



ANALYSIS

Title
1. Short Title

PART I

CONSTITUTIONAL PROVISIONS

2. Power of Legislative Assembly to make Ordinances extended
3. Further extending power of Legislative Assembly to make Ordinances
4. High Commissioner to act on advice of Executive Council in certain cases

PART II

INTOXICATING LIQUOR

5. Commencement
6. Reserved enactment
7. Interpretation
8. Liquor Control Board
9. Manufacture of intoxicating liquor prohibited
10. Importation of intoxicating liquor
11. High Commissioner may import intoxicating liquor
12. Offences as to intoxicating liquor illegally manufactured or imported
13. Sale of intoxicating liquor
14. Restrictions on giving intoxicating liquor to other persons
15. Arrest of persons suspected of having illegally manufactured, imported, concealed, or sold intoxicating liquor
16. Seizure and forfeiture of intoxicating liquor
17. Officer of police may enter and search
18. Persons found on premises deemed illegally dealing in intoxicating liquor
19. Names of persons found on premises searched may be demanded
20. Repeals and revocations

PART III

THE WESTERN SAMOA TRUST ESTATES CORPORATION

21. Commencement
22. Western Samoa Trust Estates Corporation
23. Functions of the Corporation
24. Assets of New Zealand Reparation Estates to vest in the Corporation
25. Officers of the Corporation
26. Regulations
27. Repeals, amendments, and revocations

PART IV

MISCELLANEOUS AMENDMENTS

28. Meaning of "public place"
29. Ordinance may prescribe conditions on which Samoan medical practitioners may practise medicine and surgery
30. Appeals from High Court
31. Order granting leave to appeal
32. Powers of Supreme Court on appeal
33. Stay of execution
34. Meaning of "night"
35. Sentence of death not to be passed on person under eighteen years of age or on pregnant woman
36. Transmission of certain Warrants and orders by telegram
37. Meaning of "Crown land"
38. Repeal of Ordinance taking land
39. Land taken for public purpose and not wanted may be sold, etc.
40. When enactment in force in Samoa, amendments and substituted enactments also in force
41. Section 6 of Evidence Amendment Act 1952 in force in Samoa
42. Repeals

1956, No. 46

An Act to amend the Samoa Act 1921

[25 October 1956]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Samoa Amendment Act (No. 2) 1956, and shall be read together with and deemed part of the Samoa Act 1921 (hereinafter referred to as the principal Act).

PART I

CONSTITUTIONAL PROVISIONS

2. Power of Legislative Assembly to make Ordinances extended—(1) Section eight of the Samoa Amendment Act 1947 is hereby amended by repealing subsection two, and substituting the following subsection:

“(2) The power conferred by this section to make laws for the peace, order, and good government of Western Samoa shall, save as otherwise provided in the principal Act (including this Act), extend to the imposition of tolls, rates, dues, fees, fines, taxes, and other charges, and to the imposition of conditions, restrictions, and prohibitions upon the export or import of goods from or into Western Samoa, but shall not extend to the making of laws relating to defence (except in relation to the taking of land for defence purposes and to the recruitment and maintenance of a volunteer force for local defence) or relating to external affairs or affecting the title of the Crown to any land (except land vested in the Crown in right of the Government of Western Samoa).”

(2) Section five of the Samoa Amendment Act 1956 is hereby amended by repealing paragraph (a) of the proviso to subsection one, and substituting the following paragraph:

“(a) In the exercise of any powers relating to defence (except in relation to the taking of land for defence purposes and to the recruitment and maintenance of a volunteer force for local defence) or relating to external affairs or affecting the title of the Crown to any land (except land vested in the Crown in right of the Government of Western Samoa) :”.
Rep. 19
No.

3. Further extending power of Legislative Assembly to make Ordinances—Section nine of the Samoa Amendment Act 1947 is hereby amended by repealing paragraph (a) of subsection two, and substituting the following paragraph:

“(a) Part I (except section thirty-four and sections thirty-seven to forty-three), Part II (except section fifty-nine), Parts III, IV, VI, VII, VIII, and IX, and section two hundred and ten of the principal Act:”.

