

SAMOA AMENDMENT BILL

EXPLANATORY MEMORANDUM

PURPOSE

1. For slightly more than twenty-five years Western Samoa was administered by New Zealand as a mandate under the League of Nations. On 18th April, 1946, the League, and with it the mandate system, ceased to exist. The successor to the League is the United Nations. The mandate system was replaced by the international trusteeship system of the United Nations.

2. Western Samoa was brought within the scope of the trusteeship system when on 13th December, 1946, a draft trusteeship agreement for the territory, submitted by New Zealand, was approved by the General Assembly of the United Nations.

3. By negotiating such an agreement New Zealand accepted a continuation of international supervision in the administration of the territory and a positive obligation to promote the progressive development of the inhabitants "towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned."*

4. The special emphasis given to political development by the trusteeship system marks one significant difference between it and the mandate system. Another important difference concerns the position of trusteeship territories in relation to the maintenance of international peace and security. The terms of the mandate precluded the establishment of fortifications or defence bases in mandated territories and also prohibited the military training of the Native inhabitants except for police purposes and the defence of the territory. Article 84 of the Charter of the United Nations, on the other hand, imposes upon the administering authority the duty of ensuring that the trust territory shall play its part in the maintenance of international peace and security and authorizes the use of volunteer forces, facilities, and assistance from the territory in carrying out these obligations as well as for local police and defence purposes.

5. It is the purpose of the present Bill—

- (a) To acknowledge the change in the status of Western Samoa from that of a mandated territory under the League of Nations to a trust territory within the trusteeship system of the United Nations:
- (b) To remove the existing legal disability in regard to defence measures:
- (c) To implement the first of a series of progressive steps towards the eventual grant of full self-government to the people of Western Samoa.

SCOPE

6. The change in status of the territory is recognized in the preamble to the Bill and by the inclusion, as a Schedule to the Bill, of the text of the trusteeship agreement (which itself incorporates the text of the trusteeship provisions of the United Nations Charter as an Appendix). In addition, section 4 of the Samoa Act, 1921, which vests the executive government of Western Samoa in His Majesty the King "in the same manner as if the territory were part of His Majesty's dominions" is amended by the deletion of the words quoted. Article 2 of the mandate authorized New Zealand to exercise full power of administration and legislation over the territory subject to the mandate *as an integral portion of the Dominion of New Zealand*, but this is not the position under the trusteeship agreement.

* Article 76 (d) of the United Nations Charter.

7. The position in regard to defence is adjusted by the repeal of section 62 (a) and (b) of the Samoa Act, 1921, which implemented the limitations of the mandate, and by the substitution therefor of an appropriate reference in clause 8 (2) of the Bill reserving legislation on defence matters to New Zealand. "Defence" is so defined as to ensure that the responsibilities of New Zealand in this connection will be exercised in accord with the provisions of the Charter and the trusteeship agreement.

8. In the matter of political development the Charter requires that the policy of the administering authority shall be one of progressive advancement towards the ultimate goal of full self-government. It imposes upon the administering authority the responsibility of determining, in consultation with the inhabitants of the trust territory, the nature and extent of the progress for which their stage of general development may fit them from time to time.

9. The proposals for constitutional reform announced by the then Acting Prime Minister in the House of Representatives on 27th August, 1947,* are the outcome of discussions with the Samoan and European residents of the territory during the past few months. They are in part a statement of detailed steps which can be implemented immediately and in part an outline of desirable changes for which the Samoans are considered to be ready but which cannot be given the necessary definition until further discussions have taken place with their leaders and representatives. The present Bill covers the reforms in the first category to the extent that they depend upon amendment of the Samoa Act, 1921, for their implementation.

THE UNITED NATIONS MISSION TO WESTERN SAMOA

10. The development of the New Zealand proposals embodied in the present Bill coincided with the visit to Western Samoa of a United Nations Mission which was appointed by the Trusteeship Council at the request of New Zealand to investigate a petition from representative Samoan leaders asking for the grant of immediate self-government. The petition also requested that New Zealand should remain in the position of "protector and adviser" to the Samoan people. While the order of reference of the Mission required merely that it should ascertain the facts and report back to the Trusteeship Council, the Mission's report† contains detailed recommendations for constitutional change in Western Samoa. These recommendations are along the same lines and in the essentials very similar to the New Zealand proposals embodied in the Bill. The latter will confer on the Samoans a slightly greater measure of control over their own affairs than is envisaged by the report of the Mission.

