



SUPPLEMENT

TO THE

NEW ZEALAND GAZETTE

OF

THURSDAY, MAY 20, 1920.

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THE SAMOA CONSTITUTION ORDER, 1920.

ANALYSIS.

Title.

Preamble.

1. Short Title.
2. Commencement.
3. Application.
4. Interpretation.

PART I.

THE EXECUTIVE GOVERNMENT OF SAMOA.

5. Executive Government vested in the Crown.

*The Administrator.*

6. Administrator of Western Samoa.
7. Deputy Administrator of Western Samoa.
8. Acting Administrator.
9. Incapacity of Administrator by reason of sickness.

*The Samoan Public Service.*

10. Samoan Public Service.
11. Delegation of power of appointment to Administrator.
12. Regulations as to Samoan Public Service.
13. Payment from Samoan Treasury.
14. Appointment of acting officers by Administrator.
15. Suspension of officers.
16. Appointment of New Zealand officers to Samoan Public Service.
17. Status of officers belonging to both services.

18. New Zealand officers in Samoa to be deemed absent on leave.
19. Contributions to Superannuation Fund.
20. Transfer from New Zealand Service to Samoan Service.
21. Pay of supernumerary officers.
22. Appointment of supernumerary officers to New Zealand Service.
23. Contributions of supernumerary officers to Superannuation Fund.
24. Computation of length of service in Samoa.
25. Public Service Act, 1912, not applicable.
26. Superannuation Acts not applicable.
27. Appointments in anticipation of vacancies.

*The Samoan Treasury.*

28. Moneys forming part of Samoan revenue.
29. Samoan Treasury.
30. Treasurer of Samoa.
31. Expenditure of Samoa.
32. Regulations as to revenue and expenditure.
33. Expenditure by Administrator.
34. Loans to Samoan Treasury.

*Public Health.*

35. Chief Medical Officer of Samoa.
36. Assistant Medical Officers.
37. Qualification of Medical Officers.
38. Duties of Medical Officers.
39. Hospitals and other institutions of public health.

*Prisons and Police.*

40. Establishment of prisons.
41. Detention, and removal from one prison to another.
42. Temporary confinement elsewhere than in prison.
43. Appointment of officers of police and prisons.

*Education.*

44. Establishment of public schools.

*The Seal of Samoa.*

45. The Seal of Western Samoa.

## PART II.

## THE LEGISLATIVE GOVERNMENT OF SAMOA.

46. Administrator may make Ordinances.
47. Legislative Council of Western Samoa.
48. Membership of Legislative Council.
49. Meetings of Legislative Council.
50. Administrator to preside at meetings of Council.
51. Quorum.
52. Rules of procedure.
53. Clerk of Legislative Council.
54. Assent of Administrator.
55. Commencement of Ordinances so assented to.
56. Transmission to Minister of Ordinances so assented to.
57. Disallowance of Ordinances.
58. Language of Ordinances.
59. Publication in *Western Samoa Gazette*.
60. Partial validity of Ordinances.
61. Scope of Ordinances.
62. Limitation of powers of Legislative or Executive Government of Samoa.

## PART III.

## THE HIGH COURT OF WESTERN SAMOA.

63. High Court established.
64. Judges and Commissioners of the High Court.
65. Tenure and salaries of Judges and Commissioners.
66. Powers of Judges.
67. Commissioners of the High Court.
68. Registrar of the High Court.
69. Deputy Registrars.
70. Administrative officers.
71. Seal of the High Court.
72. Records of the High Court.
73. Jurisdiction of the High Court.
74. Rules and procedure of Court.
75. Memorials and execution of judgments.
76. Contempt of Court defined.
77. Punishment of contempt.
78. Jurisdiction of Court in offences of contempt.
79. Discharge of persons in contempt.

## PART IV.

## THE SUPREME COURT OF NEW ZEALAND.

*Jurisdiction of the Supreme Court in Samoa.*

80. Civil jurisdiction of Supreme Court extends to Samoa.
81. Criminal jurisdiction of Supreme Court in respect of Samoa.

*Cases stated by the High Court.*

82. High Court may state a case for the Supreme Court.

*Appeals from the High Court.*

83. Jurisdiction of Supreme Court on appeal from the High Court.
84. Order granting leave to appeal.
85. Transmission of record.
86. Dismissal of appeal for non-prosecution.
87. Procedure on appeal.
88. Special leave to appeal may be granted by the Supreme Court.
89. Powers of Supreme Court on appeal.
90. Evidence on appeal.
91. Stay of execution.
92. Release of appellant from custody.
93. Appeal not to be allowed for irregularities in procedure.
94. Right of audience on appeal.
95. Transmission of order of Supreme Court on appeal.

96. No appeal to the Court of Appeal.
97. Certiorari, mandamus, and prohibition taken away.

*Enforcement in Samoa of Judgments of New Zealand Courts.*

98. Judgments of Supreme Court or Magistrate's Court in New Zealand may be enforced by the High Court.
99. Enforcement of judgments of Supreme Court by High Court by way of proceedings for contempt.

## PART V.

## CRIMINAL OFFENCES.

100. Treason.
101. Inciting to mutiny.
102. Seditious offences.
103. Murder.
104. Manslaughter.
105. "Omission" defined.
106. Omissions dangerous to life.
107. Omission to supply the necessaries of life.
108. Liability of persons having charge of dangerous things.
109. Hastening death.
110. Indirect cause of death.
111. Attempted murder.
112. Conspiracy and inciting to murder.
113. Attempted suicide.
114. Counselling suicide.
115. Concealment of birth.
116. Grievous bodily harm.
117. Actual bodily harm.
118. Acts or omissions causing bodily harm under circumstances that if death had been caused would have made person causing harm guilty of manslaughter.
119. Indecent assault.
120. Assault.
121. Rape.
122. Carnal knowledge of girl under twelve years of age.
123. Carnal knowledge of idiots or lunatics.
124. Adultery by married persons.
125. Adultery with married woman.
126. Procuring miscarriage of woman or girl.
127. Act of woman or girl procuring her own miscarriage.
128. Supplying means of miscarriage.
129. Bigamy.
130. Buggery.
131. Attempted buggery and indecent assaults on males.
132. Incest.
133. Indecent acts.
134. Indecent documents.
135. Brothels.
136. Gaming-houses.
137. Gaming.
138. Stealing children.
139. Riot.
140. Forcible entry.
141. Affrays.
142. Official corruption.
143. Perjury.
144. Fabricating evidence.
145. Conspiracy to pervert justice.
146. Breaking prison.
147. Escape.
148. Rescue.
149. Defamatory libel.
150. Threatening, abusive, or insulting words or behaviour towards or in respect of officials.
151. Punishment of theft.
152. Definition of theft.
153. Ineffectual defences to charge of theft.
154. Extended definition of theft.
155. Obtaining money or goods by false pretences to be deemed theft.
156. Stealing documents.
157. Receiving stolen property.
158. Robbery.
159. Breach of trust.
160. Menaces.
161. Witchcraft.
162. Obtaining credit by fraud.
163. Accusation of criminal offences.
164. Conspiracy to defraud.
165. Obtaining execution of valuable securities by fraud.
166. Burglary.
167. Forgery.

- 168. Extended definition of forgery.
- 169. Making counterfeit coin.
- 170. Lightening coin.
- 171. Uttering counterfeit coin.
- 172. Arson.
- 173. Wilful mischief to property.
- 174. Provoking breach of the peace.
- 175. Disorderly conduct in public places.
- 176. Furious driving.
- 177. Cattle trespass.
- 178. Obstructing public place.
- 179. Drunkenness.
- 180. Prostitution.
- 181. Laying poison.
- 182. Polluting water.
- 183. Sale of unwholesome provisions.
- 184. Insanitary premises.
- 185. Wilful trespass.
- 186. Cruelty to animals.
- 187. Falsely trading as an incorporated company.
- 188. Conspiracy.
- 189. Attempts.
- 190. Inciting.
- 191. Parties to offences.
- 192. Common criminal purpose.
- 193. Counselling or procuring.
- 194. Common-law defences.
- 195. Common-law offences.
- 196. Sentence of death.
- 197. Maximum fines and terms of imprisonment.
- 198. Enforcement of fines.
- 199. Imprisonment in Samoa.
- 200. Imprisonment and hard labour.
- 201. Transfer of prisoners to New Zealand.
- 202. Exile.
- 203. Cumulative sentences.

PART VI.

CRIMINAL PROCEDURE.

- 204. Jurisdiction of High Court.
- 205. Felonies and misdemeanours.
- 206. Information.
- 207. Warrant or summons.
- 208. Committal for trial or admission to bail where accused in custody.
- 209. Trial of accused in his absence.
- 210. Arrest without warrant.

Assessors.

- 211. Constitution of Court on criminal trials.
- 212. Court with assessors.
- 213. Court without assessors.
- 214. Discretion of Court as to assessors.
- 215. Number and qualifications of assessors.
- 216. Default of assessors.
- 217. Remuneration of assessors.
- 218. Oath of assessors.
- 219. Change of assessors.
- 220. Discharge of assessors and new trial.
- 221. Concurrence of assessors.
- 222. Concurrence of Court.
- 223. Sentence.
- 224. Concurrence of assessors not necessary except for conviction.

Miscellaneous.

- 225. Alternative and cumulative charges.
- 226. Relation between information and conviction.
- 227. Withdrawal of information.
- 228. Drawing-up of conviction.
- 229. Defects of information, summons, or warrant.
- 230. Payment of witnesses.
- 231. Conviction without sentence.
- 232. Bail.
- 233. Stay of proceedings by Attorney-General.
- 234. Search-warrants.
- 235. Pardon and remission of sentence.

PART VII.

LAW OF EVIDENCE.

- 236. Definitions.
- 237. Discretionary power of admitting evidence.
- 238. Discretionary power of rejecting evidence.
- 239. All witnesses competent.
- 240. Evidence of parties and their husbands and wives.
- 241. Evidence of accused persons and their husbands and wives.
- 242. Cross-examination as to credit.
- 243. Criminating questions.

- 244. Evidence of prisoners.
- 245. Judicial notice.
- 246. Judicial notice.
- 247. Power to administer oaths or to take affirmations.
- 248. Form of oath.
- 249. Form of oath.
- 250. Absence of religious belief.
- 251. Affirmation in lieu of oath.
- 252. Evidence of children without oath.
- 253. Necessity of oath.

PART VIII.

CROWN SUITS.

- 254. Prosecution of claims against His Majesty.
- 255. Authority of Attorney-General and Solicitor-General.
- 256. Prosecution of claims by His Majesty.
- 257. Warrant to sue in name and on behalf of His Majesty.

PART IX.

LAND.

- 258. Classification of land in Samoa.

Crown Land.

- 259. Grants of Crown land.
- 260. Reserves of Crown lands for public purposes.
- 261. Taking of land for public purposes.
- 262. Resumption of Crown land for public purposes.
- 263. Purchase of land for public purposes.
- 264. Control of Crown land by Administrator.
- 265. "Public purpose" defined.
- 266. Foreshore and tidal lands and waters.

European Land.

- 267. Ownership in European land.

Native Land.

- 268. Ownership in Native land.
- 269. Saving of existing interests in Native land.
- 270. Alienation of land by Samoans.
- 271. Native title not to avail against the Crown.
- 272. Proclamation to be conclusive as to Native title.
- 273. No alienation of land by the Crown to be invalid by reason of Native title thereto not having been duly extinguished.

PART X.

MARRIAGE.

- 274. Prohibited degrees of consanguinity.
- 275. Marriages to take place before marriage officer.
- 276. "Marriage officer" defined.
- 277. Appointment of marriage officers.
- 278. Offence.
- 279. Notice of marriage.
- 280. Mode of solemnization.
- 281. Record of marriage.
- 282. Signature of record.
- 283. Transmission of record.
- 284. Minimum age of marriage.
- 285. Marriage of minors.
- 286. Offence.
- 287. Offence.
- 288. Offence.
- 289. Legitimation *per subsequens matrimonium*.

PART XI.

DIVORCE.

- 290. Jurisdiction of High Court.
- 291. Limitation of jurisdiction.
- 292. Nullity of marriage.
- 293. Grounds of divorce.
- 294. Grounds of refusal of divorce.
- 295. Domicile of deserted wife.
- 296. Co-respondent as a party.
- 297. Intervention.
- 298. Agreement no bar to divorce.
- 299. No appeal to Supreme Court.
- 300. Remarriage of divorced persons.
- 301. Costs.
- 302. Order for maintenance of divorced wife.
- 303. Order for custody of children.
- 304. Molestation of divorced wife by her husband.
- 305. Jurisdiction of Supreme Court.

## PART XII.

## PERSONS OF UNSOUND MIND.

*Orders of Medical Custody.*

- 306. Application by Chief Medical Officer to High Court.
- 307. Hearing of application.
- 308. Order of medical custody.
- 309. Renewal of order.
- 310. Cancellation of order.
- 311. Discharge from custody.
- 312. Arrest and detention of persons committed to medical custody.
- 313. Removal from Samoa to New Zealand.
- 314. Conditions of removal.
- 315. Method of removal.
- 316. Persons so removed to New Zealand to be brought before a Magistrate.
- 317. Magistrate may make a reception order.
- 318. Warrant for arrest of persons of unsound mind.
- 319. Arrest of persons of unsound mind without warrant.

*Criminal Lunatics.*

- 320. Insane persons not to be tried for offences.
- 321. Detention of accused persons acquitted on ground of insanity.
- 322. Discharge.
- 323. Orders of medical custody of criminal lunatics.
- 324. Defence of insanity in criminal prosecutions.

## PART XIII.

## INTOXICATING LIQUOR.

- 325. Manufacture of intoxicating liquor prohibited.
- 326. Importation of intoxicating liquor prohibited.
- 327. Sale of intoxicating liquor prohibited.
- 328. Giving intoxicating liquor to a Samoan prohibited.
- 329. Administrator may import liquor for medical services or for sale.
- 330. "Intoxicating liquor" defined.

## PART XIV.

## THE PUBLIC TRUSTEE.

- 331. Authority, powers, and functions of Public Trustee extended to Samoa.
- 332. Public Trustee as executor of a will.
- 333. Grant to Public Trustee of letters of administration.
- 334. Removal of executor or administrator from office, and appointment of Public Trustee.
- 335. Appointment of Public Trustee as trustee by High Court.
- 336. Appointment of Public Trustee as trustee by persons settling property or having power to appoint trustee.
- 337. Appointment of Public Trustee as committee of estate of person of unsound mind.
- 338. Regulations or Ordinances as to insolvent and other estates.
- 339. Powers and functions of Public Trustee.
- 340. Remuneration of Public Trustee.
- 341. Samoan Deputy Public Trustee.
- 342. Power of delegation.
- 343. Profits of Public Trustee.

## PART XV.

## ROADS.

- 344. "Road" defined.
- 345. Existing roads.
- 346. Proclamation of existing roads.
- 347. Proclamation of new roads.
- 348. Roads to be vested in the Crown. Formation, maintenance, and repair.
- 349. Closing of roads.
- 350. Warrant as to roads to be gazetted.

## PART XVI.

## THE LAWS OF SAMOA: GENERAL PROVISIONS.

- 351. Law of England as in the year 1840 to be in force in Samoa. Jurisdiction of the High Court.
- 352. Common law and equity to be administered concurrently.
- 353. Statute law of New Zealand not applicable to Samoa.
- 354. Statute of Frauds and Statute of Frauds Amendment Act, 1828, not in force in Samoa.
- 355. Common law rules disqualifying aliens from acquiring or holding land not in force in Samoa.
- 356. When Act in force in Samoa amendments and regulations to be in force also.
- 357. Acts in force in Samoa to be read subject to this Order.
- 358. Criminal procedure in Samoa.
- 359. Copyright Act, 1913, in force in Samoa.
- 360. Patents, Designs, and Trade-marks Act, 1911, in force in Samoa.
- 361. Prescription and limitation of actions.
- 362. Legal capacity and status of married women.
- 363. Employer's liability.
- 364. No distress for rent.
- 365. Calendar of Samoa.
- 366. Banking.
- 367. Currency.
- 368. Statutory declarations.
- 369. Contracts by Samoans.
- 370. Securities given by Samoans.
- 371. Succession to property of Samoans.
- 372. Warrants of arrest.
- 373. Application of specific Acts.
- 374. Acts Interpretation Act, 1908, in force in Samoa.

## PART XVII.

## TRANSITORY PROVISIONS.

- 375. Repeal of existing laws and abolition of Courts and public offices of Samoa.
- 376. Saving of existing rights and liabilities.
- 377. Taxes, fees, and assessments to continue until abolished.
- 378. Property of German Government to vest in His Majesty.
- 379. Continuance of corporate bodies.
- 380. Appointments.
- 381. Military government to continue until commencement of Order.
- 382. Debts, liabilities, and assets of the military administration of Samoa. Schedules.

## SAMOA CONSTITUTION ORDER, 1920.

LIVERPOOL, Governor-General.

## ORDER IN COUNCIL.

At the Government Buildings at Wellington, this first day of April, 1920.

Present :

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

**W**HEREAS the Territory of Western Samoa as defined in the First Schedule to this Order has during the late war with Germany been in the military occupation of His Majesty's Forces : And whereas by a Treaty of Peace signed on behalf of His Majesty at Versailles on the twenty-eighth day of June, nineteen hundred and nineteen, the Government of Germany has renounced all right and title to that Territory in favour of the Principal Allied and Associated Powers being parties to that treaty : And whereas it has been agreed between the said Principal Allied and Associated Powers that the said Territory shall be administered by His Majesty in his Government of the Dominion of New Zealand : And whereas by Order in Council intituled the Western Samoa Order in Council, 1920, and made on the eleventh day of March, nineteen hundred and twenty, in pursuance of the Imperial Act known as the Foreign Jurisdiction Act, 1890, His Majesty, with the advice of His Privy Council, has been pleased accordingly to authorize and empower the Parliament of New Zealand to make laws for the peace, order, and good government of the said Territory, and has been further pleased to provide that, subject to the authority so conferred upon the Parliament of New Zealand, and until that Parliament has otherwise provided, the Executive Government of New Zealand may by Order in Council exercise the like authority to make laws for the peace, order, and good government of the said Territory : And whereas by the Treaties of Peace Act, 1919, the Parliament of New Zealand has approved and authorized the exercise by the said Executive Government of any authority which may be so conferred by His Majesty, and has further empowered the said Executive Government to make by Order in Council such provisions as may be thought necessary in New Zealand for the due and effective exercise of the authority so conferred for the government of the said Territory, and has enacted that all such provisions so made shall have the force of law in New Zealand : And whereas it is expedient that laws should now be made accordingly by the Executive Government of New Zealand for the peace, order, and good government of the said Territory of Western Samoa :

NOW, THEREFORE, I, Arthur William de Brito Savile, Earl of Liverpool, the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the Western Samoa Order in Council, 1920, hereinbefore recited, and in pursuance of the Treaties of Peace Act, 1919, and of all other powers and authorities enabling me in that behalf, do hereby order as follows:—

1. This Order in Council may be cited as the Samoa Constitution Order, 1920. Short Title.

2. Save so far as other provision is expressly made herein, this Order shall come into operation on the first day of May, nineteen hundred and twenty. Commencement.

Application.

3. Except so far as a contrary intention appears, this Order shall apply to Samoa only, and not to New Zealand.

Interpretation.

4. In this Order, and in every other Order in Council or Ordinance which may be made for the government of Samoa, except where a contrary intention appears,—

“Administrator” means the Administrator of Western Samoa appointed under this Order :

“Constable” means an officer of police of any rank in the Samoan Public Service :

“Enactment” includes any Act, Ordinance, or regulation :

“European” means any person other than a Samoan :

“High Court” means the High Court of Western Samoa :

“Judgment” includes any judicial decree, order, or determination, whether in an action or in any other judicial proceeding, whether civil or criminal :

“Medical Officer” means a Chief Medical Officer or an Assistant Medical Officer under this Order :

“Minister” means the Minister of External Affairs :

“New Zealand Public Service” means the service of His Majesty in respect of the government of New Zealand, including service in New Zealand in respect of Samoa :

“Ordinance” means an Ordinance made with the advice and consent of the Legislative Council of Western Samoa under the authority of this Order :

“Polynesian” includes Melanesian, Micronesian, and Maori :

“Public place” means any road, any place of public resort open to or used by the public as of right, any wharf or jetty, any church or other building where Divine service is being publicly held, any hall or room in which any public entertainment is being held, and any market-place :

“Regulations” means regulations made by the Governor-General in Council :

“Rules of Court” means rules or regulations governing the practice or procedure of the Court in question, and made by the proper authority in that behalf :

“Samoa” or “the Territory” means the Territory of Western Samoa as defined in the First Schedule to this Order :

“Samoan” means a person belonging to the Polynesian race, whether by pure or mixed descent ; but does not include—  
(a.) Persons registered as Europeans in accordance with any regulations or Ordinance in force in Samoa ; or  
(b.) The legitimate children of a father who is a European either by birth or by registration as aforesaid :

“Samoan Public Service” means the service of His Majesty in respect of the government of Samoa other than service in New Zealand :

“Superannuation Acts” means the Acts by which the superannuation funds are established and regulated :

“Superannuation funds” means the Public Service Superannuation Fund, the Government Railways Superannuation Fund, the Teachers’ Superannuation Fund, and any other like fund which may hereafter be established in respect of the New Zealand Public Service.

## PART I.

### THE EXECUTIVE GOVERNMENT OF SAMOA.

Executive government vested in the Crown.

5. The executive government of Samoa is hereby declared to be vested in His Majesty the King in the same manner as if the Territory was part of his Majesty’s dominions.

*The Administrator.*

6. There shall be an Administrator 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 of External Affairs, be charged with the administration of the executive government of the Territory, save so far as other provision is made in that behalf by this Order.

Administrator of  
Western Samoa.

7. (1.) The Chief Judge of the High Court shall *ex officio* be the Deputy Administrator of Western Samoa.

Deputy Admin-  
istrator of Western  
Samoa.

(2.) While the office of Administrator is vacant the Deputy shall, without further authority or appointment, assume and exercise all the powers of the Administrator, and all the provisions of this Order or of any other enactment with respect to the Administrator shall extend and apply to the Deputy accordingly.

(3.) The authority of the Deputy so to act as aforesaid shall continue until a new Administrator has been appointed and has assumed the duties of his office in Samoa.

8. (1.) If at any time the Administrator is incapable by reason of sickness or otherwise of performing the duties of his office, or is or proposes to be absent from the Territory, he may by warrant under the seal of Samoa authorize the Deputy Administrator to act as Acting Administrator during the period of such incapacity or absence.

Acting  
Administrator.

(2.) Any such warrant may limit, in such manner as the Administrator thinks fit, the authority of the Deputy with respect to the matters to which such authority extends.

(3.) Subject to any limitations so expressed in the warrant, the Deputy so authorized may exercise all the powers of the Administrator both in respect of his office as such and in respect of any other offices held by him concurrently with his office as Administrator.

(4.) Any such authority may be at any time revoked by the Administrator.

(5.) No such warrant of authority, and no act done in pursuance thereof by the Deputy, shall be questioned or invalidated on the ground that the occasion for such warrant or for the exercise of the powers of the Deputy had not arisen or had ceased, and no act done by the Administrator shall be questioned or invalidated on the ground that any such warrant of authority was still in force.

9. If at any time the Administrator is certified by a Medical Officer to be incapable by reason of sickness of executing any such warrant of authority, the Deputy Administrator may, without further authority or appointment, assume and exercise all the powers of the Administrator (both in respect of his office as such and in respect of any other office held by him concurrently with his office as Administrator) until notified by the Administrator in writing that he has resumed the execution of his office; but no act done at any time by the Administrator shall be invalidated by the fact that the powers of the Deputy had not been lawfully determined in manner aforesaid.

Incapacity of  
Administrator by  
reason of sickness.*The Samoan Public Service.*

10. (1.) The Minister of External Affairs may appoint to the Samoan Public Service, to hold office during his pleasure, such other officers as he thinks necessary for the government of the Territory.

Samoan Public  
Service.

(2.) No person shall be qualified for appointment to any office in the Samoan Public Service unless he is either a natural-born British subject, or a Samoan, or was born in Samoa.

11. (1.) The Minister of External Affairs may, if and so far as he thinks fit, delegate to the Administrator the power of making appointments to offices in the Samoan Public Service, and all persons so appointed shall hold office at the pleasure of the person who for the time being has the power of making such appointment.

Delegation of power  
of appointment to  
Administrator.

(2.) Any such delegation may at any time be revoked by the Minister.

Regulations as to  
Samoan Public  
Service.

12. (1.) The pay, allowances, control, discipline, and management of the Samoan Public Service shall be in accordance with such regulations as may from time to time be made by the Governor-General in Council in that behalf.

(2.) Subject to any such regulations, officers of the Samoan Public Service shall receive such pay and allowances as the Minister thinks fit, or, in the case of officers appointed by the Administrator, such pay and allowances as the Administrator thinks fit.

Payment from  
Samoan Treasury.

13. The pay and allowances of officers of the Samoan Public Service shall be paid out of the Samoan Treasury and shall be a first charge thereon.

Appointment of  
acting officers by  
Administrator.

14. When an officer of the Samoan Public Service, other than a Judge of the High Court, is absent from the Territory, or is suspended from his office, or is in the opinion of the Administrator incapable by reason of sickness or otherwise of performing the duties of his office, or when his office is vacant, the Administrator may appoint any other fit person to execute that office temporarily during such absence, suspension, incapacity, or vacancy.

Suspension of  
officers.

15. (1.) The Administrator may, for misconduct or any other sufficient cause, suspend from the execution of his office any officer of the Samoan Public Service, other than a Judge of the High Court.

(2.) The Administrator shall forthwith report such suspension, together with the reason therefor, to the Minister, who may either continue or terminate such suspension.

(3.) If an officer while remaining so suspended is dismissed from or resigns his office he shall not, unless the Minister otherwise directs, be entitled to receive any salary in respect of the period of his suspension.

Appointment of  
New Zealand  
officers to Samoan  
Public Service.

16. (1.) The holder of an office in the New Zealand Public Service may be appointed to an office in the Samoan Public Service, and both offices may be held by him concurrently.

(2.) No officer of the New Zealand Public Service shall be first appointed to the Samoan Public Service without the consent of the Public Service Commissioner, in the case of officers who are subject to the Public Service Act, 1912, or in any other case without the consent of the Minister in charge of the Department of the New Zealand Public Service to which the officer belongs.

Status of officers  
belonging to both  
services.

17. When an officer so holds concurrent offices in both services, his status, rights, and liabilities in each service shall be unaffected by the fact that he holds office in the other service; and in respect of each office he shall be subject to the laws governing the service to which that office belongs irrespective of his tenure of an office in the other service; and he shall in respect of each service be qualified for promotion, increase of salary, and appointment to any other office in the same manner as if he held no office in the other service.

New Zealand officers  
in Samoa to be  
deemed absent on  
leave.

18. So long as an officer so holds concurrent offices in both services he shall be deemed to be absent on leave without pay from his duty as an officer of the New Zealand Public Service.

Contributions to  
superannuation  
fund.

19. So long as an officer so holds concurrent offices in both services and is a contributor to any superannuation fund in respect of his office in the New Zealand Public Service the salary received by him in respect of his office in the Samoan Public Service (exclusive of any tropical or other special allowance received by him in respect of his residence in Samoa) shall be deemed to be his salary for the purposes of the Superannuation Act by which that superannuation fund is governed, and his contributions shall be payable and his retiring-allowance shall be computed accordingly.

Transfer from New  
Zealand Service  
to Samoan Service.

20. When an officer of the New Zealand Public Service is appointed to an office in the Samoan Public Service, and then or thereafter ceases to hold office in the New Zealand Public Service, he shall not be deemed for that reason to have retired from the New Zealand Public Service, but shall become a supernumerary officer of that service attached to the Department in which he formerly held office, and shall so remain so long as he continues to hold any office in the Samoan Public Service.



21. Such supernumerary officers shall receive no pay in respect of the New Zealand Public Service, but shall for all other purposes be deemed to remain officers of that service and of the Department thereof to which they are so attached. Pay of supernumerary officers.

22. Any such supernumerary officer shall, so long as he remains an officer of the Samoan Public Service, be qualified for appointment to any office in the New Zealand Public Service for which he would have been qualified had he remained an active member of that service, and on receiving such appointment he shall cease to be an officer of the Samoan Public Service. Appointment of supernumerary officers to New Zealand Service.

23. When any officer is, at the time when he becomes a supernumerary officer as aforesaid, a contributor to any superannuation fund, the salary which he receives as an officer of the Samoan Public Service (exclusive of any tropical or other special allowance received by him in respect of his residence in Samoa) shall be deemed to be his salary for the purposes of that fund, and contributions thereto shall continue to be made by him accordingly. Contributions of supernumerary officers to superannuation fund.

24. In computing for the purposes of any Superannuation Act the length of service of any officer who is or has been a supernumerary officer of the New Zealand Public Service, or who holds or has held offices concurrently in that service and in the Samoan Public Service, every complete continuous year of his service, after the commencement of this Order, in the Samoan Public Service shall be computed as one year and a half. Computation of length of service in Samoa.

25. The Public Service Act, 1912, shall have no application to the Samoan Public Service or to officers of the New Zealand Public Service in their capacity as officers of the Samoan Public Service. Public Service Act, 1912, not applicable.

26. Save as expressly provided by this Order, the Superannuation Acts shall have no application to the Samoan Public Service. Superannuation Acts not applicable.

27. An appointment to an office in the Samoan Public Service may be made to take effect at a future date, not being later than one month after the date of appointment, notwithstanding the fact that the office is not yet vacant at the date of appointment. Appointments in anticipation of vacancies.

#### *The Samoan Treasury.*

28. The Public revenues of Samoa shall consist of— Moneys forming part of Samoan revenue.

- (a.) Revenues of Customs collected in the Territory ;
- (b.) Court and other fees received in the Territory ;
- (c.) Taxes imposed by any Act, Ordinance, or regulation
- (d.) Rents and profits of Crown lands in the Territory, save where otherwise provided by Order in Council ;
- (e.) Revenues derived from the Post and Telegraph service in the Territory ;
- (f.) All other revenues derived by the Crown from the Territory ; and
- (g.) Moneys issued from the Public Account by way of loan to the Samoan Treasury in accordance with the provisions of this Order in that behalf.

29. The public revenues of Samoa shall constitute a single fund to be known as the Samoan Treasury. Samoan Treasury.

30. There shall be an officer of the Samoan Public Service, to be called the Treasurer of Western Samoa, who shall be charged with the receipt, custody, accounts, and expenditure of the moneys of the Samoan Treasury. Treasurer of Samoa.

31. All expenditure in respect of Samoa shall be payable out of the Samoan Treasury, except so far as any such expenditure is otherwise provided for by Parliament as payable out of the public revenues of New Zealand. Expenditure of Samoa.

32. The collection, expenditure, and control of the public revenues of Samoa and the audit of the accounts of the Samoan Treasury shall be in accordance with such regulations as may from time to time be made by the Governor-General in Council in that behalf. Regulations as to revenue and expenditure.

Expenditure by  
Administrator.

33. Subject to such regulations and to the control of the Minister of External Affairs, all moneys in the Samoan Treasury may be expended by the Administrator for such public purposes in Samoa as he thinks fit.

Loans to Samoan  
Treasury.

34. (1.) Out of moneys appropriated by Parliament for that purpose the Minister of Finance may from time to time, under the authority of and in accordance with an authorizing Order in Council, issue out of the Public Account and pay into the Samoan Treasury by way of loan such sums as may be required by way of capital expenditure for the provision of public buildings, roads, harbour-works, water-supply, drainage, and other public works or purposes in Samoa.

(2.) Every such authorizing Order in Council shall specify the amount of the loan, the rate of interest payable, and the terms of repayment, and shall provide for the establishment and maintenance by the Samoan Treasury of a sinking fund under the control of the New Zealand Treasury sufficient to pay off the loan within a period not longer than thirty years.