4. High Commissioner to act on advice of Executive Council in certain cases—Section five of the Samoa Amendment Act 1956 is hereby amended by inserting, after subsection one, the following subsection:

“(1A) Notwithstanding anything in section nine of the Samoa Amendment Act 1947, for the purposes of paragraph (b) of the proviso to subsection one of this section the following enactments shall be deemed not to be reserved enactments:

“(a) Subsection two of section two hundred and twenty-four and subsections two, two A, and three of section two hundred and forty-four of the principal Act:

“(b) Section two hundred and sixty-four of the principal Act (in relation to claims by or against the Crown in right of the Government of Western Samoa):

“(c) Section two hundred and sixty-nine A and subsection two of section two hundred and seventy of the principal Act:

“(d) Section two hundred and seventy-one B of the principal Act (in relation to the exercise of any power conferred by that section in respect of land vested in the Crown in right of the Government of Western Samoa):

“(e) Subsection one A of section two hundred and seventy-two of the principal Act:

“(f) Section two hundred and seventy-three of the principal Act (in relation to the exercise of any power conferred by that section to purchase or acquire any land or interest in land intended to be vested in the Crown in right of the Government of Western Samoa):

“(g) Sections two hundred and seventy-four and two hundred and eighty of the principal Act:

“(h) Subsection one A of section fifty-eight of the Statutes Amendment Act 1944:

“(i) Sections eighteen, twenty-eight A, and thirty-three of the Samoa Amendment Act 1949.”

PART II

INTOXICATING LIQUOR

5. Commencement—This Part of this Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Proclamation.

6. Reserved enactment—This Part of this Act is hereby declared to be a reserved enactment for the purposes of section nine of the Samoa Amendment Act 1947.

7. Interpretation—In this Part of this Act—

“Intoxicating liquor” means alcohol and any liquor containing alcohol, but, except as may be otherwise provided by any Ordinance or regulation, does not include—

(a) Perfumery or medicinal preparations containing spirit:

(b) Methylated spirit and other preparations containing spirit but not suitable for human consumption:

(c) Fermented or other liquor which on analysis is found to contain three or fewer parts per cent of proof spirit:

“Officer of police” means a commissioned officer of police; and includes any constable acting with the express authority and under the instructions of a commissioned officer of police.

Cf. 1921, No. 16, s. 341

8. Liquor Control Board—Subject to the provisions of this Part of this Act, the Legislative Assembly may by Ordinance—

(a) Constitute a Board to be known as the Liquor Control Board for the purpose of controlling the sale and consumption in Western Samoa of intoxicating liquor:

(b) Make provision for the sale and consumption of intoxicating liquor in Western Samoa.

9. Manufacture of intoxicating liquor prohibited—(1) It shall not be lawful for any person to manufacture intoxicating liquor in Western Samoa.

(2) Every person who commits an offence against this section is liable to imprisonment for a term not exceeding two years or to a fine not exceeding two hundred pounds.

Cf. 1921, No. 16, s. 336 (1), (3); 1923, No. 24, s. 12

10. Importation of intoxicating liquor—(1) Except as provided in section eleven of this Act, it shall not be lawful for any person to import any intoxicating liquor into Western Samoa.

(2) Every person who commits an offence against subsection one of this section is liable to imprisonment for a term not exceeding two years or to a fine not exceeding two hundred pounds.

(3) Every person who in New Zealand is knowingly concerned in the exportation of intoxicating liquor from New Zealand for importation into Western Samoa in breach of this section shall be deemed to have committed an offence against the Customs Act 1913, and is liable accordingly to the penalty provided in section forty-seven of that Act, and the liquor may be seized and shall be forfeited and disposed of under that Act.

(4) Every person who in New Zealand is knowingly concerned in the importation or attempted importation of intoxicating liquor in breach of this section is liable on summary conviction to a fine not exceeding two hundred pounds.

Cf. 1921, No. 16, s. 337; 1923, No. 24, s. 12

11. High Commissioner may import intoxicating liquor—

(1) The High Commissioner may, for and on behalf of the Crown, and at the cost of the Samoan Treasury, purchase in New Zealand or elsewhere and import into Western Samoa such intoxicating liquor as he thinks required from time to time, either for the hospitals and medical services of Western Samoa or for sale in accordance with the provisions of this Part of this Act.

(2) Any liquor so imported may be sold in accordance with the provisions of an Ordinance made under the powers conferred by section eight of this Act and not otherwise.

(3) The High Commissioner may from time to time delegate to the Liquor Control Board constituted by an Ordinance made under the powers conferred by section eight of this Act all or any of his powers under subsection one of this section.