PRESENT ORGANIZATION OF GOVERNMENT IN WESTERN SAMOA

Constitution

11. The constitution of Western Samoa is contained in the Samoa Act, 1921 (and its amendments), which also provides a partial code of law for the territory.

Executive

12. The Samoa Act, 1921, vests the executive government of Western Samoa in His Majesty the King in the same manner as if the territory were part of His Majesty's Dominions (section 4).

13. The administration of the executive government is entrusted to an Administrator appointed by the Governor-General and subject to the general control of the Minister of Island Territories (section 5). The Administrator is assisted by a Deputy Administrator, also appointed by the Governor-General, and the Samoan Public Service,

* Paper A.-4A (1947). † Report to the Trusteeship Council by the United Nations Mission to Western Samoa (Paper A.-4B (1947)).

which is composed partly of officials seconded from New Zealand and partly of locally recruited Samoans, part-Samoans, and Europeans. The Public Service is under the control of the New Zealand Public Service Commission, but the salaries and allowances of officers are a charge on the Samoan Treasury.

14. The three paramount Samoan chiefs (the *Fautua*) have an important, though unofficial, status as advisers to the Administrator on Samoan matters.

Judicial

15. The Samoa Act, 1921, constitutes a High Court consisting of a Chief Judge (appointed from New Zealand) assisted by Samoan Judges, all appointed by the Minister of Island Territories. A Native Land and Titles Court has been established by Order in Council. There is a right of appeal from the High Court to the Supreme Court in New Zealand.

Legislative

16. In addition to the general power to legislate for Western Samoa which resides in the New Zealand Legislature, the Governor-General has authority, by virtue of the Samoa Act, 1921, to make Orders in Council for the peace, order, and good government of Western Samoa, provided they are not repugnant to any New Zealand Act in force in the territory. No New Zealand Act is in force there unless specifically applied by New Zealand Act or Order in Council, or by local Ordinance.

17. The Administrator, acting with the advice and consent of the local Legislative Council, may also make Ordinances for the peace, order, and good government of the territory, provided they are not repugnant to any United Kingdom or New Zealand Act or regulations thereunder in force in the territory. The Samoa Act, 1921, stipulates a number of subjects with which such Ordinances may not deal.*

18. The Administrator is President of the Legislative Council. The members of the Council are four Samoans nominated by the *Fono* of *Faipule* (Council of Chiefs), two elected representatives of the European and part-European population, and six official members appointed by virtue of their offices. The casting vote of the Administrator ensures an official majority.

19. In practice most of the significant legislation affecting the territory has been made in New Zealand and the field covered by local Ordinances is correspondingly limited. One purpose of the present change is to enlarge the scope of the legislation which may properly be made by the local Legislative Assembly. This is accomplished partly by amendment of the Samoa Act, 1921, and partly by a change in administrative policy.

NATURE OF THE PROPOSED CONSTITUTIONAL CHANGES

20. The Bill embraces the following matters:—

- (a) Recognition of the change in status of the territory from a mandate to a trusteeship territory.
- (b) Appointment of a High Commissioner and a Deputy High Commissioner in place of an Administrator and a Deputy Administrator respectively (*clause 3*).
- (c) Establishment of a Council of State comprising the High Commissioner and the *Fautua*, with advisory functions (*clauses 4 and 5*).
- (d) Abolition of the present Legislative Council and the substitution thereof of a Legislative Assembly with an absolute majority of Samoan members (*clauses 6 and 7*).
- (e) Empowering the Legislative Assembly to make laws (to be known as Ordinances) for the peace, order, and good government of Western Samoa and to dispose of the revenues of the territory (*clauses 8 to 13*).

* See particularly sections 61 and 62.

Right Hon. Mr. Fraser

SAMOA AMENDMENT

ANALYSIS

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2. Interpretation.	11. High Commissioner may assent to, refuse assent to, or amend bills.
<i>The High Commissioner</i>	
3. High Commissioner of Western Samoa, and Deputy High Commissioner.	
<i>The Council of State</i>	
4. Council of State of Western Samoa.	12. Ordinances as to revenue and expenditure.
5. <i>Fautua</i> .	13. Regulations as to audit.
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6. Legislative Assembly of Western Samoa.	14. Consequential repeals and amendments.
7. Procedure.	Schedules.