(3.) For the purpose of enabling the Samoan Treasury to meet emergent necessities the Minister of Finance may from time to time, on the recommendation of the Controller and Auditor-General, make temporary advances to the Samoan Treasury out of moneys available in the Public Account for the unauthorized expenditure of the New Zealand Treasury, but all advances so made shall be repaid by the Samoan Treasury within six months after the making thereof.

(4.) All moneys payable by the Samoan Treasury in pursuance of this section shall be a first charge on the Samoan revenues after payment of the salaries and allowances of the Samoan Public Service.

#### *Public Health.*

Chief Medical  
Officer of  
Samoa.

35. (1.) There shall be an officer of the Samoan Public Service to be called the Chief Medical Officer of Western Samoa.

(2.) Such officer shall be charged, subject to the control of the Administrator, with the administration of all laws relating to public health, quarantine, lunacy, hospitals, and medical aid.

Assistant Medical  
Officers.

36. The Minister may appoint such Assistant Medical Officers as he may think necessary to assist the Chief Medical Officer in the execution of his duty.

Qualification of  
Medical Officers.

37. No person shall be qualified for appointment as a Medical Officer unless he is duly registered in New Zealand as a medical practitioner under the laws there in force in that behalf.

Duties of Medical  
Officers.

38. (1.) It shall be the duty of the Medical Officers to provide for all persons in Samoa such medical and surgical aid and attendance as may be reasonably required and is reasonably practicable.

(2.) Such medical and surgical aid and attendance shall be subject to the payment of such fees (if any) as may be prescribed by the Administrator; and all such fees shall form part of the public revenues of Samoa.

(3.) No liability shall be incurred by His Majesty in respect of any neglect to provide such medical or surgical aid or attendance, or in respect of any negligence of a Medical Officer in the execution of his office.

Hospitals and  
other institutions  
of public health.

39. The Administrator shall establish and maintain in Samoa such hospitals and other institutions as he may deem necessary for the public health, and all institutions so established shall be under the control of the Chief Medical Officer.

#### *Prisons and Police.*

Establishment of  
prisons.

40. The Administrator shall by warrant under his hand and the seal of Samoa appoint as prisons such buildings or places in the Territory as he thinks suitable for that purpose.

41. Any person in lawful custody in Samoa may be detained in any such prison, and may from time to time be removed by order of the Administrator or of a Judge of the High Court from one prison to another.

Detention, and removal from one prison to another.

42. Any person in lawful custody in Samoa may, if it is inconvenient or impracticable immediately to take him to any prison for confinement therein, be temporarily detained in any other suitable place of security.

Temporary confinement elsewhere than in prison.

43. The Minister may appoint such persons as he thinks fit as officers of police or officers of prisons in Samoa.

Appointment of officers of police and prisons.

#### *Education.*

44. (1.) The Administrator may establish and maintain such public schools in Samoa as he deems necessary for the education of the Samoan or other inhabitants thereof.

Establishment of public schools.

(2.) The Minister may appoint such teachers and other officers as may be deemed necessary for such schools.

(3.) When any teacher or other officer so appointed is at the time of his appointment a contributor to the Teachers' Superannuation Fund his service in Samoa shall be deemed to be education service for the purposes of that fund, and he shall continue to be a contributor thereto accordingly, but his salary for the purposes of that fund shall not be deemed to include any tropical or other special allowance received by him in respect to his residence in Samoa.

(4.) In computing for the purposes of that fund the length of service of any such contributor every complete continuous year of his service, after the commencement of this Act, in the Samoan Public Service shall be computed as one year and a half.

#### *The Seal of Samoa.*

45. (1.) There shall be a public seal of the Territory of Western Samoa, to be in such form or forms as the Minister from time to time approves.

The Seal of Western Samoa.

(2.) Such seal shall be in the custody respectively of the Minister and of the Administrator.

(3.) Such seal may be used for the authentication of any public document in relation to the government of Samoa, or for the execution of any document required by law to be executed under the seal of the Territory.

(4.) Judicial notice shall be taken of such seal in all Courts in Samoa and in New Zealand.

## PART II.

### THE LEGISLATIVE GOVERNMENT OF SAMOA.

46. The Administrator, acting with the advice and consent of the Legislative Council of Western Samoa, may make laws (to be known as Ordinances) for the peace, order, and good government of the Territory not being repugnant to this Order or to any Act of the Parliament of New Zealand or of the United Kingdom in force in the Territory or to any regulations there in force.

Administrator may make Ordinances.

47. There is hereby established in and for Samoa a Legislative Council, to be called the Legislative Council of Western Samoa.

Legislative Council of Western Samoa.

48. (1.) The Legislative Council shall consist of—

(a.) Official members (not less than four in number) being 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 Legislative Council :

Membership of Legislative Council.

(b.) Unofficial members (not more in number than the official members) being such other persons (if any) as the Governor-General appoints to hold office during his pleasure as members of the Legislative Council.

(2.) No person shall be qualified for appointment to the Legislative Council unless he is either a natural-born British subject, or a Samoan, or was born in Samoa.

(3.) Unofficial members of the Legislative Council may receive from the Samoan Treasury such remuneration or allowances (if any) as may be prescribed by regulations.

(4.) The powers of the Legislative Council shall not be affected by any vacancy in the membership thereof.

(5.) Every person who executes the office of an official member of the Council during a vacancy in 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 Council in the place of that official member.

Meetings of  
Legislative Council.

49. The Legislative Council shall meet at such times and at such places as the Administrator determines.

Administrator to  
preside at meetings  
of Council.

50. The Administrator shall be entitled to preside over every meeting of the Council; but if he is not present at any meeting the members of the Council there present may elect one of their number to preside over that meeting, who shall nevertheless be entitled to vote in the same manner as any other member.

Quorum.

51. No business shall be transacted at any meeting of the Council if the number of members present is less than one-half of the total number of the members of the Council.

Rules of procedure.

52. The Legislative Council may make rules regulating the procedure at the meetings thereof.

Clerk of Legislative  
Council.

53. There shall be an officer of the Samoan Public Service, to be called the Clerk of the Legislative Council, who shall keep the records of the Council and perform with respect to the Council such secretarial and other functions as may be required.

Assent of  
Administrator.

54. (1.) The assent of the Administrator to an Ordinance shall be testified by signing a printed copy of the Ordinance and sealing the same with the seal of Samoa.

(2.) The Administrator shall at the same time enter upon the copy so signed and sealed the date of his assent thereto.

Commencement of  
Ordinances  
so assented to.

55. Every Ordinance so assented to by the Administrator shall come into operation either on the day on which it is so assented to, or at any later date specified in that behalf in the Ordinance.

Transmission to  
Minister of  
Ordinances so  
assented to.

56. When the Administrator assents to an Ordinance he shall forthwith transmit a printed copy thereof to the Minister of External Affairs.

Disallowance of  
Ordinances.

57. (1.) At any time within one year after the assent of the Administrator has been so given to an Ordinance the Governor-General may, by notice published in the *New Zealand Gazette*, disallow that Ordinance either wholly or in part.

(2.) On any such disallowance the Ordinance shall, to the extent to which it is so disallowed, become wholly void as if it had been then repealed.

(3.) Any such disallowance shall take effect as aforesaid either on the day of the publication of the notice of disallowance in the *New Zealand Gazette* or at such later date as is specified in that behalf in the notice.

Language of  
Ordinances.

58. Every Ordinance may be passed either in the English language alone, or both in the English language and in the Native language of Samoa; but if, in the latter case, there is any conflict between the English and the Native version of the Ordinance, the English version shall prevail.

Publication in  
*Western Samoa  
Gazette.*

59. All Ordinances, together with such regulations, Orders in Council, Proclamations, warrants, appointments, and other instruments and acts relative to the government of Samoa as the Administrator thinks fit, shall be published in Samoa in an official gazette, to be known as the *Western Samoa Gazette*, and issued at such times and intervals as the Administrator may direct.

60. If any Ordinance is in part repugnant to any Act or regulation or is otherwise in part *ultra vires*, such Ordinance shall nevertheless be valid as to the residue thereof, if and so far as the residue is in substance and effect severable from the part which is so repugnant or *ultra vires*. Partial validity of Ordinances.

61. It shall not be lawful or competent by any Ordinance— Scope of Ordinances.

- (a.) To affect the prerogative of the Crown or the title of His Majesty to any land.
- (b.) To impose duties of Customs or export duties on goods imported into or exported from Samoa:
- (c.) To establish any body corporate:
- (d.) To establish any form of municipal or local government, possessed of rating, taxing, or legislative authority:
- (e.) To establish any form of paper currency:
- (f.) To provide as the penalty for an offence a term of imprisonment exceeding one year, or a pecuniary fine or penalty exceeding one hundred pounds.

62. It shall not be lawful or competent for the Legislative or Executive Government of Samoa— Limitation of powers of Legislative or Executive Government of Samoa.

- (a.) To establish or maintain any military or naval base or any fortifications in Samoa:
- (b.) To provide for the military training or service (otherwise than for the purposes of police) of the inhabitants of Samoa other than Europeans:
- (c.) To borrow money otherwise than from the New Zealand Treasury in accordance with the express provision of this Order in that behalf.

### PART III.

#### THE HIGH COURT OF WESTERN SAMOA.

63. There is hereby constituted and established in and for Samoa a Court of record, to be called the High Court of Western Samoa, for the administration of justice in the Territory. High Court established.

64. The High Court shall consist of one Judge, to be called the Chief Judge, and of such other Judges and Commissioners (if any) as the Minister of External Affairs may from time to time think necessary. Judges and Commissioners of the High Court.

65. The Judges and Commissioners of the High Court shall be appointed by the Minister and shall hold office during his pleasure, and shall receive out of the Samoan Treasury such salaries and allowances as he determines. Tenure and salaries of Judges and Commissioners.

66. Each Judge of the High Court, or any two or more Judges, may in any part of Samoa, and at any time or place, exercise all the powers of the High Court. Powers of Judges.

67. A Commissioner of the High Court shall possess and may exercise the jurisdiction of the High Court in the same manner as a Judge of that Court, with such exceptions and restrictions as may be prescribed by rules of Court. Commissioners of the High Court.

68. (1.) There shall be a Registrar of the High Court, to be appointed by the Minister and to hold office during his pleasure. Registrar of the High Court.

(2.) The Registrar shall keep the records of the High Court, and shall perform all such administrative duties in respect of that Court as the Chief Judge may from time to time direct.

69. The Minister may also appoint such Deputy Registrars of the High Court as he thinks necessary, who shall hold office during his pleasure, and who shall, subject to the control of the Registrar, possess, exercise, and perform the same powers, functions, and duties as the Registrar; and every reference in this Order to the Registrar of the High Court shall, so far as applicable, extend and apply to a Deputy Registrar accordingly. Deputy Registrars.

Administrative  
officers.

70. There shall be appointed in respect of the High Court such Sheriffs, bailiffs, clerks, interpreters, or other administrative officers as the Minister deems necessary.

Seal of the High  
Court.

71. The High Court shall have in the custody of each Judge, Commissioner, Registrar, and Deputy Registrar a seal of the Court, in such form or forms as the Chief Judge approves, for the sealing of all orders, warrants, records, and other instruments requiring to be sealed.

Records of the  
High Court.

72. The Registrar of the High Court shall keep proper books in which shall be entered minutes of all proceedings in the Court, whether in its civil or criminal jurisdiction.

Jurisdiction of the  
High Court.

73. (1.) The High Court shall, except so far as exclusive jurisdiction is conferred upon any other Court by any regulation or Ordinance, have all jurisdiction, whether civil or criminal, which may be necessary to administer the laws of Samoa, including jurisdiction to give declaratory judgments as to the rights of the parties in civil proceedings, although no consequential relief is or could be claimed in such proceedings.

(2.) Where in any civil proceeding the amount claimed does not exceed twenty pounds the Court shall be at liberty to give such judgment between the parties as it finds to stand with equity and good conscience.

Rules and pro-  
cedure of Court.

74. (1.) The rules of Court determining the practice, procedure, and powers of the High Court, whether in its civil or criminal jurisdiction, shall be such as may be made in that behalf by the Governor-General by Order in Council.

(2.) Subject to the provisions of this Order and of rules of Court, the practice and procedure of the High Court in the exercise of its civil and criminal jurisdiction shall be such as the Court thinks in each case to be most consistent with natural justice and convenience.

Memorials and  
execution of  
judgments.

75. (1.) Any person in whose favour any judgment whereby any sum of money is made payable has been obtained in civil proceedings in the High Court of Western Samoa may cause a memorial thereof, authenticated by the seal of the High Court, to be filed in any office of the Supreme Court of New Zealand.

(2.) Judicial notice may be taken by the Supreme Court of the seal of the High Court so affixed to any such memorial.

(3.) Every such memorial shall set forth the names and additions of the parties to the proceeding in which such judgment was given, the form or nature of the proceeding, the date on which the judgment was given, and the amount payable thereunder.

(4.) Every such memorial being so filed shall thenceforth be a record of such judgment, and execution may issue thereon with the leave of the Supreme Court, in the same manner as if the like judgment had been given by the Supreme Court, subject, however, to such terms and conditions as the Supreme Court may think fit to impose.

(5.) Leave to issue such execution may be given by the Supreme Court on the application of the party by whom the memorial was filed, and either *ex parte* or on notice to the party against whom execution is to be issued, as the Supreme Court thinks fit.

(6.) Such leave shall not be granted unless the Supreme Court is satisfied, by affidavit or otherwise,—

(a.) That the person against whom execution is to be issued was resident or present in Samoa at the commencement of the proceedings in which the judgment was given; or

(b.) That the cause of action in such proceedings or some material part of that cause of action arose in Samoa.

(7.) Every such affidavit shall, if made in Samoa, be sworn before a Judge or Commissioner of the High Court.

76. Every person is guilty of contempt of the High Court who—

(a.) Disobeys any judgment or order of that Court, or of any Judge or Commissioner thereof, otherwise than by making default in the payment of a sum of money (other than a penalty) payable under such judgment or order; or

Contempt of Court  
defined.

- (b.) Uses any abusive, insulting, offensive, or threatening words or behaviour in the presence or hearing of the Court; or
- (c.) Assaults, resists, or obstructs, or incites any other person to assault, resist, or obstruct, any constable or officer of the Court in serving any process of the Court, or executing any warrant of the Court or a Judge or Commissioner thereof, or executing any judgment or order of the Court or of a Judge or Commissioner thereof; or
- (d.) By any words or behaviour obstructs in any manner the proper and orderly administration of justice in the Court; or
- (e.) Does any other thing which elsewhere in this Order or by any Ordinance or regulation is declared to be a contempt of the High Court; or
- (f.) Aids, abets, counsels, procures, or incites any other person to commit a contempt of the High Court.

77. Every person who commits a contempt of the High Court shall be liable to a fine of fifty pounds or to imprisonment for six months. Punishment of contempt.

78. (1.) The offence of contempt of the High Court shall be punishable by the High Court either— Jurisdiction of Court in offences of contempt.

(a.) In the ordinary course of the criminal jurisdiction of that Court; or

(b.) In accordance with the following provisions of this clause.

(2.) If the contempt is committed in the presence or hearing of the Court, any Judge or Commissioner then and there sitting in Court may, without order or warrant, direct any constable, officer of the Court, or other person to arrest the person so guilty of contempt and to bring him before the Court.

(3.) The Court may thereupon, after giving the person so arrested a reasonable opportunity of being heard in his defence, either order him to pay a fine not exceeding fifty pounds or commit him to prison for a period not exceeding six months.

79. A person imprisoned for contempt, or for default in payment of a fine imposed upon him for contempt, may be at any time discharged, and any fine so imposed may be at any time remitted in whole or in part, either by order of the Court or by warrant under the hand of the Administrator. Discharge of persons in contempt.

#### PART IV.

##### THE SUPREME COURT OF NEW ZEALAND.

###### *Jurisdiction of the Supreme Court in Samoa.*

80. (1.) The civil jurisdiction of the Supreme Court of New Zealand shall extend to Samoa, and may be exercised in New Zealand in respect of the Territory, in the same manner in all respects as if it was part of New Zealand. Civil jurisdiction of Supreme Court extends to Samoa.

(2.) Any action or other civil proceeding in the Supreme Court which relates in any manner to Samoa and which might have been instituted in the High Court may, on the application of any party thereto, be stayed by the Supreme Court in its discretion, on such terms as the Court thinks fit, if in the opinion of that Court, having regard to the interest of all parties thereto, the action or other proceeding could more conveniently be instituted in the High Court.

(3.) No writ of summons or other originating civil process in the Supreme Court shall be served in Samoa without the leave of a Judge of that Court, and the order by which such leave is granted may determine the time within and the place at which a defendant is to file his statement of defence, and the sittings of the Court at which the action is to be heard, or may give such other directions with respect to the procedure on such writ or process as may be appropriate to the case.

Criminal jurisdiction of Supreme Court in respect of Samoa.

81. (1.) The criminal jurisdiction of the Supreme Court of New Zealand shall extend to offences committed in Samoa against the laws of the Territory, and may be exercised in New Zealand in respect of such offences in the same manner as if they were indictable offences committed in New Zealand.

(2.) Such jurisdiction shall be exercised only over offenders found in New Zealand.

(3.) In respect of any offence which is within the jurisdiction of the Supreme Court under this section the like preliminary proceedings before Justices of the Peace or a Stipendiary Magistrate may be taken in New Zealand as in the case of indictable offences committed in New Zealand.

(4.) The punishment to be imposed by the Supreme Court for any such offence shall be that which is provided for that offence by the laws of Samoa. Any person so liable to be imprisoned may be sentenced to imprisonment with or without hard labour as the Supreme Court thinks fit.

(5.) No prosecution in New Zealand for an offence committed in Samoa shall be commenced without the leave of the Attorney-General.

*Cases stated by the High Court.*

High Court may state a case for the Supreme Court.

82. (1.) The High Court may in any proceeding pending before it, whether civil or criminal, either on the application of any party or of its own motion, state a case on any question of law for determination by the Supreme Court of New Zealand.

(2.) The determination by the Supreme Court of any case so stated shall be binding on the High Court.

(3.) There shall be no appeal from any such determination to the Court of Appeal.

(4.) Every case so stated shall be under the seal of the High Court, and shall be filed by the Registrar of that Court in the office of the Supreme Court at Wellington.

(5.) The Registrar of the Supreme Court shall thereupon set down the case for hearing at some convenient sitting of the Supreme Court.

(6.) The determination of the Supreme Court shall be embodied in an order, and a duplicate of that order under the seal of the Court shall be transmitted by the Registrar of that Court to the Registrar of the High Court.

(7.) In and by such order the Supreme Court may fix and award the costs of the argument and determination of the special case, and the High Court shall by judgment or order give effect to the order so made by the Supreme Court.

(8.) The Supreme Court may send back for amendment any case so stated by the High Court.

*Appeals from the High Court.*

Jurisdiction of Supreme Court on appeal from the High Court.

83. Subject to the provisions of this Order, an appeal shall lie to the Supreme Court of New Zealand from any final judgment of the High Court, whether in its civil or criminal jurisdiction,—

(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 imprisonment for a term exceeding six months or to a fine not less than one hundred pounds ;

(b.) As of right, when the matter in dispute on the appeal amounts to or is of the value of two hundred pounds or upwards ; and

(c.) At the discretion of the High Court in any other case, if in the opinion of that Court the question involved in the appeal is one which by reason of its general or public importance, or of the magnitude of the interests affected, or for any other reason, ought to be submitted to the Supreme Court of New Zealand for decision.



84. (1.) No such appeal shall be brought except in pursuance of an order of the High Court granting leave to appeal. Order granting leave to appeal.

(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.

(3.) Such leave 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 not exceeding one hundred pounds for the payment of the costs of the appeal.

(4.) The order granting leave to appeal shall not be sealed until such security has been duly given.

85. On the sealing of the order granting leave to appeal, a copy of the record of the proceedings in which the judgment appealed against was given (including the reasons for the judgment, and, where necessary, a statement of the facts or of the evidence) shall be prepared by the appellant and transmitted by the Registrar of the High Court under the seal of that Court to the Registrar of the Supreme Court of New Zealand at Wellington. Transmission of record.

86. If the appellant does not prosecute his appeal with due diligence, the respondent may apply either to the High Court or to the Supreme Court for an order dismissing the appeal for non-prosecution; and if such order is made by either Court the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as that Court may direct. Dismissal of appeal for non-prosecution.

87. The procedure on the hearing of any such appeal and in all matters incidental to any such appeal, whether in the High Court or in the Supreme Court, shall be determined by regulations, and in default of such regulations, or so far as they do not extend, shall be determined in such manner as the Court thinks fit. Procedure on appeal.

88. (1.) Subject to any regulations which may be made in that behalf, the Supreme Court of New Zealand may, in any case in which it thinks fit and at any time, grant special leave to appeal to that Court from any final judgment of the High Court. Special leave to appeal may be granted by the Supreme Court.

(2.) Such leave may be granted subject to such conditions as to security for costs and otherwise as the Supreme Court thinks fit.

(3.) All the provisions of this Part of this Order shall, so far as applicable, apply to appeals in pursuance of such special leave.

89. On any appeal from the High Court the Supreme Court may affirm, reverse, or vary the judgment appealed from, or may order a new trial, or may make any such order with respect to the appeal as the Court thinks fit, and may award such costs as it thinks fit to or against any party to the appeal. Powers of Supreme Court on appeal.

90. Every such appeal shall, so far as it relates to any question of fact, be determined by the Supreme Court by reference to the evidence heard at the trial as certified to the Supreme Court under the seal of the High Court, and no further evidence shall, without the leave of the Supreme Court, be heard or admitted. Evidence on appeal.

91. An appeal to the Supreme Court of New Zealand shall not operate as a stay of execution unless the High Court or the Supreme Court otherwise orders. Stay of execution.

92. (1.) When leave to appeal to the Supreme Court of New Zealand from any conviction is granted by the High Court the High Court may, if it thinks fit, release the appellant from custody on bail pending the determination of the appeal. Release of appellant from custody.

(2.) Any person so released on bail may be at any time, and for any reason which the High Court thinks sufficient, arrested by warrant and committed to prison, there to undergo his sentence.

(3.) Any period during which an appellant has been so at large on bail shall not be computed as part of the term of imprisonment to which he has been sentenced.

93. No judgment of the High Court shall, on appeal to the Supreme Court of New Zealand, be set aside on the ground of any error or irregularity in the proceedings of such Court, unless the Supreme Appeal not to be allowed for irregularities in procedure.

Court is of opinion that the proceedings of the High Court were not in conformity with natural justice or that a substantial miscarriage of justice has taken place.

Right of audience on appeal.

94. On every case stated for the Supreme Court of New Zealand, and in every appeal to that Court, the parties may either appear in person or be represented by a barrister of the Supreme Court, or may submit their arguments to the Supreme Court in writing.

Transmission of order of Supreme Court on appeal.

95. The determination of the Supreme Court on an appeal from the High Court shall be transmitted to the Registrar of the High Court by the Registrar of the Supreme Court under the seal of that Court, and judgment shall thereupon be entered in the High Court in conformity with that determination, or such other proceedings by way of a new trial or otherwise shall be taken in the High Court as are required by such determination.

No appeal to the Court of Appeal.

96. There shall be no appeal to the Court of Appeal from any decision of the Supreme Court of New Zealand on an appeal from the High Court.

Certiorari, mandamus, and prohibition taken away.

97. The Supreme Court shall not exercise control over any Court in Samoa (whether in respect of want of jurisdiction or otherwise) by way of certiorari, mandamus, or prohibition, or in any other manner save by way of appeal in accordance with the provisions of this Order in that behalf.

*Enforcement in Samoa of Judgments of New Zealand Courts.*

Judgments of Supreme Court or Magistrate's Court in New Zealand may be enforced by the High Court.

98. (1.) Any person in whose favour any judgment whereby any sum of money is made payable has been obtained in the Supreme Court of New Zealand or in a Magistrate's Court in New Zealand in civil proceedings may cause a memorial thereof, authenticated by the seal of the Supreme Court or of the Magistrate's Court, as the case may be, to be filed in the High Court of Western Samoa.

(2.) Judicial notice may be taken by the High Court of the seal of the Supreme Court or Magistrate's Court so affixed to any such memorial.

(3.) Every such memorial shall set forth the names and additions of the parties to the proceeding in which the judgment was given, the form or nature of the proceeding, the date on which the judgment was given, and the amount payable thereunder.

(4.) Every such memorial being so filed shall thenceforth be a record of such judgment, and execution may issue thereon with the leave of the High Court in the same manner as if the like judgment had been given by the High Court, subject, however, to such terms and conditions as the High Court may think fit to impose.

(5.) Leave to issue such execution may be given by the High Court on the application of the party by whom the memorial was filed, and either *ex parte* or on notice to the party against whom execution is to be issued, as the High Court thinks fit.

Enforcement of judgments of Supreme Court by High Court by way of proceedings for contempt.

99. (1.) When by any judgment of the Supreme Court of New Zealand any person has been ordered to do or abstain from doing any act in Samoa, other than the payment of money, the Supreme Court may then or any time thereafter direct a memorial of such judgment under the seal of the Court to be filed in the High Court of Western Samoa.

(2.) On the filing of such memorial any disobedience to such judgment, whether before or after the filing of the memorial, shall be deemed to be a contempt of the High Court, and may be dealt with by that Court accordingly.

PART V.

CRIMINAL OFFENCES.

Treason.

100. Every one is guilty of treason, and is liable on conviction thereof to suffer death, who—

(a.) Levies war against His Majesty ;

(b.) Conspires to levy war against His Majesty ;

(c.) Instigates any foreigner with force to invade the Territory or any part of His Majesty's dominions ; or

(d.) Assists by any means whatever any public enemy at war with His Majesty.

101. Every one is liable to imprisonment for life who for any traitorous or unlawful purpose endeavours to seduce any person serving in His Majesty's Forces by sea or land from his duty or allegiance to His Majesty, or to incite any such person to commit any traitorous or mutinous act. Inciting to mutiny.

102. (1.) A seditious intention is an intention to excite disaffection against His Majesty or against the Parliament or Government of the United Kingdom, or against the Parliament or Government of New Zealand, or against the Government of Samoa, or to excite such hostility or ill-will between different classes of the inhabitants of Samoa as may be injurious to the public welfare, or to incite, encourage, or procure lawlessness, violence, or disorder in Samoa, or to procure otherwise than by lawful means the alteration of any matter affecting the laws, government, or constitution of Samoa. Seditious offences.

(2.) Seditious words are words expressive of a seditious intention.

(3.) A seditious libel is a libel expressive of a seditious intention.

(4.) A seditious conspiracy is an agreement between two or more persons to carry into execution a seditious intention.

(5.) Every one is liable to two years' imprisonment who speaks any seditious words or publishes a seditious libel, or is a party to a seditious conspiracy.

103. (1.) He who with malice aforethought and without lawful justification causes by any act or omission the death of any person is guilty of murder, and shall on conviction be sentenced to death. Murder.

(2.) "Malice aforethought" means—

(a.) An intention to cause the death either of the person killed or of any other person; or

(b.) An intention to cause grievous bodily harm either to the person killed or to any other person.

104. He who negligently and without malice aforethought by any act or omission causes the death of any person is guilty of manslaughter, and is liable to imprisonment for life. Manslaughter.

105. In the two last preceding clauses the term "omission" means an omission to perform a legal duty, whether undertaken by contract or imposed by law, and whether owing to the person killed or to any other person. "Omission" defined.

106. Every one who undertakes, whether by a legally binding contract or otherwise, to do any act the omission of which is or may be dangerous to life is under a legal duty to do that act, and is criminally responsible accordingly for any death caused by such omission. Omissions dangerous to life.

107. Every one who has in any manner whatever the charge of any other person unable by reason either of detention, youth, age, sickness, insanity, or any other cause to withdraw himself from such charge is under a legal duty to supply that person with the necessaries of life, and is criminally responsible accordingly if the death of that person is caused by an omission so to supply him with the necessaries of life. Omission to supply the necessaries of life.

108. Every one who has in his charge or under his control anything whatever, whether animate or inanimate, or who erects, makes, or maintains anything whatever, which in the absence of precaution or care may endanger human life is under a legal duty to take reasonable precautions against and to use reasonable care to avoid such danger, and is criminally responsible accordingly for any death caused by an omission to perform that duty. Liability of persons having charge of dangerous things.

109. He who hastens the death of any person from any disease or disorder from which he is already suffering shall be deemed to have caused the death of that person. Hastening death.

110. He whose act or omission results in the death of any person shall be deemed to have caused his death, although the immediate cause of death is the act or omission of some other person or some other independent intervening event. Indirect cause of death.

111. Every one who attempts to commit murder shall be liable to imprisonment for life. Attempted murder.

Conspiracy and  
inciting to murder.

112. Every one is liable to ten years' imprisonment who—  
(a.) Conspires with any person to murder any person; or  
(b.) Incites any person to commit murder.

Attempted suicide.

113. Every one who attempts to commit suicide is liable to imprisonment for six months.

Counselling suicide.

114. Every one is liable to imprisonment for life who counsels or procures any person to commit suicide, if that person actually commits suicide in consequence, or who aids or abets any person in the commission of suicide.

Concealment of  
birth.

115. Every one is liable to two years' imprisonment who disposes of the dead body of any child in any manner with intent to conceal the fact that its mother was delivered of it, whether the child died before, during, or after birth.

Grievous bodily  
harm.

116. Every one who wilfully and without lawful justification causes grievous bodily harm to any person is liable to seven years' imprisonment.

Actual bodily harm.

117. Every one who wilfully and without lawful justification causes actual bodily harm to any person is liable to two years' imprisonment.

Acts or omissions  
causing bodily harm  
under circumstances  
that if death had  
been caused would  
have made person  
causing harm guilty  
of manslaughter.

118. Every one is liable to two years' imprisonment who by any act or omission causes bodily harm to any person under such circumstances that, if death had been caused, he would have been guilty of manslaughter.

Indecent assault.

119. Every one who indecently assaults any female person is liable to five years' imprisonment.

Assault.

120. Every one who commits an assault on any person is liable to one year's imprisonment.

Rape.

121. (1.) Rape is the act of a male person having carnal knowledge of a woman or girl who is not his wife—

(a.) Without her consent; or

(b.) With consent extorted by threats or fear of bodily harm; or

(c.) With consent obtained by personating her husband; or

(d.) With consent obtained by false and fraudulent representations as to the nature and quality of the act.

(2.) In the case of this and every other offence in which carnal knowledge is an element, the offence is complete upon penetration.

(3.) Every one who commits rape is liable to imprisonment for life.

(4.) Every one is liable to ten years' imprisonment who attempts to commit rape, or who assaults any person with intent to commit rape.

Carnal knowledge of  
girl under twelve  
years of age.

122. (1.) Every one is liable to ten years' imprisonment who carnally knows, or attempts carnally to know, or assaults with intent to carnally know, any girl under the age of twelve years, whether he believes her to be of or over that age or not.

(2.) It shall be no defence to a charge under this clause that the girl consented to the offence.

Carnal knowledge of  
idiots or lunatics.

123. Every one is liable to two years' imprisonment who has or attempts to have unlawful carnal knowledge of any woman or girl known by him to be an idiot, imbecile, or lunatic.

Adultery by  
married persons.

124. Every married person who commits adultery shall be liable to imprisonment for six months or to a fine of fifty pounds.

Adultery with  
married woman.

125. Every man who commits adultery with a woman whom he knows to be married shall be liable to imprisonment for six months or to a fine of fifty pounds.

Procuring  
miscarriage of  
woman or girl.

126. Every one is liable to two years' imprisonment who, with intent to procure the miscarriage of any woman or girl, unlawfully administers to or causes to be taken by her any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent.

Act of woman or  
girl procuring her  
own miscarriage.

127. Every woman or girl is liable to one year's imprisonment who, whether with child or not, unlawfully administers to herself or permits to be administered to her any poison or other noxious thing, or unlawfully uses on herself or permits to be used on her any instrument or other means whatsoever with intent to procure miscarriage.

128. Every one is liable to two years' imprisonment who unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used with intent to procure the miscarriage of any woman or girl. Supplying means of miscarriage.