Cf. 1921, No. 16, s. 340

12. Offences as to intoxicating liquor illegally manufactured or imported—Every person is liable to imprisonment for a term not exceeding one year or to a fine not exceeding two hundred pounds who—

- (a) Carries or conceals any intoxicating liquor manufactured or imported in breach of the provisions of this Part of this Act; or
- (b) Has any such liquor in his possession or under his control; or
- (c) Is the owner, lessee, or occupier of any premises in or about which any such liquor is found, unless he satisfies the High Court that the liquor was there without his knowledge or consent.

Cf. 1923, No. 24, s. 13

13. Sale of intoxicating liquor—(1) Except as provided in any Ordinance made under the powers conferred by section eight of this Act, it shall not be lawful for any person to sell, or offer for sale, or have in his possession for sale, any intoxicating liquor in Western Samoa.

(2) For the purposes of this section a contract of barter, or any other contract under or by virtue of which the property in any intoxicating liquor passes to any person, shall be deemed to be a contract of sale.

(3) In any prosecution for offering for sale or having in possession for sale any intoxicating liquor in breach of this section the burden of proving that any intoxicating liquor found in the possession of the accused was not in fact offered for sale or in his possession for sale shall be on the accused.

(4) Every person who commits an offence against this section is liable to imprisonment for a term not exceeding one year or to a fine not exceeding two hundred pounds.

Cf. 1921, No. 16, s. 338; 1923, No. 24, ss. 12, 14

14. Restrictions on giving intoxicating liquor to other persons—(1) It shall not be lawful in Western Samoa for any person to give intoxicating liquor to any other person (not being a *bona fide* guest or member of the household of the person giving the liquor), if that other person—

- (a) Is apparently under the age of twenty-one years; or
- (b) Is known to the person giving the liquor not to be entitled to purchase intoxicating liquor pursuant to the provisions of an Ordinance made under the powers conferred by section eight of this Act; or

(c) Is known to the person giving the liquor to be a person against whom a prohibition order is for the time being in force pursuant to an order of the High Court made under any such Ordinance:

Provided that nothing in this subsection shall apply to the use of wine for sacramental purposes in accordance with the practice of the Christian religion or to the giving or administering of intoxicating liquor by or with the approval of a Medical Officer for medicinal purposes.

(2) Every person who commits an offence against this section is liable to a fine not exceeding fifty pounds.

Cf. 1921, No. 16, s. 339

15. Arrest of persons suspected of having illegally manufactured, imported, concealed, or sold intoxicating liquor—
(1) Any officer of police or officer of Customs may arrest without warrant any person whom on reasonable grounds he suspects of having committed an offence against section nine, or subsection one of section ten, or section twelve, or section thirteen of this Act, or an attempt to commit any such offence.

(2) Where any person is arrested without warrant under this section, the provisions of subsections three and four of section two hundred and nineteen of the principal Act shall apply as if he had been arrested under that section.

16. Seizure and forfeiture of intoxicating liquor—
(1) Any officer of police or officer of Customs may seize and remove any intoxicating liquor that on reasonable grounds he suspects has been manufactured, imported, carried, concealed, or sold, in breach of the provisions of this Part of this Act or of any Ordinance made under the powers conferred by section eight of this Act, and any vessel containing the liquor or used in its manufacture.

(2) Upon the conviction for an offence against this Part of this Act or against any Ordinance made under the powers conferred by section eight of this Act of any person appearing to the High Court to be an owner or to have been in possession of any intoxicating liquor or vessel seized under this section, or to be an owner or occupier of the place where the liquor or vessel was seized, the High Court, unless on special grounds it thinks it inadvisable to do so, shall make an order declaring the liquor or vessel to be forfeited, and thereupon the liquor or vessel shall be deemed to be forfeited to the Crown and may be sold or destroyed or otherwise disposed of as the High Commissioner directs.

17. Officer of police may enter and search—(1) If any officer of police has reasonable grounds to suspect that in any place, premises, vehicle, or vessel there is any intoxicating liquor that has been manufactured, imported, sold, carried, or concealed in breach of the provisions of this Part of this Act or of any Ordinance made under the powers conferred by section eight of this Act, he may, without warrant, enter and search, if need be by force, the place, premises, vehicle, or vessel.

(2) Every person who, by himself or by any person in his employ or acting by his direction or with his consent, refuses or fails to admit, without any unnecessary delay, any officer of police in the execution of his duty demanding to enter any place, premises, vehicle, or vessel under the provisions of subsection one of this section or hinders or obstructs any such officer of police is liable to a fine not exceeding ten pounds.