A BILL INTITULED

AN ACT to amend the Samoa Act, 1921.

Title.

WHEREAS, in consequence of the dissolution of the League of Nations, the mandate over the Territory of Western Samoa conferred by the League upon His Majesty for and on behalf of the Government of New Zealand, as recited in the principal Act, has ceased to be operative: And whereas pursuant to the Charter

Preamble.

of the United Nations signed at San Francisco on the twenty-sixth day of June, nineteen hundred and forty-five, a trusteeship agreement for Western Samoa in the terms in the *First* Schedule to this Act was approved by the General Assembly of the United Nations on the thirteenth day of December, nineteen hundred and forty-six: And whereas by the said trusteeship agreement it is provided that the Government of New Zealand, as the administering authority, shall have full powers of administration, legislation, and jurisdiction over Western Samoa, subject to the provisions of the trusteeship agreement and of the Charter of the United Nations: And whereas it is expedient that provision should be made for the administration of Western Samoa in such a manner as to achieve the basic objectives of the international trusteeship system, and, in particular, to promote the political, economic, social, and educational advancement of the inhabitants of Western Samoa, and their progressive development towards full self-government:

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

1. (1) This Act may be cited as the Samoa Amendment Act, 1947, and shall be read together with and deemed part of the Samoa Act, 1921 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Proclamation.

2. For the purposes of this Act and the principal Act, unless the context otherwise requires,—

“ Council of State ” means the Council of State of Western Samoa established under this Act:

“ Defence ” means the defence of Western Samoa and the defence of New Zealand; and includes the matters referred to in Article X of the trusteeship agreement:

“ External affairs ” includes relations with other countries, communications between the Government of New Zealand and other Governments, and the representation of other countries in Western Samoa:

Short Title
and
commencement.
See Reprint
of Statutes,
Vol. II, p. 791

Interpretation.

- “ High Commissioner ” means the High Commissioner for Western Samoa appointed under this Act:
- 5 “ Legislative Assembly ” means the Legislative Assembly of Western Samoa established under this Act:
- “ Minister ” means the Minister of Island Territories:
- 10 “ Ordinance ” means an Ordinance passed by the Legislative Assembly and assented to by the High Commissioner under the authority of this Act:
- “ Trusteeship agreement ” means the trusteeship agreement of which the text is set out in the
- 15 *First* Schedule to this Act:
- “ Western Samoa ” means the Territory of Western Samoa as defined in the Second Schedule to the principal Act.

The High Commissioner

- 20 **3.** (1) There shall be a High Commissioner of Western Samoa, who shall be appointed by the Governor-General, and shall be stationed at Apia, and shall, subject to the control of the Minister, be charged with the administration of the executive government of
- 25 Western Samoa, save so far as other provision is made in that behalf by the principal Act and its amendments (including this Act).
- (2) The Governor-General may from time to time appoint a fit person to be the Deputy High
- 30 Commissioner of Western Samoa.
- (3) All references to the Administrator of Western Samoa or to the Deputy Administrator of Western Samoa in the principal Act or in any other Act or in any regulation, Ordinance, order, or other enactment,
- 35 or in any agreement, deed, instrument, application, licence, notice, or other document whatsoever shall, unless inconsistent with the context or with the provisions of this Act, be read hereafter as references to the High Commissioner of Western Samoa or to the
- 40 Deputy High Commissioner of Western Samoa, as the case may be.

High
Commissioner
of Western
Samoa, and
Deputy High
Commissioner.

(4) The persons holding office at the commencement of this Act as Administrator of Western Samoa and as Deputy Administrator of Western Samoa shall be deemed to have been duly appointed under this Act to be respectively the High Commissioner of Western Samoa and the Deputy High Commissioner of Western Samoa. 5

The Council of State

Council of
State of
Western
Samoa.

4. (1) There is hereby established in and for Western Samoa a Council of State, to be called the Council of State of Western Samoa. 10

(2) The Council of State shall consist of the High Commissioner and of the Samoans for the time being holding office as *Fautua*.

