprivation of the interest through the procedures used and the probable value, if any, of additional or substitute procedural safeguards, and 3) the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would impose. Am. Samoa. Const. Art. I § 2. *Ferstle v. American Samoa Government*, 7 A.S.R. 2d 26 (1988).

Procedural due process is satisfied by piecemeal proceedings wherein parties were advised of the required showing, the proofs were considered promptly by the regulating agency, parties were advised of the agency's findings of insufficiency, parties submitted further proofs which agency considered and again advised parties that such proof was insufficient but did not issue a denial and remained open to further submission of proofs. Am. Samoa. Const. Art. I § 2. *Ferstle v. American Samoa Government*, 7 A.S.R.2d 26 (1988).

Due process requirements of notice and opportunity to be heard are not triggered until adverse administrative action constituting a "final" deprivation of property has taken place. Am. Samoa. Const. Art. I § 2. *Ferstle v. American Samoa Government*, 7 A.S.R. 2d 26 (1988).

Recurring and intentionally dilatory tactics by agency may constitute "final" action sufficient to trigger due process requirements of notice and hearing. Am. Samoa. Const. Art I § 2. *Ferstle v. American Samoa Government*, 7 A.S.R.2d 26 (1988).

The expected benefit of a license which issues subject to articulated standards of qualification is a property interest giving rise to due process protection, although not to the full range of pre-deprivation procedural protections applicable to entitlements that are less contingent than the expectation of a license. Am. Samoa. Const. Art. I § 2. *Ferstle v. American Samoa Government*, 7 A.S.R.2d 26 (1988).

Because in most cases licensing will be a straightforward process, quasi-judicial evidentiary hearing in all licensing proceedings would needlessly increase government expenditures and such hearings are required only where the proposed action on a license application will be final. Am. Samoa. Const. Art. I § 2., A.S.C.A. § 31.1508. *Ferstle v. American Samoa Government*, 7 A.S.R. 2d 26 (1988)

A "taking" of property by ASG requires it to provide just compensation. U.S. Const. Amend. V; Rev. Const. Am. Samoa art. I, § 2. *Solomona v. Governor of American Samoa*, 17 A.S.R.2d 186 (1990).

A land use regulation may effect a constitutional taking if it fails to "substantially advance legitimate state interests" or "denies an owner economically viable use of his land." U.S. Const. Amend. V; Rev.

Const. Am. Samoa art. I, § 2. *Solomona v. Governor of American Samoa*, 17 A.S.R.2d 186 (1990).

Coastal zone regulations might effect a taking, and thus require compensation to the landowner, if they effectively prohibit any "economically viable" use of private property. U.S. Const. Amend. V; Rev. Const. Am. Samoa Art. I, § 2. *Solomona v. Governor of American Samoa*, 17 A.S.R.2d 186 (1990).

No. "taking" occurs when government merely restrains property uses which are tantamount to public nuisances. U.S. Const. Amend. V; Rev. Const. Am. Samoa, 17 A.S.R.2d 186 (1990).

In some cases, such as when an illegal sentence was pronounced on a defendant unrepresented by counsel or when the circumstances surrounding an error of law made it impossible for counsel to call it to the Court's attention within ten days, a statutory ten day limit might amount to an unconstitutional denial of liberty without due process of law. U.S. Const. Amends. V, XIV; Revised Const. of American Samoa *Government v. Falefatu*, 17 A.S.R.2d 114 (1990).

Requiring criminal counsel to serve without compensation is generally not an unconstitutional taking of property without just compensation. U.S. Const. Amend. V; Rev. Const. Am. Samoa Art. I, § 2. *American Samoa Government v. Wilson* 23 A.S.R.2d 159 (1993).

In order to have a cognizable claim for deprivation of procedural due process, one must first possess a "liberty" or "property" interest in the government action complained of. Am. Samoa. Const. Art. I § 2. *Ferstle v. American Samoa Government*, 7 A.S.R.2d 26 (1988).

The expected benefit of a license which issues subject to articulated standards of qualification is a property interest giving rise to due process protection, although not to the full range of pre-deprivation procedural protections applicable to entitlements that are less contingent than the expectation of a license. Am. Samoa. Const. art. I § 2. *Ferstle v. American Samoa Government*, 7 A.S.R.2d 26 (1988).

Provisions of territorial constitution prohibiting deprivation of life, liberty, or property without due process of law prohibits prosecution from suppressing any evidence favorable to an accused where the evidence is material either to guilt or punishment. Rev'd Const. Am. Samoa Art. I § 2. *American Samoa government v. Talamoa*, 19 A.S.R.2d 14 (1989).

General request by defense counsel for any evidence in the possession of the prosecution that might tend to exculpate the defendant was within the scope of rule prohibiting suppression of material evidence favorable to the accused. Rev'd Const. Am. Samoa Art. I § 2. *American Samoa Government v. Talamoa*, 10 A.S.R.2d 14 (1989).

The right of a family member to use communal land is a proprietary right within the due process clause of the territorial constitution. Rev'd Const. of Am. Samoa I § 2. *Lutu v. Taesaliali'i*, 11 A.S.R.2d 80 (1989).

The right of a family member to use land owned by a Samoan communal family is a property right protected by the territorial constitution's due process clause. Rev. Const. Am. Samoa Art. I, § 2. *Seventh Day Adventist Church of American Samoa v. Maneafaiga*, 23 A.S.R.2d 150 (1993).

Though the Immigration Board's documents are confidential by statute, this statute may not be used to deny constitutionally guaranteed due-process rights, nor does it prohibit the court from ordering the Attorney General to produce these records when needed. U.S. constitution Amend. V; Rev. Const. Am. Samoa Art. I, § 2; A.S.C.A. § 41.0307. *Farapo v. American Samoa Government*, 23 A.S.R. 2d 136 (1993).

A non-capital criminal defendant is not constitutionally or procedurally entitled to a list of the prosecution's prospective witnesses. U.S. Const. Amend. V; Rev. Const. Am. Samoa Art. I, § 2; T.C.R.Cr.P. 16 (a) (2). *American Samoa Government v. Wilson*, 24 A.S.R.2d 26 (1993).

An alien in a deportation proceeding is entitled to cross-examine the government's witnesses, and an improper curtailment of this right constitutes a violation of procedural due process. U.S. Constitution Amend. V; Rev. Const. Am. Samoa Art. I, § 2; A.S.C.A. § 41.0250(7)(c); A.S.A.C. § 41.0807(a). *Farapo v. American Samoa Government*, 23 A.S.R.2d 136 (1993).

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

It shall be the policy of the Government of American Samoa 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.

#### **Case Notes:**

Territory has compelling interest in preserving the lands of Samoa for Samoans; laws in conflict with U.S. not displaced.

*Craddick v. Territorial Registrar*, ASR (1979).

Under Constitution of American Samoa the Legislature, and particularly the Senate which is composed of traditional chiefs chosen according to Samoan custom, has a peculiar relationship to the preservation of



land and culture. Rev. Const. of Am. Samoa Art. 1 § 2, Art. II § 4. *Tuika Tuika v. Governor of American Samoa*, 4 A.S.R.2d 85 (1987).

**Cross-References:**

Government policy to protect persons against alienation of their lands.  
Treaty of Cession of Tutuila and Aunu'u.  
US. obligated to protect Samoan property rights.  
14th Amendment, US. Constitution.

**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.

**Case Notes:**

Pervasively regulated businesses, which have long been subjected to close inspection and supervision, such as barbershops, may in proper circumstances be subjected to warrantless search. *Am. Samoa. Const. Art. I § 5. Ferstle v. American Samoa Government*, 7 A.S.R.2d 26 (1988).