18. Persons found on premises deemed illegally dealing in intoxicating liquor—When in the course of a search under section seventeen of this Act or under section two hundred and forty-three of the principal Act any intoxicating liquor has been seized, any person found at the time on the place, premises, vehicle, or vessel searched shall, unless the contrary is proved, be deemed to have been there for the purpose of illegally dealing in intoxicating liquor, and is liable to a fine not exceeding ten pounds.

19. Names of persons found on premises searched may be demanded—(1) Where any officer of police or officer of Customs seizes any intoxicating liquor under the powers conferred by section sixteen of this Act or of section two hundred and forty-three of the principal Act, he may demand the name and address of any person found present in the place, premises, vehicle, or vessel where the liquor is seized, and, if he has reasonable grounds to suspect that the name or address given is false, may examine that person further as to the correctness of that name and address, and, if that person fails upon that demand to give his name and address or to answer satisfactorily the questions put to him, any officer of police may arrest him without warrant.

(2) Where any person is arrested without warrant under this section, the provisions of subsections three and four of section two hundred and nineteen of the principal Act shall apply as if he had been arrested under that section.

(3) Every person who is required by an officer of police or officer of Customs under subsection one of this section to give his name and address and who fails to give the same or gives false information with respect to that name or address is liable to a fine not exceeding ten pounds.

20. Repeals and revocations—(1) The following enactments are hereby repealed:

(a) Part XIII of the principal Act;

(b) Sections twelve, thirteen, and fourteen of the Samoa Amendment Act 1923.

(2) The following regulations are hereby revoked:

(a) The Samoa Sale of Intoxicating Liquor Regulations 1920;

(b) Regulations made by Order in Council on the thirtieth day of October, nineteen hundred and twenty-two, amending the Samoa Sale of Intoxicating Liquor Regulations 1920.

PART III

THE WESTERN SAMOA TRUST ESTATES CORPORATION

21. Commencement—This Part of this Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Proclamation.

22. Western Samoa Trust Estates Corporation—(1) There is hereby established for the purposes of this Part of this Act a corporation to be called the Western Samoa Trust Estates Corporation (in this Part of this Act referred to as the Corporation).

(2) The Corporation shall consist of the following members, all of whom shall be directors of the Corporation:

(a) Four members to be appointed by the High Commissioner:

(b) One member to be appointed by the Minister:

(c) The General Manager of the Corporation:

(d) The Director of Agriculture of Western Samoa.

(3) The powers of the Corporation shall not be affected by any vacancy in the office of any member thereof.

(4) The first appointed members of the Corporation may be appointed at any time after the passing of this Act, and shall come into office on the commencement of this Part of this Act or on the date of appointment, whichever is the later.

(5) The Corporation shall be a body corporate with perpetual succession and a common seal, and, subject to the

provisions of any regulations made under section twenty-six of this Act, shall be capable of acquiring, holding, and disposing of real and personal property, of suing and being sued, of borrowing money (whether on the security of its assets or otherwise), and of doing and suffering all such acts and things as bodies corporate may lawfully do and suffer and of exercising such other powers as are conferred on the Corporation by regulations made under section twenty-six of this Act.

23. Functions of the Corporation—(1) The functions of the Corporation shall be to assume the control and management as trustee for and on behalf of the people of Western Samoa of the assets of the New Zealand Reparation Estates vested in the Corporation under section twenty-four of this Act.

(2) In the exercise of its functions the Corporation shall have regard to the views of the Government of Western Samoa as communicated to it in writing from time to time by the High Commissioner.

24. Assets of New Zealand Reparation Estates to vest in the Corporation—(1) As from the commencement of this Part of this Act—

(a) All property, both real and personal, and all contracts, rights of action, and other rights held or acquired by or vested in the Crown in right of the Government of New Zealand by or by virtue of the New Zealand Reparation Estates Order 1947 shall become the property, contracts, and rights of the Corporation:

(b) All debts, liabilities, and obligations, whether present or contingent, incurred in the name of or imposed on the Crown by or by virtue of the New Zealand Reparation Estates Order 1947 shall become debts, liabilities, and obligations of the Corporation.

(2) Where any real or personal property or right becomes vested in the Corporation by virtue of this section and the title of the Crown thereto is or should have been entered in any register required by law to be kept, the Registrar or other person whose duty it is to keep that register, on the request in writing of the Corporation accompanied by the certificate of the High Commissioner that the property or right became vested in the Corporation by virtue of this section, shall, without payment of any fee, enter in the register the name of the Corporation as the owner of the property or right.