(3) The Council of State shall meet at such times and at such places as the High Commissioner from time to time appoints in that behalf. 15

(4) The High Commissioner shall preside at any meeting of the Council of State at which he is present.

(5) The High Commissioner shall consult the Council of State on the following matters:— 20

(a) All proposals for legislation to be recommended by the High Commissioner to the Legislative Assembly:

(b) All matters closely relating to Samoan custom: 25

(c) Any other matters affecting the welfare of Western Samoa which he considers it proper to refer to the Council of State.

Fautua.

5. (1) The Governor-General may from time to time, by Order in Council, appoint Samoans to be *Fautua*. 30

(2) The manner of recommending Samoans for appointment as *Fautua*, and the terms and conditions of their appointment, and the number of *Fautua* that may from time to time be appointed may be prescribed by the Governor-General in Council. 35

(3) All *Fautua* in office at the commencement of this Act shall be deemed to have been duly appointed.

(4) The *Fautua* may receive from the Samoan Treasury such remuneration and allowances as may be prescribed by Ordinance. 40

The Legislative Assembly

6. (1) There is hereby established in and for Western Samoa a Legislative Assembly to be called the Legislative Assembly of Western Samoa.

Legislative
Assembly of
Western
Samoa.

5 (2) The Legislative Assembly shall consist of—

(a) The Samoan members for the time being of the Council of State:

10 (b) Eleven Samoan members, who may be either elected members or nominated members, or partly elected and partly nominated members, as the Governor-General in Council from time to time determines:

(c) European elected members (not more than five in number):

15 (d) Official members (not more than six in number), of whom not more than three shall be the holders for the time being of such offices in the Samoan Public Service as the Governor-General from time to time appoints as entitling the holders thereof to sit in the
20 Legislative Assembly, and not more than three shall be members of the Samoan Public Service appointed by the High Commissioner to hold office as members of the Assembly during his pleasure.

25 (3) The mode of electing or nominating members of the Legislative Assembly, the qualifications of electors and of candidates, and the terms and conditions of their membership may be prescribed by the Governor-General
30 in Council.

(4) The elected or nominated members of the Legislative Assembly may receive from the Samoan Treasury such remuneration and allowances as may be prescribed by Ordinance.

35 (5) The powers of the Legislative Assembly shall not be affected by any vacancy in the membership thereof.

(6) Every person who executes the office of an official member of the Assembly during a vacancy in
40 that office or during the absence or incapacity of the holder thereof shall while so acting be entitled to sit and act as a member of the Legislative Assembly in the place of that official member.

(7) The Legislative Council of Western Samoa established under the principal Act is hereby abolished.

(8) All references to the Legislative Council of Western Samoa in the principal Act or in any other Act or in any regulation, Ordinance, order, or other enactment, or in any agreement, deed, instrument, application, licence, notice, or other document whatsoever shall, unless inconsistent with the context or with the provisions of this Act, be read hereafter as references to the Legislative Assembly of Western Samoa. 5

Procedure.

7. (1) The Legislative Assembly shall meet at such times and at such places as the High Commissioner from time to time appoints in that behalf.

(2) The High Commissioner shall be entitled to preside over every meeting of the Assembly; but if he is not present at any meeting he shall appoint a member of the Assembly to preside over that meeting. 15

(3) The High Commissioner or member presiding over any meeting of the Assembly shall not have a deliberative vote, but, in case of an equality of votes, he shall have a casting vote. 20

(4) No business shall be transacted at any meeting of the Assembly if the number of members present is less than one-half of the total number of the members of the Assembly. 25

(5) Subject to the provisions of the principal Act and its amendments (including this Act), the Assembly may make standing orders regulating its procedure.

Legislative
Assembly may
make
Ordinances.

8. (1) Subject to the provisions of the principal Act and its amendments (including this Act), the Legislative Assembly may make laws (to be known as Ordinances) for the peace, order, and good government of Western Samoa. 30

(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 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 35 40

laws relating to defence (except in relation to the taking of land for defence purposes), or relating to external affairs, or affecting the title of His Majesty to any land.

5 (3) All Ordinances made under section forty-six of the principal Act and in force at the commencement of this Act shall enure for the purposes of this Act and the principal Act as if they had been made under this section, and accordingly shall, where necessary, be
10 deemed to have been so made.