Reflecting the "ancient common-law rule" that an officer may make a warrantless arrest if reasonable grounds of a felony's commission exist, even if it occurred outside of his presence, a warrantless arrest is not invalid merely because a warrant could have been obtained but was not. *U.S. Const. Amend. IV; Rev. Const. Am. Samoa Art. I, § 5. American Samoa Government v. Gotoloai*, 23 A.S.R.2d 65 (1992).

Reflecting the common-law rules, the exceptions to American Samoa's arrest-warrant requirement include arrests of felony suspects near a crime scene shortly after a crime's commission, arrests for misdemeanors and felonies committed in an officer's presence, and arrests based on "reasonable grounds" that a felony or breach of the peace has been committed. *U.S. Const. Amend. IV; Rev. Const. Am. Samoa Art. I, § 5; A.S.C.A. §§ 46.0801 et seq. American Samoa Government v. Gotoloai*, 23 A.S.R.2d 65 (1992).

The meaning of statutory provisions generally requiring an arrest warrant must be ascertained in light of the purpose of promoting efficient law enforcement, while protecting individual rights, and of the traditional and almost universal practice of warrantless arrests. *U.S. Const. Amend. IV; Rev. Const. Am. Samoa Art. I, § 5; A.S.C.A. §§ 46.0801 et seq. American Samoa Government v. Gotoloai*, 23 A.S.R. 2d 65 (1992).

Evidence obtained from an illegal search and seizure is inadmissible, not only in criminal proceedings but also in probation revocation proceedings. *Rev'd Const. Am. Samoa Art. I § 5. American Samoa Governmental v. Peni Samana*, 8 A.S.R.2d 1 (1988).

Search and seizure clause of territorial constitution requires an independent finding of probable cause by a neutral and detached magistrate *Rev'd Const. Am. Samoa Art. I, § 5. In re Siaumau*, 12 A.S.R.2d 11 (1989).

In making an independent judicial finding of probable cause for a search, the judge may not rely merely on the prosecutor's decision to file a complaint. *Rev'd Const. Am. Samoa Art. I, § 5. In re Siaumau*, 12 A.S.R.2d 11 (1989).

Judge may independently find adequate basis for probable cause in a criminal complaint, which not only contains directly incriminating information but also identifies the source of such information. *Rev'd Const. Am. Samoa Art. I, § 5. In re Siaumau*, 12 A.S.R.2d 11 (1989).

Factual allegations given their common sense meaning may be sufficient to constitute probable cause for certain crimes. *Rev'd Const. Am. Samoa Art. I, § 5. In re Siaumau*, 12 A.S.R.2d 11 (1989).

Criminal complaint containing factual allegations of complainant officer and sources upon which the officer based such allegations, including personal investigation with interviews of identified victim, eyewitness, and treating physician, was sufficient to sustain independent judicial finding of probable cause. *Rev'd Const. Am. Samoa Art. I, § 5. In re Siaumau*, 12 A.S.R.2d 11 (1989).

A warrantless arrest is improper if the government does not present evidence on which a court may judge "reasonableness." Rev. Const. Am. Samoa Art. I, §5. *American Samoa Gov't v. Sefo*, 21 A.S.R.2d 32 (1992).

Although the time differential and intervening circumstances may sever the relationship between an illegal arrest and a confession, the culpability of the police does not abrogate the application of the territorial constitution's exclusionary rule. Rev. Const. Am. Samoa Art. I, § 5. *American Samoa Gov't v. Sefo*, 21 A.S.R.2d 32 (1992).

Merely giving Miranda warnings is insufficient to constitute an "intervening circumstance" severing the causal relationship between an illegal arrest and a confession, and such a confession must be suppressed. Rev. Const. Am. Samoa Art. I, § 5. *American Samoa Gov't v. Sefo*, 21 A.S.R.2d 32 (1992).

Generally, an arrest, whether with or without a warrant, must be supported by probable cause. Rev. Const. Am. Samoa Art. I, § 5; A.S.C.A. § 46.0805(3). *American Samoa Gov't v. Luki*, 21 A.S.R.2d 82 (1992).

A confession will be supported if the government fails to meet its burden of showing that probable cause for a warrantless arrest existed when it was made. Rev. Const. Am. Samoa Art. I, § 5; A.S.C.A. § 46.0805(3). *American Samoa Gov't v. Luki*, 21 A.S.R.2d 82 (1992).

Arrests and searches are treated differently because "unreasonable search and arrest" provisions are concerned with restricting the use of general search warrants, not with prohibiting warrantless felony arrests; as such, warrantless arrests are permissible if supported by probable cause. U.S. Const. Amend. IV; Rev. Const. Am. Samoa Art. I, § 5; A.S.C.A. §§ 46.0801 et seq. *American Samoa Government v. Gotoloai*, 23 A.S.R.2d 65 (1992).

## **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.

### **Case Notes:**

Delay In setting trial is violative.

*Government of American Samoa v. Tapusoa*, ASR (1979).

"Double jeopardy" protection not violated where crime for which defendant pled guilty and was convicted, was considered a different offense rather than a lesser included part of seine offense. *A.S.G. v. Moafanua*, 4 ASR 2d 33 (1987).

Right to public trial not violated where courtroom cleared during testimony of juvenile victim in rape case where such exclusion was requested by victim to avoid describing sexual acts in front of family members. *A.S.G. v. Masaniai*, 4 ASR2d 156 (1987) (mem).

As officers of the court, members of the bar may be appointed, without compensation if necessary, as counsel to insure that indigent criminal defendants receive legal representation. Rev. Const. Am. Samoa Art. 1 § 6. A.S.C.A. §§ 46.0502(2), 46.1001. *American Samoa Government v. Wilson*, 23 A.S.R.2d 159 (1993).

Right to effective assistance of counsel applies in American Samoa. Am. Samoa Rev. Const. art I, § 6; A.S.C.A. §§ 46.0502, 46.1001. *Suisala v. Moaali'itele*, 6 A.S.R.2d 15 (1987).

There is no fixed formula for determining when the right to a speedy trial has been violated; each case must be determined on its own facts. Rev. Const. Am. Samoa, art. 1§ 6. *Pene v. American Samoa*

Government, 12 A.S.R.2d 43 (1989).

Relevant factors in determining if right to speedy trial violated include the length of delay, the reasons for the delay, whether defendant demanded trial, and the prejudice to defendant resulting from delay. Rev'd Const. Am. Samoa, art. 1 § 6. Pene v. American Samoa Government, 12 A.S.R.2d 43 (1989).

Defendant's right to speedy trial was not violated, even though the delay was over a year and a prompt trial had been demanded, where the reasons for the delay were substantial, including the need to entertain and grant motions to quash many subpoena inappropriately issued by defendant and also to conduct competency examinations; and where defendants was not substantially prejudiced by the delay, as he was not incarcerated and the documentary nature of the evidence minimized the danger of fading memories. Rev. Const. Am. Samoa, art. 1 § 6. Pene v. American Samoa Government, 12 A.S.R.2d 43 (1989).

For double-jeopardy purposes, a crime is a separate offense and not a lesser-included offense if each statutory provision requires proving a fact which the other does not. U.S. Const. Amend. V; Rev. Const. Am. Samoa Art. I, § 6. American Samoa Government v. Fealofa'i, 24 A.S.R.2d 10 (1993).

The entire record, and not simply the information or indictment, is scrutinized in a double-jeopardy challenge. U.S. Const. Amend. V; Rev. Const. Am. Samoa Art. I, § 6. American Samoa Government v. Meleisea, 24 A.S.R.2d 32 (1993)

### **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 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 or of the United States shall be qualified to hold any public office of trust or profit under the Government of American Samoa.

### **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.

**Case Notes:**

Territorial constitution contains no equal protection clause. Rev. Const. Am. Samoa art. I. American Samoa Government v. Macomber, 8 A.S.R.2d 182 (1988).