(3) Every payment to the Corporation out of the Public Account that may be necessary to give effect to the provisions of this section may be made without further appropriation than this section.

(4) If any question arises as to whether any property, right, debt, liability, or obligation of the Crown has become the property, right, debt, liability, or obligation of the Corporation under this section, that question shall be decided by the Minister, whose decision shall be final.

25. Officers of the Corporation—There may from time to time be appointed by the Public Service Commissioner of Western Samoa under the provisions of the Samoa Amendment Act 1949 a General Manager of the Corporation and such other officers and employees as may be deemed necessary for the efficient carrying out of the functions of the Corporation under this Act.

26. Regulations—Without limiting the powers conferred on the Governor-General by the principal Act or any other Act to make regulations for the peace, order, and good government of Western Samoa, the Governor-General may from time to time, by Order in Council, make regulations—

- (a) Prescribing the term of office of the appointed members of the Corporation;
- (b) Providing for the vacation of office by the appointed members of the Corporation and the procedure for filling extraordinary vacancies;
- (c) Providing for the appointment of deputies of members of the Corporation;
- (d) Providing for the appointment of the Chairman and Deputy Chairman of the Corporation;
- (e) Prescribing the procedure of the Corporation;
- (f) Providing for the payment of remuneration and expenses to members of the Corporation;
- (g) Prescribing the manner in which the Corporation may enter into contracts;
- (h) Defining the powers of the Corporation and authorising the Corporation to delegate its powers;
- (i) Defining the borrowing powers of the Corporation;
- (j) Defining the powers of the Corporation to alienate property;
- (k) Prescribing the manner in which the funds of the Corporation shall be invested:

- (1) Prescribing the manner in which the accounts of the Corporation shall be kept and providing for the audit of those accounts:
- (m) Prescribing the manner in which the profits of the Corporation shall be applied:
- (n) Requiring the Corporation to make annual reports to the High Commissioner:
- (o) Providing for such other matters as in the opinion of the Governor-General are necessary or expedient for giving full effect to the provisions of this Part of this Act and for the due administration thereof.

27. Repeals, amendments, and revocations—(1) Sections seven and eight of the Samoa Amendment Act 1926 are hereby repealed.

(2) The Samoa Amendment Act 1949 is hereby amended as follows:

- (a) By omitting from the definition of the term “Western Samoan Public Service” in section two the words “and the service of His Majesty in respect of the New Zealand Reparation Estates”, and substituting the words “including service in respect of the Western Samoa Trust Estates Corporation”:
- (b) By repealing paragraph (d) of the same definition:
- (c) By repealing the proviso to subsection two of section eighteen, and substituting the following proviso:
“Provided that the salaries of employees of the Western Samoa Trust Estates Corporation shall be recouped to the Samoan Treasury out of the funds of the Corporation.”:
- (d) By omitting from section nineteen the words “the New Zealand Reparation Estates”, and substituting the words “the Western Samoa Trust Estates Corporation”:
- (e) By omitting from subsection three of section twenty-nine the words “the New Zealand Reparation Estates” wherever they occur, and substituting in each case the words “the Western Samoa Trust Estates Corporation”:
- (f) By repealing section thirty-eight.
- (3) The following Orders in Council are hereby revoked:
 - (a) The New Zealand Reparation Estates Amendment Order 1930:
 - (b) The New Zealand Reparation Estates Amendment Order 1932:
 - (c) The New Zealand Reparation Estates Order 1947.

PART IV

MISCELLANEOUS AMENDMENTS

28. Meaning of "public place"—Section three of the principal Act is hereby amended by repealing the definition of the term "public place", and substituting the following definition:

"'Public place' means—

“(a) Any road;

“(b) Any place of public resort open to or used by the public (whether on payment of money or otherwise) :

“(c) Any wharf or jetty;

“(d) Any passenger ship or boat or other vessel plying for hire at a wharf or jetty or within one mile of the shore;

“(e) Any licensed public vehicle plying for hire;

“(f) Any church or other building where Divine service is being publicly held;

“(g) Any hall or room in which any public entertainment is being held;

“(h) Any market place:.”.