129. (1.) Every one who commits bigamy is liable to five years' imprisonment. Bigamy

(2.) Bigamy is—

(a.) The act of a person who being married goes through a valid form of marriage with any other person; or

(b.) The act of a person who goes through a valid form of marriage with any person whom he or she knows to be married.

(3.) The fact that the parties would, if unmarried, have been incompetent to contract marriage is not a defence upon a prosecution for bigamy.

(4.) Every form of marriage shall for the purposes of this section be deemed valid, notwithstanding any act or default of the person charged with bigamy, if it is otherwise a valid form.

130. (1.) Every one is liable to imprisonment for ten years who commits buggery either with a human being or with any other living creature. Buggery.

(2.) This offence is complete upon penetration.

131. (1.) Every one is liable to imprisonment for five years who— Attempted buggery and indecent assaults on males.

(a.) Attempts to commit buggery; or

(b.) Assaults any person with intent to commit buggery; or

(c.) Being a male, indecently assaults any other male person.

(2.) It is no defence to a charge of indecent assault on a male person of any age that he consented to the act of indecency.

132. (1.) Incest means carnal connection between—

(a.) Father and daughter; or

(b.) Brother and sister, whether of the whole or the half blood; or

(c.) Son and mother; or

(d.) Grandfather and granddaughter. Incest

(2.) Every one who commits incest is liable to seven years' imprisonment.

133. Every one is liable to *six* months' imprisonment who wilfully does any indecent act in any public place or within the view of any person being in any public place. Indecent acts.

134. Every one is liable to six months' imprisonment who knowingly and without lawful justification or excuse— Indecent documents.

(a.) Sells or exposes for sale or to public view any obscene or indecent book, picture, photograph, document, or other object tending to corrupt morals; or

(b.) Publicly exhibits any obscene or indecent show tending to corrupt morals.

135. (1.) Every one who keeps a brothel is liable to one year's imprisonment. Brothels.

(2.) A brothel is a house, room, or place of any kind whatever kept or used for purposes of prostitution.

(3.) Any one who acts as a person having the management, care, or control of a brothel shall be deemed to be a keeper thereof whether he is in fact a keeper thereof or not.

(4.) The owner or occupier of any house, room, or place who knowingly permits the same to be used as a brothel shall be deemed to be a keeper thereof whether he is in fact a keeper thereof or not.

136. (1.) Every one who keeps a gaming-house is liable to one year's imprisonment. Gaming-houses.

(2.) A gaming-house is a house, room, or place of any kind whatever kept or used as a place of resort for gambling.

(3.) "Gambling" means playing for money or other valuable thing at any game of chance, or playing for excessive stakes or otherwise to the injury of public morals at any game of mixed chance and skill.

(4.) Any one who acts as a person having the management, care, or control of a gaming-house shall be deemed to be a keeper thereof whether he is in fact a keeper thereof or not.

(5.) The owner or occupier of any house, room, or place who knowingly permits the same to be used as a gaming-house shall be deemed to be a keeper thereof whether he is in fact a keeper thereof or not.

Gaming. 137. Every person who plays for money or other valuable thing at any game of chance shall be liable to a fine of five pounds.

Stealing children. 138. (1.) Every one is liable to two years' imprisonment who, with intent to deprive any parent or guardian or other person having the lawful charge of any child under the age of fourteen years of the possession of that child, unlawfully—

(a.) Takes or entices away or detains such child; or

(b.) Receives such child knowing it to have been so dealt with.

(2.) Nothing in this clause shall extend to any one who gets possession of any child claiming in good faith a right to the possession of the child.

Riot. 139. (1.) Every one who takes part in a riot is liable to imprisonment for two years.

(2.) A riot is an assembly of three or more persons who, with intent to carry out any common purpose, disturb the peace tumultuously.

Forceful entry. 140. Every one is liable to six months' imprisonment who, by force or threats of force, enters on land then in the actual and peaceable possession of another for the purpose of taking possession thereof, whether he who so enters is entitled to the possession thereof or not.

Affrays. 141. (1.) Every one who, without lawful justification or excuse, takes part in an affray is liable to one year's imprisonment.

(2.) An affray is the act of fighting in a public highway or in any other public place.

Official corruption. 142. Every one commits the offence of official corruption and is liable to five years' imprisonment who—

(a.) Being the holder of any office, whether judicial or otherwise, in the service of His Majesty, corruptly accepts or obtains, or agrees to accept or attempts to obtain, for himself or any other person any bribe—that is to say, any money or valuable consideration whatever—on account of anything done or to be afterwards done by him in his official capacity; or

(b.) Corruptly gives or offers to any person holding any such office or to any other person any such bribe as aforesaid on account of any such act.

Perjury. 143. (1.) Perjury is an assertion as to a matter of fact, opinion, belief, or knowledge made by a witness in a judicial proceeding as part of his evidence upon oath or affirmation, whether such evidence is given in open Court or by affidavit or otherwise, such assertion being known to the witness to be false.

(2.) Every proceeding is judicial within the meaning of this section which is held before any Court, or before any judicial officer or other person having power to take evidence on oath or affirmation.

(3.) Subornation of perjury is the act of counselling or procuring a person to commit any perjury that is actually committed.

(4.) Every one is liable to five years' imprisonment who commits perjury or subornation of perjury.

Fabricating evidence. 144. Every one is liable to three years' imprisonment who, with intent to mislead any Court of justice or any judicial officer in the exercise of his functions as such, fabricates evidence by any means other than perjury or subornation of perjury.

Conspiracy to pervert justice. 145. Every one is liable to three years' imprisonment who conspires or attempts to obstruct, prevent, pervert, or defeat the course of justice in any cause or matter, civil or criminal.

Breaking prison. 146. Every one is liable to imprisonment for five years who by force breaks any prison with intent to set at liberty himself or any other person confined therein.

Escape. 147. Every one is liable to imprisonment for two years who, being in lawful custody, whether in a prison or elsewhere, escapes therefrom.

148. Every one is liable to imprisonment for two years who rescues any person from lawful custody, whether in a prison or elsewhere, or who assists any person to escape from such custody. Rescue.

149. (1.) Every one who publishes a defamatory libel is liable to six months' imprisonment. Defamatory libel.

(2.) To publish a defamatory libel means to do any act which confers upon the person defamed a right of action for damages for libel.

(3.) In a prosecution under this clause the burden of proof shall be determined by the same rules as in an action for damages for libel.

(4.) In a prosecution under this clause it shall be no defence that the libel is true unless the publication thereof was for the public benefit.

150. Every person who uses threatening, abusive, or insulting words or behaviour towards or in respect of any officer of the Samoan Public Service or any member of the Legislative Council shall be liable to a fine of fifty pounds or to imprisonment for three months. Threatening, abusive, or insulting words or behaviour towards or in respect of officials.

151. (1.) Every one who commits theft is liable— Punishment of theft.

(a.) To three months' imprisonment if the value of the property stolen does not exceed two pounds :

(b.) To one year's imprisonment if the value of the property stolen exceeds two pounds but does not exceed fifty pounds :

(c.) To five year's imprisonment if the value of the property stolen exceeds fifty pounds.

(2.) In computing for the purposes of this clause the value of the property stolen, where several thefts are charged in the same information against the same person, the aggregate value of all such property shall be computed, and the sentence shall be determined accordingly, and cumulative sentences in respect of the several thefts so charged shall not be imposed.

(3.) For the purposes of this clause a valuable security shall be deemed to be of the same value as the property or proprietary right to which it relates, and postage stamps or revenue stamps shall be deemed to be of a value equal to the denomination thereof.

(4.) Here and elsewhere in this Order the term " valuable security " means any document which constitutes a title to or is evidence of title to any property or proprietary right of any kind whatever.

152. (1.) Theft or stealing is the act of fraudulently or dishonestly taking, or converting to the use of any person, or misappropriating, or disposing of, or dealing in any other manner with, anything capable of being stolen, with intent to deprive the owner or any person having any property or interest therein of such thing or of such property or interest, whether permanently or temporarily, or with intent to defraud or injure the owner or any such other person in any other manner. Definition of theft

(2.) Every animate or inanimate thing whatever which is the property of any person, and is movable, is capable of being stolen.

(3.) Every thing whatever which is the property of any person and is capable of being made movable is capable of being stolen as soon as it becomes movable, although it is made movable in order to steal it.

153. Without in any way limiting the generality of the foregoing definition of theft, a person shall be deemed guilty of theft notwithstanding the fact— Ineffectual defences to charge of theft.

(a.) That at the time of the theft he was in lawful possession of the property stolen ; or

(b.) That he had himself a lawful interest in the property stolen, whether as a partner, co-owner, bailee, bailor, mortgagee, mortgagor, or otherwise howsoever ; or

(c.) That he was a trustee of the property stolen ; or

(d.) That the property stolen was vested in him as an executor or administrator.

154. Without in any way limiting the generality of the foregoing definition of theft, every person shall be deemed guilty of theft who holds, receives, or obtains any money, valuable security, or other thing whatsoever capable of being stolen, subject to any obligation (whether arising from an express or implied trust, or from an express or implied contract, or from any other source whatsoever) to deal with Extended definition of theft.

such moneys, valuable security, or thing in any manner, and who fraudulently or dishonestly deals with it in any other manner or fails to deal with it in accordance with such obligation.

Obtaining money or goods by false pretences to be deemed theft.

155. Every one who by means of any fraud or false pretence dishonestly obtains for himself or for any other person (whether directly or through the medium of any contract procured by such fraud or false pretence) anything capable of being stolen is guilty of stealing the thing so obtained, and shall be liable accordingly.

Stealing documents

156. (1.) Every one who destroys, cancels, conceals, or obliterates in whole or in part any document for any fraudulent or dishonest purpose is guilty of having stolen that document, and is liable to three years' imprisonment.

(2.) Every one who in this or any other manner steals a testamentary instrument is liable to ten years' imprisonment.

Receiving stolen property.

157. Every one who receives any stolen property knowing it to have been stolen is guilty of having stolen such property, and is liable accordingly.

Robbery.

158. (1.) Robbery is theft accompanied by violence or threats of violence to any person or property, used to extort the property stolen or to prevent or overcome resistance to its being stolen.

(2.) Every one who commits robbery is liable to ten years' imprisonment.

(3.) Every one who assaults any person with intent to rob him is liable to five years' imprisonment.

Breach of trust.

159. (1.) Every trustee who with intent to defraud, and in violation of his trust, converts anything of which he is a trustee to any use not authorized by the trust is guilty of criminal breach of trust, and is liable to five years' imprisonment.

(2.) For the purpose of this clause an executor or administrator shall be deemed to be a trustee of the property subject to his administration.

(3.) Nothing in this clause shall be so construed as in any manner to limit the foregoing definition of the offence of theft, and if any act of a trustee is both theft and a criminal breach of trust he may be convicted of either of those offences.

Menaces.

160. Every one is liable to two years' imprisonment who with menaces demands from any person, either for himself or for any other person, anything capable of being stolen, with intent to steal it.

Witchcraft.

161. Every one is liable to six months' imprisonment who pretends to exercise or use any kind of witchcraft, sorcery, enchantment, or conjuration, or undertakes to tell fortunes.

Obtaining credit by fraud.

162. Every one is liable to six months' imprisonment who in incurring any debt or liability obtains credit by means of any fraud.

Accusation of criminal offences.

163. Every one is liable to five years' imprisonment who,—

(a.) With intent to extort or gain anything from any person, accuses or threatens to accuse either that person or any other person of any criminal offence, whether the person accused or threatened with accusation is guilty of that offence or not; or

(b.) With such intent as aforesaid, threatens that any person shall be so accused by any person; or

(c.) Causes any person to receive a document containing such accusation or threat, knowing the contents thereof.

Conspiracy to defraud.

164. Every one is liable to three years' imprisonment who conspires with any other person by deceit or falsehood or other fraudulent means to defraud the public or any person ascertained or unascertained.

Obtaining execution of valuable securities by fraud.

165. Every one is liable to three years' imprisonment who by any false pretence causes or induces any person to execute, make, accept, endorse, or destroy the whole or any part of any valuable security.

Burglary.

166. (1.) Every one is guilty of burglary and is liable to five years' imprisonment who by day or night breaks and enters a building with intent to commit a criminal offence therein.

(2.) "To break" means to break any part, internal or external, of a building, or to open by any means whatever any door, window,



or other thing intended to cover any opening to the building or any passage from one part of it to another.

167. (1.) Forgery is the making of a false document with intent to defraud or deceive any person, whether ascertained or unascertained. Forgery.

(2.) Every one who commits forgery is liable to five years' imprisonment.

(3.) Every one who, knowing a document to be forged, uses, deals with, or acts upon it, or attempts to use, deal with, or act upon it, or causes or attempts to cause any person to use, deal with, or act upon it as if it were genuine, is liable to five years' imprisonment, and it is immaterial whether the document was forged in Samoa or elsewhere.

(4.) A false document is—

(a.) A document the whole or some material part whereof purports to be made by or on behalf of any person who did not make or authorize the making thereof, or which, though made by or by the authority of the person who purports to make it, is falsely dated as to time or place of making, where either is material; or

(b.) A document the whole or some material part whereof purports to be made by or on behalf of some person who did not in fact exist; or

(c.) A document made in the name of an existing person, either by that person or by his authority, with the intention that the document should pass as being made by some person, real or fictitious, other than the person who makes or authorizes it.

(5.) Making a false document includes altering a genuine document in any material part, or making any material addition to it, or adding to it any false date, attestation, seal, or other thing that is material, or making any material alteration in it either by erasure, obliteration, removal, or otherwise.

(6.) Forgery is complete although the false document may be incomplete, or may not purport to be such a document as would be valid in law, if it be so made and is such as to indicate that it was intended to be acted on as genuine.

168. Every one who procures the execution of any document by any person by falsely pretending that the contents thereof are different from what they really are is guilty of forging that document, and is liable accordingly. Extended definition of forgery.

169. Every one is liable to seven years' imprisonment who makes or begins to make counterfeit coin of His Majesty or of any foreign prince or State, or who has in his possession any dies or other instruments or materials intended to be used in the making of such counterfeit coin. Making counterfeit coin.

170. Every one is liable to two years' imprisonment who diminishes or lightens any coin, whether of His Majesty or of any foreign prince or State, with intent that when so dealt with it shall pass as current coin either in His Majesty's dominions or elsewhere. Lightening coin.

171. Every one who fraudulently utters any counterfeit coin is liable to six months' imprisonment. Uttering counterfeit coin.

172. (1.) Arson is the offence of wilfully, and without lawful justification, and without *bona fide* claim of right, setting fire to any building, ship, crop, chattel, or other thing whatsoever, whether attached to the soil or not. Arson.

(2.) Where the person accused has an interest in the thing to which he so sets fire, the existence of such interest, if partial, shall not prevent his act from amounting to the offence of arson; and, if total, shall not prevent his act from amounting to such offence if done with intent to defraud.

(3.) Every one who commits the offence of arson shall be liable to five years' imprisonment.

173. (1.) Every one is guilty of an offence who wilfully and without lawful justification and without *bona fide* claim of right destroys or damages any property whether movable or immovable. Wilful mischief to property.

(2.) Where the person accused has an interest in the property so damaged or destroyed the existence of such interest, if partial, shall not prevent his act from amounting to an offence under this clause; and, if total, shall not prevent his act from amounting to such offence if done with intent to defraud.

(3.) Every person who commits an offence against this clause shall be liable to three years' imprisonment if the damage done or intended to be done by him amounts to ten pounds or more, and shall in other cases be liable to six months' imprisonment.

Provoking breach  
of the peace.

174. Every one is liable to a fine of five pounds who uses any threatening, abusive, or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned.

Disorderly conduct  
in public places.

175. Every one is liable to a fine of five pounds who is guilty of any disorderly conduct in any public place to the annoyance of persons there present.

Furious driving.

176. Every one is liable to a fine of five pounds who furiously or negligently rides or drives any animal or vehicle in a public place.

Cattle trespass.

177. Every one is liable to a fine of five pounds who permits any horse, sheep, pig, goat, or cattle to wander or be at large in any public place or to trespass upon any land.

Obstructing public  
place.

178. Every one is liable to a fine of five pounds who without lawful justification obstructs any public place, or creates any source of danger therein, or otherwise commits any public nuisance therein.

Drunkenness.

179. Every one is liable to imprisonment for one month or to a fine of ten pounds who is found drunk in any public place.

Prostitution.

180. Any common prostitute who loiters and importunes passengers or other persons in any public place for the purpose of prostitution is liable to imprisonment for one month or to a fine of five pounds.

Laying poison.

181. Every one is liable to a fine of five pounds who without lawful justification places any poison in any place so as to be a source of danger to human beings or to animals.

Polluting water.

182. Every one is liable to imprisonment for six months or to a fine of fifty pounds who throws any offensive matter into or otherwise pollutes any river, watercourse, well, cistern, or other place whence the supply of water for the use of the inhabitants is obtained.

Sale of  
unwholesome  
provisions.

183. Every one is liable to imprisonment for one month or to a fine of twenty pounds who sells, or exposes for sale, or has in his possession with intent to sell, any food or drink which he knows or might by the exercise of reasonable care have known to be unwholesome.

Insanitary premises.

184. Every one is liable to a fine of ten pounds who permits any premises in his occupation or belonging to him to be in an insanitary or offensive condition to the danger or annoyance of the public or of his neighbours.

Wilful trespass.

185. Every one is liable to a fine of five pounds who wilfully trespasses on land in the occupation of any other person.

Cruelty to animals.

186. (1.) Every one is liable to imprisonment for one month or to a fine of ten pounds who cruelly beats, overdrives, overloads, abuses, tortures, or otherwise ill-treats any animal, or who, being the owner or having the charge of any animal, omits to supply it with proper and sufficient food, water, or shelter.

(2.) In this clause the term "animal" means any beast or bird of any species whatever.

Falsely trading  
as an incorporated  
company.

187. Every one is liable to a fine of one hundred pounds who uses in connection with his trade or business any name, design, device, or other representation indicating or calculated to lead other persons to believe contrary to the fact that such trade or business is that of an incorporated company, and in any prosecution for an offence against this clause the burden of proving that such incorporated company exists and that the trade or business so carried on is the trade or business of that company shall be upon the accused.

Conspiracy.

188. Every one who conspires with any other person to commit any offence punishable by imprisonment is liable to imprisonment for one-half of the longest term to which a person committing the said offence may be sentenced.

189. (1.) Every person who attempts to commit any offence is liable to imprisonment for one-half of the term to which a person committing the offence may be sentenced. Attempts.

(2.) Every person who attempts to commit any offence punishable by fine shall be liable to a fine of one-half of the maximum fine appointed for that offence.

190. (1.) Every person who incites any person, whether ascertained or unascertained, to commit any offence punishable by imprisonment shall be liable to imprisonment for one-half of the longest term to which a person committing the said offence may be sentenced. Inciting.

(2.) If the offence to which any person is so incited is actually committed by him, the person so inciting him shall be liable, on a charge of inciting, to the same punishment as if he had himself committed the offence, or he may be charged and convicted as a party to the offence so procured by him.

191. Every one is a party to and guilty of an offence who— Parties to offences.

(a.) Actually commits the offence; or

(b.) Does or omits any act for the purpose of aiding any person to commit the offence; or

(c.) Counsels or procures any person to commit the offence.

192. If several persons form a common intention to prosecute any unlawful purpose and to assist each other therein, each of them is a party to every offence committed by any one of them in the prosecution of such common purpose, the commission of which offence was or ought to have been known to be a probable consequence of the prosecution of such common purpose. Common criminal purpose.

193. (1.) Every one who counsels or procures another to be a party to an offence of which that other is afterwards guilty is a party to that offence, although it may be committed in a way different from that which was counselled. Counselling or procuring.

(2.) Every one who counsels or procures another to be a party to an offence is a party to every offence which that other commits in consequence of such counselling or procuring, and which the person counselling or procuring knew, or ought to have known, to be likely to be committed in consequence of such counselling or procuring.

194. All rules and principles of the common law which render any circumstances a justification or excuse for any act or omission, or a defence to any charge, shall remain in force with respect to all offences constituted by this or any other enactment, except so far as inconsistent with this or any other enactment. Common law defences.

195. No person shall be proceeded against for any offence at common law. Common law offences.

196. (1.) When any person is condemned to death the sentence shall be that such person shall be taken to the place of execution, and there hanged by the neck until he is dead. Sentence of death.

(2.) No sentence of death shall be carried into execution until the Governor-General has issued his warrant in that behalf, or otherwise than in accordance with the terms of that warrant and under the direction of the officer to whom it is addressed.

197. Except where otherwise expressly provided, every one liable to imprisonment for any term for any offence may be sentenced to imprisonment for any shorter term, or may be sentenced to pay a fine not exceeding one hundred pounds in addition to or instead of imprisonment, and every one liable to a fine of any amount may be sentenced to pay a fine of any less amount. Maximum fines and terms of imprisonment.

198. (1.) Every fine imposed upon any person by the High Court shall constitute a judgment debt due by that person to the Crown, and payment thereof shall be enforceable and recoverable accordingly by civil process of execution in the same manner in all respects as if such debt had been recovered in civil proceedings at the suit of the Crown. Enforcement of fines.

(2.) Any person upon whom any such fine has been imposed may, by warrant under the seal of the High Court, be committed to prison by a Judge or Commissioner of that Court for a period not exceeding six months, but shall be entitled to be discharged from such imprisonment on payment of the fine.

(3.) When any person has been so committed to prison no proceedings or further proceedings shall thereafter be taken for the enforcement of the fine by way of civil process under this clause.

Imprisonment in Samoa.

199. Save so far as herein otherwise provided, every sentence of imprisonment and every committal to prison shall be carried into effect in some prison in Samoa.

Imprisonment and hard labour.

200. (1.) Every person sentenced to imprisonment or committed to prison shall be subject to imprisonment with hard labour unless the contrary is expressed in the sentence, order, or warrant.

(2.) Hard labour means such labour, within or without the limits of the prison, as may be approved by the Administrator.

Transfer of prisoners to New Zealand.

201. (1.) Every person sentenced to imprisonment, or committed to prison, for six months or more may, by warrant under the hand of the Administrator and the Seal of Samoa, be transferred to some prison in New Zealand named or described in the warrant.

(2.) In pursuance of such warrant the prisoner shall thereupon be taken in custody from Samoa to New Zealand by any ship belonging to His Majesty or by any British ship and there forthwith delivered to the Gaoler of the prison named or described in the warrant.

(3.) The warrant shall be delivered to the said Gaoler together with a certificate under the hand of a Judge of the High Court and the seal of that Court setting forth the fact of the conviction or commitment of the prisoner, the offence of which he was convicted or the reason of his commitment, and the term for which he has been so sentenced or committed.

(4.) The period during which the prisoner has been in custody since he left Samoa until his delivery to the Gaoler in New Zealand shall for all purposes be computed as part of the term of his imprisonment.

(5.) Every prisoner so brought to New Zealand shall be imprisoned in New Zealand in the same manner in all respects and shall be subject in all respects to the same laws, so far as applicable, as if he had been sentenced by the Supreme Court of New Zealand to imprisonment with hard labour for the like offence, or committed to prison by that Court on the like grounds, for the residue of the term of his sentence or commitment commencing on the day of his delivery to the Gaoler of a prison in New Zealand under the aforesaid warrant.

(6.) Every such prisoner may, so soon as he is entitled to his discharge or so soon thereafter as may be, unless he is under sentence of exile therefrom, be deported to Samoa in pursuance of a warrant signed by the Minister of Justice, and in the meantime may be detained in custody in some prison in New Zealand appointed by such warrant.

Exile.

202. (1.) When any person other than a Samoan born in Samoa is convicted by the High Court of any offence for which he is liable to one year's imprisonment or upwards he may, in addition to imprisonment, be sentenced to exile from Samoa for any term not exceeding fifteen years from the date on which sentence is pronounced.

(2.) If any person so sentenced to exile is at any time later than two months after the expiry of the term of his imprisonment, and before the expiry of the term of his exile, found in Samoa he shall be guilty of an offence, and shall be liable to imprisonment for ten years.

Cumulative sentences.

203. (1.) When an offender is sentenced for more offences than one at the same time, or if, when sentenced for one offence, he has already been sentenced for any other offence and has not yet completed the sentence so imposed upon him, the High Court may direct that the sentences passed on him for his several offences shall take effect one after the other or concurrently.

(2.) Save as provided by this clause, every sentence of imprisonment shall commence to take effect on the day on which the sentence is pronounced.

## PART VI.

### CRIMINAL PROCEDURE.

Jurisdiction of High Court.

204. Except where otherwise provided by Ordinance or regulation in respect of offences created thereby, all offences against the laws of Samoa may be tried in the High Court in accordance with this Part of this Order.

205. There shall be no distinction between felonies and misdemeanours or between offences punishable on indictment and by way of summary conviction; and, so far as may be necessary for the purpose of any rule of the common law or of any enactment in force in Samoa, all offences shall be deemed to be misdemeanours.

Felonies and misdemeanours.

206. Every prosecution in the High Court for an offence shall be commenced by an information in writing filed in the Court by a constable or other prosecutor with the leave of a Judge, Commissioner, Registrar, or Deputy Registrar of the Court.

Information.

207. (1.) On the commencement of any such prosecution a Judge, Commissioner, Registrar, or Deputy Registrar of the High Court may at any time, and from time to time, if and as he thinks fit, issue either a warrant for the arrest of the accused or a summons requiring him to appear before the High Court at a time and place specified in the summons, there to answer the charge made against him in the information.

Warrant or summons.

(2.) Any such warrant may be at any time issued, notwithstanding the fact that a summons has been already issued to the accused as aforesaid.

208. When a prosecution has been so commenced and the accused is in custody a Judge, Commissioner, Registrar, or Deputy Registrar of the High Court may at any time, and from time to time pending the trial of the accused, commit him to prison to await his trial; or admit him to bail, with or without sureties, on a recognizance conditioned to appear before the High Court for trial.

Committal for trial or admission to bail where accused in custody.

209. When any person is prosecuted for an offence punishable by fine only, and has been duly summoned to appear before the High Court, and fails to appear in obedience to the summons, the Court may try and sentence him for that offence in his absence.

Trial of accused in his absence.

210. (1.) A constable may arrest without warrant any person whom on reasonable grounds he suspects of having committed any of the following offences: murder, manslaughter, theft, robbery, rape, arson, wilful bodily harm, wilful mischief to property, riot, forcible entry, escape from lawful custody, indecent behaviour, assault, fighting or drunkenness in a public place, burglary, or an attempt to commit any such offence.

Arrest without warrant.

(2.) Every person so arrested without warrant shall be forthwith brought before a Judge, Commissioner, Registrar, or Deputy Registrar of the High Court.

(3.) If the Judge, Commissioner, Registrar, or Deputy Registrar refuses leave to file an information against the prisoner for the offence for which he has been so arrested, or if a prosecution for that offence is not commenced within a reasonable time, the Judge, Commissioner, Registrar, or Deputy Registrar shall discharge the prisoner from custody; but no such discharge shall operate as an acquittal so as to preclude a subsequent prosecution of the prisoner for the offence for which he was so arrested.

#### Assessors.

211. On a criminal trial the High Court shall sit either with or without assessors in accordance with the provisions hereinafter contained.

Constitution of Court on criminal trials.

212. On the trial of any person for an offence punishable by death or by imprisonment for more than five years the Court shall sit with assessors.

Court with assessors.

213. On the trial of any person on an information charging him exclusively with an offence or offences punishable only by fine the Court shall sit without assessors.

Court without assessors.

214. (1.) In all other criminal trials the Court shall sit without assessors, unless the Court in its discretion orders otherwise either of its own motion or on the application of either the prosecutor or the accused.

Discretion of Court as to assessors.

(2.) If the Court sits without assessors, it shall have no power to impose any term of imprisonment exceeding twelve months, whatever may be the maximum term of imprisonment otherwise provided by law for the offence.

(3.) Any such order may be made at any time after the commencement of the prosecution, and whether before or during the trial; but if made after any evidence has been heard at the trial, all such evidence shall, except so far as repeated before the Court and assessors, be of no force or effect.

Number and qualifications of assessors.

215. (1.) The assessors shall in all cases be four in number, and shall be such fit and proper persons (whether men or women) as the Court thinks fit to appoint, and the consent of the assessor shall not be requisite for his appointment.

(2.) No person shall be appointed as an assessor unless he has first been nominated by the Administrator by warrant published in the *Western Samoa Gazette* as a person qualified for appointment as an assessor under this Order, either generally or in respect of any particular case or class of cases; and the Administrator may accordingly from time to time nominate in this behalf such and so many persons as he thinks qualified by reason of their character, education, ability, or reputation to hold such office, and may at any time in like manner revoke any such nomination.

Default of assessors.

216. If any person so appointed as an assessor, and having had reasonable notice of the time and place of the trial, fails without reasonable excuse duly to attend at the trial or at any adjournment thereof, or duly to make oath as such, or duly to act as assessor throughout the trial, he shall be guilty of contempt of the High Court and shall be punishable accordingly.

Remuneration of assessors.

217. Every assessor shall be entitled to receive from the Samoan Treasury such remuneration or allowances in respect of his services as may be authorized by the Court at the trial in conformity with any rules of Court which may be made in that behalf.

Oath of assessors.

218. Before an assessor commences to act as such he shall in open Court and in the presence of the accused make oath to act well and truly as assessor and to decide in accordance with the evidence and with law.

Change of assessors.

219. At any time after the appointment of an assessor and before he has been sworn as aforesaid the Court may, either of its own motion or on the application of the prosecutor or the accused, if satisfied there is any reasonable and sufficient objection to that assessor, remove him and appoint another assessor in his place.

Discharge of assessors and new trial.

220. If at any time after the commencement of the trial and before judgment the Court is of opinion that, owing to the misbehaviour of any assessor, or to the death, illness, or absence of any assessor, or to any accident or misadventure, or to any other sufficient cause, a new trial is necessary in the interests of justice, the Court may discharge the assessors and order a new trial accordingly.

Concurrence of assessors.

221. On a trial with assessors no person shall be convicted of any offence unless the conviction is concurred in by not less than three of the assessors.

Concurrence of Court.

222. If the Court is of opinion that the accused should not be convicted, or if less than three of the assessors concur in his conviction, the accused shall be acquitted.

Sentence.

223. The concurrence of assessors in the sentence to be passed by the Court shall not be necessary.

Concurrence of assessors not necessary except for conviction.

224. The concurrence of the assessors shall not be necessary for any act of the Court other than conviction, and in all other respects the jurisdiction of the Court shall be exercised in the same manner as if it was sitting without assessors.

#### Miscellaneous.

Alternative and cumulative charges.

225. (1.) Subject to the provisions of this clause, in any prosecution in the High Court the information of the prosecutor may relate to two or more distinct offences whether alternative or cumulative.

(2.) No information for the offence of murder shall charge any other offence except manslaughter.

(3.) No information for the offence of rape shall charge any other offence except indecent assault and an attempt to commit rape.

Relation between information and conviction.

226. On an information for any offence the accused may be convicted either of the offence charged in the information or of any offence which is included within the offence so charged and which might lawfully have been charged in the same information.

227. (1.) An information in the High Court for any offence may at any time, whether before or during the trial, be withdrawn by the prosecutor with the leave of the Court, but not otherwise.

Withdrawal of information.

(2.) An information so laid and withdrawn shall not operate as a bar to any further proceedings against the accused in respect of the same offence.

228. (1.) On the conviction of any person of an offence before the High Court, a minute or memorandum of the conviction shall thereupon be drawn up and preserved as a record of the Court, and a formal conviction under the seal of the Court may be drawn up at any time afterwards when it becomes necessary.

Drawing-up of conviction.

(2.) In the meantime the conviction and sentence may be carried into execution, and shall have the same force and effect in every respect as if the conviction had been formally drawn up under the seal of the Court.

229. (1.) No objection shall be taken or allowed to any information, summons, or warrant in any criminal proceeding before the High Court for any alleged defect therein in substance or in form, or for any variance between such information, summons, or warrant and the evidence adduced at the trial.

Defects of information, summons, or warrant.

(2.) The Court may at any stage of the trial amend the information in such manner as it thinks fit in respect of any such defect or variance.