Where promulgators of territorial constitution omitted equal protection clause, it would be inappropriate for judicial branch to construe some other constitutional provision to include an unwritten equal protection clause of the federal constitution. Rev. Const. Am. Samoa art. I. American Samoa Government v. Macomber, 8 A.S.R.2d 182 (1988).

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

**Section 1. 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:

(a) No such legislation may be inconsistent with, this Constitution or the laws of the United States applicable in American Samoa;

(b) No such legislation may conflict with treaties or international agreements of the United States;

(c) 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.

(d) Legislation involving the expenditure of funds other than as budgeted shall include revenue measures to provide the needed funds.

**Amendments:** 1971 S.J.R. No. 4, 11th Leg. 2nd Reg. Sess., in paragraph (c), at end of the sentence, deleted the words “but excluding therefrom such income as is derived from user charges or service related reimbursements to the Government of American Samoa which is segregated for the use of the activity to which such charges or reimbursements are related”; in present last sentence the word “approval” following “review and” was substituted for the word “recommendation”; the former last sentence was deleted, it read: “With respect to such portions of the preliminary budget plan, the Governor shall adopt such recommendations of the Legislature as he may deem appropriate, but he shall transmit to the Secretary all recommendations he has not adopted”.

**Case Notes:**

Subject to supervision in its exercise, the Legislature of American Samoa has been delegated unimpaired power, through the executive branch of the federal government, to give territorial courts authority to sit in admiralty and, as a consequence, to entertain in rem actions and provide procedures for arresting vessels or other property which is the subject of a maritime action. Vessel Fijian Swift v. Trial Division, High Court of American Samoa, 4 ASR. 983 (1975).

Territorial laws which are inconsistent with applicable U.S. laws violate the territorial constitution, which in turn was promulgated under the authority of the U.S. Secretary of the Interior. Rev. Const. Am. Samoa Art. II, § 1(a), Art. V, § 11. Alamoana Recipe Inc. v. American Samoa Government, 24 A.S.R.2d

**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,	)	two representatives;
Representative District No. 2, composed of Ofu, Olosega and Sili,	)	one representative;
Representative District No. 3, Vaifanua — composed of the Villages of Alao, Aoa, Onenoa, Tula and Vatia,	)	one representative;
Representative District No. 4, Saole — composed of the Villages of Aunuu, Amouli, Utumea and Alofau,	)	one representative;
Representative District No. 5, Sua No. 1 — composed of the Villages of Fagaitua, Amaua, Auto, Avaio, Alega, Aumi and Laulii,	)	one representative;
Representative District No. 6, Sua No. 2 — composed of the Villages of Sailele, Masausi, Masefau and Afono,	)	one representative;
Representative District No. 7, Ma'uputasi No. 1 — composed of the Villages of Fatumafuti, Fagaalu and Utulei)	)	one representative;
Representative District No. 8, Ma'uputasi No. 2 — composed of the Village of Fagatogo,	)	one representative;
Representative District No. 9, Ma'uputasi No. 3 — composed of the Village of Pago Pago,	)	one representative;
Representative District No. 10, Ma'uputasi No. 4 — composed of the Villages of Satala, Atuu and Leloaloe,	)	one representative;
Representative District No. 11, Ma'uputasi No. 5 — composed of the Village of Aua,	)	one representative;
Representative District No. 12, Ituau — composed of the Villages of Nu'uuli, Fagasa, Matuu, Faganeanea,	)	two representatives;
Representative District No. 13, Fofu — composed of the Villages of Leone and Auma,	)	one representative;
Representative District No. 14, Lealataua — composed of the Villages of Fagamalo, Fagalii, Poloa, Amanave, Failolo, Agagulu Seetaga, Nua, Atauloma, Afao, Amaluia and Asili,	)	one representative;
Representative District No. 15, Ma'upu — composed of the Villages of Tafuna, Mesepa; Faleniu, Mapusaga Fou, Pavaiai, Iliili and Vaitogi,	)	two representatives;
Representative District No. 16, Tualatai- composed of the Villages of Futiga, Ituau (Malaeloa), Taputimu and Vailoatai)	)	one representative;
Representative District No. 17, Leasina — composed of the Villages of Aitulagi (Malaeloa), Aoloau and Aasu.	)	one 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;

- (a) be a United States National;
- (b) be at least 30 years of age at the time of his election;
- (c) 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
- (d) 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;

- (a) be a United States National;
- (b) be at least 25 years of age at the time of his election; and
- (c) 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.

**Amendments:** 1971 S.J.R. No. 3, 11th Leg. 2nd Reg. Sess., amended last paragraph generally by changing former references to specific government positions to present language covering all employees or public officers.

#### **Case Notes:**

To be eligible for election to the territorial legislature, one must have lived in the territory for a total of at least five years and have been a bona fide resident of the district from which he is elected for at least one year immediately preceding his election. Rev'd Const. Am. Samoa art. II § 3( c). Tuika v. Chief Election Officer, 9 A.S.R.2d 57 (1988).

**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 senators; Olosega and Ofu, one senator; Saole, one senator; Vaifanua, one senator; Sua, two senators; Ma'uputasi, three senators; Ituau, two senators; Ma'upu, two senators; Leasina, 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.

### **Case Notes:**

“Lived in Samoa for a total of at least 5 years” does not mean last 5 years. Section 6.0212 used to explain rules for determining bona fide residence of candidate. *King v. Watson*. ASR (1978).

Where county council announced its decision as to who should be new senator, and the entire council was not in agreement with the decision, county chief who certified the decision wrongly ascertained for himself the decision of the majority and certified another person; and the certification would be set aside and the matter referred back to the council for a proper decision and certification in accordance with Samoan custom. *Faiivae v. Mola*, 4 ASR 834 (1975).

High Court had subject matter jurisdiction in case involving a contested senatorial election by county council where there was a case or controversy, it arose under the constitution, laws or treaties, and the cause was described in jurisdictional statutes. *Meredith v. Mola*. 4 ASR 773 (1973).

Constitution requires that senators be chosen by county council and court cannot submit to names to senate for election. *Meredith v. Mola*, 4 ASR 773 (1973).

Court cannot declare one senatorial candidate victor over another, since it lacks jurisdiction to so do, such being the exclusive province of senate. *Meredith v. Mola*, 4 ASR 773 (1973).

Under Constitution of American Samoa the legislature, and particularly the Senate which is composed of traditional chiefs chosen according to Samoan custom, has a peculiar relationship to the preservation of land and culture. *Rev. Const. of Am. Samoa art. I § 3, art. II § 4. Tuika Tuika v. Governor of American Samoa*, 4 A.S.R.2d 85 (1987).

Provision of territorial constitution that county council elect senators to represent the county does not permit election of senators by village councils of certain villages within the county, or by a single member of the county council, or by the senate itself; these bodies may recommend or endorse a particular candidate, but final decision must rest with the county council itself. *Rev. Const. Am. Samoa art. II § 4. Mauga v. Lutu*, 10 A.S.R.2d 115 (1989).

Provision of territorial constitution that county council elect senators in accordance with Samoan custom means that the council is to use the traditional Samoan manner of decision making as it existed at the time the provision was adopted. *Rev. Const. Am. Samoa art. II § 4. Mauga v. Lutu*, 10 A.S.R.2d 115 (1989).

Court will not lay down a rule prescribing the exact method or custom a county council must use to elect a senator in accordance with Samoan custom, especially as custom may vary in different counties. *Rev. Const. Am. Samoa art. II § 4. Mauga v. Lutu*, 10 A.S.R.2d 115 (1989).