29. Ordinance may prescribe conditions on which Samoan medical practitioners may practise medicine and surgery—Section thirty-six of the principal Act (as substituted by section thirteen of the Samoa Amendment Act 1951) is hereby amended by inserting in the proviso to subsection one, after the words "Director of Health", the words "or in such other circumstances and subject to such conditions as may be prescribed by Ordinance".

30. Appeals from High Court—Section eighty-three of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) As of right, from any conviction by the High Court in the exercise of its criminal jurisdiction whereby the appellant has been sentenced to death or to imprisonment for a term exceeding six months or to a fine of not less than one hundred pounds, and from any such sentence (not being a sentence fixed by law);”.

31. Order granting leave to appeal—The principal Act is hereby amended by repealing section eighty-four, and substituting the following section:

“84. (1) No such appeal, whether as of right or not, shall be brought except in pursuance of an order of the High Court granting leave to appeal:

“Provided that, subject to the provisions of subsections three and four of this section, the High Court shall grant such leave in every case where the appellant is entitled to appeal as of right.

“(2) Application to the Court for leave to appeal shall be made at the time when judgment is given or within twenty-one days thereafter or, if the appellant is not sentenced on the date of conviction, at any time after the conviction but not later than twenty-one days after the date of sentence.

“(3) Leave to appeal shall be granted only on condition that the appellant within a period to be fixed by the Court, not exceeding two months from the date of the hearing of the application, gives security to the satisfaction of the Court or the Registrar thereof in a sum to be fixed by the Court, not exceeding one hundred pounds, for the payment of the costs of the appeal:

“Provided that, in the case of any appeal from a judgment of the Court in the exercise of its criminal jurisdiction, the Court may grant leave to appeal without requiring the appellant to give security for costs.

“(4) Where the Court grants leave to appeal on condition that the appellant gives security for costs, the order granting leave to appeal shall not be sealed until that security has been duly given.”

32. Powers of Supreme Court on appeal—Section eighty-nine of the principal Act is hereby amended by adding the following subsection as subsection two thereof:

“(2) Without limiting the general powers conferred by subsection one of this section, the Supreme Court on any appeal against sentence shall, if it thinks that a different sentence should have been passed, quash the sentence passed and pass such other sentence warranted by law (whether more or less severe) in substitution therefor as the Court thinks ought to have been passed, and in any other case shall dismiss the appeal.”

33. Stay of execution—Section ninety-one of the principal Act is hereby amended by adding the words “or unless the appellant has been sentenced to death”.

34. Meaning of “night”—The principal Act is hereby amended by inserting, after section one hundred and seventy, the following section:

“170A. In sections one hundred and seventy-one, one hundred and seventy-two, one hundred and seventy-four, and one hundred and seventy-five of this Act the term ‘night’ means the time commencing on the expiration of the first half hour after sunset and concluding at the beginning of the last hour before sunrise.”

35. Sentence of death not to be passed on person under eighteen years of age or on pregnant woman—The principal Act is hereby amended by inserting, after section two hundred and five, the following section:

“205A. (1) Where any person convicted of an offence punishable with death is under the age of eighteen years or is a woman who is found to be pregnant, the sentence to be passed shall be a sentence of imprisonment with hard labour for life instead of a sentence of death.

“(2) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the Court before which she is so convicted thinks fit so to order, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by that Court.

“(3) The question whether or not the woman is pregnant shall be determined by the Court sitting with the assessors with whom the Court sat on the trial of the woman for the offence of which she was convicted:

“Provided that, if any assessor dies or is discharged by the Court as being through illness incapable of continuing to act or for any other cause, the inquiry as to whether or not the woman is pregnant shall continue without him.

“(4) The question whether or not the woman is pregnant shall be determined by the Court on such evidence as may be laid before the Court either on the part of the woman or on the part of the Crown, and the Court shall find that the woman is not pregnant unless it is proved affirmatively to the satisfaction of the Court and concurred in by a majority of the assessors that she is pregnant.

“(5) Where on proceedings under this section the Court finds that the woman in question is not pregnant, the woman may under section eighty-three of this Act appeal as of right

against the finding to the Supreme Court of New Zealand, and that Court, if satisfied that for any reason the finding should be set aside, shall quash the sentence passed on her and instead thereof pass on her a sentence of imprisonment with hard labour for life."