230. Any witness at a criminal trial may, if the Court thinks fit and certifies accordingly, be paid out of the Samoan Treasury such allowance for his expenses and loss of time as is so certified, subject, however, to such rules of Court as may be made in that behalf.

Payment of witnesses.

231. (1.) If on any criminal trial the Court thinks that the charge, though proved, is in the particular case of so trifling a nature or was committed under such circumstances that no punishment should be imposed, the Court may convict the accused and discharge him without sentence, either unconditionally or on such conditions as the Court thinks fit to impose.

Conviction without sentence.

(2.) If any person who is so convicted and discharged on conditions commits any breach of those conditions, he shall be guilty of an offence punishable in the same manner as the offence of which he was so previously convicted.

232. (1.) When any person is released on bail under this Order he shall, with or without sureties as may be required, enter into a recognizance to His Majesty in such sum as may be required conditioned in such manner as may be appropriate to the particular case and as may be required.

Bail.

(2.) Every such recognizance may be put in suit in the High Court in the ordinary course of the civil jurisdiction of that Court in proceedings at the suit of His Majesty.

233. In any criminal prosecution in the High Court the Attorney-General for New Zealand may direct a stay of proceedings, and the proceedings shall be stayed accordingly.

Stay of proceedings by Attorney-General.

234. (1.) Any Judge or Commissioner of the High Court who is satisfied on the oath of any person that there is reasonable ground for believing that there is in any building, ship, receptacle, or place—

Search warrants.

(a.) Anything which there is reasonable ground to believe will afford evidence as to the commission of any offence; or

(b.) Anything in respect of which any offence has been or is suspected of having been committed; or

(c.) Anything which there is reasonable ground for believing to be intended to be used for the purpose of committing any offence—

may by warrant under his hand, authorize some constable or other officer of the Samoan Public Service to search such building, ship, receptacle, or place for any such thing, and to seize and bring it before the person by whom such warrant has been issued.

(2.) Every such warrant shall be executed by day (that is to say, after sunrise and before sunset), unless the warrant expressly authorizes the execution thereof by night.

(3.) Every such warrant may be executed by reasonable force if necessary.

(4.) When any such thing is seized and brought before the person by whom the warrant was issued, such person may either order it to be detained for the purpose of evidence on the trial of any person for any such offence as aforesaid or may direct it to be delivered to any person believed by the person so issuing the warrant to be entitled thereto.

(5.) No such order of delivery shall in any manner affect the right of any person to the ownership or possession of the thing.

(6.) Any thing so ordered to be detained as evidence of an offence may be detained in pursuance of the order for such time as is reasonably necessary for the purpose of any proceedings instituted or to be instituted in respect of the offence.

Pardon, and  
remission of  
sentence.

235. (1.) When any person has been convicted of an offence by the High Court, the Governor-General by warrant signed by him may pardon the offender, or may remit any portion of a sentence of imprisonment or exile passed upon the offender or any portion of a fine imposed upon him, or may commute a sentence of death to one of imprisonment.

(2.) In the case of an offender sentenced to imprisonment for a term not exceeding six months, or to pay a fine not exceeding fifty pounds, the Administrator may exercise the like powers of pardon or remission.

(3.) Any such pardon or remission may be made subject to such conditions as the Governor-General or the Administrator, as the case may be, thinks fit.

(4.) The Governor-General may in like manner pardon any offender who has given evidence which leads to the conviction of an accomplice.

## PART VII.

### LAW OF EVIDENCE.

Definitions.

236. In this Part of this Order, except where a contrary intention appears,—

“Court” includes any person acting in any judicial capacity or having by law or by consent of parties authority to hear, receive, and examine evidence :

“Proceeding” includes any action, trial, inquiry, cause, or matter, whether civil or criminal, depending or to be inquired of or determined in or by any Court.

Discretionary power  
of admitting  
evidence.

237. Subject to the provisions of this Order, a Court may in any proceeding admit and receive such evidence as it thinks fit, and accept and act on such evidence as it thinks sufficient, whether such evidence is or is not admissible or sufficient at common law.

Discretionary  
power of rejecting  
evidence.

238. A Court may in any proceeding refuse to receive any evidence, whether admissible or not at common law, which it considers irrelevant, or needless, or unsatisfactory as being hearsay or other secondary evidence.

All witnesses  
competent.

239. No witness in any proceeding shall be deemed incompetent by reason of interest or on any other ground whatever.

Evidence of parties  
and their husbands  
and wives.

240. In any civil proceeding the parties thereto, and the persons on whose behalf such proceeding is brought or defended, and the husbands and wives of such parties or persons respectively, shall be competent and compellable to give evidence on behalf of either or any of the parties to such proceeding.

Evidence of  
accused persons  
and their husbands  
and wives.

241. (1.) Every person charged with an offence shall be a competent but (except where the contrary is expressly provided by any Act) not a compellable witness upon his trial for that offence.

(2.) The wife or husband of any person charged with an offence shall be a competent witness on the trial of that person, but shall not be a compellable witness, except in the following cases :—

(a.) When called as a witness by the accused :

(b.) When the offence of which the accused is charged is an offence against the wife or husband of the accused or against a child of the accused.



(3.) If any witness who under this clause is competent but not compellable gives evidence on any such trial, he shall be liable to cross-examination in the same manner as if he was a compellable witness whether the matter on which he is so cross-examined arises out of his examination in chief or not.

242. In any proceeding the Court may limit in any manner and to any extent which it thinks fit the cross-examination of any witness as to credit, and shall refuse to permit any such cross-examination which is needlessly offensive or injurious to the witness, having regard to the nature or gravity of the imputations made against him, to the importance of his evidence, and to the effect of such imputation upon his credibility. Cross-examination as to credit.

243. Nothing in this Part of this Order shall take away or affect the privilege of any witness to refuse to answer any question which may tend to criminate him. Criminating questions.

244. (1.) On application made in that behalf by any person who states on oath that any prisoner can give material evidence in any proceeding in any Court, a Judge of the High Court may, by order under his hand, require such prisoner to be brought up for examination as a witness in that proceeding. Evidence of prisoners.

(2.) In every such case the Judge may, before making such order, require the applicant to deposit a sum sufficient to pay the expense of bringing up the prisoner, maintaining him while out of prison, and returning him thither, including the expense of his custody in the meantime.

245. In every proceeding the Court shall take judicial notice of all Acts, Ordinances, Orders in Council, regulations, Proclamations, and laws in force in Samoa. Judicial notice.

246. In every proceeding the Court shall take judicial notice of the Seal of Samoa and of the seal of any Court, officer, or other person authorized or required by law to use any such seal, and of the signature of any Judge or other officer, whether judicial or not, of the Samoan Public Service, and of the Public Seal of New Zealand, and of the signature of the Governor-General or of any member of the Executive Council of New Zealand, or of the Attorney-General or Solicitor-General for New Zealand, and of the signature of any Judge of the Supreme Court of New Zealand, and of the seal of that Court or of any Registrar thereof. Judicial notice.

247. All Courts are hereby empowered to administer an oath to all such witnesses as are lawfully called or voluntarily come before them, or to take the affirmation of any such witness in lieu of such oath. Power to administer oaths or to take affirmations.

248. Every oath, whether in a judicial proceeding or not, may be made in such form as the person making the same consents to, whether expressly or impliedly. Form of oath.

249. Except when the person making the oath so consents to any other form of oath, an oath shall, whether in a judicial or other proceeding, be made in one of the two forms following:— Form of oath.

(a.) The person making the oath may, while holding in his hand a copy of the Bible, New Testament, or Old Testament, repeat the words of the oath as prescribed or allowed by law; or

(b.) The officer administering the oath may repeat the appropriate form of adjuration commencing with the words "Do you swear by Almighty God," or words to the like effect, and concluding with the words of the oath as prescribed or allowed by law, and the person making the oath shall thereupon, while holding in his hand a copy of the Bible, Old Testament, or New Testament, indicate his assent to the oath so administered by uttering the words "I do," or other words to the like effect.

250. Where an oath has been duly made the fact that the person making the same had at the time of making the same no religious belief shall not for any purpose affect the validity of the oath. Absence of religious belief.

Affirmation in lieu of oath.

251. (1.) Every person shall be entitled as of right to make his solemn affirmation instead of an oath in cases in which an oath is required or allowed by law, and such affirmation shall be of the same force and effect as an oath.

(2.) Every such affirmation shall commence with the words "I do solemnly, sincerely, and truly declare and affirm," or words to the like effect, omitting any words of imprecation or calling to witness.

Evidence of children without oath.

252. In any proceeding all witnesses who are or appear to be under the age of twelve years may be examined without oath, but any such witness shall in such case be required before being examined to make the following declaration: "I promise to speak the truth, the whole truth, and nothing but the truth," or a declaration to the like effect; and such declaration shall be of the same force and effect as if the witness had taken an oath.

Necessity of oath.

253. Subject to the provisions of this Order, all witnesses in any judicial proceeding, civil or criminal, shall be examined on oath.

## PART VIII.

### CROWN SUITS.

Prosecution of claims against His Majesty.

254. (1.) All claims or demands against His Majesty in respect of the Government of Samoa which might be the subject of a petition of right at common law may be prosecuted by way of petition under the Crown Suits Act, 1908, in the Supreme Court of New Zealand (or in conformity with section thirty-six of the Crown Suits Act, 1908, in an inferior Court), and all the provisions of that Act with respect to such a petition shall apply accordingly.

(2.) The High Court of Western Samoa shall be deemed to be an inferior Court within the meaning of section thirty-six of the Crown Suits Act, 1908.

(3.) The Attorney-General may, at any time before or after the filing of any such petition, but before pleading thereto, require the petition to be filed in the High Court instead of in the Supreme Court, and the petition shall be so filed accordingly.

(4.) All moneys recovered against His Majesty on any such petition shall be payable out of the Samoan Treasury.

Authority of Attorney-General and Solicitor-General.

255. (1.) The authority of the Attorney-General and Solicitor-General for New Zealand as the Law Officers of the Crown shall extend to Samoa in the same manner as to New Zealand.

(2.) Any power, duty, authority, or function imposed upon or vested in the Attorney-General by virtue of his office in respect of Samoa shall and may be exercised and performed either by the person holding the office of Attorney-General or by the person holding the office of Solicitor-General.

Prosecution of claims by His Majesty.

256. (1.) Except where otherwise expressly provided, all debts, damages, duties, sums of money, land, or goods due, payable, or belonging to His Majesty in right of the Government of Samoa shall be sued for and recovered either in New Zealand or in Samoa in accordance with the provisions of the Crown Suits Act, 1908, and all the provisions of that Act shall, so far as applicable, apply accordingly.

(2.) All jurisdiction conferred by that Act upon the Supreme Court in respect of any such proceeding may be exercised in Samoa by the High Court.

Warrant to sue in name and on behalf of His Majesty.

257. (1.) When His Majesty has any claim or demand against any person, whether for debt, damages, or otherwise howsoever, in right of the Government of Samoa the Administrator may, under the Seal of Samoa, appoint any person to prosecute such claim or demand in the High Court in the name and on behalf of His Majesty, and the person so appointed may sue and take all necessary proceedings in the High Court accordingly.

(2.) Nothing in this clause shall preclude any other mode of suit that would otherwise be available in respect of the claims or demands of His Majesty.

## PART IX.

## LAND.

258. (1.) All land in Samoa is Crown land, or European land, or Native land. Classification of land in Samoa.

(2.) "Crown land" means land vested in the Crown free from Native title and from any estate in fee-simple.

(3.) "European land" means land held from the Crown for an estate in fee-simple.

(4.) "Native land" means land vested in the Crown but held by Samoans by Native title, and not by grant from the Crown.

(5.) "Native title" means title to land in accordance with the customs and usages of the Samoan race.

*Crown Land.*

259. (1.) The Governor-General may grant Crown land in Samoa in fee-simple, or may grant or authorize the Administrator to grant in respect of such land any lease, license, easement, or other limited estate, right, or interest, or may accept or authorize the Administrator to accept a surrender of any estate, right, or interest in such land. Grants of Crown land.

(2.) Every such grant in fee-simple shall be under the public seal of New Zealand, and every other grant shall be made under the hand of the Governor-General or the Administrator.

260. Any Crown land in Samoa may, by Order in Council, be set aside as a reserve for any public purpose, and shall, while such Order remains in force, be reserved and used for that purpose accordingly. Reserves of Crown land for public purposes.

261. (1.) Any European or Native land in Samoa may by Ordinance be taken for any public purpose specified in the Ordinance, and it shall thereupon become absolutely vested in His Majesty as from the coming into operation of that Ordinance, or from any later date specified therein in that behalf, free from all estates, rights, and interests of any other person therein save so far as any such estates, rights, or interests are expressly saved by such Ordinance. Taking of lands for public purposes.

(2.) When any land has been so taken for a public purpose all persons having in respect of that land any right, title, estate, or interest which is extinguished or divested by the taking of the land shall be entitled to compensation therefor from the Crown.

(3.) Such compensation shall be assessed and awarded by the High Court either on the application of the Administrator or on that of any person claiming such compensation or any share therein.

(4.) The compensation so awarded to any person shall constitute a debt due to him by the Crown, and shall be payable out of the Samoan Treasury.

262. (1.) Any Crown land held under lease or otherwise subject to any right, title, or interest in any other person may, by Order in Council, be resumed for any public purpose specified in the Order, and every such lease, right, title, or interest shall in accordance with the tenor of the Order determine accordingly, save so far as expressly preserved thereby. Resumption of Crown land for public purposes.

(2.) All persons entitled to any lease, right, title, or interest so determined shall be entitled to compensation in the same manner as in the case of land taken for public purposes.

263. The Administrator may, for any public purpose for and in the name of His Majesty, purchase any land in Samoa, or acquire by grant or assignment any lease, easement, or other limited right, title, estate, or interest in any such land. Purchase of land for public purposes.

264. The Administrator may exercise on behalf of His Majesty all rights of suit, entry, re-entry, receipt of rents and profits, use, management, control, and possession vested in His Majesty in respect of Crown land in Samoa. Control of Crown land by Administrator.

265. The term "public purpose" as used in this Order includes public health, education, public recreation, the burial of the dead, water-supply, drainage, lighting, the provision of public buildings, the provision of sites for townships, the provision of wharves, harbours, tramways, and railways, and all lawful purposes and functions of the Government of Samoa. "Public purpose" defined.

Foreshore and tidal  
lands and waters.

266. The foreshore—that is to say, all land lying between high- and low-water mark—and all tidal lands and waters within the limits of the Territory are hereby declared to be vested in His Majesty as Crown land free from any right, title, or interest in any other person, and subject only to the public right of fishery and navigation.

*European Land.*

Ownership in  
European land.

267. All land in Samoa which at the commencement of this Order is owned by any person or body corporate (other than land owned by Samoans by Native title) shall on the commencement of this Order be deemed to be held by that person or body corporate for an estate in fee-simple as by grant from the Crown, subject, however, to all encumbrances or other interests less than ownership which are at the commencement of this Order vested in any other person or body corporate, and all such land is hereby declared to be European land accordingly.

*Native Land.*

Ownership in  
Native land.

268. All land in Samoa which at the commencement of this Order is held by Samoans by Native title is hereby vested in the Crown subject to such Native title, and shall continue to be so held under the customs and usages of the Samoan race, and all such land is hereby declared to be Native land accordingly, but shall remain subject to any rights which may have been lawfully acquired in respect thereof before the commencement of this Order otherwise than in accordance with such customs and usages.

Saving of existing  
interests in Native  
land.

269. Where at the commencement of this Order any Native land is subject to any valid and subsisting leasehold or other interest vested in any person or body corporate otherwise than by way of Native title, such leasehold or other interest shall be deemed to be held by grant from the Crown.

Alienation of land  
by Samoans.

270. (1.) Save so far as may be otherwise provided by regulation or Ordinance, it shall not be lawful or competent for a Samoan to make any alienation or disposition of Native land, or of any interest in Native land, whether by way of sale, lease, license, mortgage, or otherwise howsoever, other than an alienation or disposition in favour of the Crown, nor shall Native land or any interest therein be capable of being taken in execution or be assets for the payment of the debts of a Samoan on his decease or insolvency.

(2.) For the purposes of this clause a contract of sale of crops, timber, minerals, or other valuable thing attached to or forming part of any Native land shall be deemed to be a contract for the alienation of an interest in such Native land, unless the thing so sold or agreed to be sold has been severed from the land before the making of the contract.

(3.) For the purposes of this clause all rent and other moneys receivable by a Samoan in respect of his interest in any Native land shall be deemed to be an interest in such Native land.

(4.) The Administrator may, under the seal of Samoa and in the name of His Majesty, grant a lease of any Native land for a period not exceeding forty years, and on such terms as he thinks fit, if he is satisfied that the grant of such a lease is in accordance with the desires and interests of the owners of the land and with the public interest; and he may on the like conditions accept a surrender of any lease so granted by him.

(5.) Every such lease shall operate as if it was a lease of Crown land, but the rents or other revenues derived therefrom shall be received by the Crown in trust for the owners of the land.

(6.) Subject to the foregoing provisions of this clause, the ownership of Native land shall be determined in accordance with the customs and usages of the Samoan race, notwithstanding anything to the contrary in this Order.

Native title not to  
avail against the  
Crown.

271. Save as to the rights of Samoans to have their claims to Native land investigated and adjudicated upon in any manner which may be provided by regulation or Ordinance in that behalf, the Native title to Native land shall not be available or enforceable as against His Majesty the King by way of proceedings in any Court or in any other manner.

272. A Proclamation by the Governor-General that any land vested in the Crown is free from Native title shall in all Courts and in all proceedings be accepted as conclusive proof of the fact so proclaimed.

Proclamation to be conclusive as to Native title.

273. No Crown grant, Crown lease, or other alienation or disposition of land by the Crown shall in any Court or in any proceedings be questioned or invalidated or in any manner affected by reason of the fact that the Native title to that land has not been duly extinguished.

No alienation of land by the Crown to be invalid by reason of Native title thereto not having been duly extinguished.

## PART X.

### MARRIAGE.

274. With respect to marriage the prohibited degrees of consanguinity and affinity shall be the same in Samoa as for the time being in New Zealand, and every marriage entered into between persons within those prohibited degrees shall be wholly void.

Prohibited degrees of consanguinity.

275. Every marriage in Samoa shall take place in the presence of a marriage officer as hereinafter defined, and of at least two other witnesses, and otherwise shall be wholly void.

Marriages to take place before marriage officer.

276. The term "marriage officer" means a person licensed as a marriage officer under this Order.

"Marriage officer" defined.

277. (1.) The Administrator may, by warrant under his hand and the seal of Samoa, license as a marriage officer for Western Samoa any minister of religion or other person whom he believes to be a fit and proper person to be so appointed.

Appointment of marriage officers.

(2.) Any such license may be at any time revoked by the Administrator in like manner.

278. If any person solemnizes a marriage or otherwise acts as a marriage officer in Samoa without being licensed as a marriage officer under this Order, he shall be guilty of an offence punishable by imprisonment for three years.

Offence

279. (1.) A marriage officer shall not solemnize or record any marriage unless notice in writing of the intention of the parties to enter into such marriage has been given to the marriage officer by one of the parties thereto at least two clear days before the day of the marriage.

Notice of marriage.

(2.) On receipt of such notice the marriage officer shall publish the same in such manner as he thinks sufficient to give due publicity to the intended marriage.

(3.) On every such notice there shall be payable by the person giving the same such fee (if any) as may be prescribed by the Administrator, and all such fees shall be payable into the Samoan Treasury.

(4.) No marriage shall be invalidated by any breach of the requirements of this clause.

280. Every marriage shall, subject to the provisions of this Part of this Order, be solemnized in such manner as the marriage officer thinks fit.

Mode of solemnization.

281. Every marriage shall, at the time of the solemnization thereof, be recorded in writing by the marriage officer in the form and with the several particulars prescribed by the Administrator, but no marriage shall be invalidated by any error or defect in such form or in the particulars so required to be recorded.

Record of marriage.

282. The aforesaid record of every marriage shall be signed by the parties thereto, and by two witnesses, and by the marriage officer, all being present at the same time, and when the record has been so signed the marriage shall be deemed to be fully solemnized and shall take effect.

Signature of record.

283. The record of every marriage shall be forthwith delivered by the marriage officer to the Registrar of the High Court, and shall be preserved by the Registrar in the same manner as if it was a record of the High Court.

Transmission of record.

284. A marriage officer shall not solemnize or record any marriage unless the husband is at least eighteen years of age and the wife is at least fourteen years of age, but no marriage shall be invalidated by a breach of the provisions of this clause.

Minimum age of marriage.

285. (1.) A marriage officer shall not solemnize or record the marriage of any man under the age of twenty-one years or of any woman under the age of nineteen years without the consent of one of the parents of such man or woman, if either of those parents is alive and resident in Samoa.

Marriage of minors.

(2.) A Judge of the High Court may in any case, if he thinks fit so to do, grant exemption from the requirements of this clause.

(3.) No marriage shall be invalidated by any breach of the provisions of this clause.

Offence.

286. If a marriage officer commits a breach of the provisions of this Part of this Order, or signs any record of a marriage containing any statement known by him to be false, he shall be guilty of an offence punishable by a fine of fifty pounds.

Offence.

287. Every party or witness to a marriage who signs a record thereof containing any statement known by him or her to be false shall be guilty of an offence punishable by a fine of twenty pounds or by imprisonment for six months.

Offence.

288. Every person who, by any wilful misrepresentation made to a marriage officer, procures or attempts to procure the solemnization by that officer of any marriage shall be guilty of an offence punishable by one year's imprisonment.

Legitimation per  
subsequens  
matrimonium.

289. An illegitimate child, whether born before or after the commencement of this Order, shall be legitimated by the subsequent intermarriage after the commencement of this Order of the parents of that child, provided that at the time of the birth of the child there existed no bar to the intermarriage of the parents other than the age of one or both of those parents.

## PART XI.

### DIVORCE.

Jurisdiction of  
High Court.

290. The High Court shall have jurisdiction in divorce and other causes and matters matrimonial in accordance with the provisions of this Part of this Order.

Limitation of  
jurisdiction.

291. No decree shall be made for a divorce *a mensa et thoro*, or for restitution of conjugal rights, nor shall any action be brought for criminal conversation.

Nullity of marriage.

292. The High Court shall in suits for nullity of marriage have and exercise in Samoa the same jurisdiction as is possessed for the time being in New Zealand by the Supreme Court.

Grounds of divorce.

293. Any married person (hereinafter called the petitioner) who at the time of the institution of the suit has been domiciled in Samoa for not less than two years may take proceedings in the High Court for the dissolution of his or her marriage on any of the following grounds:—

- (a.) That the other party to the marriage (hereinafter called the respondent) has since the celebration of the marriage been guilty of adultery:
- (b.) That the respondent has without just cause wilfully deserted the petitioner and without any such cause left the petitioner so deserted during two years or more:
- (c.) That the respondent (being the husband) has been habitually guilty of cruelty towards the petitioner:
- (d.) That the respondent (being the husband) has habitually, and without just cause, during two years or more left the petitioner without adequate means of support:
- (e.) That the respondent has for a continuous period of five years or more been of unsound mind and is not likely to recover from such unsoundness of mind:
- (f.) That the respondent has for a continuous period of two years or more been isolated by lawful authority as a leper:
- (g.) That the respondent has for two years or more been an habitual drunkard:
- (h.) That the respondent has been convicted and sentenced in Samoa or elsewhere to two years' imprisonment or more for any offence of violence against the person of the petitioner or of any child of the petitioner.

294. If the Court is of opinion—

- (a.) That the petitioner's own habits or conduct induced or contributed to the wrong complained of so as to disentitle the petitioner to a dissolution of the marriage; or
- (b.) That in the case of the adultery of the respondent the petitioner has been in any manner accessory to or has connived at such adultery or has condoned the same,—

the Court shall dismiss the suit; but in all other cases, if the Court is satisfied that the case of the petitioner has been established, the Court shall pronounce a decree dissolving the marriage.

295. A deserted wife who was domiciled in Samoa at the time of desertion shall be deemed for the purposes of the jurisdiction of the High Court in divorce (whatever the ground of divorce may be) to have retained such domicile so long as she is resident in Samoa, notwithstanding that her husband may have acquired a domicile elsewhere.

296. In any suit in the High Court for dissolution of marriage on the ground of adultery the Court may, if it thinks fit, require the petitioner (being the husband) to make the person with whom the respondent is alleged to have committed adultery a co-respondent in the suit.

297. By leave of the High Court any person may intervene in a suit for dissolution of marriage for the purpose of opposing the making of a decree for such dissolution.

298. No covenant or agreement between the parties to a suit for dissolution of marriage shall operate as a bar to the institution or prosecution of such suit.

299. No appeal shall lie to the Supreme Court of New Zealand from any decree of the High Court for the dissolution of a marriage.

300. When a decree for the dissolution of a marriage has been made by the High Court it shall be lawful for the parties to such marriage to marry again as if the former marriage had been dissolved by death.

301. In any suit for the dissolution of marriage the High Court may make such order as it thinks fit for the payment of the costs of the proceedings, or of any part thereof, by or to the petitioner, respondent, co-respondent, or any person intervening in the suit.

302. (1.) When a decree for the dissolution of marriage is made by the High Court, the Court may, if it thinks fit, in and by the decree of dissolution, order the husband to pay towards the future maintenance of his wife (whether petitioner or respondent), so long as she remains unmarried, such sum as the Court thinks reasonable, at such times and in such manner as the Court thinks fit.

(2.) Every such order may be at any time varied or cancelled by the Court.

303. The High Court may in and by any decree for the dissolution of marriage, or at any time and from time to time thereafter, make such order as it thinks fit as to the custody of the children of the marriage.

304. If at any time after a decree of dissolution of marriage has been pronounced at the suit of the wife the husband from whom she has been so divorced—

- (a.) Commits any trespass by entering or remaining upon or in any land, house, or building which is in her occupation or in which she dwells or is present; or
- (b.) Attempts or threatens to commit any such trespass; or
- (c.) Molests her by watching or besetting her dwellinghouse or place of business, employment, or residence, or by following or waylaying her in any road or other public place,—

he shall be guilty of an offence, and shall be liable to a fine of twenty pounds or to imprisonment for three months.

305. (1.) The jurisdiction of the Supreme Court of New Zealand under the Divorce and Matrimonial Causes Act, 1908, shall extend to Samoa in the same manner as if that territory was part of New Zealand, and a domicile in Samoa shall for the purposes of such jurisdiction be deemed to be a domicile in New Zealand accordingly.

Grounds of refusal of divorce.

Domicile of deserted wife.

Co-respondent a party.

Intervention.

Agreement no bar to divorce.

No appeal to Supreme Court.

Remarriage of divorced persons.

Costs.

Order for maintenance of divorced wife.

Order for custody of children.

Molestation of divorced wife by her husband.

Jurisdiction of Supreme Court.

(2.) In the exercise of such jurisdiction the Supreme Court shall, in respect of the grounds of divorce and in respect of all other matters, act in accordance with the laws of New Zealand, and not in accordance with this Order.

## PART XII.

## PERSONS OF UNSOUND MIND.

*Orders of Medical Custody.*

Application by  
Chief Medical Officer  
to High Court.

306. The Chief Medical Officer may make application to the High Court for an order committing any person to medical custody under this Part of this Order on the ground that he is of unsound mind.

Hearing of  
application.

307. No such order shall be made except on examination of the person alleged to be of unsound mind, and on the production to the Court of the certificate of a Medical Officer that the person in respect of whom the order is to be made is of unsound mind and that his detention in medical custody is necessary in his own interests or for the safety of other persons.

Order of medical  
custody.

308. If the Court is satisfied on the examination of the person so alleged to be of unsound mind, and on hearing such further evidence (if any) as the Court thinks necessary, that he is of unsound mind and that his detention in medical custody is necessary in his own interests or for the safety of other persons, the Court may make an order (hereinafter called an order of medical custody) committing such person to medical custody for such period as the Court thinks fit, not exceeding *six* months.

Renewal of order.

309. Any such order may at any time and from time to time, whether before or after the expiry thereof, be renewed for such further period, not exceeding six months, as the Court on a further application and certificate as aforesaid thinks fit.

Cancellation of  
order.

310. Any such order may be at any time cancelled by the High Court.

Discharge from  
custody.

311. Any person so committed to medical custody may be at any time discharged from custody by the Administrator, and the order of medical custody shall thereupon lapse.

Arrest and  
detention of  
persons committed  
to medical custody.

312. Any person against whom an order of medical custody has been so made may thereupon be arrested by any constable or Medical Officer, and shall, while the order remains in force, be detained at such hospitals or other places in Samoa, and in the custody of such Medical Officer, as may from time to time be determined in that behalf by the Chief Medical Officer, either generally or in respect of any particular case or class of cases.

Removal from  
Samoa to New  
Zealand.

313. When an order of medical custody has been so made against any person the High Court may, at the same time or at any time thereafter while the order remains in force, issue under the seal of the Court a warrant for the removal of that person from Samoa to New Zealand.

Conditions of  
removal.

314. No such warrant shall be issued unless the Court is satisfied on the certificate of the Chief Medical Officer and on the examination of the person alleged to be of unsound mind that his removal from Samoa to New Zealand is necessary in his own interests or for the safety of other persons.

Method of  
removal.

315. On the issue of any such warrant for the removal of any person to New Zealand he may be taken to New Zealand in the custody of any person appointed in that behalf by a Chief Medical Officer in any ship belonging to His Majesty or in any British ship.

Persons so removed  
to New Zealand to  
be brought before a  
Magistrate.

316. On arrival in New Zealand he shall be forthwith brought before a Stipendiary Magistrate, together with the warrant and a certificate of the Chief Medical Officer, authenticated by the seal of the High Court, certifying that the person so committed is of unsound mind, and setting forth such particulars as to the physical and mental condition of that person as the Chief Medical Officer thinks necessary.

Magistrate may  
make a reception  
order.

317. The Magistrate may thereupon, without further application or evidence, make in respect of the person so brought before him a reception order under the Mental Defectives Act, 1911, in the same



manner, so far as applicable, as if an application for a reception order had been made in accordance with that Act, and the reception order so made shall be deemed for all purposes to be a reception order made under that Act, and shall have effect accordingly.

318. Any person against whom an application has been made for an order of medical custody may be arrested by any constable or other person under a warrant issued by a Judge or Commissioner of the High Court.

Warrant for arrest of persons of unsound mind.

319. Any person believed on reasonable grounds to be of unsound mind and to be dangerous to himself or others may be arrested without warrant by a constable or any other person, and shall be forthwith brought before a Judge or Commissioner of the High Court, who may from time to time make such order for his custody as is thought fit, pending the making and determination of an application for an order of medical custody.

Arrest of persons of unsound mind without warrant.

#### *Criminal Lunatics.*

320. If any person on being charged with an offence before the High Court is found to be of unsound mind so that he cannot understand the nature of the proceedings, he shall not be tried, but the High Court shall order him to be detained in prison or in some other place of security until the pleasure of the Administrator or (in the case of a charge of murder or manslaughter) the pleasure of the Governor-General is known.

Insane persons not to be tried for offences.

321. If any person on his trial for an offence before the High Court is found to have been insane at the time of the commission of the offence, he shall be found not guilty on the ground of insanity, and the Court shall order him to be detained in prison or in some other place of security until the pleasure of the Administrator or (in the case of a charge of murder or manslaughter) the pleasure of the Governor-General is known.

Detention of accused persons acquitted on ground of insanity.

322. (1.) Except in the case of a charge of murder or manslaughter, a person shall not be detained under such an order for a longer period than two months, and may at any time be discharged by the Administrator.

Discharge.

(2.) In the case of a charge of murder or manslaughter any person so detained may be at any time discharged by the Governor-General.

323. (1.) When any person is so detained, whether in the case of a charge of murder or manslaughter or otherwise, the High Court shall have the same jurisdiction to make an order of medical custody and to issue a warrant for removal to New Zealand as in the case of any other person of unsound mind.

Orders of medical custody of criminal lunatics.