Provision of territorial constitution that county council elect senators in accordance with Samoan custom does not include power to delegate the decision completely to a subdivision of the county, since this would allow a new custom, habit, or practice to repeal explicit and unambiguous constitutional provisions. *Rev. Const. Am. Samoa art. II § 4. Mauga v. Lutu*, 10 A.S.R.2d 115 (1989).

Defendant was entitled to summary judgement on plaintiff's claim that she had been duly elected to the senate about four years before the commencement of the term for which she claimed to have been elected. *Rev. Const. Am. Samoa art. II §§ 4, 6. Mauga v. Lutu*, 10 A.S.R.2d 115 (1989).

Cumulative effect of two territorial constitutional provision, one requiring election of senators by county councils and the other providing that each senator shall hold office for four years, is to require that an election be held once every four years by the county council as it is then constituted; since the membership of the county council changes over time, no one particular council can be permitted to lock senatorial selection to serve during subsequent terms. *Rev. Const. Am. Samoa art. II §§ 4, 6. Mauga v. Lutu*, 10 A.S.R.2d 115 (1989).

**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.

### **Case Notes:**

Defendant was entitled to summary judgement on plaintiff's claim that she had been duly elected to the senate about four years before the commencement of the term for which she claimed to have been elected. *Rev. Const. Am. Samoa art. II §§ 4, 6. Mauga v. Lutu*, 10 A.S.R.2d 115 (1989).

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selection into the future by selecting any number of senators to serve during subsequent terms. Rev. const. Am. Samoa art. II §§ 4, 6. *Mauga v. Lutu*, 10 A.S.R.2d 115 (1989).

**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.

**Case Notes:**

Because the Governor has general supervision and control of all executive departments, agencies and instrumentality's of the Government, personnel decisions are subject to his direction as long as his actions are in accordance with applicable territorial and federal laws and rules. Rev. Const. Am. Samoa Art. II, § 7; A.S.C.A. §§ 4.0102, 4.0111(b). *Sala v. American Samoa Gov't*, 21 A.S.R.2d 14 (1992).

**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.

**Amendments:** 1979 Changed length of sessions from 30 to 45 days. 1971 S.J.R. No. 5. 11th Leg. 2nd Reg.. Sess., substituted present two 30 day sessions for former annual 40 day session commencing on the 2nd Monday in February.

**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.

**Case Notes:**

Concurrent resolution, given binding effect by law to veto executive branch action, is not a "law" subject to enactment by bill. *Tuika Tuika v. Governor of American Samoa*, 4 ASR2d 85 (1987).

Legislative resolution disapproving lease of government land, pursuant to statute giving binding effect to such resolutions, was not a "law" within the meaning of a constitutional provision requiring all laws to be enacted by bill rather than resolution. *Rev. Const. Am. Samoa art. II § 9. Tuika Tuika v. Governor of American Samoa*, 4 A.S.R.2d 85 (1987).

Territorial statute providing for a "legislative veto" of leased of government land did not violate American Samoa Constitution. *A.S.C.A. § 37.2030; Rev. Const. Am. Samoa art. II §§ 9 & 10. Tuika Tuika v. Governor of American Samoa*, 4 A.S.R.2d 85 (1987).

**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.

**Case Notes:**

Territorial statute providing for a "legislative veto" of leased of government land did not violate American Samoa Constitution. *A.S.C.A. § 37.2030; Rev. Const. Am. Samoa art. II §§ 9 & 10. Tuika Tuika v. Governor of American Samoa*, 4 A.S.R.2d 85 (1987).

**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. 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.

**Amendments:** 1979 Changed manner of appointment of the counsel and changed grade level.

**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 choose its officers.

**Case Notes:**

This section does not give the senate adjudicatory power to determine what needs to be done for the selection of a senator to conform to constitutional requirements and whether those requirements were met; such determinations are for the courts. as the questions are judicial, not political, and are matters of constitutional interpretation. *Meredith v. Mola*, 4 ASR 773 (1973).

If jurisdictional criteria are met, court will consider claim to legislative seat despite this section's provision granting legislature power to judge elections and qualifications of its members. *Meredith V Mola*, 4 ASR 773 (1973).

Court cannot declare one senatorial candidate victor over another. since it lacks jurisdiction to so do. such being the exclusive province of senate. *Meredith v. Mola*, 4. ASR 773 (1973).

Constitution requires that senators be chosen by county council and court cannot submit two names to senate for election. *Meredith v Mola*, 4 ASR 773 (1973).

In view of this section, High Court could not adjudicate dispute whereby candidate for senate claimed that he had been duly qualified and elected and that senator who was sitting had not been; the dispute was for the senate to decide. *Tuitasi V. Lualemaga*, 4 ASR 798 (1973).

This section is a textually demonstrated constitutional commitment to the senate to judge who received the most votes: therefore, such issue is a political question and not justifiable. *Tuitasi v. Lualemaga*, 4 ASR 798 (1973).

This section is a textually demonstrated constitutional commitment to the senate to judge the qualifications set forth in this constitution for the position of senator; thus, issue of whether a person is qualified is a political question and for the senate and is not justifiable. *Tuitasi v. Lualemaga*, 4 ASR 798 (1973).

High Court had subject matter jurisdiction in case involving a contested senatorial election by county council where there was a case or controversy, it arose under the constitution, laws or treaties, and the cause was described in jurisdictional statutes. *Meredith v. Mola*, 4 ASR 773 (1973).

Provision of territorial constitution that the legislature shall judge election of its members presumes that an election has been held, and therefore does not define the factual question whether the required election ever occurred give rise to as a political question preventing judicial intervention. *Rev. Const. Am. Samoa art. II § 22. Mauga v. Lutu*, 10 A.S.R.2d 115 (1989).

**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.

**Amendments:** 1971 S.J.R. No. 4, 11th Leg. 2nd Reg. Sess., amended section generally and increased the annual legislative pay to 36,000.00.

**Cross-references:** Compensation of legislators, see 2.0102 and 2.0103.

### **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.

**Case Notes:**

High Court had subject matter jurisdiction in case involving a contested senatorial election by county council where there was a case or controversy, it arose under the constitution, laws or treaties, and the cause was described in jurisdictional statutes. *Meredith v. Mola*, 4 ASR 773 (1973).

It cannot be said that the “judicial power” vested in the High Court by this section is plenary and thus comprehends the authority to sit as a court of admiralty; the question whether the court has power to so sit is one of jurisdiction, and such jurisdiction has not been conferred on any court in the territory by the American Samoa Constitution or the American Samoa Code. *Vessel Fijian Swift v. Trial Division*. High Court of American Samoa. 4 ASR 983 (1975).

Subject to supervision in its exercise, the Legislature of American Samoa has been delegated unimpaired power, through the executive branch of the federal government, to give territorial courts authority to sit in admiralty and, as a consequence, to entertain in rem actions and provide procedures for arresting vessels or other property that is the subject of a maritime action. *Vessel Fijian Swift v. Trial Division*. High Court of American Samoa, 4 ASR 983 (1975).

In rem admiralty and maritime jurisdiction in the Trial Division of the High Court cannot be grounded upon “the necessity and importance of in rem Admiralty jurisdiction ... in the orderly administration of justice in this maritime territory such determination is for the legislature. *Vessel Fijian Swift v. Trial Division*. High Court of American Samoa, 4 ASR 983 (1975).

The High Court of American Samoa exercises judicial power that can be divested only by an Act of Congress. 48 U.S.C. § 1662a; Rev. Const. Am. Samoa art. III § 1. *Southwest Marine of Samoa, Inc., v. S & S Contracting, Inc.*, 5 A.S.R.2d 70 (1987).

**Section 2. Independence of the courts.** The judicial branch of the Government of American Samoa shall be independent of the executive and legislative branches.