9. (1) It shall not be lawful or competent by any Ordinance to make any provision repugnant to any provision of a reserved enactment.

Ordinances repugnant to New Zealand Acts and regulations.

15 (2) For the purposes of this section the following shall be deemed to be reserved enactments:—

(a) Parts I, II, III, IV, VI, VII, VIII, IX, and XIII and section two hundred and ten of the principal Act:

20 (b) Section five of the Samoa Amendment Act, 1938, No. 22

(c) This Act:

(d) Any other enactment declared by any Act or by any regulations (whether made under this Act or otherwise) to be a reserved enactment
25 for the purposes of this section.

(3) Subject to the foregoing provisions of this section, no Ordinance and no provision of any Ordinance shall be void or inoperative on the ground that it is repugnant to the principal Act or to this Act or to
30 any other Act of the Parliament of New Zealand or of the Parliament of the United Kingdom in force in Western Samoa, or to any regulations there in force (whether made under the principal Act or otherwise), and the power to make Ordinances shall include the
35 power to repeal or amend any such Act or regulation in so far as the same is part of the law of Western Samoa.

10. Subject to the provisions of this Act and of the standing orders of the Legislative Assembly, any
40 member of the Assembly may introduce any bill or propose any motion for debate in or present any petition to the Assembly, and the same shall be considered and disposed of in accordance with the standing orders:

Introduction of bills, &c., into Legislative Assembly.

Provided that, except upon the recommendation of the High Commissioner, the Assembly shall not pass any bill which, in the opinion of the High Commissioner or of the member presiding, would dispose of or charge any of the public revenues or public funds of Western Samoa, or revoke or alter any disposition thereof or charge thereon, or impose or alter or abolish any rate, tax, or duty. 5

High Commissioner may assent to, refuse assent to, or amend bills.

11. (1) No Ordinance shall become law until it has been passed by the Legislative Assembly in the form of a bill and has been assented to by the High Commissioner. 10

(2) Whenever any bill which has been passed by the Legislative Assembly is presented to the High Commissioner for his assent, he shall, within twenty-one days thereafter, declare according to his discretion, but subject to the provisions of this Act and to such instructions, as may from time to time be given in that behalf by the Minister, that he assents to the bill, or that he refuses his assent to the bill: 15 20

Provided that the High Commissioner, before making any such declaration in respect of any bill so presented to him, may make such amendments in the bill as he thinks fit, and by message return the bill with the amendments to the Legislative Assembly for consideration by the Assembly. 25

Financial Provisions

Ordinances as to revenue and expenditure.

12. Subject to the provisions of the principal Act and its amendments (including this Act), the collection, expenditure, and control of the public revenues of Western Samoa shall be in accordance with such Ordinances as may be made in that behalf. 30

Regulations as to audit.

13. The audit of the accounts of the Samoan Treasury shall be in accordance with such regulations as may be made by the Governor-General in Council in that behalf. 35

Repeals

Consequential repeals and amendments.

14. (1) The enactments specified in the *Second* Schedule to this Act are hereby repealed.

(2) All regulations made under any enactment repealed by this section, and in force at the commencement of this Act, shall enure for the purposes of this Act and the principal Act as if they had been made 40

under section forty-five of the principal Act, and accordingly shall, where necessary, be deemed to have been so made.

(3) Section three of the principal Act is hereby
5 amended by repealing the definitions of the terms
“ Administrator ” and “ Ordinance ”.

(4) Section four of the principal Act is hereby
amended by omitting the words “ in the same manner
as if the Territory was part of His Majesty’s
10 dominions ”.

(5) Section two hundred and seventy-five of the
principal Act is hereby amended by inserting, after the
word “ includes ”, the word “ defence ”.

SCHEDULES

Schedules.