36. Transmission of certain Warrants and orders by telegram—The principal Act is hereby amended by inserting, after section two hundred and forty-four, the following new section:

"244A. (1) Where, as a result of the exercise by the Governor-General of the prerogative of mercy of the Crown or of a judgment by the Supreme Court of New Zealand on an appeal from the High Court or of a judgment of the Privy Council on an appeal from the Supreme Court of New Zealand, any person held in custody in Western Samoa is entitled to be released from custody, the Warrant signed by the Governor-General or, as the case may be, the order of the Supreme Court or of the Privy Council may be transmitted to Western Samoa by telegram, and the telegraphic copy shall be sufficient authority to all persons concerned to release that person accordingly.

"(2) In this section the term 'telegram' has the same meaning as in section one hundred and forty-six of the Post and Telegraph Act 1928."

37. Meaning of "Crown land"—(1) Section two hundred and sixty-eight of the principal Act is hereby amended by repealing subsection two, and substituting the following subsection:

"(2) 'Crown land' means land vested in the Crown in right of the Government of New Zealand or of the Government of Western Samoa, being land that is free from Samoan title and from any estate in fee simple."

(2) Section two hundred and sixty-nine of the principal Act is hereby amended by omitting from subsection one the words "Crown land in Samoa in fee simple", and substituting the words "in fee simple Crown land in Samoa vested in the Crown in right of the Government of New Zealand".

(3) The principal Act is hereby amended by inserting, after section two hundred and sixty-nine, the following section:

"269A. The High Commissioner, by Warrant under his hand and the Seal of Western Samoa, may grant in fee simple Crown land in Samoa vested in the Crown in right of the

Government of Western Samoa, or may grant in respect of any such land any lease, licence, easement, or other limited estate, right, or interest, or may accept a surrender of any estate, right, or interest in any such land."

(4) Section two hundred and seventy of the principal Act is hereby amended by inserting, after the words "in Samoa", the words "vested in the Crown in right of the Government of New Zealand".

(5) Section two hundred and seventy of the principal Act is hereby further amended by adding the following subsection as subsection two thereof:

"(2) Any Crown land in Samoa vested in the Crown in right of the Government of Western Samoa may, by Warrant signed by the High Commissioner and under the Seal of Western Samoa, be set aside as a reserve for any public purpose, and shall, while that Warrant remains in force, be reserved and used for that purpose accordingly."

(6) Section two hundred and seventy-one of the principal Act is hereby amended by inserting, after subsection one, the following subsection:

"(1A) Any land taken by an Ordinance under subsection one of this section shall be vested in the Crown in right of the Government of New Zealand or of the Government of Western Samoa, as provided in the Ordinance."

(7) Section two hundred and seventy-two of the principal Act is hereby amended by inserting in subsection one, after the words "Crown land", the words "vested in the Crown in right of the Government of New Zealand".

(8) Section two hundred and seventy-two of the principal Act is hereby further amended by inserting, after subsection one, the following subsection:

"(1A) Any Crown land vested in the Crown in right of the Government of Western Samoa held under lease or otherwise subject to any right, title, or interest in any person may, by Warrant signed by the High Commissioner and under the Seal of Western Samoa, be resumed for any public purpose specified in the Warrant, and every such lease, right, title, or interest shall, in accordance with the tenor of the Warrant, determine accordingly, save as far as expressly preserved thereby."

(9) Section two hundred and seventy-three of the principal Act is hereby amended by adding the following subsection as subsection two thereof:

"(2) The land or interest so purchased or acquired shall be vested in the Crown in right of the Government of New

Zealand or of the Government of Western Samoa, as provided in the instrument transferring, granting, or assigning the land or interest to the Crown."

(10) Section two hundred and seventy-six of the principal Act is hereby amended by omitting the words "vested in His Majesty as Crown land", and substituting the words "Crown land vested in the Crown in right of the Government of Western Samoa".

(11) Section three hundred and forty-six of the principal Act is hereby amended by inserting, after the words "the Crown", the words "in right of the Government of Western Samoa".

(12) Section fifty-eight of the Statutes Amendment Act 1944 is hereby amended by inserting in subsection one, after the words "Crown land", the words "vested in the Crown in right of the Government of New Zealand".

(13) Section fifty-eight of the Statutes Amendment Act 1944 is hereby further amended by inserting, after subsection one, the following subsection:

"(1A) The High Commissioner, by Warrant under his hand and the Seal of Western Samoa, may declare that any Crown land vested in the Crown in right of the Government of Western Samoa which is not subject to any lease or to any other right, title, estate, or interest vested in any person other than a Samoan shall be Samoan land within the meaning of Part IX of the principal Act, and may indicate with what particularity he thinks fit the person or the family or group of Samoans by whom or on whose behalf it shall be held."