**Case Notes:**

Statute explicitly recognizing power of Chief Justice to make exceptions to rules is clearly not inconsistent with constitutional provision for judicial independence. Rev. Const. Am. Samoa art. III § 2; A.S.C.A. § 46.0501. *American Samoa Government v. Tile*, 8 A.S.R.2d 120 (1988).

Reasonable legislative regulation of judicial procedure does not necessarily conflict with judicial independence. Rev. Const. Am. Samoa art. III § 2; A.S.C.A. § 46.0501, *American Samoa Government v. tile*, 8 A.S.R.2d 120 (1988).

Unlike federal rules of criminal procedure promulgated under the authority of Congress and binding on federal courts to the same extent as statutes, territorial rules are made by the Court itself, so that a time limit provided by territorial rule is not as obviously jurisdictional as a similar limit provided by federal rule. Rev. Const. Am. Samoa art. III § 2; A.S.C.A. § 3.1002(c). *American Samoa Government v. Tile*, 8 A.S.R.2d 120 (1988).

**Section 3. Appointments.** The Secretary of the 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.

**Reviser's Comment:**

This section, which provided that "The Governor of American Samoa and the Secretary of American Samoa shall be appointed as provided in the laws of the United States", was impliedly superseded by the above-referred to secretarial orders. See note on the subject under § 2 of this article.

**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.

**Amendments:** 1977 U.S. Dept. of the Int. Secretary's Order No. 3009, §§ 2 and 4, Sept. 13, 1977, amended this section to read "The Governor and the Lieutenant Governor of American Samoa shall, commencing with the first Tuesday in November, 1977, be popularly elected and serve in accordance with the laws of American Samoa."

U.S. Dept. of the Int. Secretary's Order No. 3009, Amendment No. 1, Nov. 3, 1977, amended Order No. 3009, § 2, effective Nov. 3, 1977, by substituting "following the first Monday of" for the word "in" preceding "November 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.

**Section 8. Annual report.** The Governor shall make an official report of the transactions of the Government of American Samoa 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.

**Case Notes:**

Statute allowing court to impose detention as a condition of probation did not violate the constitutional provision allowing governor to grant pardons, since any prisoner pardoned by the governor could no longer be incarcerated. Rev. Const. Am. Samoa art. IV § 9; A.S.C.A. § 46.2206. *Atuatasi v. Moaali'itele*, 8 A.S.R.2d 53 (1988).

**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 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.

**Case Notes:**

Territorial laws which are inconsistent with applicable U.S. laws violate the territorial constitution, which in turn was promulgated under the authority of the U.S. Secretary of the Interior. Rev. Const. Am. Samoa Art. II, § 1(a), Art. V, § 11. *Alamoana Recipe Inc. v. American Samoa Government*, 24 A.S.R.2d 156 (1993).

**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; and Western, composed of the political counties of Fofu, Leasina, Tualatai, Lealataua and Ma'upu.

**Section 11. Effective date.** 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.

Ratified and Approved: Subject to the deletion from Article I. section 2 of all after the title and the insertion in lieu thereof of the text of Article I, section 2 of the Constitution of American Samoa effective October 17, 1960, to wit: "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."

Stewart L. Udall  
Secretary of the interior

We the undersigned, being the duly appointed Delegates to the 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.

For and on behalf of Sua County.

Le'iatu, T.

Fautanu, P.

For and on behalf of Vaifanua County.

Masaniai, T.

Tuiasosopo, T.

For and on behalf of Saole County.

Utu, S.

Fonoti, G.

For and on behalf of Ma'uputasi County.

Leota, T.

Fanene, F.

Tua'olo-Lemoa

Tua'olo-Maliuga

Mageo, F.

Lutu, S.A.

Mailo, P.

Mulitauaopele-Sui'ava

Mulitauaopele-Tamotu

Tagoa'i, L.

Lauvao-Sisifo

Fano, S.

Pula, N.T.

Unutoa, S.L.T.

Liufau, M.

Faumuina-Ioane

Paopaoailua, S.

For and on behalf of Tau County



Rapi Sotoa  
For and on behalf of Fitiuta County.  
Laapui, F.  
For and on behalf of Faleasao County.  
Ma'o. T.  
For and on behalf of Olosega County.  
Tuiolosega-Tuumamao  
For and on behalf of Alataua County.  
Faiivae. E.H.  
Leoso. M.  
To'omata. T.  
For and on behalf of Ituau County  
Lagafuaina. L.  
Savusa, S.  
Savea, P.  
For and on behalf of Ofu County.  
Misa, T.  
For and on behalf of Tualatai County  
Satele. M.  
Taulapapa. E.L.  
For and on behalf of Leasina County.  
Asuemu U. Fuimaono  
For and on behalf of Tualauta County.  
Letuli, T.  
Magalei, T.  
Muagututi'a-Tuia  
For and on behalf of Swains island.  
Paul Pedro

Tauala, M.

Salave'a, O.  
Tuveve, S. A.  
Noa, L.

Atuatasi, M.  
Alo, S.

Velega, P.  
Uiagalelei, S.

Sagapolutele, T.  
Paogofie-Sasae

### **A.P. Lauvao-Lolo**

Chairman of the Constitutional Convention

Attest:

Mulitauaopele-Sui'ava  
Secretary of the Constitutional Convention

## **CONSTITUTION OF THE UNITED STATES OF AMERICA**

### **Article I**

#### **Sections:**

- 1. Legislative powers**
- 2. House of Representatives; how constituted; power of impeachment**
- 3. The Senate; how constituted; impeachment trials**
- 4. Election of Senators and Representatives**
- 5. Quorum; journals; meetings; adjournments**
- 6. Compensation; privileges; disabilities**
- 7. Procedure in passing bills and resolutions**
- 8. Powers of Congress**
- 9. Limitations upon powers of Congress**
- 10. Restrictions upon powers of states**

### **Article II**

- 1. President and Vice President**

- 2. Powers of the President**
- 3. Messages to Congress: additional powers and duties**
- 4. Impeachment**

#### **Article III**

- 1. Judicial power; tenure of office**
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- 1. Full faith and credit among states**
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#### **Article V**

#### **Amendment of the Constitution**

#### **Article VI**

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#### **Article VII**

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Footnotes to the US. Constitution are numbered throughout the text and are located at the end of the Constitution.

#### **Amendments**

#### **Sections;**

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- 3. Soldiers denied quarters in homes**
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- 5. Capital crimes; double jeopardy; self-incrimination; due process: just compensation for property**
- 6. Jury trial for crimes, and procedural rights**
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- 9. Construction of enumerated rights**
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**§ 2. Enforcement**
- 14. § 1. Citizenship rights not to be abridged by states**  
**§ 2. Apportionment of Representatives in Congress**  
**§ 3. Persons disqualified from holding office**  
**§ 4. What public debts are void**  
**§ 5. Power to enforce article**

- 15. § 1. Right to vote not to be abridged § 2. Power to enforce article
- 16. Income tax
- 17. Popular election of Senators
- 18. Liquor prohibition
- 19. Woman suffrage
- 20. § 1. Terms of office
  - § 2. Time of convening Congress
  - § 3. Death of President elect
  - § 4. Election of the President
  - § 5. Effective date of sections 1 and 2
  - § 6. Ratification within seven years
- 21. § 1. National liquor prohibition repealed § 2. Transportation of liquor into “dry” state
  - § 3. Ratification within seven years
- 22. § 1. Limitation on presidential terms § 2. Ratification within seven years

**Sections:**

- 23. § 1. Electors for District of Columbia § 2. Enforcement of article
- 24. § 1. No franchise denied by nonpayment of poll tax
  - § 2. Enforcement of article
- 25. § 1. Succession of Vice President
  - § 2. Nomination of Vice President; confirmation
  - § 3. Determination by President of inability to act; Vice President as Acting President
  - § 4. Determination by Vice President and others as to President’s ability to act; Vice President as Acting President
- 26. § 1. Extension of right to vote to citizens eighteen years of age or older
  - § 2. Enforcement of article

**Publisher's Note:** Headings for the articles, sections and amendments of the Constitution have been provided by the publisher and are of no legal effect.