(2.) Any order of medical custody so made shall supersede the order for detention during the pleasure of the Administrator or the Governor-General, save that, in the case of a charge of murder or manslaughter, no person shall either in Samoa or New Zealand be discharged from custody except with the consent of the Governor-General or become discharged by operation of law under the Mental Defectives Act, 1911.

324. (1.) No person charged with any offence shall be acquitted on the ground of insanity unless the offence was committed by him while labouring under natural imbecility or disease of the mind to such an extent as to render him incapable of understanding the nature or quality of the act done by him or of knowing that such act was wrong.

Defence of insanity in criminal prosecutions.

(2.) A person labouring under specific delusions but in other respects sane shall not be acquitted on the ground of insanity unless the delusions caused him to believe in the existence of some state of things which, if it existed, would justify or excuse his act.

(3.) Every one shall be presumed to be and to have been sane unless the contrary is proved.

## PART XIII.

## INTOXICATING LIQUOR.

Manufacture of intoxicating liquor prohibited.

325. (1.) It shall not be lawful for any person to manufacture any intoxicating liquor in Samoa.

(2.) Any person committing any offence against this clause shall be liable to a fine of one hundred pounds or to imprisonment for three months.

(3.) All intoxicating liquor manufactured in breach of this clause may be seized and destroyed by an officer of Customs or police.

Importation of intoxicating liquor prohibited.

326. Save as provided by this Part of this Order, it shall not be lawful to import any intoxicating liquor into Samoa.

Sale of intoxicating liquor prohibited.

327. (1.) Save so far as provided by this Part of this Order, 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 Samoa.

(2.) Every person who commits an offence against this clause shall be liable to imprisonment for three months or to a fine of fifty pounds.

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

Giving intoxicating liquor to a Samoan prohibited.

328. (1.) Except by or with the approval of a Medical Officer for medicinal purposes, it shall not be lawful in Samoa to give or administer any intoxicating liquor to a Samoan, or to permit any such liquor to be consumed by a Samoan.

(2.) Except with the approval of a Medical Officer for medicinal purposes, it shall not be lawful in Samoa for any Samoan to consume intoxicating liquor or to have such liquor in his possession for the purpose of consumption by himself or by any other Samoan.

(3.) Every person who commits an offence against this clause shall be liable to a fine of five pounds when the offender is a Samoan and of fifty pounds in any other case.

(4.) Nothing in this clause shall apply to the use of wine for sacramental purposes in accordance with the practice of the Christian religion.

Administrator may import liquor for medical services or for sale.

329. (1.) The Administrator 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 Samoa such intoxicating liquor as he thinks required from time to time, either for the hospitals and medical services of the Territory or for sale under the provisions hereinafter contained.

(2.) Any liquor so imported may, in accordance with regulations, but not otherwise, be sold for medicinal, sacramental, or industrial purposes.

"Intoxicating liquor" defined.

330. The term "intoxicating liquor" as used in this Part of this Order means alcohol and any liquor containing alcohol, but, save so far as may be otherwise prescribed by 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 containing less than three per centum of proof spirit.

## PART XIV.

## THE PUBLIC TRUSTEE.

Authority, powers, and functions of Public Trustee extended to Samoa.

331. To the extent and in the manner indicated in this Part of this Order the authority, powers, and functions of the Public Trustee as constituted by the Public Trust Office Act, 1908, are hereby extended to Samoa, and to property, whether real or personal, situated therein.

Public Trustee as executor of a will.

332. The Public Trustee may be appointed and may act as the executor of a will.

333. The High Court may grant to the Public Trustee letters of administration of the estate of an intestate, or letters of administration with the will annexed, in any case in which the Court is of opinion that such an appointment is advisable, and to the exclusion of any person otherwise entitled to such letters of administration.

Grant to Public Trustee of letters of administration.

334. The High Court may in any case in which it thinks such a course advisable remove any person from office as an executor or administrator, and appoint the Public Trustee in his place.

Removal of executor or administrator from office, and appointment of Public Trustee.

335. The High Court may in any case in which it has power to appoint a trustee of any estate or property appoint the Public Trustee as such.

Appointment of Public Trustee as trustee by High Court.

336. Any person settling any property on trust, whether by will or otherwise, or having power to appoint a trustee of any property, may appoint the Public Trustee as the trustee thereof.

Appointment of Public Trustee as trustee by persons selling property or having power to appoint trustee.

337. (1.) When any person is in lawful confinement in Samoa or elsewhere as a person of unsound mind the High Court may, on the application of the Public Trustee or of any other person, appoint the Public Trustee as the committee of the estate of the person of unsound mind.

Appointment of Public Trustee as committee of estate of person of unsound mind.

(2.) While any such order remains unrevoked the Public Trustee shall have the same powers, functions, and authority in respect of such estate, so far as situated in Samoa, as if he had been appointed the committee of the estate of such person of unsound mind by the Supreme Court of New Zealand under the Mental Defectives Act, 1911, but subject to the control of the High Court instead of that of the Supreme Court.

338. By regulation or Ordinance there may be conferred upon the Public Trustee such rights, powers, and functions as may be considered necessary with respect to insolvent and other estates.

Regulations or Ordinances as to insolvent and other estates.

339. Subject to the laws of Samoa, all powers and functions conferred upon the Public Trustee by or in pursuance of this Order shall be exercised and fulfilled by him in the same manner, so far as may be, as in the case of the like powers and functions pertaining to him in respect of property in New Zealand.

Powers and functions of Public Trustee.

340. The remuneration of the Public Trustee in respect of his functions under this Order shall be such as may be prescribed by Order in Council.

Remuneration of Public Trustee.

341. There shall be stationed in Samoa an officer of the Samoan Public Service who shall be called the Samoan Deputy Public Trustee, and whose functions shall be to assist the Public Trustee in the exercise by him in Samoa of the functions conferred upon him by or in pursuance of this Order.

Samoan Deputy Public Trustee.

342. Subject to regulations, the Public Trustee may delegate to the Samoan Deputy Public Trustee any of the powers vested in the Public Trustee by or in pursuance of this Order.

Power of delegation.

343. The profit made by the Public Trustee in the exercise of his powers under this Part of this Order shall be estimated by him at the end of each financial year and certified to the Minister of External Affairs, and the amount so certified shall be paid out of the Public Trustee's Account into the Samoan Treasury.

Profits of Public Trustee.

## PART XV.

### ROADS.

344. In this Order the term "road" means a public right-of-way, or the land which is subject to such a right-of-way, as the context may require.

"Road" defined.

345. All roads existing in Samoa at the commencement of this Order shall continue to exist as if established under this Order.

Existing roads.

346. (1.) The Administrator, if satisfied that any Crown or other land has been continuously used as a public highway as of right for not less than five years before the commencement of this Order, may by warrant under the seal of Samoa proclaim that land as a road in pursuance of the provisions of this clause.

Proclamation of existing roads.

(2.) Every such warrant shall be conclusive that the road so proclaimed was theretofore a public highway, and no compensation shall be payable to any person in respect thereof.

Proclamation of new roads.

347. (1.) The Administrator may by warrant under the seal of Samoa proclaim any Crown or other land as a road.

(2.) All persons having any interest in such land and suffering loss or damage by reason of the proclamation of a road under this section shall be entitled to compensation for that loss or damage in the same manner as in the case of land taken for public purposes under Part IX of this Order.

Roads to be vested in the Crown. Formation, maintenance, and repair.

348. All roads in Samoa, whether constituted before or after the commencement of this Order, shall, subject to the public right of way thereon, be vested in the Crown, and may be formed, maintained, and repaired by the Administrator.

Closing of roads.

349. It shall be lawful by Ordinance to close, in whole or in part, any road in Samoa, and to make or authorize such disposition as is thought fit of the land comprised within the area of the road so closed.

Warrant as to roads to be gazetted.

350. Every warrant of the Administrator under this Part of this Order shall be published in the *Western Samoa Gazette*, and shall take effect upon such publication or upon any later date specified in that behalf in the warrant.

## PART XVI.

### THE LAWS OF SAMOA: GENERAL PROVISIONS.

Law of England as in the year 1840 to be in force in Samoa.

351. (1.) The law of England as existing on the fourteenth day of January in the year eighteen hundred and forty (being the year in which the Colony of New Zealand was established) shall be in force in Samoa, save so far as inconsistent with this Order or with any Ordinance or regulation or inapplicable to the circumstances of the Territory:

Provided that no Act of the Parliament of England or of Great Britain or of the United Kingdom passed before the said fourteenth day of January in the year eighteen hundred and forty shall be in force in Samoa unless and except so far as it is in force in New Zealand at the commencement of this Order.

Jurisdiction of the High Court.

(2.) For the purposes of this clause all rules of common law or equity relating to the jurisdiction of the superior Courts of common law or of equity in England shall be construed as relating to the jurisdiction of the High Court of Western Samoa.

Common law and equity to be administered concurrently.

352. All Courts in Samoa shall within the limits of their jurisdiction administer common law and equity concurrently, and in all cases in which there is any conflict between common law and equity with reference to the same matter the rules of equity shall prevail.

Statute law of New Zealand not applicable to Samoa.

353. Save so far as otherwise expressly provided, the statute law of New Zealand, whether enacted before or after the commencement of this Order, shall not be in force in Samoa.

Statute of Frauds and Statute of Frauds Amendment Act, 1828, not in force in Samoa.

354. The Act of the Parliament of England, known as the Statute of Frauds (29 Charles II, chapter 3), and the Act of the Parliament of the United Kingdom, known as the Statute of Frauds Amendment Act, 1828 (9 George IV, chapter 14), shall not be in force in Samoa.

Common-law rules disqualifying aliens from acquiring or holding land not in force in Samoa.

355. The rules of the common law of England disqualifying aliens from acquiring or holding land shall not be in force in Samoa.

When Act in force in Samoa amendments and regulations to be in force also.

356. When any Act of the Parliament of New Zealand is in force in Samoa every existing or future amendment of that Act, and all existing or future regulations, rules, Orders in Council, and other acts of authority in force under any such Act, shall, so far as applicable, and with all necessary modifications, be or become also in force therein, except where otherwise expressly provided.

Acts in force in Samoa to be read subject to this Order.

357. Every Act of the Parliament of New Zealand which by virtue of this Order is in force in Samoa shall, in its application to Samoa, be read subject to the provisions of this Order, and subject also to all modifications necessary for such application.

358. In every enactment in force in Samoa every reference to the trial of offences by way of indictment or by way of summary proceedings shall, in the application of that enactment to Samoa, be construed as a reference to the trial of such offences by the High Court in the ordinary course of its criminal jurisdiction and procedure.

Criminal procedure  
in Samoa.

359. (1.) The Copyright Act, 1913, shall apply to Samoa in the same manner in all respects as if Samoa was part of New Zealand, and the term "New Zealand" as used in that Act shall, both in New Zealand and in Samoa, be construed as including Samoa accordingly.

Copyright Act, 1913,  
in force in Samoa.

(2.) The High Court shall have no jurisdiction in civil proceedings under that Act.

360. (1.) The Patents, Designs, and Trade-marks Act, 1911, shall apply to Samoa in the same manner in all respects as if Samoa was part of New Zealand, and the term "New Zealand" as used in that Act shall, both in New Zealand and in Samoa, be construed as including Samoa accordingly.

Patents, Designs,  
and Trade-marks  
Act, 1911, in force in  
Samoa.

(2.) The High Court shall have no jurisdiction in civil proceedings under that Act.

(3.) All patents in force in New Zealand at the commencement of this Order shall extend to and be in force in Samoa in the same manner as in New Zealand.

(4.) All designs and trade-marks registered in New Zealand at the commencement of this Order shall have the same protection in Samoa as in New Zealand.

361. Save so far as may be otherwise provided by regulation or Ordinance, the law of Samoa as to prescription and the limitation of suits and actions shall be the same as that which is in force for the time being in New Zealand.

Prescription and  
limitation of actions.

362. (1.) Save where otherwise provided by this Order or by any Ordinance, the legal capacity of a married woman, whether contractual, proprietary, testamentary, or of any other kind whatsoever, shall be the same as that of an unmarried woman, and marriage shall not, save in respect of intestate succession, confer on either party thereto any rights to or in respect of the property of the other.

Legal capacity and  
status of married  
women.

(2.) Nothing in this clause shall affect the validity or operation of a restraint on anticipation.

363. When in any action for damages the cause of action depends on the negligence of a servant of the defendant, it shall be no defence that the plaintiff was engaged in common employment with that servant.

Employer's liability.

364. (1.) Notwithstanding anything to the contrary in any Act, or in any rule of law or in any lease, it shall not be lawful for any person to distrain for rent.

No distress for rent.

(2.) This clause shall extend and apply to leases granted by the Crown.

365. The calendar in Samoa shall be one day behind the calendar in New Zealand, so that the first day of January in Samoa shall be that day which is coincident for the most part of its duration with the second day of January in New Zealand, and so on from day to day throughout the year, and so that Sunday in Samoa shall be that day which is coincident for the most part of its duration with Monday in New Zealand, and so on from day to day throughout the week.

Calendar of Samoa.

366. (1.) It shall not be lawful for any person, firm, or company to carry on the business of banking in Samoa, except under the authority of an Order in Council and in accordance with the terms and conditions prescribed by that Order.

Banking.

(2.) It shall not be lawful for any bank to issue bank-notes in Samoa.

367. (1.) Save as is otherwise herein or in any Act or regulation expressly provided, the currency, coinage, and legal tender of Samoa shall be the same as that of New Zealand.

Currency.

(2.) The Minister of External Affairs may issue Samoan Treasury notes in such form and of such denominations, not exceeding five pounds and not less than five shillings, as he thinks fit, and such notes shall be legal currency and tender in Samoa and shall be negotiable and transferable by delivery.

(3.) All such notes shall be countersigned by the Secretary of the New Zealand Treasury, or as he directs.

(4.) On presentation of any such notes to the New Zealand Treasury at any time after the expiration of five years from the commencement of this Order the bearer shall be entitled to receive the amount thereof in cash or other legal currency of New Zealand in exchange therefor, and all moneys so paid by the New Zealand Treasury shall be repayable by the Samoan Treasury.

(5.) In respect of all Samoan Treasury notes the Minister of External Affairs shall give to the New Zealand Treasury, at the cost of the Samoan Treasury, security to the satisfaction of the Minister of Finance for the liability so incurred by the New Zealand Treasury, such security to be constituted either by the deposit of cash or by the hypothecation of debentures, inscribed stock, or other securities issued by the Government of New Zealand.

(6.) The total amount of Samoan Treasury notes so issued shall at no time exceed the total amount of security so provided for the time being by the Samoan Treasury.

(7.) All currency notes which have been issued by the Military Administration of Samoa and are outstanding at the commencement of this Order shall be deemed to be Samoan Treasury notes issued under this Order, and the Minister of External Affairs shall forthwith after the commencement of this Order provide due security therefor to the New Zealand Treasury in accordance with the foregoing provisions.

Statutory  
declarations.

368. (1.) Any Judge, Commissioner, Registrar, or Deputy Registrar of the High Court, Collector of Customs, Medical Officer, Commissioner of the Supreme Court, or solicitor of the Supreme Court may in Samoa take and receive in any matter the declaration of any person voluntarily making the same before him in the form in the Second Schedule to this Order.

(2.) If any declaration so made is false in any material particular, the person wilfully making such false declaration shall be guilty of an offence punishable by imprisonment for two years.

(3.) Any declaration made in Samoa under and in accordance with this clause shall be deemed to be a statutory declaration within the meaning of that term as used in any enactment in force in Samoa or in New Zealand.

Contracts by  
Samoans.

369. The jurisdiction of the High Court or of any other Court in Samoa to enforce any contract made by a Samoan shall be discretionary; and if the Court is of opinion, having regard to the interests of the Samoan, that the contract is oppressive, unreasonable, or improvident, the Court may either refuse to enforce the contract or may enforce it only to such extent or on such terms or with such modifications as the Court thinks fit.

Securities given by  
Samoans.

370. No security given by a Samoan over any property shall be enforceable, whether by the exercise of a power of sale or otherwise, without the leave of the High Court.

Succession to  
property of  
Samoans.

371. Save so far as may be otherwise provided by regulation or Ordinance, the right of succession to the property, whether real or personal, of a Samoan on his death shall be determined in accordance with Samoan custom, and all other laws in force in Samoa with reference to succession shall be subject to such custom accordingly.

Warrants of arrest.

372. (1.) Except where other provision is made by law in that behalf, any warrant for the arrest of any person in Samoa may be directed either to any constable or other person by name, or generally to the constables of Samoa.

(2.) When such warrant is directed to constables generally, any such constable may execute the warrant in like manner as if it was directed specially to him by name.

(3.) Any such warrant may be granted and executed on a Sunday, and either by day or night.

(4.) Every such warrant shall name or otherwise describe the person against whom it is issued.

(5.) It shall not be necessary to make such warrant returnable at any particular time, but it may remain in full force until executed.

373. (1.) Subject to this Order, and subject to any regulation or Ordinance which may make different provisions in that behalf, the Acts specified in the Third Schedule hereto shall, so far as applicable, be in force in Samoa, with such modifications as are expressed in that Schedule.

Application of specific Acts.

(2.) In the application of those Acts to Samoa every reference therein to New Zealand shall be read as a reference to Samoa, and every reference to the Supreme Court shall be read as a reference to the High Court, and every reference to a Magistrate or a Justice of the Peace shall be read as a reference to the High Court or to a Judge thereof.

374. The Acts Interpretation Act, 1908, so far as the same is applicable, shall extend to and be in force in Samoa, and shall apply to Orders in Council and to Ordinances in the same manner as to Acts of Parliament.

Acts Interpretation Act, 1908, in force in Samoa.

## PART XVII.

### TRANSITORY PROVISIONS.

375. So far as the Governor-General in Council has authority in that behalf, and save so far as otherwise expressly provided in this Order, all enactments and laws whatsoever in force in Samoa at the commencement of this Order are, so far as there in force, hereby repealed, and all Courts of Justice and public offices existing in Samoa at the commencement of this Order are hereby abolished.

Repeal of existing laws and abolition of Courts and public offices of Samoa.

376. (1.) Notwithstanding the repeal of the former laws of Samoa by this Order, all rights, obligations, and liabilities already existing under those laws at the commencement of this Order shall continue to exist and shall be recognized, exercised, and enforced accordingly, but subject to the provisions of this clause.

Saving of existing rights and liabilities.

(2.) In respect of the recognition, exercise, and enforcement of such rights, obligations, and liabilities as aforesaid, and in respect of all matters wherein any doubt, difficulty, or injustice arises, or may arise by reason of the transition from the legal system hitherto in force in Samoa to the system established by this Order, the High Court and all other Courts in Samoa or in New Zealand are hereby empowered and directed to exercise their jurisdiction in accordance with equity and good conscience and not otherwise.

(3.) All persons who at the commencement of this Order are registered as foreigners under the laws theretofore in force in Samoa shall be deemed to have been registered as Europeans in pursuance of this Order.

(4.) All marriages which at the commencement of this Order are valid under the laws theretofore in force in Samoa shall be deemed to be valid marriages for all purposes hereunder, including that of the legitimation of any child of the parties to any such marriage born before such marriage.

(5.) All proceedings, whether civil or criminal, which are pending in any Court of Justice in Samoa at the commencement of this Order may be continued and completed (save so far as other provision is made in that behalf by this Order or by any Ordinance or regulation) in the High Court in accordance with the ordinary procedure of that Court, so far as may be, and with all necessary modifications; and all judgments, orders, convictions, sentences, and other judicial acts theretofore given, made, or done by the Court so abolished shall remain in full force and effect, and shall (save so far as other provision is made hereby or by any Ordinance or regulation in that behalf) have the same operation as if given, made, or done by the High Court with full authority, and may be executed and enforced accordingly.

(6.) Criminal proceedings in respect of offences committed against the laws of Samoa before the commencement of this Order may be instituted in the High Court in the ordinary course of its criminal jurisdiction and procedure under this Order, and the offenders shall be liable to the punishments appointed by those laws.

Taxes, fees, and assessments to continue until abolished.

377. All taxes, fees, duties, and assessments whatsoever (other than duties of Customs and export duties) in force in Samoa at the commencement of this Order shall continue to be in force there until abolished by Ordinance or Order in Council.

Property of German Government to vest in His Majesty.

378. His Majesty the King is hereby declared to be the successor in title to all the property and proprietary rights whatsoever of the Government of Germany in respect of the Territory of Western Samoa, and all such property and rights are hereby vested in His Majesty accordingly for the public purposes of the Government of that Territory.

Continuance of corporate bodies.

379. Save so far as may be otherwise provided by any regulation or Ordinance, all incorporated companies and other bodies corporate existing at the commencement of this Order, and incorporated in Samoa under laws theretofore in force in the Territory, shall continue to exist with the same constitution and organization as at the commencement of this Order.

Appointments.

380. All appointments authorized by this or any other Order may be made at any time after the making of the authorizing Order, but shall not take effect until the commencement thereof.

Military government to continue until commencement of Order.

381. (1.) Until the commencement of this Order the Military Government of Samoa as established and existing during the recent war with Germany shall continue to exist, and such Government shall be deemed to have at all times existed, with full authority of law notwithstanding the termination of the said war, and all the acts of that Government and of the officers thereof, whether during or after the said war, are hereby ratified and confirmed.

(2.) This clause shall take effect on the passing of this Order.

Debts, liabilities, and assets of the Military Administration of Samoa.

382. (1.) All debts and liabilities incurred by the Crown in respect of the administration of Samoa before the commencement of this Order and outstanding at the date of such commencement, other than debts and liabilities incurred in the maintenance of the New Zealand (Samoan) Expeditionary Force, shall be payable out of the Samoan Treasury.

(2.) All moneys and other property which at the commencement of this Order belong to the Crown in respect of the administration of Samoa, or which thereafter come into the possession of the Crown in respect of such administration prior to the commencement of this Order, other than moneys or property held by the Crown in respect of the New Zealand (Samoan) Expeditionary Force, shall belong to the Crown in right of the Territory of Samoa, and shall be subject to the provisions of this Order accordingly.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

LIMITS OF THE TERRITORY OF WESTERN SAMOA.

THE islands of Upolu and Savaii in the South Pacific Ocean, together with all other islands adjacent thereto and lying between the 13th and 14th degrees of south latitude and the 171st and 173rd degrees of longitude west of Greenwich.

SECOND SCHEDULE.

FORM OF DECLARATION.

I, A. B. [Insert place of abode and occupation or description], do solemnly and sincerely declare [Insert facts]. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of an Order in Council of the Executive Government of New Zealand entitled the Samoa Constitution Order, 1920.

A. B.

Declared at \_\_\_\_\_, in Western Samoa, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, before me.

Judge of the High Court of Western Samoa [or Collector of Customs of Western Samoa, or Medical Officer of Western Samoa, or Solicitor of the Supreme Court of New Zealand, or otherwise, as the case may be].



## THIRD SCHEDULE.

Acts in Force in Samoa.	Modifications.
The Administration Act, 1908. The Arbitration Act, 1908. The Bills of Exchange Act, 1908. The Chattels Transfer Act, 1908 ..	Instruments shall be registered in the office of the Registrar of the High Court.
The Deaths by Accident Compensation Act, 1908. The Marine Insurance Act, 1908. The Mercantile Law Act, 1908. The Partnership Act, 1908. The Property Law Act, 1908. The Sale of Goods Act, 1908 ..	Section 6 of that Act shall not be in force in Samoa, and no contract for the sale of goods shall be unenforceable because of the want of any note or memorandum in writing. Section 24 of the said Act (relating to sales in market overt) shall not be in force in Samoa.
The Trustee Act, 1908. The (Imperial) Wills Amendment Act, 1852 (15 and 16 Victoria, chapter 24).	

F. D. THOMSON,  
Clerk of the Executive Council

## THE SAMOA CUSTOMS ORDER, 1920.

LIVERPOOL, Governor-General.

## ORDER IN COUNCIL.

At the Government Buildings at Wellington, this twentieth day of April, 1920.

Present :

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

HIS Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the authority to make laws for the peace, order, and good government of the Territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, nineteen hundred and twenty, under the Foreign Jurisdiction Act, 1890, and further in pursuance of the authority conferred upon him by the Treaties of Peace Act, 1919, doth hereby order as follows:—

1. This Order may be cited as the Samoa Customs Order, 1920, and shall, subject to the provisions of clause seventeen hereof, come into operation on the same day as the Samoa Constitution Order, 1920.

2. The Customs Act, 1913, shall be in force in Samoa subject to any modifications made by this Order or by any other Order in Council which may be in force in Samoa.

3. In its application to Samoa all references in that Act to New Zealand shall be read as references to Samoa.

4. Collectors and other officers of Customs stationed in Samoa shall as such be officers of the Samoan Public Service, and their appointment and tenure shall be governed by the Samoa Constitution Order, 1920, notwithstanding anything to the contrary in the Customs Act, 1913.

5. (1.) All actions and other proceedings, whether civil or criminal, under the Customs Act, 1913, in relation to goods imported into or exported from Samoa, or in relation to any offence committed or cause of action arising wholly or in part in Samoa, may be instituted and taken either—

(a.) In New Zealand, in the same manner as if Samoa formed part of New Zealand; or

(b.) In the High Court of Western Samoa.

(2.) For the purposes of any such proceeding in the High Court all references in the Customs Act, 1913, to the Supreme Court or to a Magistrate shall be read as references to the High Court.

6. Orders in Council made under sections forty-six or forty-seven of the Customs Act, 1913, prohibiting the importation or exportation of any class of goods (whether such orders are made before or after the commencement of this Order) shall not be in force in Samoa.

7. When the importation or exportation of any goods into or from Samoa is prohibited by this or any other Order in Council in force in Samoa, or by any Ordinance, the Customs Act, 1913, shall apply to such goods in the same manner as if the importation or exportation thereof had been lawfully prohibited by or in pursuance of sections forty-six or forty-seven of that Act.

8. In the application of the Customs Act, 1913, to Samoa this Order shall be deemed to be part thereof, and the said Act and this Order shall operate accordingly, and this Order shall be deemed to be included within the expression "Customs Acts" as used in that Act.

9. The term "duty" as used in the Customs Act, 1913, shall in the application of that Act to Samoa include export duties imposed by this or any other Order in Council so far as the provisions of that Act are applicable thereto, and the terms "revenue of Customs," "dutiable goods," and "uncustomed goods" shall be construed accordingly, save that section one hundred and thirty of the said Act (relative to alterations of duties) shall have no application to export duties.

10. (1.) All duties imposed on the exportation of goods shall constitute a debt payable to the Crown by the exporter of those goods, and, if there are several exporters, then jointly and severally by all of them.

(2.) Such duty shall become due and payable so soon as entry of the goods for export has been made, or the goods have been wrongfully shipped or otherwise wrongfully dealt with without having been entered for export, or any other offence against the Customs Act, 1913, has been committed with respect thereto.

(3.) The term "exporter" means and includes, in respect of any goods exported or intended for export, any person by whom those goods are exported, or by whom they are shipped on board the exporting ship, or who is or becomes the owner of them or entitled to the possession of them or to any interest in them at any time while they are subject to the control of the Customs.

11. (1.) All powers conferred by Part II or Part VI of the Customs Act, 1913, on the Minister of Customs or on the Comptroller of Customs shall in Samoa be exercised by the Administrator.

(2.) All references in Part II or Part VI of the said Act to the Minister or Comptroller shall be read accordingly as references to the Administrator, and all references to the *Gazette* shall be read as references to the *Western Samoa Gazette*.

12. The seal of the Customs in Samoa shall be the Royal Arms having the words "Western Samoa—H.M. Customs" encircling the Arms.

13. (1.) The Port of Apia in Samoa is hereby declared to be a port of entry for the purposes of the Customs Act, 1913, in its application to Samoa.

(2.) The limits of the said Port of Apia shall be a circle of two miles from the Customhouse now existing at Apia, and the said port shall include all land, river, and sea included within that circle.

14. The prescribed period for the removal of goods from a King's warehouse in Samoa within the meaning of section one hundred and six of the Customs Act, 1916, shall be twelve months.

15. The Administrator may, by notice in the *Western Samoa Gazette*, impose such charges as he thinks fit for the receipt, discharge, or storage of goods received into a King's warehouse, or upon any wharf or examining-place belonging to the Crown.

16. (1.) There shall be levied, collected, and paid to the use of His Majesty on goods imported into Samoa the several duties of Customs set out in the First Schedule hereto.

(2.) Section one hundred and forty-three of the Customs Act, 1913, shall apply to any alteration made by this Order in the Customs duties in force in Samoa on the commencement of this Order.

17. (1.) There shall be levied, collected, and paid to the use of His Majesty on goods exported from Samoa the several export duties set out in the Second Schedule hereto.

(2.) The said duties shall be chargeable on all goods which are laden on the exporting ship after the commencement of this Order.

(3.) Goods laden on the exporting ship before the commencement of this Order shall remain liable to the export duties heretofore in force in Samoa.

18. Save in pursuance of a license issued by the Minister of External Affairs, it shall not be lawful to import into Samoa any firearms, ammunition, or explosives.

19. (1.) Save in pursuance of a license issued by the Minister of Customs, it shall not be lawful to import into Samoa any German or Austrian goods.

(2.) "German or Austrian goods" means goods which, whether before or after the date of this Order, have been manufactured in, or produced in, or exported from Germany or Austria.

(3.) "Germany" means the territory of the State of Germany as now constituted.

(4.) "Austria" means any territory which on the fourth day of August, nineteen hundred and fourteen, was part of the Austro-Hungarian Empire, other than territory which belongs to the Republic of Czecho-Slovakia, or to the Kingdom of the Serbs, Croats, and Slovenes, or to the Kingdom of Italy.

(5.) Goods shall be deemed to have been manufactured or produced in Germany or Austria if as much as five per centum of the value thereof as estimated in accordance with the provisions of the Customs Act, 1913, with respect to goods subject to *ad valorem* duty, has its source in Germany or Austria.

20. If a Collector of Customs has reason to believe or suspect that any goods imported into Samoa are German or Austrian goods imported without the leave of the Minister of Customs, the Collector may detain those goods, and they shall not be delivered from the control of the Customs until the Collector is satisfied, by such evidence as he requires, that the goods are not German or Austrian goods, or the Minister of Customs consents to the importation of those goods or to the exportation thereof.

21. If the invoice for any goods imported into Samoa from any destination contains or is accompanied by a certificate signed by the exporter to the effect that less than five per centum of the fair market value in the country of export of each article in its condition as exported has its source in Germany or Austria, such certificate shall be accepted by the Collector of Customs as sufficient evidence that the goods are not German or Austrian goods within the meaning of this Order, unless the Collector has reason to believe or suspect that the certificate is false or erroneous.

## SCHEDULES.

## FIRST SCHEDULE.

## IMPORT DUTIES.

Tariff No.	Goods.	Rates of Duty.
1	Cigars (including the weight of every band, wrapper, or attachment to any cigar)	12s. a pound.
2	Cigarettes not exceeding in weight 2½ lb. a thousand	£1 5s. 6d. a thousand.
3	Cigarettes (all other kinds)	10s. 6d. a pound.
4	Tobacco in any other form, including the weight of every label, tag, or other attachment	3s. 6d. a pound.
5	All other goods not expressly exempted from duty—	
	If British goods	15 per cent. <i>ad valorem</i> .
	If foreign goods	22½            "

(a.) "British goods" means and includes—

- (i.) Goods wholly the produce of the British Dominions :
- (ii.) Goods wholly manufactured within the British Dominions from materials produced in such Dominions :
- (iii.) Goods wholly manufactured within the British Dominions, in respect of which all manufacturing processes are performed in the British Dominions from unmanufactured raw material of foreign origin :
- (iv.) Goods partially produced or partially manufactured in the British Dominions, provided that the final process or processes of manufacture have been performed in such Dominions and also that the expenditure in material produced in such Dominions and [or] labour performed within such Dominions (calculated subject to the qualification hereunder) in respect of each article is not less than one-fourth of the factory or works cost of such article in its finished state.

(b.) In the calculation of such proportion of produce or labour of the British Dominions none of the following items shall be included or considered : Manufacturer's profit, or the profit or remuneration of any trader, agent, broker, or other person dealing in the article in its manufactured finished condition ; cost of outside packages or any cost of packing the goods thereinto ; any cost of conveying, insuring, or shipping the goods subsequent to their manufacture.