38. Repeal of Ordinance taking land—The principal Act is hereby further amended by inserting, after section two hundred and seventy-one, the following section:

"271A. (1) If at any time after the making of an Ordinance taking land under this Act, and before the payment or award of compensation in respect of the taking thereof, it is found that the land or any part thereof is not required for the purposes for which it was taken, or that any error in form or substance exists in or in relation to that Ordinance or the making or gazetting thereof, it shall be lawful, by Ordinance, to repeal the former Ordinance either wholly or so far as the Legislative Assembly thinks necessary.

"(2) The former Ordinance shall thereupon to the extent to which it has been repealed be absolutely void and of no effect as from the date thereof as if it had not been made.

“(3) Any registration which in respect of the taking of the land has been effected by the Registrar of Land or any other person in pursuance of any authority in that behalf shall thereupon be cancelled and be deemed to have been of no effect as from the date of the making thereof to the same extent to which the Ordinance has been so repealed.

“(4) Any person who has any estate or interest in the land so taken, and who has in respect of that estate or interest suffered any loss or damage by reason of the Ordinance taking the same, shall be entitled, in any claim made by him within one year after the gazetting of the Ordinance repealing the same, to compensation for that loss or damage in accordance with section two hundred and seventy-one of this Act, and the provisions of that section with respect to compensation shall, as far as they are applicable, apply accordingly.

“(5) An Ordinance may be repealed under this section whether made before or after the commencement of this section.”

39. Land taken for public purpose and not wanted may be sold, etc.—The principal Act is hereby further amended by inserting, after section two hundred and seventy-one A (as inserted by section thirty-eight of this Act), the following section:

“271B. (1) Where it is found that any land held, taken, purchased, or acquired at any time under this Act or any Ordinance made under section two hundred and seventy-one of this Act or otherwise howsoever for any public purpose or public work is not required for that purpose or work, it shall be lawful for the High Commissioner to cause the land to be sold, pursuant, in the case of land taken under any Ordinance made under section two hundred and seventy-one of this Act, to an Ordinance in that behalf.

“(2) Before any Ordinance is made under this section, a recommendation by the High Commissioner shall be laid before the Legislative Assembly describing as much of the land as is not required for that public purpose or public work, accompanied by a map thereof certified by the Chief Surveyor, and setting forth the reasons for disposing of the land.

“(3) Subject to the foregoing provisions of this section, the High Commissioner may cause the land to be sold either by private contract to the owner of any adjacent land at a price fixed by a competent valuer, or by public auction or by public tender.

“(4) Public notice shall be given of every auction or invitation for tenders under this section, and, in addition, written notice thereof shall be served on every owner of land adjacent to the land proposed to be sold, so far as they can be ascertained, not later than ten days before the date fixed for the auction or for the closing of the tenders, as the case may be.”

40. When enactment in force in Samoa, amendments and substituted enactments also in force—(1) Section three hundred and fifty-four of the principal Act is hereby amended by omitting the word “Act” wherever it occurs, and substituting in each case the word “enactment”.

(2) Section three hundred and fifty-five of the principal Act is hereby amended by omitting the words “Every Act”, and substituting the words “Every enactment”.

41. Section 6 of Evidence Amendment Act 1952 in force in Samoa—(1) The principal Act is hereby amended by inserting, after section three hundred and seventy-one, the following section:

“371A. Section six of the Evidence Amendment Act 1952 (which relates to the verification of documents executed out of New Zealand) shall apply to Samoa in all respects as if Samoa were part of New Zealand, and the term ‘New Zealand’ as used in that section shall, both in New Zealand and in Samoa, be construed as including Samoa accordingly.”

(2) This section shall be deemed to have come into force on the first day of January, nineteen hundred and fifty-three (being the date of the commencement of the Evidence Amendment Act 1952).

42. Repeals—The following enactments are hereby repealed:

- (a) Section twenty-six of the Finance Act 1921–22:
 - (b) Section four of the Finance Act 1925:
 - (c) Section two of the Samoa Amendment Act 1926:
 - (d) Section four of the Finance Act 1926:
 - (e) Section eight of the Finance Act 1927 (No. 2):
 - (f) Section six of the Finance Act 1928:
 - (g) Section four of the Finance Act 1932 (No. 2):
 - (h) Section five of the Finance Act 1933 (No. 2).
-