FIRST SCHEDULE

TRUSTEESHIP AGREEMENT FOR THE TERRITORY OF
WESTERN SAMOA

AS APPROVED BY THE GENERAL ASSEMBLY AT THE SIXTY-SECOND
PLENARY MEETING OF ITS FIRST SESSION ON 13 DECEMBER, 1946

WHEREAS the Territory of Western Samoa has been administered in accordance with Article 22 of the Covenant of the League of Nations and pursuant to a mandate conferred upon His Britannic Majesty to be exercised on his behalf by the Government of New Zealand ;

And whereas the Charter of the United Nations signed at San Francisco on 26 June, 1945, provides for the establishment of an international trusteeship system for the administration and supervision of such territories as may be the subject of trusteeship agreements ;

And whereas under the said Charter the international trusteeship system may be applied to territories now held under mandate ;

And whereas the Government of New Zealand have indicated their willingness that the said international trusteeship system be applied to Western Samoa ;

And whereas the said Charter provides further that the terms of trusteeship are to be approved by the United Nations ;

Now, therefore, the General Assembly of the United Nations hereby resolves to approve the following terms of trusteeship for Western Samoa, in substitution for the terms of the aforesaid mandate :

Article I

The territory to which this Agreement applies is the territory known as Western Samoa comprising the islands of Upolu, Savai'i, Manono, and Apolima, together with all other islands and rocks adjacent thereto.

Article II

The Government of New Zealand are hereby designated as the administering authority for Western Samoa.

Article III

The administering authority shall have full powers of administration, legislation and jurisdiction over the territory, subject to the provisions of this agreement, and of the Charter of the United Nations, and may apply to the territory, subject to any modifications which the administering authority may consider desirable, such of the laws of New Zealand as may seem appropriate to local conditions and requirements.

Article IV

The administering authority undertakes to administer Western Samoa in such a manner as to achieve in that territory the basic objectives of the international trusteeship system, as expressed in Article 76 of the Charter of the United Nations, namely :

“(a) To further international peace and security ;

“(b) To promote the political, economic, social and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement ;

“(c) To encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion, and to encourage recognition of the interdependence of the peoples of the world ; and

“(d) To ensure equal treatment in social, economic, and commercial matters for all members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.”

Article V

The administering authority shall promote the development of free political institutions suited to Western Samoa. To this end and as may be appropriate to the particular circumstances of the territory and its peoples, the administering authority shall assure to the inhabitants of Western Samoa a progressively increasing share in the administrative and other services of the territory, shall develop the participation of the inhabitants of Western Samoa in advisory and legislative bodies and in the government of the territory, and shall take all other appropriate measures with a view to the political advancement of the inhabitants of Western Samoa in accordance with Article 76 (b) of the Charter of the United Nations.

Article VI

In pursuance of its undertaking to promote the social advancement of the inhabitants of the trust territory, and without in any way limiting its obligations thereunder, the administering authority shall :

1. Prohibit all forms of slavery and slave-trading ;
2. Prohibit all forms of forced or compulsory labour, except for essential public works and services as specifically authorized by the local administration and then only in times of public emergency, with adequate remuneration and adequate protection of the welfare of the workers ;
3. Control the traffic in arms and ammunition ;
4. Control, in the interest of the inhabitants, the manufacture, importation and distribution of intoxicating spirits and beverages ; and
5. Control the production, importation, manufacture, and distribution of opium and narcotic drugs.

Article VII

The administering authority undertakes to apply in Western Samoa the provisions of any international conventions and recommendations as drawn up by the United Nations or its specialized agencies which are, in the opinion of the administering authority, appropriate to the needs and conditions of the trust territory, and conducive to the achievement of the basic objectives of the international trusteeship system.

Article VIII

In framing the laws to be applied in Western Samoa, the administering authority shall take into consideration Samoan customs and usages and shall respect the rights and safeguard the interests, both present and future, of the Samoan population.

In particular, the laws relating to the holding or transfer of land shall ensure that no native land may be transferred save with the prior consent of the competent public authority and that no right over native land in favour of any person not a Samoan may be created except with the same consent.

Article IX

The administering authority shall ensure in the territory freedom of conscience and the free exercise of all forms of worship, and shall allow missionaries, nationals of any State member of the United Nations, to enter into, travel and reside in the territory for the purpose of prosecuting their calling. The provisions of this Article shall not, however, affect the right and duty of the administering authority to exercise such control as it may consider necessary for the maintenance of peace, order and good government.