(c.) Goods which, after shipment from any part of the British Dominions, have entered the commerce of or been subjected to any process of manufacture in any foreign country shall not be deemed to be British goods.

(d.) "British Dominions" includes British Protectorates.

(e.) "Foreign goods" means all goods other than British goods.

(f.) All goods shall be deemed to be foreign goods and liable to duty accordingly unless there is produced to the Collector an invoice of the goods, having thereon a certificate signed by the sender or consignor, and in a form approved by the Minister of Customs, to the effect that the goods are British goods within the meaning of this order. No such invoice shall relate to any goods other than those to which the certificate refers.

(g.) In the case of goods sent through the post, or with the consent of the Administrator in any other case, the Collector may dispense with the said certificate if he is satisfied by any other evidence that the goods are British goods.

(h.) In every case where full duty under this order is payable on any goods owing to the non-production of such certificate, and at the time of the importation the importer alleges and the Collector has reason to believe that such goods are British goods and that such non-production is due to accident, the following provisions shall apply :—

- (i.) Any amount of duty so payable in excess of the duty payable upon like goods being British goods may be held by the Collector on deposit pending the production of an invoice with the said certificate thereon :
- (ii.) Such deposit shall be returned to the importer if the invoice with the said certificate thereon is produced within six months from the date of payment of the deposit, but otherwise the same shall be applied as duty payable under this Order unless other action is specially directed by the Administrator.

(i.) In all proceedings under the Customs Act, 1913, goods liable to *ad valorem* duty shall be presumed to be foreign goods unless the contrary is proved.

## EXEMPTIONS.

The following goods shall be exempt from Customs duty :—

1. Coin being legal currency in Samoa.
2. Printed literature, including printed music.
3. Passengers' baggage and effects, including only wearing-apparel and other personal effects that have been worn or are in use by persons arriving in Samoa ; also instruments and tools of trade, occupation, or employment of such persons not exceeding £50 in value, and household and other effects not exceeding £100 in value, if such instruments, tools, or effects have been in use for twelve months by the persons bringing them to Samoa and are not intended for any other person or for sale.

4. Goods approved by the Administrator for importation by Christian missions for religious or educational purposes.
5. Medical, surgical, dental, and optical instruments and appliances approved by the Administrator.
6. Drugs and chemicals approved by the Administrator for medical, surgical, sanitary, dental, or veterinary purposes.
7. Insecticides and other articles approved by the Administrator for the destruction of vermin and pests.
8. Fresh vegetables and fresh fruit.
9. Official supplies for Consular officers of countries where a similar exemption exists in favour of British Consuls.
10. Chinese tobacco—that is to say, tobacco approved by the Administrator as exclusively suitable for use by Chinese.

## SECOND SCHEDULE.

## EXPORT DUTIES.

Tariff No.	Goods.	Rates of Duty.
1	Copra .. .. .	£1 a ton.
2	Cocoa .. .. .	£2 a ton.
3	Extracts from or preparations of any of the foregoing goods	The above rates calculated on the quantity of the foregoing goods which is represented by such extracts or preparations.

F. D. THOMSON,  
Clerk of the Executive Council.

## THE SAMOA POST AND TELEGRAPH ORDER, 1920.

## LIVERPOOL, Governor-General.

## ORDER IN COUNCIL.

At the Government Buildings at Wellington, this first day of April, 1920.

Present :

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

**H**IS Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the authority to make laws for the peace, order, and good government of the Territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, 1920, under the Foreign Jurisdiction Act, 1890, and in further pursuance of the Treaties of Peace Act, 1919, doth hereby order as follows:—

1. This Order may be cited as the Samoa Post and Telegraph Order, 1920.

2. This Order shall come into force on the same day as the Samoa Constitution Order, 1920.

3. (1.) The Post and Telegraph Act, 1908, shall, subject to the provisions of this Order, apply to Samoa in the same manner as if that territory was part of New Zealand.

(2.) The term "New Zealand" as used in that Act shall, both in New Zealand and in Samoa, be construed as including Samoa.

4. Officers under the Post and Telegraph Act, 1908, stationed in Samoa shall, as such, be officers of the Samoan Public Service, and their appointment and tenure shall be governed by the Samoa Constitution Order, 1920, accordingly.

5. All profits derived from the operations of the Post and Telegraph Office in Samoa, as certified from time to time by the Audit Office, shall belong to the Samoan Treasury.

6. All moneys which in New Zealand would be payable into or out of the Post Office Account shall in Samoa be paid into or out of the Samoan Treasury on behalf of the Post Office Account, anything to the contrary in the Post and Telegraph Act, 1908, notwithstanding; and a Debtor and Creditor Account shall at all times be kept as between the Samoan Treasury and the Post Office Account accordingly.

7. At the end of every month the balance of all moneys in the Samoan Treasury representing deposits in the Samoan Post Office Savings-bank, and in excess of two thousand pounds, shall be paid out of the Samoan Treasury into the Post Office Account for investment or other disposition in accordance with the laws in force in New Zealand with reference to that account.

8. Special postage stamps or revenue stamps or postage and revenue stamps for use in Samoa shall be created in accordance with the Post and Telegraph Act, 1908, the Stamp Duties Act, 1908, or other Acts for the time being in force in New Zealand with respect to stamps, at the cost of the Samoan Treasury.

9. Electric lines, radiograph stations, and all buildings and public works required in Samoa for the purposes of the Post and Telegraph Act, 1908, shall be provided and controlled by the Administrator at the cost of the Samoan Treasury, and not otherwise, notwithstanding anything to the contrary in that Act.

10. The Post and Telegraph Act, 1908, shall have no application to any system of telephonic communication which may be established by the Administrator in Samoa.

11. All powers conferred on a Magistrate by the Post and Telegraph Act, 1908, may in Samoa be exercised by the High Court.

F. D. THOMSON,  
Clerk of the Executive Council.

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## THE SAMOA IMMIGRATION ORDER, 1920.

LIVERPOOL, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this first day of April, 1920.

Present :

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

**H**IS Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the authority to make laws for the peace, order, and good government of the Territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, nineteen hundred and twenty, under the Foreign Jurisdiction Act, 1890, doth hereby order as follows:—

1. This Order may be cited as the Samoa Immigration Order, 1920, and shall come into operation in Western Samoa on the same day as the Samoa Constitution Order, 1920.

2. (1.) Save with the authority of the Administrator, no person (other than a child under the age of fourteen years) shall land in Samoa from any place beyond the seas unless and until he has made and delivered to an officer of Customs or of police a declaration in the form in the Schedule hereto.

(2.) A person arriving in Samoa as the master or a member of the crew of any vessel, or as a passenger in the course of his journey by that vessel to any place beyond Samoa, shall not be deemed to have

landed in Samoa within the meaning of this clause if he leaves Samoa with that vessel on her first departure from the Territory.

(3.) Every person commits an offence against this Order, and shall be liable accordingly, who—

- (a.) Being required by this clause to make and deliver a declaration before landing in Samoa, lands in Samoa without having made and delivered such declaration; or
- (b.) Makes any declaration under this clause which is in any respect wilfully false or misleading.

3. (1.) No person who was born, or whose father was born in any place which on the fourth day of August, nineteen hundred and fourteen (being the date of the commencement of the recent war with Germany), was within the limits of the German Empire in Europe, or within the limits of the monarchy of Austria-Hungary, shall land in Samoa without a license in that behalf issued by the Administrator.

(2.) In any prosecution for an offence against this clause the burden of proving that the accused is not a person to whom this clause applies shall lie on the accused.

4. (1.) When the Administrator is satisfied that any person is not permanently resident in Samoa, and is disaffected or disloyal, or without adequate means of support, or of unsound mind, or affected by venereal disease, tuberculosis, or leprosy, or of such a character that his presence in Samoa would be injurious to the peace, order, good government, or public interest of the Territory, and that such person is about to arrive or land in Samoa from parts beyond the seas, the Administrator may, by order signed by him, prohibit that person from landing in Samoa.

(2.) If the person against whom such order has been made lands in Samoa with knowledge of the fact that the order has been made against him, he shall be guilty of an offence against this Order and shall be liable accordingly.

(3.) Any person who is found on shore in Samoa at any time after an order has been so made against him may be arrested without warrant by any constable and placed and detained on board the ship by which he arrived in Samoa, or on board any other ship belonging to the same owner and about to leave Samoa, and may, pending his removal to such ship, be detained in such custody and in such place as the Administrator may direct.

(4.) If the owner, charterer, or master of any such ship having knowledge of the making of such order refuses to permit the person against whom the order is made to remain on board the ship in obedience to the order, or refuses to receive that person on board the ship when brought thereto in custody in accordance with this Order, or connives at or is privy to the escape of that person from the ship, such owner, charterer, or master shall be guilty of an offence against this Order and shall be liable accordingly.

5. (1.) The Administrator, if so directed by the Minister of External Affairs, may, by order signed by him, order any person to leave Samoa in any of the cases following, that is to say:—

- (a.) If the Administrator is satisfied that such person is disaffected, disloyal, or likely to be a source of danger to the peace, order, and good government of Samoa, and that he is not permanently resident in Samoa, or has not at the date of the order so made been permanently resident in Samoa for at least twelve months, or is an alien not born in Samoa; or
- (b.) If the Administrator is satisfied that such person was born, or that his father was born, in any place which on the fourth day of August, nineteen hundred and fourteen, was within the limits of the German Empire in Europe, or within the limits of the Monarchy of Austria-Hungary; or
- (c.) If such person has been convicted of the offence of vagrancy under this order; or

(d.) If such person has been convicted of landing in Samoa in breach of any of the provisions of this Order other than the provisions of clause two thereof.

(2.) If any person remains in Samoa for forty-two days after the day on which such an order, or a copy or duplicate thereof, is served on him, he shall be guilty of an offence against this Order and shall be liable accordingly.

6. (1.) When the Administrator, in pursuance of the authority conferred on him by this Order, has ordered any person to leave Samoa, he may, by the same or any subsequent order, if he thinks such a course necessary in the public interest, and whether default has yet been made in obedience to the order or not, authorize the arrest of that person and his deportation from Samoa on a vessel named by the Administrator and about to leave Samoa, and thereupon any constable may without warrant arrest that person and place him on board that vessel, and detain him there until the vessel has left Samoa.

(2.) When any person ordered to leave Samoa has been so arrested he may, pending his deportation from Samoa, be detained in such custody as the Administrator may direct.

7. No person ordered to leave Samoa as aforesaid shall at any time after compliance with the order, or after having been placed on board any vessel as aforesaid, return to or land in Samoa without the permission in writing of the Administrator, and every person who so returns or lands shall be guilty of an offence against this Order.

8. Such sum as the Administrator considers reasonable may be paid out of the Samoan Treasury to the owner, charterer, or master of any vessel on account of the carriage from Samoa of any person so ordered to leave Samoa and placed on board that vessel under arrest, and if, after payment or offer of that sum, the owner, charterer, or master of that vessel refuses without reasonable excuse to receive or retain on board the person so arrested or any officer in whose custody he is, or connives at or is privy to the escape from the ship of any person so ordered to leave Samoa, he commits an offence against this Order and shall be liable accordingly.

9. (1.) An order made by the Administrator under this Order may at any time be revoked by him.

(2.) The revocation of any such order shall not operate so as to render unlawful anything theretofore done pursuant to the order, or anything that may be thereafter done by any person in intended pursuance of the order without notice of its revocation.

10. (1.) If an officer of Customs or of police has reason to believe or suspect that any person arriving in Samoa from beyond the seas is a person whose landing in Samoa is prohibited by this Order, or whose intention to land in Samoa should be communicated to the Administrator for the purposes of this Order, such officer may, by order signed by him, temporarily prohibit that person from landing in Samoa.

(2.) Every such order shall, unless sooner revoked, expire in forty-eight hours after the day on which it was signed.

(3.) Every person who, with knowledge that such an order has been made against him, lands in Samoa while the order remains in force commits an offence against this Order and shall be liable accordingly.

11. (1.) It shall not be lawful for any Chinaman to land in Samoa save in pursuance of a permit issued by a Collector of Customs under this Order.

(2.) No such permit shall be issued in respect of any Chinaman until and unless—

(a.) The Collector is satisfied that the Chinaman is able to read and understand a printed passage of not less than one hundred words in the English language, to be selected by the Collector; and



- (b.) The Chinaman has paid to the Samoan Treasury the sum of one hundred pounds.
- (3.) This clause shall not apply—
- (a.) To any accredited officer of the Chinese Government :
- (b.) To any Chinaman landing in Samoa in pursuance of the authority of the Minister of External Affairs :
- (c.) To any Chinaman who satisfies a Collector of Customs that he is a resident of Samoa returning thereto after not more than two years' absence, or that he was born in Samoa :
- (d.) To any Chinaman brought to Samoa as an agricultural labourer in accordance with any scheme approved by the Minister of External Affairs for the importation of such labourers and their service for terms of years.

(4.) In this Order "Chinaman" means any person, whether male or female, and whether a British subject or an alien, belonging to the Chinese race, and includes a half-caste Chinaman and a person intermediate in blood between a half-caste and a person of pure descent from the Chinese race, and also includes any native of China or its dependencies or of any island in the China Seas other than a native of pure European descent.

(5.) A Chinaman shall not be deemed to have landed in Samoa within the meaning of this clause if he arrives in Samoa as the master or a member of the crew of a vessel and leaves Samoa with that vessel on her first departure from the Territory.

12. (1.) The following persons are prohibited immigrants within the meaning of this Order :—

- (a.) Any person suffering from venereal disease or from tuberculosis or leprosy :
- (b.) Any person who at any time within five years of his arrival in Samoa has been convicted in any place of any criminal offence punishable in the place where it was committed by imprisonment for more than one year :
- (c.) Any person of unsound mind.

(2.) Notwithstanding the foregoing provisions of this clause, no person shall be deemed to be a prohibited immigrant who at the time of his arrival in Samoa is already lawfully resident in the Territory.

(3.) It shall not be lawful for any prohibited immigrant to land in Samoa.

13. (1.) "Vagrant" means any person having insufficient lawful visible means of support, and not being a Samoan born in Samoa.

(2.) Every vagrant found in Samoa shall be guilty of an offence against this Order and shall be liable accordingly.

14. When any person is within six months after his arrival in Samoa convicted of landing in Samoa in breach of this Order, or is within twelve months after his arrival in Samoa convicted of vagrancy under this Order, and is in consequence arrested and deported in pursuance of this Order, the cost incurred by the Samoan Treasury in so deporting him shall constitute a debt due to the Crown by the owner of the vessel by which he arrived in Samoa, and the clearance of that vessel, or of any other vessel belonging to the same owner, from any port in Samoa may be withheld by a Collector of Customs until such debt is paid.

15. The master of a ship shall have full authority to prevent any person who is not lawfully entitled to land in Samoa from landing in Samoa from that ship, and for that purpose may detain any such person upon the ship.

16. If the master of a ship permits any person unlawfully to land in Samoa or is in any way knowingly concerned in the breach or attempted breach of the provisions of this Order by any person, or in any conspiracy to commit any such breach, the master commits an offence against this Order and shall be liable accordingly.

17. Every person who commits, or attempts to commit, or does any act with intent to commit, or counsels, procures, aids, abets, or incites any other person to commit, or conspires with any other



## THE SAMOA QUARANTINE ORDER, 1920.

LIVERPOOL, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this first day of April, 1920.

Present :

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

**H**IS Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the authority to make laws for the peace, order, and good government of Western Samoa, conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, nineteen hundred and twenty, under the Foreign Jurisdiction Act, 1890, doth hereby order as follows :—

1. This Order may be cited as the Samoa Quarantine Order, 1920, and shall come into operation on the same day as the Samoa Constitution Order, 1920.

2. In this Order—

“Infectious disease” means typhus fever, scarlet fever, yellow fever, measles, German measles, mumps, whooping-cough, small-pox, diphtheria, plague, influenza, acute primary pneumonia, cerebro-spinal fever, infantile paralysis, and any other disease which the Administrator by notice in the *Western Samoa Gazette* declares to be an infectious disease within the meaning of this Order :

“Ship” means a ship, boat, or other vessel of any kind used in navigation :

“Master” includes any person actually in charge or command of a ship.

3. This Order shall extend and apply to ships of the Crown and to all persons in the service of the Crown.

4. Until and unless a clearance has been granted by a Medical Officer under this Order every ship arriving in Samoa from any place beyond the seas, and every ship arriving in Samoa and having on board any person who has come from any place beyond the seas, shall be deemed to be in quarantine at all times while within any port, harbour, or other territorial waters of Samoa, or within three miles of the coast of Samoa.

5. If and so long as a ship is in quarantine it shall not be lawful, save in the case of urgent necessity due to a marine casualty or other like emergency, or save with the written authority of the Administrator,—

(a.) For the master, pilot, or other officer in charge of the navigation of that ship to bring or allow her to be brought to any wharf or other landing-place, or within three hundred yards thereof :

(b.) For any person, other than a Medical Officer and his assistants, or a pilot, to go on board that ship :

(c.) For any person other than a Medical Officer and his assistants to leave that ship :

(d.) For any goods, mails, or other articles whatever to be landed or transhipped from that ship :

(e.) For any boat, launch, or other vessel, other than one in the service of the Samoan Administration, to be brought within fifty yards of that ship.

6. A Medical Officer shall, before granting a clearance to any ship under this Order, board that ship and there inspect every person on board, so far as may be necessary for the purpose of ascertaining the existence on that ship of any infectious disease, and it

shall be the duty of every such person to present himself before the Medical Officer and to submit to such inspection accordingly.

7. (1.) It shall be the duty of the master of such ship and of any medical officer in the service of such ship to answer all questions put to him by the said Medical Officer as to any sickness, whether infectious or not, which may exist on board, or which may have existed on board within one month before the arrival of the ship in Samoa, and as to the places from which the ship has come or at which she has touched in the course of her voyage, and as to any other matters which are or may be supposed to be material with regard to the grant of a clearance under this Order.

(2.) If the master of the ship or any such medical officer in the service of the ship refuses to answer any question so put to him, or answers any such question in an erroneous, imperfect, or misleading manner, or gives to the Medical Officer, whether in reply to any such question or not, any information of an erroneous or misleading character touching any of the matters aforesaid, he shall be guilty of an offence against this Order and shall be liable accordingly.

(3.) If the master of such ship or any such medical officer in the service of the ship, or any other person whatever, wilfully deceives or attempts to deceive a Medical Officer as to any matter whatever with intent to obtain the clearance of the ship under this Order, or with intent to influence the exercise by a Medical Officer in any other respect of his authority under this Order, he shall be guilty of an offence against this Order and shall be liable to imprisonment for three years.

8. (1.) If on such inspection and inquiry as aforesaid the Medical Officer is satisfied that no infectious disease exists on board the ship and that no person on board the ship has been so recently exposed to infection that he may suffer from an infectious disease in consequence, he shall grant a clearance to the ship, and the ship shall then cease to be in quarantine accordingly.

(2.) If not so satisfied, the Medical Officer shall refuse a clearance to the ship, and the ship shall remain in quarantine accordingly until a clearance is subsequently granted to her under this Order or until she has left Samoa.

9. If a clearance is refused to any ship the master of that ship shall take her to such station within the port as the Medical Officer directs, and shall keep the ship at that station until a clearance is obtained or until the ship leaves Samoa.

10. (1.) If and so long as a clearance is refused and the ship remains in Samoan waters the master of the ship shall hoist and continuously exhibit the quarantine signal.

(2.) This signal shall be in the daytime a yellow flag of six breadths of bunting at the maintopmast-head, and in the nighttime a large signal-lantern at the same mast-head.

11. If at any time after a clearance has been so refused to any ship a Medical Officer is satisfied that there is no longer any infectious disease on board and that there is no person on board who has been so recently exposed to infection that he may suffer from an infectious disease in consequence, the Medical Officer shall thereupon grant a clearance to the ship, and the ship shall cease to be in quarantine accordingly.

12. (1.) When any ship arrives in Samoa in quarantine it shall be lawful for a Medical Officer to take all such measures as he thinks requisite for the disinfection or preventive treatment of all persons, goods, mails, clothing, and other articles whatever on board that ship, or of the ship itself, for the purpose of preventing the outbreak or spread of any infectious disease or of any other disease which, in the opinion of the Medical Officer, may be a source of danger to the public health of Samoa.

(2.) Such measures may be taken whether a clearance of the ship is granted or refused, and a clearance may be refused until such measures have been completed to the satisfaction of the Medical Officer.

(3.) Any person who obstructs a Medical Officer in carrying out any such measures of disinfection or preventive treatment shall be guilty of an offence against this Order.

13. (1.) Notwithstanding anything in this Order the Administrator may, in any case in which he thinks such a course advisable for the protection of the public health, give a written instruction to the Chief Medical Officer that a clearance is not to be granted without the authority of the Administrator, and so long as any such instruction remains in force all Medical Officers shall act in accordance therewith.

(2.) Any such instruction may relate either to a specified ship, or to any class of ship, or to ships in general.

14. The Administrator may by notice published in the *Western Samoa Gazette* appoint as a quarantine station any suitable place in the possession of the Crown and so situated that the residence there of persons suffering from infectious disease will not be a source of public danger.

15. When a ship is in quarantine under this Order a Medical Officer may, with the approval of the Administrator, compulsorily remove from the ship to a quarantine station any person who in the opinion of the Medical Officer is suffering from an infectious disease or may have been so recently exposed to infection that he may suffer from an infectious disease in consequence.

16. (1.) When a ship arrives in Samoa in quarantine and has on board any person who in the opinion of a Medical Officer is suffering from or infected by any disease which, though not an infectious disease within the meaning of this Order, may nevertheless be a source of danger to the public health of Samoa, the Medical Officer may at any time, before or after granting a clearance to that ship, prohibit that person from leaving the ship.

(2.) If such person leaves the ship at any time while such prohibition remains in force, he shall be guilty of an offence against this Order.

(3.) When any person has been so prohibited from leaving the ship the Medical Officer may, with the approval of the Administrator, compulsorily remove that person from the ship to a public hospital.

17. All persons removed under this Order to a quarantine station or hospital shall be detained there until a Medical Officer is satisfied that they may be discharged without risk to the public health of Samoa, and discharges them accordingly.

18. It shall be the duty of the Medical Officer in charge of a quarantine station or hospital to make due provision, at the cost of the Samoan Treasury, for the accommodation, feeding, care, inspection, control, and medical attendance of all persons so detained in that station or hospital.

19. Every person who is so detained in a quarantine station or hospital and leaves the same before he is discharged by a Medical Officer shall be guilty of an offence against this Order.

20. Every person who enters a quarantine station without lawful authority while any person is detained there shall be guilty of an offence against this Order.

21. Every person who escapes from custody while in process of transference from a ship to a quarantine station or hospital shall be guilty of an offence against this Order.

22. Every person found unlawfully at large in breach of this Order may be arrested without warrant by an officer of police or, with the authority of a Medical Officer, by any other person, and may be taken in custody to the ship, quarantine station, or hospital in which he is liable to detention.

23. If and so long as the clearance of any ship is refused under this Order, a Medical Officer may prohibit the master of the ship from taking any action which, in the opinion of the Medical Officer, may be a source of danger to the public health of Samoa; and if anything so prohibited is done by the master or any other person on

board that ship before a clearance has been granted, the master and every person knowingly concerned in the doing thereof shall be guilty of an offence against this Order.

24. Except where some other penalty is expressly provided by this Order, every person who commits, or attempts to commit, or conspires to commit, or incites or aids any other person to commit, an offence against this Order shall be liable to imprisonment for six months, or to a fine of fifty pounds.

F. D. THOMSON,  
Clerk of the Executive Council.

## THE SAMOA LAND REGISTRATION ORDER, 1920.

LIVERPOOL, Governor-General.

### ORDER IN COUNCIL.

At the Government Buildings at Wellington, this first day of April, 1920.

Present:—

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

**H**IS Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the authority to make laws for the peace, order, and good government of the territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, nineteen hundred and twenty, under the Foreign Jurisdiction Act, 1890, doth hereby order as follows:—

1. This Order may be cited as the Samoa Land Registration Order, 1920.

2. This Order shall come into force in the territory of Western Samoa on the same day as the Samoa Constitution Order, 1920.

3. This Order shall apply only to Crown land, European land, and European interests in Native land.

4. In this Order,—

“Instrument of title” means and includes—

(a.) Any Crown grant;

(b.) Any conveyance, mortgage, lease, license, grant, assignment, surrender, or other instrument of assurance;

(c.) Any will, codicil, probate, or letters of administration;

(d.) Any order of the High Court;

(e.) Any warrant, notice, or other instrument of executive authority;

affecting the title to land in Samoa:

“Crown grant” includes a grant by the Crown of any estate or interest in Crown land or in Native land:

“European interest in Native land” means any estate or interest held in Native land otherwise than by virtue of Native custom:

“Legal title” or “legal estate or interest” is opposed to equitable title or equitable estate or interest:

“Registrar” means the Registrar of Land under this Order.

5. There shall be an officer of the Samoan Public Service, to be known as the Registrar of Land, and to be appointed by the Minister of External Affairs.

6. It shall be the duty of the Registrar, as soon as practicable after the commencement of this Order, to prepare, in such manner as

may be approved by the Chief Judge of the High Court, a register, to be called the Land Register, of the legal title to all Crown land, European land, and European interests in Native land existing in Samoa at the commencement of this Order.

7. When after the commencement of this Order any land in Samoa becomes Crown land, or European land, or any European interest is created in Native land, it shall be the duty of the Registrar to include such Crown land or European land or such European interest in Native land in the Land Register.

8. No instrument of title shall in any manner affect the legal title to land in Samoa until and unless such instrument is registered in the Land Register in accordance with this Order.

9. The registration of an instrument shall be effected by the entry of a memorial thereof by the Registrar in the Land Register on application for registration being made in accordance with this Order.

10. Application for the registration of a Crown grant, order of the High Court, probate, letters of administration, or other public or official instrument of title shall be made by depositing with the Registrar a copy thereof under the seal of Samoa or of the High Court, and such copy shall be retained by the Registrar as an official record.

11. Application for the registration of any other instrument of title shall be made by depositing with the Registrar a copy thereof, and by producing for his inspection the original instrument, and such copy shall be retained by the Registrar as an official record.

12. Every power of attorney, with the verifications, if any, of the due execution of the same, may be deposited in the Lands Register Office for safe custody and reference.

13. Instruments of title in respect of the same land shall be entitled to registration in accordance with the priority of the respective applications for registration, and when such applications are made at the same time, then in accordance with the priority of execution.

14. Any instrument operating merely by way of contract or trust or any other instrument not affecting the legal title to land shall not be registered in the Land Register.

15. The Registrar may refuse to accept for registration any instrument of title which does not in his opinion sufficiently describe or indicate the land to which it refers.

16. On the registration of instruments under this Order and on the deposit of powers of attorney there shall be payable by the applicant for registration or deposit such fees as may be prescribed by ordinance.

17. The Land Register and all deposited copies of instruments of title shall be open to search and inspection on payment of such fees as may be prescribed by Ordinance.

18. Whenever by reason of death, forfeiture, re-entry, or in any other manner the legal title to land is affected otherwise than by an instrument of title it shall be the duty of the Registrar, on being satisfied as to the facts, to enter a memorial thereof in the Land Register.

19. Otherwise than by way of testamentary disposition it shall not be competent for any person to create, transfer, or surrender any legal estate or interest in any land in Samoa, except by an instrument in writing executed by him or by his agent and attested or verified in manner hereinafter provided.

20. If any such instrument is executed in Samoa, the execution thereof shall be attested by a Judge or Commissioner of the High Court, or by a Registrar or Deputy Registrar of the High Court, or by the Registrar of Land.

21. If any such instrument is executed elsewhere than in Samoa, the execution thereof shall either be attested by a solicitor of the Supreme Court of New Zealand, a Commissioner of the Supreme Court of New Zealand, or a British consular officer, or shall be verified by the certificate of a notary public.

F. D. THOMSON,  
Clerk of the Executive Council.

THE SAMOA NATIVE LAND AND TITLES COMMISSION ORDER,  
1920.

LIVERPOOL, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this first day of April,  
1920.

Present :

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

**H**IS Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the authority to make laws for the peace, order, and good government of the territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, nineteen hundred and twenty, under the Foreign Jurisdiction Act, 1890, doth hereby order as follows :—

1. This Order may be cited as the Samoa Native Land and Titles Commission Order, 1920.

2. This Order shall come into force in the Territory of Western Samoa on the same day as the Samoa Constitution Order, 1920.

3. In the exercise of the jurisdiction referred to in this Order, the High Court of Western Samoa shall be specially constituted in accordance with this Order, and when so constituted shall be known as the Native Land and Titles Commission.

4. The High Court when exercising jurisdiction as the Native Land and Titles Commission shall consist of—

(a.) The Chief Judge of the High Court ;

(b.) European Assessors, not less than two nor more than four in number, to be appointed by the Administrator, and to hold office during his pleasure ;

(c.) Samoan Commissioners, not less than ten nor more than thirty in number, to be appointed by the Administrator, and to hold office during his pleasure.

5. No sitting of the Commission shall take place save in the presence either of the Chief Judge and at least two of the European Assessors, or else in the presence of all of the European Assessors.

6. At every sitting of the Commission the Chief Judge, if present, shall preside ; and in his absence the European Assessors present shall appoint one of their number to preside.

7. Sittings of the Commission shall be held at such times and places as the Chief Judge may appoint, but the Commission may itself adjourn any sitting to any other time or place.

8. The functions of the Samoan Commissioners shall be advisory and consultative, and they shall not be entitled to vote on the decisions of the Commission, but shall be entitled to be heard on all questions within the jurisdiction of the Commission.

9. The decision of a majority of the members of the Commission present at any sitting thereof (other than the Samoan Commissioners), or, in the event of an equal division of opinion, the decision of the Chief Judge, shall be deemed to be the decision of the Commission.

10. A European Assessor, not being an officer of the Samoan Public Service, may receive in respect of each sitting of the Commission at which he is present such fees or allowances as the Administrator thinks fit.

11. Subject to this Order, all rules of law applicable to the High Court in the exercise of its ordinary civil jurisdiction shall apply to the High Court sitting as the Native Land and Titles Commission.

12. There shall be no appeal from a decision of the Native Land and Titles Commission to the Supreme Court of New Zealand.



13. On application made by any person interested, within three months after the delivery of any final decision of the Commission, the Commission may, if it thinks fit, make an order for the rehearing of the matter in which the decision was given, and may on such rehearing reverse or vary that decision.

14. Every final decision of the Native Land and Titles Commission shall be deemed to be a judgment *in rem*, and shall bind all Samoans who are interested therein, even though they are not parties to the proceedings.

15. The jurisdiction of the Commission in any matter may be exercised on the application of any Samoan or other person claiming to be interested therein, or on the application of the Administrator or some officer of the Samoan Public Service authorized by the Administrator in that behalf, either generally or in any particular case or class of cases.

16. All proceedings before the Native Land and Titles Commission shall be instituted by way of petition in the form set out in the Schedule hereto, or to the like effect.

17. Every such petition shall be filed with the Registrar of the High Court, and the Registrar shall give or cause to be given notice of the petition, and of the time and place for the hearing of the same, to such persons as he deems entitled thereto, and in such manner as he thinks fit.

18. All persons to whom such notice is given, and all other persons whom the Commission orders to be joined as parties, shall be parties to the proceedings.

19. On the filing of any such petition, and pending the final determination of the matter by the Native Land and Titles Commission, the Chief Judge of the High Court may, either *ex parte* or otherwise, make such *interim* orders as he thinks fit as to the possession or exercise of the land, title, or right to which the petition relates, and every such order shall be deemed to be an order of the High Court and shall be enforceable accordingly.

20. The jurisdiction of the Native Land and Titles Commission shall be jurisdiction to hear and determine by way of civil proceedings all claims and disputes between Samoans relating to—

- (a.) Native land;
- (b.) Samoan names or titles;
- (c.) The succession to any property or rights in accordance with Samoan custom.