We the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare and secure the Blessings of Liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

**Article I**

**§ 1. Legislative powers.**

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

**§ 2. House of Representatives; how constituted; power of impeachment.**

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall

not, when elected be an Inhabitant of that State in which he shall be chosen.

<sup>1</sup>Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative: and until such enumeration shall be made, the State of New Hampshire shall be entitled to chose three Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

### **§ 3. The Senate; how constituted; impeachment trials.**

<sup>2</sup>The Senate of the United States shall be composed of two Senators from each State. chosen by the Legislature thereof, for six Years: and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment according to Law.

### **§ 4. Election of Senators and Representatives.**

The Times, Places and Manner of holding Elections for Senators and Representatives,

shall be prescribed in each State by the Legislature thereof: but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators.

<sup>3</sup>The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

#### **§ 5. Quorum; journals; meetings; adjournments.**

Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those present, be entered on the Journal.

Neither House, during the Session of Congress shall, without the Consent of the other adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

#### **§ 6. Compensation; privileges; disabilities.**

The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time: and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

#### **§ 7. Procedure in passing bills and resolutions.**

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him,

the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

### **§ 8. Powers of Congress.**

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises to pay the Debts and provide for the common Defence and general Welfare of the United States: but all Duties, Imposts and Excises shall be uniform throughout the United States:

To borrow Money on the credit of the United States:

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes:

To establish a uniform Rule of Naturalization. and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States:

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries:

To constitute Tribunals inferior to the Supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Laws of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States reserving to the States respectively, the Appointment of the Officers and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may by Cession of particular States, and the Acceptance of Congress become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; — And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United-States, or in any Department or Officer thereof.

## **§ 9 Limitations upon powers of Congress.**

The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended unless when in Cases of Rebellion or Invasion the public Safety may require it.

No bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct Tax shall be laid, unless in Proportion to the Census or Enumeration here in before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law: and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall without the Consent of the Congress accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

## **§ 10. Restrictions upon powers of states.**

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

No State shall, without the Consent of Congress lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

## **Article II**

### **§ 1. President and Vice President.**

The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States shall be appointed an Elector.

<sup>5</sup>The Electors shall meet in their respective States and vote by Ballot for two Persons of whom one at least shall not be an Inhabitant of the same State with themselves. And

they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President: and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes: which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States at the time of the Adoption of this Constitution shall be eligible to the Office of President: neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice President and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office he shall take the following Oath or Affirmation: — “I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

## **§ 2. Powers of the President.**

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices and he shall have Power to grant Reprieves and Pardons for Offences against the United States except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls. Judges of the supreme Court, and all other Officers of the



United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate by granting Commissions which shall expire at the End of their next Session.

### **§ 3. Messages to Congress; additional powers and duties.**

He shall from time to time give to the Congress Information of the State of the Union and recommend to their Consideration such Measures as he shall judge necessary and expedient: he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

### **§ 4. Impeachment.**

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

## **Article III**

### **§ 1. Judicial power: tenure of office.**

The judicial Power of the United States, shall be vested in one supreme Court and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

### **§ 2. Jurisdiction.**

<sup>6</sup>The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution the Laws of the United States, and Treaties made, or which shall be made, under their Authority; — to all Cases affecting Ambassadors, other public Ministers and Consuls; — to all Cases of admiralty and maritime Jurisdiction: —to Controversies to which the United States shall be a Party; — to Controversies between two or more States; — between a State and Citizens of another State: — between Citizens of different States; — between Citizens of the same State claiming Lands under Grants of different States. and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

### **§ 3. Treason; proof and punishment.**

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

## **Article IV**

### **§ 1. Full faith and credit among states.**

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

### **§ 2. Privileges and immunities: fugitives.**

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service on Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

### **§ 3. Admission of new states; power over territory and other property.**

New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

### **§ 4. Guarantee of republican form of government.**

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

## **Article V**

### **Amendment of the Constitution**

The Congress whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either

Case shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article: and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

## Article VI

### Debts: supremacy; oath

All Debts contracted and Engagements entered into, before the Adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.

This Constitution, and the laws of the United States which shall be made in Pursuance thereof: and all Treaties made, or which shall be made under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned and the Members of the several State Legislatures and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

## Article VII

### Ratification and establishment

The Ratification of the Conventions of nine States shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and eighty seven and of the Independence of the United States of America the Twelfth. In witness whereof we have hereunto subscribed our Names,

G.o WASHINGTON — Presid.<sup>t</sup>  
and deputy from Virginia.

Attest William Jackson Secretary

	New Hampshire	
John Langdon		Nicholas Gilman
	Massachusetts	
Nathaniel Gorham		Rufus King
	Connecticut	
Wm. Saml. Johnson		Roger Sherman
	New York	
Alexander Hamilton		
	New Jersey	
Wil. Livingston		Wm. Paterson
David Brearley		Jona. Dayton
	Pennsylvania	

B. Franklin		Thos. FitzSimons
Thomas Mifflin		Jared Ingersoll
Robt. Morris		James Wilson
Geo. Clymer		Gouv. Morris
	Delaware	
Geo. Read		Jaco. Broom
Gunning Bedford jun		Richard Bassett
John Dickinson		
	Maryland	
James McHenry		Danl. Carroll
Dan of St. Thos. Jenifer		
	Virginia	
John Blair		John Madison Jr.
	North Carolina	
Win. Blount		Hu. Williamson
Richd. Dobbs Spaight		
	South Carolina	
J. Rutledge		Charles Pinckney
Charles Cotesworth Pinckney		Pierce Butler
	Georgia	
William Few		Abr. Baldwin

<sup>7</sup>ARTICLES IN ADDITION TO, AND AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

#### **First Amendment**

##### **Freedom of religion, speech and press; peaceful assemblage; petition of grievances**

Congress shall make no law 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.

#### **Second Amendment**

##### **Right to bear arms**

A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

#### **Third Amendment**

##### **Soldiers denied quarters in homes**

No Soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

#### **Fourth Amendment**

##### **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.

#### **Fifth Amendment**

##### **Capital crimes; double jeopardy; self-incrimination; due process; just compensation for property**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb: nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law: nor shall private property be taken for public use, without just compensation.

#### **Sixth Amendment**

##### **Jury trial for crimes, and procedural rights**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; 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.

#### **Seventh Amendment**

##### **Civil trials**

In Suits at common law, where the value in controversy shall exceed twenty dollars the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

#### **Eighth Amendment**

##### **Excessive bail, fines, punishments**

Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted.

#### **Ninth Amendment**

##### **Construction of enumerated rights**

The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

#### **Tenth Amendment**

##### **Reserved powers to states**

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

#### **Eleventh Amendment**

##### **Suits against states**

The Judicial power of the United States shall not be construed to extend to any suit in

law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

### **Twelfth Amendment**

#### **Presidential electors**

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves: they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice-President and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; — The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; — The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed: and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall chuse immediately, by ballot the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not chuse a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. — The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall chuse the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

### **Thirteenth Amendment**

#### **§ 1. Slavery abolished**

Neither slavery nor involuntary servitude except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

#### **§ 2. Enforcement**

Congress shall have power to enforce this article by appropriate legislation.