Article X

The administering authority shall ensure that the trust territory of Western Samoa shall play its part, in accordance with the Charter of the United Nations, in the maintenance of international peace and security. To this end the administering authority shall be entitled :

1. To establish naval, military and air bases and to erect fortifications in the trust territory ;

2. To station and employ armed forces in the territory ;
3. To make use of volunteer forces, facilities and assistance from the trust territory in carrying out the obligations toward the Security Council undertaken in this regard by the administering authority, as well as for local defence and the maintenance of law and order within the trust territory ;
4. To take all such other measures in accordance with the Purposes and Principles of the Charter of the United Nations as are in the opinion of the administering authority necessary to the maintenance of international peace and security and the defence of Western Samoa.

Article XI

The administering authority shall, as may be appropriate to the circumstances of the trust territory, continue and extend a general system of education, including post-primary education and professional training.

Article XII

Subject only to the requirements of public order, the administering authority shall guarantee to the inhabitants of the trust territory, freedom of speech, of the press, of assembly and of petition.

Article XIII

The administering authority may arrange for the co-operation of Western Samoa in any regional advisory commission, regional technical organization or other voluntary association of states, any specialized international bodies, public or private, or other forms of international activity not inconsistent with the Charter of the United Nations.

Article XIV

The administering authority shall make to the General Assembly of the United Nations an annual report on the basis of a questionnaire drawn up by the Trusteeship Council in accordance with the Charter of the United Nations and shall otherwise collaborate fully with the Trusteeship Council in the discharge of all the Council's functions in accordance with Articles 87 and 88 of the Charter. The administering authority shall arrange to be represented at the sessions of the Trusteeship Council at which the reports of the administering authority with regard to Western Samoa are considered.

Article XV

The terms of this agreement shall not be altered or amended except as provided in Article 79 of the Charter of the United Nations.

Article XVI

If any dispute should arise between the administering authority and another member of the United Nations, relating to the interpretation or application of the provisions of this agreement, such dispute, if it cannot be settled by negotiation or similar means, shall be submitted to the International Court of Justice.

APPENDIX TO TRUSTEESHIP AGREEMENT FOR WESTERN SAMOA
TEXT OF CHAPTERS XII AND XIII OF THE CHARTER OF THE UNITED
NATIONS

CHAPTER XII.—INTERNATIONAL TRUSTEESHIP SYSTEM

Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

Article 76

The basic objectives of the trusteeship system, in accordance with the purposes of the United Nations laid down in Article 1 of the present Charter, shall be :

- (a) To further international peace and security ;
- (b) To promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement ;
- (c) To encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world ; and
- (d) To ensure equal treatment in social, economic, and commercial matters for all members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements :

- (a) Territories now held under mandate ;
- (b) Territories which may be detached from enemy states as a result of the Second World War ; and
- (c) Territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

Article 78

The trusteeship system shall not apply to territories which have become members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

Article 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

Article 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states of the Organization itself.

Article 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

Article 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

Article 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory

in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defence and the maintenance of law and order within the trust territory.

Article 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendments, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

CHAPTER XIII.—THE TRUSTEESHIP COUNCIL

COMPOSITION

Article 86

1. The Trusteeship Council shall consist of the following members of the United Nations :

- (a) Those members administering trust territories ;
- (b) Such of those members mentioned by name in Article 23 as are not administering trust territories ; and
- (c) As many other members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

FUNCTIONS AND POWERS

Article 87

The General Assembly, and under its authority, the Trusteeship Council, in carrying out their functions, may :

- (a) Consider reports submitted by the administering authority ;
- (b) Accept petitions and examine them in consultation with the administering authority ;
- (c) Provide for periodic visits to the respective trust territories at times agreed upon with the administering authority ; and
- (d) Take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

VOTING

Article 89

1. Each member of the Trusteeship Council shall have one vote.
2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

PROCEDURE

Article 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Article 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

SECOND SCHEDULE

ENACTMENTS REPEALED

- 1921, No. 16.—The Samoa Act, 1921: sections 5, 6 (1), 31, 32, 46 to 52, 61, and 62. (See Reprint of Statutes, Vol. II, p. 791.)
- 1923, No. 24.—The Samoa Amendment Act, 1923: sections 2, 5, 6, and 7. (See Reprint of Statutes, Vol. II, p. 872.)
- 1926, No. 25.—The Samoa Amendment Act, 1926: sections 3 and 5. (See Reprint of Statutes, Vol. II, p. 874.)