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#### SCHEDULE.

In the High Court of Western Samoa  
(Native Land and Titles Commission).

In the matter of [*Setting out shortly the land or other subject-matter of the petition*].

THE petition of [*Name and description of petitioner*] informs this Honourable Court that [*Setting out shortly the nature of the claim or dispute*].

And the petitioner prays that this Honourable Court will see that right is done in this matter according to the laws and customs of Samoa.

F. D. THOMSON,  
Clerk of the Executive Council.

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## THE SAMOA MAINTENANCE AND AFFILIATION ORDER, 1920.

## LIVERPOOL, Governor-General.

## ORDER IN COUNCIL.

At the Government Buildings at Wellington, this first day of April, 1920.

Present :

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

**H**IS Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the authority to make laws for the peace, order, and good government of the Territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, nineteen hundred and twenty, under the Foreign Jurisdiction Act, 1890, doth hereby order as follows:—

1. This Order may be cited as the Samoa Maintenance and Affiliation Order, 1920.

2. This Order shall come into force in the Territory of Western Samoa on the same day as the Samoa Constitution Order, 1920.

3. In this Order,—

“Adequate maintenance” means maintenance reasonably sufficient for the necessities of the person to be maintained, irrespective of the means or ability of the person who is bound to afford such maintenance :

“Affiliation order” means an order hereunder adjudging any person to be the father of a child with whose mother such person has not intermarried :

“Child” means a child under the age of twelve years :

“Defendant” means any person against whom a maintenance order or affiliation order is made or applied for under this Order :

“Destitute person” means any person unable, whether permanently or temporarily, to support himself by his own means or labour :

“Maintenance” includes lodging, feeding, clothing, teaching, training, attendance, and medical and surgical relief :

“Maintenance order” means an order under this Order for the payment of money for or in respect of the past or future maintenance of any person :

“Mother” includes an unmarried mother.

4. The High Court shall have power in the ordinary course of its civil jurisdiction to make maintenance and affiliation orders in accordance with the provisions of this Order.

5. Any application to the High Court for or in relation to a maintenance or affiliation order may, except where otherwise expressly provided, be made either by the person in whose favour the order is to be or has been made or by other person.

6. The exercise by the High Court of its jurisdiction to make a maintenance order shall in all cases be discretionary.

*Affiliation.*

7. (1.) On application made to the High Court by or by the authority of a woman who is the mother of a child or who is with child, the Court may, if satisfied that the defendant (not being the woman's husband) is the father of that child, make an order (herein called an affiliation order) adjudging the defendant to be the father of that child accordingly.

(2.) No affiliation order shall be so made unless the application is made before or within six years after the birth of the child, unless the defendant has contributed to or made provision for the main-

tenance of the child, or has since the birth of the child cohabited with the mother as man and wife, in which case the application may be made at any time after the expiration of the said period of six years, if within two years immediately preceding the application the defendant has contributed to or provided for the maintenance of the child or has so cohabited with its mother.

(3.) If at any time the defendant has been absent from Samoa the period of his absence shall not be counted in computing the respective periods of six years or two years.

(4.) No such application shall be made unless the child is under twelve years of age at the time of the application.

8. (1.) The evidence of any woman who is the mother of a child or who is with child as aforesaid shall not be necessary for the making of an affiliation order.

(2.) No person shall be adjudged to be the father of a child upon the evidence of the mother, unless her evidence is corroborated in some material particular to the satisfaction of the Court.

9. When an affiliation order has been made by the High Court under the foregoing provisions against any person as the father of a child, whether already born or not, the Court may, at the same time or at any time thereafter, make a maintenance order in favour of the child against the person so adjudged to be the father thereof.

#### *Maintenance of Children.*

10. (1.) The High Court may make a maintenance order against the father of any child in favour of that child if the Court is satisfied that the father has failed or intends to fail to provide that child with adequate maintenance.

(2.) When the father and child are living apart from each other, and the Court is satisfied that there is reasonable cause for the child continuing so to live apart from the father, the father shall not be deemed to have made provision for the adequate maintenance of the child merely by reason of the fact that he is ready and willing to support the child if and so long as the child lives with him.

11. (1.) The High Court may make a maintenance order in favour of a child against the mother of that child if satisfied that the mother is of sufficient ability in that behalf and has failed or intends to fail to make provision for the adequate maintenance of that child.

(2.) When the mother and child are living apart from each other, and the Court is satisfied that there is reasonable cause for the child continuing so to live apart from the mother, the mother shall not be deemed to have made provision for the adequate maintenance of the child merely by reason of the fact that she is ready and willing to support the child if and so long as the child lives with her.

#### *Maintenance of Wives and Husbands.*

12. (1.) The High Court may make a maintenance order against a husband in favour of his wife if the Court is satisfied that the husband has failed or intends to fail to provide his wife with adequate maintenance.

(2.) Unless the Court is satisfied that the wife is a destitute person, no maintenance order shall be made against the husband if it is proved that he is not of sufficient ability to contribute to her maintenance.

(3.) When the husband and wife are living apart from one another and the wife has, in the opinion of the Court, reasonable cause for refusing or failing to live with her husband, the husband shall not be deemed to have provided her with adequate maintenance merely by reason of the fact that he is ready and willing to support her if and so long as she lives with him.

13. (1.) The High Court may make a maintenance order against a married woman in favour of her husband if satisfied that the husband is a destitute person and that his wife is of sufficient ability to contribute to his maintenance.

(2.) No such order shall be made if the Court is satisfied that there is reasonable cause for the failure of the wife to contribute to the maintenance of her husband.

*Maintenance of Parents.*

14. The High Court may make a maintenance order against any person in favour of the father or mother of that person if satisfied that the father or mother, as the case may be, is a destitute person and that the defendant is of sufficient ability to contribute to the maintenance of such destitute person.

*Orders.*

15. Every person who disobeys a maintenance order shall be guilty of contempt of the High Court, and may be dealt with from time to time accordingly.

16. All moneys due under a maintenance order shall constitute a debt due by the defendant to the person to whom the moneys are payable in accordance with the terms of the order.

17. A maintenance order may be made in favour of any person otherwise entitled thereto although not present or resident in Samoa.

18. A maintenance or affiliation order may be made against any defendant otherwise liable although not present or resident in Samoa.

19. If the High Court is satisfied that a defendant is absent from Samoa, or that his residence is unknown, or that he cannot be found, the Court may hear and determine the application *ex parte* and make a maintenance order or affiliation order accordingly.

20. The dismissal of an application for a maintenance order or affiliation order shall not, unless the Court so orders, be a bar to the making of a further application in the same matter against the same defendant.

21. (1.) No money payable under a maintenance order shall, without the precedent consent of a Judge of the High Court, be paid more than one year in advance of the due date thereof.

(2.) If any money is paid in breach of this section, it shall not be taken into account in any proceedings for the enforcement of the maintenance order or for the punishment of any disobedience thereto; but no money so paid in breach of this section shall be recoverable by the person by whom it was paid.

22. (1.) The High Court may at any time make an order cancelling an affiliation order, or cancelling, varying, or suspending any maintenance order or substituting a new maintenance order therefor, on the grounds—

- (a.) That the order was obtained by fraud or perjury; or
- (b.) That since the making of the order new and material evidence has been discovered; or
- (c.) That since the making of the order the circumstances have so changed that the order ought to be so cancelled, varied, or suspended, or that a new order ought to be substituted therefor.

(2.) The power hereby conferred to cancel or vary an order shall include the power to remit wholly or in part any arrears due under the order, and any such arrears may be remitted either on the grounds hereinbefore in this clause mentioned or, if the Court in its discretion thinks fit, on the ground that the defendant is not of sufficient ability to pay the same.

23. Any maintenance order may direct the moneys payable thereunder to be paid either to the person in whose favour the order is made or to any other person on behalf of that person.

24. (1.) Whenever a maintenance order is made the High Court may, if it thinks fit, by the same order or by order made at any later time, direct the defendant to give security for his obedience to the maintenance order.

(2.) Every such security shall, as the High Court determines, be either the payment into Court of such sum of money, not exceeding two hundred pounds, as the Court directs, or the giving of a bond to

His Majesty with one or two sureties to be approved by the Court in a sum not exceeding two hundred pounds conditioned for due obedience to the maintenance order.

(3.) When such security has been required, the Court may commit the defendant to prison until the order requiring security has been complied with, but no person shall be so detained in custody for a longer period than six months.

(4.) All moneys so paid into Court or recovered by suit or otherwise under any such bond shall be available, under the direction of the Court, for the satisfaction of all claims under the maintenance order.

(5.) The Court may, on being satisfied that the security is no longer required, order any amount so paid into Court to be repaid to the defendant, or cancel any bond so given.

25. No agreement shall be effective so as to take away or restrict any liability imposed on any person by this Order to contribute to the maintenance of any other person, or effect the operation of any maintenance order or the right of the High Court to make any such order.

26. (1.) Every maintenance order shall be an order for the periodical payment, at such times and in such manner as the Court thinks fit, of such sum of money as the Court thinks reasonable.

(2.) No such payment shall, except where otherwise expressly provided, exceed the sum of twenty shillings per week, and the intervals between the successive payments shall not exceed twenty-eight days.

(3.) When any such order is made in respect of the maintenance of a child the order shall cease to be in force so soon as that child attains the age of twelve years.

27. Any maintenance order may require the defendant, in addition to making such periodical payments as aforesaid, to pay such sum as the Court thinks reasonable, not exceeding fifty pounds, on account of the past maintenance, previous to the making of the order of the person in respect of whose maintenance the order is made.

#### *Offences.*

28. (1.) Every person against whom a maintenance order has been made and who, while any moneys payable under the order are in arrear and unpaid, leaves or attempts to leave Samoa without the permission in writing of a Judge of the High Court shall be guilty of an offence punishable by imprisonment for any term not exceeding two years.

(2.) In any prosecution under this clause the burden of proving that the permission of a Judge was so given shall be upon the accused.

29. (1.) Every person against whom an affiliation order is made prior to the birth of the child, and who leaves or attempts to leave Samoa without the permission in writing of a Judge of the High Court at any time within twelve months after the making of the order, shall be guilty of an offence punishable by imprisonment for any term not exceeding two years.

(2.) In any prosecution under this clause the burden of proving that the permission of a Judge was so given shall be upon the accused.

30. Every person against whom a maintenance order has been made, and who at any time thereafter leaves or attempts to leave Samoa with intent to make default in obeying that order, shall be guilty of an offence punishable by imprisonment for any term not exceeding two years.

31. (1.) Every person who without reasonable cause fails to provide his wife with adequate maintenance, and who at any time while failing so to do leaves or attempts to leave Samoa without the permission in writing of a Judge of the High Court, shall be guilty of an offence punishable by imprisonment for any term not exceeding two years.

(2.) In any prosecution under this clause the burden of proving that the permission of a Judge was so obtained shall be upon the accused.

32. (1.) Every person who is the father of a child, and who without reasonable cause fails to provide that child with adequate maintenance, and who at any time while failing so to do leaves or attempts to leave Samoa without the permission in writing of a Judge of the High Court, shall be guilty of an offence punishable by imprisonment for any term not exceeding two years.

(2.) In any prosecution under this clause the burden of proving that the permission of a Judge was so given shall be upon the accused.

33. Every person who is the husband of any woman or the father of any child, and who leaves or attempts to leave Samoa with the intention of failing without reasonable cause to make adequate provision for the maintenance of that wife or child during his absence, shall be guilty of an offence punishable by imprisonment for any term not exceeding two years.

34. Every person shall be deemed to attempt to leave Samoa within the meaning of this Order who does any act with intent to leave Samoa.

35. In any prosecution for an offence against this Order the fact that the defendant has at any time within three years after leaving Samoa habitually made default in obeying an order of maintenance or in providing his wife or child with adequate maintenance shall be sufficient evidence, unless the contrary is proved, that the defendant left Samoa with intent so to make default.

F. D. THOMSON,  
Clerk of the Executive Council.

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## THE SAMOA TREASURY REGULATIONS, 1920.

LIVERPOOL, Governor-General.

ORDER IN COUNCIL.

At the Government House, at Wellington, this nineteenth day of April, 1920.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL PRESIDING IN COUNCIL.

**H**IS Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the authority to make laws for the peace, order, and good government of the Territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, nineteen hundred and twenty, under the Foreign Jurisdiction Act, 1890, doth hereby order as follows.

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### REGULATIONS.

1. THESE regulations may be cited as the Samoa Treasury Regulations, 1920.

2. This Order shall come into force in the Territory of Western Samoa on the same day as the Samoa Constitution Order, 1920.

3. In these regulations,—

“Public moneys” means moneys forming part of the public revenues of Samoa, and includes all securities for such moneys :

“Treasurer” means the Treasurer of Western Samoa :

“Accounting officer” means any person who is required to render an account under these regulations, and includes every person who is in any manner charged with the duty of collecting, receiving, or expending, or who does actually collect, receive, or expend, any public moneys :

“Auditor” means any person appointed by the Controller and Auditor-General to audit the accounts of the Samoan Treasury.

4. The financial year shall commence on the 1st day of April and end on the 31st day of March, both of these days being included.

5. The Bank of New Zealand at Apia in Samoa (hereinafter referred to as "the bank") shall be the bank at which public moneys shall be kept.

6. Moneys shall be withdrawn from the said bank account only by cheque signed by the Treasurer and countersigned by the Administrator or by the Chief Judge of the High Court. The said bank account shall not be at any time overdrawn.

7. The Treasurer shall pay into the bank to the credit of the Samoan Treasury all public moneys received by him.

8. Public moneys shall not under any circumstances be lodged in any bank to the credit of a private account or be otherwise involved with private funds.

9. Every accounting officer shall, at such times or periods and in such manner as the Administrator directs, account for all public moneys collected, received, or expended by him.

10. Every accounting officer having the collection or receipt of public moneys shall, at such times and periods and to such extent as the Administrator directs, remit the same to the Treasurer.

11. Every accounting officer shall keep his accounts in the manner and form prescribed by the Administrator.

12. Every accounting officer having the receipt or collection of public moneys shall keep a consecutively numbered receipt-book with butt attached, in such form as may be prescribed by the Administrator, and shall give to the person paying the same a receipt therefrom.

13. The Administrator shall furnish to accounting officers such books of account, forms of receipt, and other books and forms as may be necessary for carrying out the duties of such officers.

14. The Treasurer shall keep proper books of accounts, and shall daily enter therein under appropriate headings all moneys received and disbursements made by him.

15. Immediately after the close of the financial year the accounts of the Treasurer shall be duly balanced by him; and statements under each heading showing details of receipts and expenditure shall, within one month after the close of the financial year, be furnished by him to the Administrator.

16. The Administrator shall, within two months after the close of the financial year, prepare a statement of the revenue and expenditure of the Samoan Treasury for that year, and also an estimate of the revenue and expenditure for the next financial year. Such statement and estimate shall be forthwith transmitted to the Minister of External Affairs.

17. The Treasurer shall, out of public moneys in his hands or to the credit of the bank account, pay all claims which are payable out of the Samoan Treasury and which have been approved in writing by the Administrator.

18. All claims against the Samoan Treasury shall be stated on such abstract or other form as the Administrator prescribes, and shall be certified by the officer authorized by the Administrator in that behalf. All such claims, after being approved in writing by the Administrator, shall be forwarded to the Treasurer for payment.

19. Advances by way of imprest may be made to such officers of the Samoan Public Service and for such purposes as may be approved by the Administrator. Every imprestee shall, as required by the Administrator, furnish an account of the moneys so advanced. All payments made by imprestees shall be supported by receipts, and the unexpended balance (if any) shall be paid to the Treasurer by the imprestee in accordance with the directions of the Administrator.

20. All law trust moneys shall be received by the Registrar or a Deputy Registrar of the High Court, who shall day by day pay into the bank all moneys so received by him and not paid to the persons entitled thereto, to the credit of an account to be called "the Law Trust Account of the High Court." No moneys shall be withdrawn from this account except by cheques signed by the Registrar or a Deputy Registrar.

21. The Treasurer may at any time require that any money standing to the credit of the said law trust account shall be paid by the Registrar into the Samoan Treasury.

22. When any sum so paid into the Samoan Treasury is required for the payment of persons entitled to receive moneys from the said law trust account, the Registrar or a Deputy Registrar shall apply to the Treasurer, who shall thereupon, by cheque signed by him and countersigned by the Administrator, repay the same to the law trust account accordingly.

23. A cash-book shall be kept by the Registrar and each Deputy Registrar of the High Court, in which he shall enter all law trust moneys received or disbursed by him, under the proper dates and in the order in which they are received or disbursed.

24. All law trust moneys shall be deemed to be public moneys within the meaning of these regulations, and shall, subject to these regulations, be dealt with accordingly.

25. The Treasurer shall forthwith report to the Administrator the name of every accounting officer who fails to render any account or to remit any money in accordance with these regulations.

26. The Administrator may order that the salary or other moneys payable out of the Samoan Treasury to any accounting officer who has failed to render any account or to remit any money in accordance with these regulations shall be withheld until the account is rendered or the money remitted.

27. Any accounting officer who commits any breach of these regulations, or any error in an account returned or kept by him, shall forfeit by way of deduction from his salary or other remuneration such sum (if any) not exceeding five pounds as the Administrator in any case thinks fit to direct.

28. Any officer of the Samoan Public Service may be required by the Minister of External Affairs to provide security, for such sum and in such manner as may be thought necessary by the Minister, for the due accounting for and payment of all public moneys which come into his hands.

29. Every accounting officer, on being relieved of his duties, shall make up to date and duly transmit to the Treasurer all returns and statements required from him under these regulations, and shall hand over to the officer who relieves or succeeds him in the execution of his office all moneys, stamps, books, documents, stores, and other public property in his possession, together with a return of the same in writing signed by him, a copy of which, signed by both the outgoing and the incoming officer, shall forthwith be forwarded to the Administrator.

30. It shall be the duty of the Controller and Auditor-General from time to time, at such intervals as he deems necessary, not exceeding in any case one year, to cause an audit to be made of all accounts relating to the receipt, custody, or expenditure of public moneys.

31. It shall be the duty of all officers of the Samoan Public Service, and of all other persons whatever, to afford all such information as the Auditor may require touching any public moneys, and any person who refuses such information shall be guilty of an offence punishable by a fine not exceeding fifty pounds.

32. The Auditor shall report the result of every audit so made to the Controller and Auditor-General and also to the Administrator, who shall forthwith forward such report to the Minister.

33. The cost of every such audit, as certified by the Controller and Auditor-General, shall be paid by the Samoan Treasury.

34. If it appears to the Administrator on any such audit that—

(a.) Any accounting officer has wilfully or negligently omitted to collect or receive any public moneys;

(b.) Any public moneys have not been duly accounted for;

(c.) Any public moneys have been illegally expended; or that

(d.) There has been any deficiency or loss of public moneys through the fraud, negligence, or mistake of any officer of the Samoan Public Service,—



the Administrator shall surcharge with the amount of such public moneys the person who appears to him to be in default or responsible, notifying that person in writing of the surcharge and of the time within which it must be satisfied, and shall also notify the Minister of External Affairs thereof.

35. The Administrator may at any time revoke any surcharge made by him in error.

36. Any person so surcharged may, within two months after the receipt of the notice thereof, appeal to the Minister of External Affairs, who, after making or causing to be made such investigation as he thinks equitable, may determine the matter by an order either confirming the surcharge or directing the relief of the appellant therefrom either wholly or in part. Such appeal shall be made by delivering a written notice thereof to the Administrator.

37. The amount of any such surcharge shall, after the expiry of the time for appeal therefrom, or in case of an appeal, then after the determination of that appeal, and to the extent to which the surcharge is confirmed, constitute a debt due to the Crown by the person surcharged, and may be recovered by action accordingly, or deducted from the salary or other moneys payable to the person surcharged from the Samoan Treasury in such manner as the Administrator may direct.

38. Nothing in the foregoing regulations as to surcharge shall preclude any other method of recovering from any person the amount of any loss which he may have caused to the Samoan Treasury by any fraud, negligence, mistake, or breach of official duty.

39. All regulations in force under the Post and Telegraph Act, 1908, or the Customs Act, 1913, or any other Act in force in Samoa shall, so far as such regulations relate to the collection, receipt, expenditure, control, or audit of public moneys, be read subject to the provisions of these regulations.

F. D. THOMSON,  
Clerk of the Executive Council.

## THE SAMOA PUBLIC SERVICE REGULATIONS, 1920.

LIVERPOOL, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this first day of April, 1920.

Present :

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

**WHEREAS** by the Samoa Constitution Order, 1920, it is provided that the control, discipline, and management of the Samoan Public Service shall be in accordance with such regulations as may be made by the Governor-General in Council in that behalf :

Now, therefore, His Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the Samoa Constitution Order, 1920, and in further pursuance of the authority to make laws for the peace, order, and good government of the Territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, 1920, under the Foreign Jurisdiction Act, 1890, doth hereby make the following regulations, and doth declare that they shall come into operation in Western Samoa on the same day as the Samoa Constitution Order, 1920.

## REGULATIONS.

1. THESE regulations may be cited as the Samoa Public Service Regulations, 1920.

2. An officer of the Samoan Public Service may resign his office by giving three months' notice in writing of his resignation to the Administrator, and on the expiry of such notice his office shall become vacant.

3. If an officer has on his appointment undertaken to serve in his office for any fixed period, he shall not be competent to resign his office before the expiry of that period.

4. When an officer of the Samoan Public Service is a contributor to a Superannuation Fund in respect of the salary of his office in the Samoan Public Service, the Treasurer of Western Samoa shall deduct from the salary of that officer in every month the amount of his contribution to the Superannuation Fund for that month, and shall remit the amount so deducted to the Secretary or other proper officer of the Board by which the Superannuation Fund is administered in New Zealand.

5. No officer of the Samoan Public Service shall, without the written authority of the Administrator or of the Minister of External Affairs (which authority may be at any time withdrawn), be engaged or interested, whether as principal, agent, servant, director, manager, partner, or otherwise howsoever, and whether in Samoa or elsewhere, in the practice or carrying-on of any profession, trade or business otherwise than as a shareholder in an incorporated company.

6. No officer of the Samoan Public Service shall, except in the strict course of official duty, disclose, publish, or use any information which he may have obtained in the course of or by reason of his official position.

7. All official communications transmitted from Samoa by an officer of the Samoan Public Service to the Minister of External Affairs or to the Secretary for External Affairs shall be transmitted through the Administrator, and not otherwise.

8. (1.) If an officer of the Samoan Public Service (other than a Judge of the High Court or an officer who is *ex officio* a member of the Legislative Council) commits a breach of any of these regulations, or is guilty of any insubordination, negligence, or misconduct in his office, he may be fined in such amount not exceeding ten pounds as the Administrator, with the approval of the Minister of External Affairs, thinks fit.

(2.) Every fine so imposed shall constitute a debt due by that officer to the Crown, and may be deducted from any moneys which may thereafter become payable to that officer by way of salary or allowance.

F. D. THOMSON,

Clerk of the Executive Council.

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THE SAMOA REGISTRATION OF EUROPEANS REGULATIONS,  
1920.

LIVERPOOL, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this first day of April, 1920.

Present :

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

WHEREAS by clause four of the Samoa Constitution Order, 1920, a Samoan is defined as a person belonging to the Polynesian race, whether by pure or mixed descent, other than a person registered as a European in accordance with any regulations or Ordinance in force in Samoa, or the legitimate child of a father who is a

European either by birth or by registration as aforesaid: And whereas it is expedient to make regulations accordingly for the registration as Europeans of persons belonging by mixed descent to the Polynesian race:

Now, therefore, His Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the authority to make laws for the peace, order, and good government of the Territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, nineteen hundred and twenty, under the Foreign Jurisdiction Act, 1890, and in further pursuance of clause four of the Samoa Constitution Order, 1920, doth hereby make the following regulations with respect to a Register of Europeans in Samoa; and doth hereby declare that the said regulations shall come into force in the Territory on the same day as the Samoa Constitution Order, 1920.

### REGULATIONS.

1. THESE regulations may be cited as the Samoa Registration of Europeans Regulations, 1920.

2. It shall be the duty of the Registrar of the High Court, as soon as practicable after the coming into force of these regulations, to prepare, in such manner as may be approved by the Chief Judge of the High Court, a register, to be called the Register of Europeans, wherein shall be entered the names and such other particulars as may be required by the Chief Judge of all persons who at the time of the coming into operation of these regulations are registered as foreigners in accordance with the laws theretofore in force in the Territory.

3. Any Samoan who is not of pure descent from the Polynesian race may, by way of petition, apply to the High Court for inclusion in the Register of Europeans.

4. The Chief Judge of the High Court shall hear and determine such petition on the personal appearance of the applicant, and may, if he thinks fit, and if he is satisfied that the applicant is entitled to be registered as a European in accordance with these regulations, make an order for such registration accordingly.

5. In making an order for such registration the Court shall be satisfied—

(a.) That the applicant, if a male, has attained the age of eighteen years, or, if a female, has attained the age of fourteen years:

(b.) That the applicant is able to read a printed passage of not less than one hundred words in the English language, to be selected by the Court.

(c.) That the registration of the applicant as a European is consistent with his own interest and with the public interest.

6. Upon such an order for registration being made as aforesaid the Registrar shall enter the name and description of the applicant in the Register of Europeans.

7. On the application of the Administrator, or an officer of the Samoan Public Service in that behalf authorized by the Administrator, the name of any person included in the Register of Europeans may be ordered to be removed therefrom by the Chief Judge of the High Court on such cause being shown and such evidence adduced as shall to him seem sufficient, and upon any such order being made the Registrar shall remove such name accordingly.

8. All persons whose names appear for the time being in the Register of Europeans established by these regulations shall be deemed to be registered as Europeans within the meaning of clause four of the Samoa Constitution Order, 1920.

F. D. THOMSON,  
Clerk of the Executive Council.

THE SAMOA SALE OF INTOXICATING LIQUOR REGULATIONS, 1920.

LIVERPOOL, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this first day of April, 1920.

Present :

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

**H**IS Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the authority to make laws for the peace, order, and good government of the Territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, nineteen hundred and twenty, under the Foreign Jurisdiction Act, 1890, doth hereby make the following regulations with respect to the sale of intoxicating liquor in the said territory; and doth hereby declare that the said regulations shall come into force in the said territory on the same day as the Samoa Constitution Order, 1920.

REGULATIONS.

1. THESE regulations may be cited as the Samoa Sale of Intoxicating Liquor Regulations, 1920.

2. All liquor imported by the Administrator in pursuance of the Samoa Constitution Order, 1920, shall, pending the disposition thereof for the hospitals and medical services of Samoa, or the sale thereof for medicinal, sacramental, or industrial purposes in accordance with that Order, be retained in the custody and control of a Collector of Customs or other officer of the Samoan Public Service authorized in that behalf by the Administrator.

3. Any liquor so retained as aforesaid and available for sale may be sold by the Collector or other custodian for cash on delivery, at such prices as may be approved by the Administrator, not being less than the landed cost thereof.

4. No liquor shall be sold for medicinal purposes except in pursuance of a certificate issued by a medical officer, within one month prior to the delivery of the liquor so sold, to the effect that alcoholic liquor is required by the purchaser or members of his family for medical reasons. Every such certificate shall set out the nature and quantity of the liquor so required.

5. No liquor shall be sold for sacramental purposes except to a minister of religion approved for this purpose by the Administrator.

6. No liquor shall be sold for industrial purposes except in pursuance of the written authority of the Administrator.

7. The Collector or other custodian shall keep a record, in form approved by the Administrator, of all liquor received or disposed of by him, whether by way of sale or otherwise.

8. Every person who deceives or attempts to deceive a Collector of Customs, or other custodian of liquor, or the Administrator, or a medical officer, with intent to procure, by purchase or otherwise, any intoxicating liquor shall be liable to imprisonment for three months or to a fine of fifty pounds.

F. D. THOMSON,  
Clerk of the Executive Council.

## THE SAMOA BANK OF NEW ZEALAND ORDER, 1920.

LIVERPOOL, Governor-General.

## ORDER IN COUNCIL.

At the Government Buildings at Wellington, this first day of April, 1920.

Present :

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

WHEREAS by the Samoa Constitution Order, 1920, it is provided that it shall not be lawful for any person, firm, or company to carry on the business of banking in Samoa, except under the authority of an Order in Council and in accordance with the terms and conditions prescribed by that Order :

And whereas it is expedient that the Bank of New Zealand should be authorized to carry on and continue the business of banking in Samoa :

Now, therefore, His Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the Samoa Constitution Order, 1920, and in further pursuance of the authority to make laws for the peace, order, and good government of the Territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, 1920, under the Foreign Jurisdiction Act, 1890, doth hereby order as follows :—

1. This Order may be cited as the Samoa Bank of New Zealand Order, 1920.

2. This Order shall come into force in the Territory of Western Samoa on the same day as the Samoa Constitution Order, 1920.

3. The Bank of New Zealand established under the New Zealand Bank Act, 1861, is hereby authorized to carry on and continue the business of banking in Samoa in the same manner in all respects as if Samoa were part of New Zealand, but subject to the provisions of the Samoa Constitution Order, 1920, and of any other Order in Council or Ordinance in force in Samoa.

F. D. THOMSON,  
Clerk of the Executive Council.

THE RULES OF THE HIGH COURT OF WESTERN SAMOA,  
1920.

LIVERPOOL, Governor-General.

## ORDER IN COUNCIL.

At the Government Buildings at Wellington, this first day of April, 1920.

Present :

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

HIS Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the authority to make laws for the peace, order, and good government of the Territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, nineteen hundred and twenty, under the Foreign Jurisdiction Act, 1890, doth hereby make the following rules and regulations determining the practice and procedure of the High Court of Western Samoa; and doth hereby declare that the said regulations shall come into force in the territory of Western Samoa on the same day as the Samoa Constitution Order, 1920.

## REGULATIONS.

1. THESE regulations may be cited as the Rules of the High Court of Western Samoa, 1920.

2. Subject to the provisions of these or any other rules of Court, all statements of claim, informations, summonses, warrants, convictions, orders, recognizances, and other documents required or authorized in the course of the civil or criminal jurisdiction of the High Court may be in such form as the Court, or the Judge, Registrar, or other officer by whom the same are issued, made, or received, deems sufficient.

3. Every civil proceeding shall be instituted either by way of action, or by way of petition, or by way of motion, in accordance with the following rules.

4. The following proceedings shall be instituted by way of action:—

- (a.) Every proceeding for the recovery of debt or damages:
- (b.) Every proceeding for the recovery of land or chattels:
- (c.) Every proceeding for injunction, prohibition, or mandamus:
- (d.) Every proceeding for a decree of divorce or nullity of marriage:
- (e.) Every proceeding which by the law for the time being in force in New Zealand must, if instituted in the Supreme Court, be commenced by writ of summons or originating summons.

5. Every proceeding against the Crown shall be commenced by way of petition in accordance with Part VIII of the Samoa Constitution Order, 1920.

6. Except where otherwise provided by any Order, all other civil proceedings may be commenced by way of motion.

*Actions.*

7. Every action shall be commenced by filing with a Registrar of the Court a statement of claim intituled "In the High Court of Western Samoa," setting forth the names and descriptions of the plaintiff and defendant, the nature of the cause of action, and the relief claimed. Forms similar to those in the First Schedule hereto may be used.

8. On the filing of the statement of claim the Registrar or Deputy Registrar shall thereupon issue, under the seal of the Court, a summons to the defendant in Form 1 of the Second Schedule, requiring the defendant to appear at the trial of the action at the time and place mentioned in the summons. A copy of the statement of claim shall be annexed to the summons.

9. The place of trial to be so appointed in the summons shall be in such place as the Registrar thinks fit, having regard to the residence of the parties to the action, the place where the cause of action has arisen, and any other relevant circumstances.

10. The time and place of the trial of the action shall be determined by the Registrar as he thinks fit, and shall be stated in the summons accordingly.

11. As against any defendant who consents to trial without summons, an action duly commenced by the filing of a statement of claim may be tried and determined without the issue or service of any summons.