### **Fourteenth Amendment**

#### **§ 1. Citizenship rights not to be abridged by states**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property,

without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

## **§ 2. Apportionment of Representatives in Congress**

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

## **§ 3. Persons disqualified from holding office**

No person shall be a Senator or Representative in Congress or elector of President and Vice President, or hold any office, civil or military under the United States, or under any State who, having previously taken an oath, as a member of Congress or as an officer of the United States or as a member of any State legislature, or as an executive or judicial officer of any State to support the Constitution of the United States shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

## **§ 4. What public debts are void**

The validity of the public debts of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

## **§ 5. Power to enforce article**

The Congress shall have power to enforce, by appropriate legislation the provisions of this article.

### **Case Notes:**

High Court holds that territory of American Samoa is not a state” within 14th amendment, thereby precluding application in territory of federal civil rights laws intended to remedy deprivations of rights under the amendment. *Ferstie v. A.S.G.*, 4 A.S.R. 2d 160 (1987) (mem).

## **Fifteenth Amendment**

### **§ 1. Right to vote not to be abridged**

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

### **§ 2. Power to enforce article**

The Congress shall have power to enforce this article by appropriate legislation.

### **Sixteenth Amendment**

#### **Income tax**

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States and without regard to any census or enumeration.

### **Seventeenth Amendment**

#### **Popular election of Senators**

The Senate of the United States shall be composed of two Senators from each State elected by the people thereof, for six years: and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

### **<sup>8</sup>Eighteenth Amendment**

#### **Liquor prohibition**

§ 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

§ 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

§ 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

### **Nineteenth Amendment**

#### **Woman suffrage**

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have power to enforce this article by appropriate legislation.

### **Twentieth Amendment**

#### **§ 1. Terms of office**

The terms of the President and Vice President shall end at noon on the 20th day of January and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified and the terms of their successors shall then begin.



## **§ 2. Time of convening Congress**

The Congress shall assemble at least once in every year, and such meetings shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

## **§ 3. Death of President elect**

If at the time fixed for the beginning of the term of the President, the President elect shall have died the Vice President elect shall become President. If a President shall have been chosen before the time fixed for the beginning of his term or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

## **§ 4. Election of the President**

The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may chuse a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may chuse a Vice President whenever the right of choice shall have devolved upon them.

## **§ 5. Effective date of sections 1 and 2**

Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

## **§ 6. Ratification within seven years**

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

### **Twenty-first Amendment**

#### **§ 1. National liquor prohibition repealed**

The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

#### **§ 2. Transportation of liquor into "dry" state**

The transaction or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

#### **§ 3. Ratification within seven years**

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

### **Twenty-second Amendment**

#### **§ 1. Limitation on presidential terms**

No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two

years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress and shall not prevent any person who may be holding the office of President or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

## **§ 2. Ratification within seven years**

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

### **Twenty-third Amendment**

#### **§ 1. Electors for District of Columbia**

The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senator and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

#### **§ 2. Enforcement of article**

The Congress shall have power to enforce this article by appropriate legislation.

#### **History**

Ratification. The 36th Congress proposed this amendment on June 16, 1960, and on April 3, 1961, the Administrator of General Services declared it to have been ratified. The certifying statement of the Administrator of General Services that the amendment had become valid was published on April 3, 1961 (F.R. Doc. 61-3017. 26 P.R. 2808).

The ratification by States was as follows: Hawaii, June 23, 1960; Massachusetts, Aug. 22, 1960; New Jersey, Dec. 19, 1960; New York, Jan. 17, 1961; California, Jan. 19, 1961; Oregon, Jan. 27, 1961. Maryland, Jan. 30, 1961; Idaho, Jan. 31, 1961; Maine, Jan. 31, 1961; Minnesota, Jan. 31, 1961, New Mexico, Feb. 1, 1961; Nevada, Feb. 2, 1961; Montana, Feb. 6, 1961; Colorado, Feb. 8, 1961; Washington, Feb. 9, 1961; West Virginia, Feb. 9, 1961; Alaska, Feb. 10, 1961; Wyoming, Feb. 13, 1961; South Dakota, Feb. 14, 1961; Delaware, Feb. 20, 1961; Utah, Feb. 21, 1961; Wisconsin, Feb. 21, 1961; Pennsylvania, Feb. 28, 1961; Indiana, Mar. 3, 1961; North Dakota, Mar. 3, 1961; Tennessee, Mar. 6, 1961; Michigan, Mar. 8, 1961; Connecticut, Mar. 9, 1961; Arizona, Mar. 10, 1961; Illinois, Mar. 14, 1961; Nebraska, Mar. 15, 1961; Vermont, Mar. 15, 1961; Iowa, Mar. 6, 1961; Missouri, Mar. 20, 1961; Oklahoma, Mar. 21, 1961; Rhode Island, Mar. 22, 1961; Kansas, Mar. 29, 1961; Ohio, Mar. 29, 1961; and New Hampshire, Mar. 30, 1961.

### **Twenty-fourth Amendment**

#### **§ 1. No franchise denied by nonpayment of poll tax**

The right of citizens of the United States to vote in any primary or other election for President or Vice President for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

#### **§ 2. Enforcement of article**

The Congress shall have power to enforce this article by appropriate legislation.

## **History**

Ratification. This amendment was proposed by the 87th Congress on August 27, 1962 (Sen. Jt. Res. No. 29), and was declared by the Administrator of General Services on February 4, 1964, to have been ratified. The certifying statement of the Administrator of General Services that the amendment had become valid was published on February 5, 1964 (F.R. Doc. 64-1229,29 F.R. 1715).

The ratification by States was as follows: Illinois, Nov. 14, 1962; New Jersey, Dec. 3, 1962; Oregon, Jan. 25, 1963; Montana, Jan. 28, 1963; West Virginia, Feb. 1, 1963; New York, Feb. 4, 1963; Maryland, Feb. 6, 1963; California, Feb. 7, 1963; Alaska, Feb. 11, 1963; Rhode Island, Feb. 14, 1963; Indiana, Feb. 19, 1963; Utah, Feb. 20, 1963; Michigan, Feb. 20, 1963; Colorado, Feb. 21, 1963; Ohio, Feb. 27, 1963; Minnesota, Feb. 27, 1963; New Mexico, Mar. 5, 1963; Hawaii, Mar. 6, 1963; North Dakota, Mar. 7, 1963; Idaho, Mar. 8, 1963; Washington, Mar. 14, 1963; Vermont, Mar. 15, 1963; Nevada, Mar. 19, 1963; Connecticut, Mar. 20, 1963; Tennessee, Mar. 21, 1963; Pennsylvania, Mar. 25, 1963; Wisconsin, Mar. 26, 1963; Kansas, Mar. 28, 1963; Massachusetts, Mar. 28, 1963; Nebraska, Apr. 4, 1963; Florida, Apr. 18, 1963; Iowa, Apr. 24, 1963; Delaware, May 1, 1963; Missouri, May 13, 1963; New Hampshire, June 12, 1963; Kentucky, June 27, 1963; Maine, Jan. 16, 1964; South Dakota, Jan. 23, 1964.

## **Twenty-fifth Amendment**

### **§ 1. Succession of Vice President**

In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

### **§ 2. Nomination of Vice President; confirmation**

Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

### **§ 3. Determination by President of inability to act; Vice President as Acting President**

Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary such powers and duties shall be discharged by the Vice President as Acting President.

### **§ 4. Determination by Vice President and others as to President's ability to act; Vice President as Acting President**

Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is

required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President: otherwise, the President shall resume the powers and duties of his office.

#### **History**

Ratification. The 89th Congress proposed this amendment on Jan. 4, 1965, it was declared by the Administrator of General Services to have been ratified on Feb. 23, 1967. The certifying statement of the Administrator of General Services that the Amendment had become valid was published on Feb. 23, 1967 (F.R. Doc 61-2208, 32 F.R. 3287).

This amendment has been ratified by the Legislatures of the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

### **Twenty-sixth Amendment**

#### **§ 1. Extension of right to vote to citizens eighteen years of age or older**

The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

#### **§ 2. Enforcement of article**

The Congress shall have the power to enforce this article by appropriate legislation.

#### **History**

Proposal and ratification. This amendment was proposed by the Ninety-second Congress by Senate Joint Resolution No. 7, which was approved by the Senate on March 10, 1971, and by the House of Representatives on March 23, 1971. It was declared by the Administrator of General Services on July 5, 1971 to have been ratified.

This amendment has been ratified by the Legislatures of the States of Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Washington, West Virginia, and Wisconsin.

### **Twenty-Seventh Amendment**

#### **Compensation of Senators and Representatives**

No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

### **HISTORICAL NOTES**

#### **Proposal and Ratification**

The Twenty-seventh Amendment was proposed on September 25, 1789. The State legislatures ratified this Amendment on the following dates: Maryland, North Carolina, South Carolina, Delaware, Vermont, Virginia, 1789-1791; Ohio, May 6, 1873; Wyoming, March 6, 1978; Maine, April 27, 1983; Colorado, April 22, 1984; South Dakota, February 1985; New Hampshire, March 7, 1985; Arizona, April 3, 1985;

Tennessee, May 28, 1985; Oklahoma, July 10, 1985; New Mexico, February 14, 1986; Indiana, February 24, 1986; Utah, February 25, 1986; Arkansas, March 13, 1987; Montana, March 17, 1987; Connecticut, May 13, 1987; Wisconsin, July 15, 1987; Georgia, February 2, 1988; West Virginia, March 10, 1988; Louisiana, July 7, 1988; Iowa, February 9, 1989; Idaho, March 23, 1989; Nevada, April 26, 1989; Alaska, May 6, 1989; Oregon, May 19, 1989; Minnesota, May 22, 1989; Texas, May 25, 1989; Kansas, April 5, 1990; Florida, May 31, 1990; North Dakota, March 25, 1991; Alabama, May 5, 1992; Missouri, May 5, 1992; Michigan, May 7, 1992. The State of New Jersey later ratified this amendment on May 7, 1992.

### **Certification of Validity**

Publication of the certifying statement of the Archivist of the United States, pursuant to 1U.S.C.A. § 106b, that the amendment has become valid was made on May 19, 1992, F.R. Doc. 92-11951, 57 F.R. 21187.

## **LIBRARY REFERENCES**

### **Law Review and Journal Commentaries**

Do we have enough ethics in government yet? An answer from fiduciary theory. Kathleen Clark, 1996 U.Ill.L.Rev.57.

General theory of Article V: the constitutional lessons of the Twenty-seventh Amendment. Michael Stoke Paulsen, 103 Yale L.J. 677 (1993).

The sleeper wakes: The history and legacy of the Twenty-Seventh Amendment. Richard B. Bernstein, 61 Fordham L. Rev.497 (1992)

## **NOTES OF DECISIONS**

### **Ethics Reform Act 1**

#### **1. Ethics Reform Act**

Cost of living adjustment (COLA) provision of Ethics Reform Act did not cause any adjustment to congressional compensation until after election and seating of new Congress, and thus was constitutional, even if Twenty-Seventh Amendment applied to it. *Boehner v. Anderson*, C.A.D.C.1994, 30 F.3d 156, 308 U.S.App.D.C. 94.

Any congressional pay raises stemming from Ethics Reform Act of 1989 meet requirements of 27<sup>th</sup> Amendment, which provides that no law bearing on congressional compensation shall take effect until election of representatives has intervened; Act became law in November, 1989, election was held in November, 1990, first cost of living adjustment became effective in January, 1991 and, during 1990 elections, and again in 1992, voters had opportunity to approve or disapprove legislation. *Boehner v. Anderson*, D.D.C.1992, 809 F.Supp. 138, appeal dismissed in part, affirmed 30 F.3d 156, 308 U.S.App.D.C. 94.

## **FOOTNOTES TO THE U.S. CONSTITUTION**

- 1 This clause was affected by the 14th and 16th amendments.
2. This section was affected by the 17th amendment.
3. This paragraph was affected by the 20th amendment.
4. This paragraph was affected by the 16th amendment.

5. This paragraph was affected by the 12th amendment.
6. This section was affected by the 11th amendment.
7. The first ten amendments to the Constitution of the United States were proposed to the legislatures of the several States by the First Congress, on the 25th of September, 1789. They were ratified by the following States, and the notifications of ratification by the governors thereof were successively communicated by the President of Congress: New Jersey, November 20, 1789; Maryland, December 19, 1789; North Carolina, December 22, 1789; South Carolina, January 19, 1790; New Hampshire, January 25, 1790; Delaware, January 28, 1790; Pennsylvania, March 10, 1790; New York, March 27, 1790; Rhode Island, June 15, 1790; Vermont, November 3, 1791; and Virginia, December 15, 1791. The legislatures of Connecticut, Georgia and Massachusetts ratified them on April 19, 1939, March 25, 1939 and March 2, 1939, respectively.  
The remaining amendments were proclaimed on the following dates to have been ratified by the legislatures of three-fourths of the States:
  - 11th amendment: January 8, 1798.
  - 12th amendment: September 25, 1804
  - 13th amendment: December 18, 1865.
  - 14th amendment: July 28, 1868.
  - 15th amendment: March 30, 1870.
  - 16th amendment: February 25, 1913.
  - 17th amendment: May 31, 1913.
  - 18th amendment: January 29, 1919.
  - 19th amendment: August 26, 1920.
  - 20th amendment: February 6, 1933.
  - 21st amendment: December 5, 1933
  - 22d amendment: March 1, 1951.
  - 23rd amendment: April 3, 1961.
  - 24th amendment: February 5, 1964.
8. The 18th amendment was repealed by the 21st amendment.

### **Section 1. Adoption of Code.**

- (1) The American Samoa Code Annotated, attached hereto, together with the laws of the 4th Regular Session and any Special Session not now codified in American Samoa Code Annotated, all as recodified and published by the Legislative Reference Bureau under the authority of PL 13-4, as amended by PL 15-30 and PL 15-38, is adopted as prima facie the law of American Samoa.
- (2) The American Samoa Code Annotated is enacted as a reenactment of the American Samoa Code (1973), and the supplements thereto.
- (3) The enactment of the American Samoa Code Annotated may not:
  - (a) revive a law repealed or superseded before the effective date of the American Samoa Code Annotated;
  - (b) affect an act done right accrued, or obligation incurred or imposed by law prior to the effective date of the American Samoa Code Annotated;
  - (c) affect any action suit, or proceeding pending on such effective date;
  - (d) repeal statutes of a nongeneral, nonpermanent nature such as severability, construction, validating, repealing, or similar statutes omitted from the American Samoa Code Annotated;
- (4) The American Samoa Code Annotated shall be given effect as a continuation of the American Samoa Code (1973) and not as a new enactment.

(5) No implication or presumption of legislative construction is to be drawn from the classification or arrangement of the American Samoa Code Annotated.

(6) Unless specifically adopted as such by the Legislature, comments, notes, catchlines, or other editorial material included in the American Samoa Code Annotated may not be construed as part of the legislative text but are only for the purpose of convenience, orderly arrangement, and information.

(7) After enactment, the American Samoa Code Annotated, including all subsequent replacement volumes, is the official law of American Samoa, except in case of an inconsistency in meaning arising through omission or otherwise between the provisions of the American Samoa Code Annotated and the corresponding portion of the official enrolled bill on file with the secretary of territory, effect shall be given to the official enrolled bill.

**History:**1980, PL 16-83 § 1.

**Section 3.** This act is effective on 1 January 1981.

**History:**1980, PL 16-83 § 3.