12. No pleadings other than the statement of claim shall be required in any action.

13. The Court may require a plaintiff at or before the trial of the action to file a fuller and more explicit statement of his claim, and may stay further proceedings in the action until this has been done.

14. A plaintiff may at any time before or during the trial amend his statement of claim with the leave of the Court.

15. The summons to a defendant may, as the Registrar thinks fit, be served either by an officer of the Court or by the plaintiff or his agent. Proof of service may be made either by affidavit or by a witness at the trial.

16. The summons shall be served on the defendant in person. Where there are more defendants than one, a separate summons shall, except in the case of a firm of partners, be issued and served on each defendant.

17. The summons may be served upon a corporation by leaving the same at any place of business of the corporation.

18. When partners are sued as partners they may be sued either in the firm-name or in the names of the partners, and in either case the summons may be served by delivering it to any one of the partners or by leaving it at any place of business of the firm.

19. When a defendant is not in Samoa but has in the territory an attorney or agent authorized to defend actions on his behalf, the summons may by leave of the Court be served upon such attorney or agent.

20. The summons may be served anywhere in Samoa, but not elsewhere except in accordance with the provisions hereinafter contained for service outside Samoa.

21. If it appears to the Court that reasonable efforts have been made to effect service of the summons, and either that the summons has come to the knowledge of the defendant or that prompt personal service thereof cannot be effected, the Court may order that the plaintiff be at liberty to proceed as if personal service had been effected, subject to such conditions as the Court thinks fit to impose.

22. A summons may be served out of Samoa by leave of the Court—

- (a.) Where the cause of action or some material part thereof has arisen in Samoa :
- (b.) Where the subject-matter of the action is property situated in Samoa :
- (c.) Where it is sought to compel or restrain the performance of any act in Samoa :
- (d.) In a suit for divorce under Part XI of the Samoa Constitution Order, 1920.

23. Every application for an order for leave to serve a summons out of Samoa shall be supported by evidence by affidavit or otherwise, showing in what place or country the defendant is or probably may be found, and whether the defendant is a British subject or not, and the grounds on which the application is made.

24. If in any action a summons has become inoperative by reason of not being served in due time, or if for any other reason it is considered expedient to issue a further summons to the same defendant, a further summons may be issued accordingly in the same manner as if no previous summons had been issued.

25. No action shall be deemed improperly constituted because of the joinder of plaintiffs or defendants or of different causes of action; but the Court may, in any case in which such joinder is considered embarrassing or otherwise inexpedient, order any party or cause of action to be struck out.

26. Where there are numerous persons having the same interest in an action one or more of them may sue or be sued, or may be authorized by the Court to defend in such action, on behalf of or for the benefit of all persons so interested.

27. The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as appear to the Court to be just, order that the name of any party, whether a plaintiff or a defendant, improperly joined be struck out, and that the name of any person who ought to have been joined, or whose presence before the Court may be necessary to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the action, be added, whether as plaintiff or defendant.

28. No person shall be added as a plaintiff without his own consent.

29. Infants and lunatics may sue and be sued by a guardian *ad litem* admitted for that purpose by the Court.

30. A guardian *ad litem* may be removed by the Court upon sufficient cause being shown.

31. In case of the death, retirement, or removal of a guardian *ad litem* a fresh guardian shall be appointed by the Court.

32. A guardian *ad litem* shall not be permitted to retire without the leave of the Court.

33. The guardian *ad litem* shall be liable for the costs of the action.

34. In an action against an infant or a lunatic the statement of claim may be filed before the appointment of a guardian *ad litem*, but no further steps in the action shall be taken until such appointment has been made.

35. A Judge, Commissioner, Registrar, or Deputy Registrar of the High Court may in any proceeding before the Court, whether civil or criminal, issue a summons to any person requiring him to appear before the Court at the time and place mentioned in the summons, there to give evidence in that proceeding or to produce any document to the Court in that proceeding.

36. Any person upon whom any such summons has been served and who neglects or fails without sufficient cause shown by him to appear or to produce any document which he is so required to produce, and any person, whether summoned to attend or not, who, being present in Court and being required to give evidence or to produce any document then in his possession, refuses, without sufficient cause shown by him, to be sworn or to give evidence or to produce that document, and any person who, having been sworn to give evidence in any proceeding, neglects or fails without sufficient cause shown by him to appear at such time as the Court directs for the purpose of giving further evidence in the proceeding, shall be guilty of contempt of the High Court, and may be dealt with accordingly.

37. The High Court may, in any civil or criminal proceeding where it appears necessary for the purposes of justice, make an order for the examination on oath before any officer of the Court or any other person or persons, and at any place either in or out of Samoa, of any witness or person, and may order any deposition so taken to be filed in the Court, and may empower any party to the proceeding to give the deposition in evidence therein.

38. In any civil or criminal proceeding in the High Court an affidavit made out of Samoa may, with the leave of the High Court, be received in evidence if made before a solicitor of the Supreme Court of New Zealand, or in any other manner which would make such affidavit admissible in civil proceedings in the Supreme Court of New Zealand under the laws for the time being in force in New Zealand.

39. The High Court may, if it thinks fit, at any time during any proceedings, whether civil or criminal, order all witnesses other than the witness under examination to go and remain outside the Court until required to give evidence; and any witness who disobeys any such order shall be guilty of contempt of Court.

40. (1.) Affidavits in the High Court may be sworn in Samoa before—

- (a.) A solicitor of the Supreme Court of New Zealand :
- (b.) A Registrar or Deputy Registrar of the High Court :
- (c.) A Postmaster :
- (d.) A Collector of Customs :
- (e.) A Medical Officer.

(2.) The making of such affidavits shall be governed by the same rules as are in force for the time being with respect to affidavits in the Supreme Court of New Zealand.

41. In any civil proceedings in the High Court evidence may be taken either orally or by affidavit, but in actions and other proceedings *inter partes* such affidavits shall not be admissible without the leave of the Court.

42. A summons to a witness in any civil proceeding may be in Form 2 in the Second Schedule hereto.



43. Any such summons may be served either by the proper officer of the Court or by the party at whose instance the witness is summoned or his agent.

44. Without the leave of the Court no such summons shall be issued requiring any witness to attend at any place outside the island in which he is resident or present at the date of the issue of the summons.

45. Witnesses in civil proceedings, whether summoned or not, shall be entitled to such payment in respect of their expenses and loss of time as the Court awards.

46. In any proceeding in the High Court, whether civil or criminal, any party thereto may be represented either by a barrister or solicitor of the Supreme Court of New Zealand, or, with the leave of the Court, by any other agent, but any such leave may be at any time withdrawn.

47. In any civil proceeding in the High Court the Court shall have power to make such order as it thinks just for the payment of the costs of the proceeding by or to any party thereto.

48. (1.) In any civil proceeding and at any stage thereof the High Court may require a plaintiff or applicant resident out of the jurisdiction of the High Court to deposit any sum of money as security for costs, and may stay the proceeding pending the making of such deposit.

(2.) When any sum has been so deposited as security for costs it shall be disposed of in such manner as the Court directs.

49. The scale of costs and Court fees to be paid in all civil or criminal proceedings in the High Court shall be such as may be prescribed by Ordinance in that behalf. Court fees shall be paid by means of stamps, in accordance, so far as may be, with the practice in force for the time being in New Zealand.

50. If it appears to the satisfaction of the Court that any party is unable or ought not to be called upon to pay any Court fees, the Court may dispense with the payment thereof or may reduce the amount thereof.

51. The Court or the proper officer thereof may refuse to take any step in the course of any proceedings until the proper fee therefor, together with all other fees already due and unpaid in respect of the same proceedings, have been fully paid.

52. If the claim in any action is for a sum of money the defendant may, before trial of the action, pay into Court a sum of money by way of satisfaction, and give notice of such payment to the plaintiff.

53. Any money paid into Court as aforesaid may be paid out to the plaintiff or his duly authorized agent, but the receipt thereof shall not affect the right of the plaintiff to proceed with the action for the recovery of any further sum claimed and not so paid into Court.

54. The fact that money has been so paid into Court shall be taken into consideration in the award of costs as between the plaintiff and defendant.

55. The plaintiff may at any time before trial discontinue his action, either wholly or as to any cause of action, by filing in Court a memorandum of discontinuance.

56. A copy of such memorandum shall be served upon the defendant.

57. On any such discontinuance the Court may award to the defendant such costs of the action as it thinks fit.

58. The discontinuance of an action shall not be a defence to any subsequent action on the cause of action discontinued, provided that the costs of the previous action so awarded have been paid.

59. No judgment shall be given in any action by default, and every action shall be heard and determined in the ordinary course whether the defendant appears on the trial thereof or not.

60. If on the trial of any action the plaintiff does not appear, the Court may either adjourn the trial, or give judgment for the defendant, or nonsuit the plaintiff.

61. The plaintiff in any action may at any time before judgment elect to be nonsuited, and the Court may nonsuit the plaintiff without his consent.

62. After a nonsuit the plaintiff shall not be debarred from commencing a further action on the same cause of action, all the costs of the first action having been first paid.

63. No action shall be tried by a jury.

64. The parties to any action may concur in stating the questions of law arising in the action in the form of a special case for the opinion of the Court.

65. Every such special case shall concisely state such facts and documents as may be necessary for the decision of the questions raised therein.

66. On the argument of the special case the Court shall be at liberty to draw from the facts and documents so stated any inference of fact which might have been drawn therefrom if proved at the trial.

67. On the argument of the questions of law raised in such special case the Court may give judgment in the action, or may order the issues of fact or any of them to be tried before giving judgment.

68. Every judgment debt in excess of one hundred pounds shall carry interest at the rate of six per centum per annum from the time of judgment being given until the same is satisfied, and such interest may be levied under any writ of execution upon such judgment.

69. (1.) Every judgment of the High Court shall be deemed to be complete when a minute thereof has been made in the record-books of the Court and signed by the Judge or Commissioner giving the same.

(2.) When necessary the judgment may at any time thereafter be drawn up under the seal of the Court.

70. A Judge of the High Court, or a Commissioner thereof within his jurisdiction, may at any time amend any minute or judgment of the Court or other record of the Court in order to give effect to the true intent of the Court in respect thereof or truly to record the course of any proceeding.

71. On application made at any time within fourteen days after the date of any judgment given by the High Court in its civil jurisdiction the Court may, if it thinks fit, rehear the matter, and may on such rehearing either affirm, reverse, or vary such judgment.

#### *Execution of Judgments.*

72. (1.) Where by any judgment of the High Court in its civil jurisdiction any person is ordered to pay any sum of money, the party to whom the money is payable may cause a writ of sale to be issued.

(2.) When by any judgment of the High Court any person is ordered to deliver possession of land or chattels, the party to whom such land or chattels are ordered to be delivered may cause a writ of possession to be issued.

73. A writ of possession shall authorize the officer to whom it is addressed to deliver to any party named in the writ possession of any land or of any chattels specified in the writ, and for that purpose to eject any other person from such land, or to seize and take possession of any such chattels.

74. (1.) A writ of sale shall authorize the officer to whom it is directed to seize all the chattels (including moneys, cheques, bills of exchange, and other securities for money) of the person against whom it is issued, except wearing-apparel, bedding, tools, and implements of trade, not exceeding in the aggregate twenty pounds in value.

(2.) All chattels so seized may, unless the judgment is sooner satisfied, together with the costs of the execution, be sold or otherwise converted into money by the Registrar of the High Court, and the proceeds of such sale or conversion shall, after payment thereof of the costs of the execution, be applied in satisfaction of the judgment.

75. Every writ of sale or writ of possession shall be issued by a Registrar of the High Court under the seal of that Court, and shall be addressed to an officer of the Court or to a constable.

76. Any judgment of the High Court in its civil jurisdiction for the payment of any sum of money may be enforced by a charging-order made by the Court against any real or personal property of the person by whom such money is payable (including debts and other moneys due or accruing due to that person, but not including the interest of a Samoan in any Native land). Any such charging-order shall be made and shall have effect in manner hereinafter provided.

77. The High Court may in any civil proceedings stay the execution of any judgment for such term as the Court thinks fit.

78. (1.) When judgment for the payment of any debt, damages, or other sum of money has been given by the High Court in its civil jurisdiction, the judgment creditor may at any time thereafter, in pursuance of the judgment, file in Court an application for an order under this clause.

(2.) A Judge, Commissioner, or Registrar of the Court may thereupon issue a summons (hereinafter called a judgment summons) to the judgment debtor to show cause why an order should not be made against him for the payment of the amount of the judgment.

(3.) On the hearing of the application the Court may, if it thinks fit, make an order that the judgment debtor do pay to the judgment creditor the amount of the judgment debt forthwith, or at such time, or by such instalments from time to time, as the Court thinks fit.

(4.) Except where the judgment debtor fails to appear in Court in pursuance of the judgment summons, no such order shall be made unless the Court is satisfied either—

(a.) That the judgment debtor is of sufficient ability to pay the judgment debt in accordance with the terms of the order; or

(b.) That the liability in respect of which judgment was given against him was incurred by fraud; or

(c.) That before or after the date of the judgment the judgment debtor has made away with any property for the purpose of evading payment of such liability.

(5.) If any judgment debtor disobeys any order made against him under this clause he shall be guilty of contempt of the High Court.

(6.) Nothing in this clause shall exclude any other lawful method of executing any such judgment.

79. A writ of sale may be in Form 3 in the Second Schedule hereto.

80. A writ of possession may be in Form 4 in the Second Schedule hereto.

81. A charging-order under clause 76 hereof may be made by the Court *ex parte* on the application of the judgment creditor, and shall specify the property to which it relates.

82. So long as any such order remains in force the amount of the judgment debt shall constitute an equitable charge upon the property specified in the order.

83. For the purpose of enforcing any such charge the Court may from time to time, and either on the making of the charging-order or any time thereafter, on the *ex parte* application of the judgment creditor, make such order or orders as it thinks fit against all persons concerned—

(a.) For the appointment of a receiver of the rents, profits, or revenues of any property so charged; or

(b.) For the payment into Court in satisfaction of the judgment of any such rents, profits, or revenues, or of any moneys subject to the charge; or

(c.) For the sale of any such property by an officer of the Court. Disobedience to any order so made shall constitute a contempt of Court.

84. Any charging-order, or any order so made in pursuance of a charging-order, may be at any time cancelled or varied on the application either of the judgment debtor or the judgment creditor or of any other person concerned.

85. An application for an order against a judgment debtor under clause 78 hereof may be in Form 5 in the Second Schedule hereto.

86. A judgment summons under clause 78 hereof may be in Form 6 in the Second Schedule hereto.

87. Every such judgment summons shall be served in the same manner as a summons to a defendant on the commencement of an action, and all the provisions of these rules as to the place and time of hearing of an action shall apply also to the hearing of the application in respect of which such judgment summons is issued.

#### *Absconding Debtors.*

88. Where in any action in the High Court for the recovery of any debt, damages, or other sum of money the plaintiff proves to the satisfaction of the Court at any time before final judgment that he has a good cause of action against the defendant to the amount of ten pounds or upwards, and that there is probable cause for believing that the defendant is about to leave Samoa or any island included in the Territory unless he is apprehended, and that his absence from Samoa or such island as aforesaid will materially prejudice the plaintiff in the prosecution of his action, the Court may order the defendant to be arrested and imprisoned for a period not exceeding three months unless and until he sooner gives security to the satisfaction of the Court that he will not leave Samoa or such island as aforesaid without the leave of the Court.

89. The security to be so given shall, as the Court directs, be either the payment into Court of a sum not exceeding the amount claimed in the action or a bond executed by the defendant with one or two sureties in favour of His Majesty in the like amount.

90. If after such security has been given the defendant leaves Samoa or such island as aforesaid without the leave of the Court, all moneys so paid into Court or recovered in pursuance of the bond shall become available as the Court directs for the satisfaction of any sum recovered in the action.

91. Where the action is for a penalty at the suit of the Crown it shall not be necessary to prove that the absence of the defendant as aforesaid will materially prejudice the Crown in the prosecution of the action, and the security to be given shall be security that any sum recovered against the defendant in the action will be paid or that the defendant will be rendered to prison.

92. If, after such security has been given, any sum recovered in the action remains unpaid and the defendant is not rendered to prison as aforesaid, all moneys so paid into Court or recovered in pursuance of the bond shall become available as the Court directs for the satisfaction of the sum recovered in the action.

#### *Motions.*

93. Every civil proceeding not required to be commenced by way of action or petition may be commenced by way of motion.

94. Every interlocutory motion may be made either verbally in open Court or by filing with the Registrar an application setting forth briefly the nature and grounds of the relief sought by the applicant.

95. Every originating motion shall be made by filing with a Registrar an application setting forth briefly the nature and grounds of the relief sought by the applicant.

96. Motions may be made in the forms set forth in the Third Schedule hereto, or in forms to the like effect.

97. Except where otherwise provided, or where the Court is satisfied that the nature of the motion is such that it may properly be made and determined *ex parte*, every motion shall be heard and determined only after due notice has been given to such persons as the Court may consider entitled thereto. All persons to whom notice has been given by the direction of the Court, or who appear on the hearing of the motion, shall be deemed to be parties to the proceeding.

98. Every proceeding which may be commenced by originating motion may, if the applicant thinks fit, be commenced by way of action instead.

99. Applications under Part IX of the Samoa Constitution Order, 1920, for the assessment of compensation shall be made by motion by the Minister of External Affairs, or by the Administrator, or by any person claiming such compensation or any share thereof; and notice of such application shall be given to such persons interested as the Court directs.

100. Applications under the Samoa Maintenance and Affiliation Order, 1920, for an affiliation order or maintenance order may be made by motion, with notice thereof to the defendant, except in cases in which the Court is authorized to hear the application *ex parte*.

*Probate and Letters of Administration.*

101. Probate of any will may be granted by the Court in Form 7 in the Second Schedule hereto.

102. Letters of administration of the estate of an intestate may be granted by the Court in Form 8 in the Second Schedule hereto.

103. Letters of administration with the will annexed may be granted by the Court in Form 9 in the Second Schedule hereto.

104. The security to be given by an administrator may be in Form 10 in the Second Schedule hereto.

105. In the case of a person residing out of Samoa, administration, with or without a will annexed, may be granted to his attorney acting under a power of attorney.

106. Every executor or administrator shall, within twelve months after the grant of probate or letters of administration, or within such further period as the Court on application may direct, lodge with the Registrar a full and distinct account in writing of his administration of the estate. The account shall be verified by affidavit.

107. If an executor or administrator makes default in filing such an account within the time aforesaid, or if any account so filed is insufficient, the Court may on the application of any person interested, or on the application of the Registrar, order the executor or administrator to file an account or a further account within such time as the Court in such order appoints, and disobedience to such order shall be a contempt of Court.

*Proceedings under the Customs Act, 1913.*

108. (1.) Every penalty imposed by the Customs Act, 1913, and recoverable in the High Court may be recovered by action in the name and on behalf of His Majesty as a debt due to the Crown.

(2.) The High Court may give leave to serve out of Samoa the summons in any action for the recovery of any such penalty or any duty under the Customs Acts.

(3.) The judgment in an action for the recovery of any such penalty may be enforced by way of proceedings for contempt of the High Court, and the failure of the defendant to satisfy such judgment shall constitute a contempt of Court accordingly.

(4.) Any person imprisoned for such contempt shall be released from custody on satisfaction of the judgment.

(5.) Proceedings for contempt shall not preclude any other method of execution which would otherwise be available.

109. Every criminal prosecution in the High Court for an offence against the Customs Act, 1913, shall be commenced by an information laid by a Collector of Customs in accordance with the ordinary criminal procedure of the High Court.

110. Every person arrested in Samoa for an offence against the Customs Act, 1913, in pursuance of section 243 of that Act shall be brought before a Judge or Commissioner of the High Court, who shall exercise the powers conferred by that section upon a Magistrate.

111. (1.) Proceedings in the High Court under the Customs Act, 1913, for the condemnation of goods seized as forfeited shall be instituted by way of motion by a Collector of Customs, anything in the Customs Act, 1913, to the contrary notwithstanding.

(2.) Notice of the proceedings shall be given to such persons and in such manner as the Court directs, and it shall be sufficient if public notice is given by advertisement or otherwise at or near the place of seizure.

(3.) Any person claiming to be interested in the goods may appear to oppose the application, and shall thereby become a party to the proceedings.

(4.) If any person appears to oppose the application the Court shall hear and determine the matter and acquit or condemn the goods, but if no person so appears judgment of condemnation shall be given.

(5.) In this regulation the term "goods" includes any boat, vehicle, or other thing forfeited under the Customs Acts.

*Jurisdiction of Commissioners.*

112. A Commissioner of the High Court shall have jurisdiction—

- (a.) In actions for the recovery of any debt or damages not exceeding twenty pounds in amount :
- (b.) In actions for the recovery of chattels not exceeding twenty pounds in value :
- (c.) In criminal proceedings for any offence punishable by fine only :
- (d.) In criminal proceedings for any offence punishable by imprisonment for not more than one year.

113. A Commissioner of the High Court shall not have power to impose any fine exceeding ten pounds or to impose any term of imprisonment exceeding three months, whatever may be the maximum fine or term of imprisonment provided by law for the offence.

114. Save as aforesaid, and save as otherwise provided in any law or regulation, a Commissioner shall not exercise any of the powers or functions, whether judicial or administrative, of a Judge of the High Court.

115. In these rules the term "Judge" includes a Commissioner of the High Court in respect of all matters within the jurisdiction of a Commissioner.

116. With the leave of a Judge of the High Court any party to any proceedings, whether civil or criminal, before a Commissioner of the High Court may appeal from the judgment of the Commissioner to a Judge of the High Court.

117. Such leave may be granted subject to such conditions, if any, as to security for the costs of the appeal or for performance of the judgment as the Judge by whom such leave is granted thinks fit.

118. Application for such leave shall be made within twenty-one days after the delivery of the judgment appealed from.

119. On granting such leave the Judge may make such order as he thinks fit as to a stay of execution of the judgment appealed from.

120. When leave to appeal from a conviction is so granted the Judge may, if he thinks fit, release the appellant from custody on bail pending the determination of the appeal.

121. Any person so released on bail may at any time, and for any reason that a Judge of the High Court thinks sufficient, be arrested by warrant and committed to prison there to undergo his sentence.

122. Any period during which an appellant has been so at large on bail shall not be computed as part of the term of imprisonment to which he has been sentenced.

123. Every such appeal shall be by way of rehearing, and shall be instituted by a motion for rehearing accordingly.

124. If the appellant does not prosecute his appeal with due diligence, a Judge of the High Court may dismiss the appeal for non-prosecution, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Judge directs.

*Criminal Proceedings.*

125. An information of a criminal offence may be in Form 1 in the Fourth Schedule hereto.

126. The summons to the defendant in a criminal proceeding may be in Form 2 in the Fourth Schedule hereto.

127. The summons to a witness in a criminal proceeding may be in Form 3 in the Fourth Schedule hereto.

128. A warrant for the arrest of an accused person may be in Form 4 in the Fourth Schedule hereto.

129. The recognizance to be entered into by a prisoner admitted to bail may be in Form 5 in the Fourth Schedule hereto.

130. Assessors in a criminal trial may be appointed by warrant in Form 6 in the Fourth Schedule hereto.

131. A conviction may be formally drawn up and sealed in Form 7 in the Fourth Schedule hereto.

132. A warrant of commitment to prison for default in the payment of a fine may be in Form 8 in the Fourth Schedule hereto.

133. A search-warrant may be in Form 9 in the Fourth Schedule hereto.

134. The remuneration and allowances payable to an assessor in a criminal trial shall be such as the Court in each case thinks fit and directs, but shall not exceed ten shillings per day in addition to travelling-expenses actually incurred and paid.

135. The expenses of a witness at a criminal trial, to be certified by the Judge for payment out of the Samoan Treasury, shall be such as the Judge thinks fit, not exceeding ten shillings per day in addition to travelling-expenses actually incurred and paid.

*Miscellaneous.*

136. Such variations in the forms prescribed in the Schedules hereto may be made as the circumstances of any particular case may require.

137. All documents filed in or issued from the Court may be either in the English language or in the Native language of Samoa.

138. Non-compliance with any of these rules shall not render the proceedings void, but the proceedings may be set aside, either wholly or in part, as irregular, or amended, or otherwise dealt with in such manner and on such terms as the Court may deem just.

139. The jurisdiction of the Court in any proceeding may be exercised from time to time by any of the Judges of the Court and at any time or place, notwithstanding that the proceeding may not have been duly continued by adjournment from time to time or from place to place.

140. If at any time and place of trial stated in any summons or notice to a defendant or other party in any civil or criminal proceeding, or in any summons to a witness, or at the time and place to which the trial or hearing of any action, prosecution, or other proceeding has been adjourned, a Judge of the High Court is not present, a Registrar, if present, may adjourn the Court to another time and to the same or any other place. If within one hour after the time so stated in any such summons or notice, or appointed by any adjournment, a Judge is not present and no adjournment by the Registrar has taken place, the Court shall be deemed to be adjourned to the same place on the next succeeding day at the hour stated in the summons or notice, or at any other hour so appointed by adjournment, and so on from time to time. On every such adjournment the summons or notice shall have the same effect as if the time and place to which the Court is adjourned had been set forth in the summons or notice.

141. Every constable shall obey and execute all the lawful summonses, warrants, executions, orders, and commands of a Judge or Commissioner of the High Court issued through the Registrar of the Court.

SCHEDULES.

FIRST SCHEDULE.

In the High Court of Western Samoa.

Between A. B., of  
 Plaintiff,  
 and  
 C. D., of  
 Defendant.

THE plaintiff claims the sum of £10 due to him as the price of goods sold and delivered by him to the defendant, particulars whereof are as follows:

[Or]

The plaintiff claims £50 as damages for an assault committed against him by the defendant on the day of , 19 , at

[Or]

The plaintiff claims possession of certain chattels wrongfully detained by the defendant—namely,

[Or]

The plaintiff claims a divorce from the defendant on the ground of her adultery with one E. F.

[Or]

The plaintiff claims the sum of £100 as damages for a breach of contract committed by the defendant under the following circumstances: [*Setting out the facts*].

SECOND SCHEDULE.

Form 1.

SUMMONS TO A DEFENDANT.

In the High Court of Western Samoa.

Between A. B., of  
 Plaintiff,  
 and  
 C. D., of  
 Defendant.

You are hereby summoned to appear and defend this action at the trial thereof before the High Court on the day of , 19 , at o'clock in the noon, at [*Place of trial*]. A copy of the statement of claim is hereto annexed.

To the above-named defendant.

[SEAL.]

Registrar [*or Deputy Registrar*].

Form 2.

SUMMONS TO WITNESS.

In the High Court of Western Samoa.

Between A. B., of  
 Plaintiff,  
 and  
 C. D., of  
 Defendant.

You are hereby summoned to appear before the High Court at on the day of , 19 , at o'clock in the noon, there to give evidence as to the matters in question in this action; and you are further required to bring with you and produce to the Court the following documents, namely:

Herein fail not at your peril.

[SEAL.]

Judge [*or Commissioner, or Registrar, or Deputy Registrar*]

To

Form 3.

WRIT OF SALE.

In the High Court of Western Samoa.

Between A. B., of  
 Plaintiff,  
 and  
 C. D., of  
 Defendant.

You are hereby directed to make of the chattels of the above-named defendant, the sum of , which the above-named plaintiff has recovered



against him in this Court by virtue of a judgment given on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ (together with interest upon the said sum at the rate of six pounds for every one hundred pounds by the year from the said \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_), and cause that money (with such interest as aforesaid) immediately after the execution hereof to be rendered to the said plaintiff.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

[SEAL.]

.....  
Registrar.

To [Officer of the Court or a constable].

Form 4.

WRIT OF POSSESSION.

In the High Court of Western Samoa.

Between A. B., of \_\_\_\_\_, Plaintiff,  
and  
C. D., of \_\_\_\_\_, Defendant.

You are hereby directed to deliver to \_\_\_\_\_, the above-named plaintiff, possession of all that parcel of land being [Here describe the land so as to identify it], in pursuance of a judgment obtained in this Court by the said plaintiff against the said defendant on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

[SEAL.]

.....  
Registrar.

To [Officer of the Court or a constable].

Form 5.

MOTION FOR ORDER FOR PAYMENT OF JUDGMENT DEBT.

In the High Court of Western Samoa.

Between A. B., of \_\_\_\_\_, Judgment creditor,  
and  
C. D., of \_\_\_\_\_, Judgment debtor.

THE above-named judgment creditor makes application for an order under clause 78 of the Rules of the High Court of Western Samoa, 1920, for the payment by the above-named judgment debtor of the sum of \_\_\_\_\_, for which judgment was obtained in this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and which is still unpaid.

Form 6.

JUDGMENT SUMMONS.

In the High Court of Western Samoa.

Between A. B., of \_\_\_\_\_, Judgment creditor,  
and  
C. D., of \_\_\_\_\_, Judgment debtor.

TAKE notice that you are hereby summoned to appear before this Court at \_\_\_\_\_ on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the noon, to show cause why an order under clause 78 of the Rules of the High Court of Western Samoa, 1920, should not be made against you for the payment of the sum of \_\_\_\_\_ due by you to the above-named judgment creditor under a judgment obtained against you in this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

For disobedience to any order which may be so made against you, you will be liable to imprisonment.

[SEAL.]

.....  
Registrar.

To the above-named judgment debtor.

## Form 7.

## PROBATE.

In the High Court of Western Samoa.

In the matter of the will of \_\_\_\_\_, deceased.

BE it known to all men that on this \_\_\_\_\_ day of \_\_\_\_\_, in the year 19\_\_\_\_, the last will and testament of \_\_\_\_\_, deceased, a copy of which is hereunto annexed, has been exhibited, read, and proved before this Court, and administration of the estate of the deceased has been and is hereby granted to \_\_\_\_\_, the executor in the said will and testament named, being first sworn faithfully to execute the same.

Given under the seal of the High Court of Western Samoa at \_\_\_\_\_, this day of \_\_\_\_\_, 19\_\_\_\_.

[SEAL.]

Registrar [or Deputy Registrar].

## Form 8.

## LETTERS OF ADMINISTRATION WITHOUT A WILL.

In the High Court of Western Samoa.

In the matter of the estate of \_\_\_\_\_, deceased, intestate.

To \_\_\_\_\_, widow [or as the case may be] of deceased.

WHEREAS the said \_\_\_\_\_ lately departed this life intestate: You are therefore by these presents constituted administrator of the estate of the said deceased, you having been first sworn well and faithfully to administer the same.

Given under the seal of the High Court of Western Samoa at \_\_\_\_\_, this day of \_\_\_\_\_, 19\_\_\_\_.

[SEAL.]

## Form 9.

## LETTERS OF ADMINISTRATION WITH THE WILL ANNEXED.

In the High Court of Western Samoa.

In the matter of the will of \_\_\_\_\_, deceased.

To \_\_\_\_\_, widow [or as the case may be] of deceased.

WHEREAS the said \_\_\_\_\_ lately departed this life leaving a will which has been duly proved in this Court and a copy of which is hereunto annexed: And whereas no executor is named in that will [or the executors named in that will have not applied for probate]: You are therefore by these presents constituted administrator with the will annexed of the estate of the said deceased, you having been first sworn well and faithfully to administer the same.

Given under the seal of the High Court of Western Samoa at \_\_\_\_\_, this day of \_\_\_\_\_, 19\_\_\_\_.

[SEAL.]

## Form 10.

## ADMINISTRATION BOND.

In the High Court of Western Samoa.

In the matter of the estate of \_\_\_\_\_, deceased.

Know all men by these presents that we \_\_\_\_\_ are held and firmly bound unto the Registrar of the High Court at Apia in the sum of \_\_\_\_\_, for which payment well and truly to be made to the said Registrar we do and each of us doth bind ourselves and each of us, and the executors and administrators of us and of each of us, jointly and severally, firmly by these presents.

Whereas by order of this Court of \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, it is ordered that letters of administration of the estate of \_\_\_\_\_, deceased, be granted to the said \_\_\_\_\_ on his giving security for the due administration thereof: And whereas \_\_\_\_\_ has sworn that to the best of his knowledge and belief the said estate is under the value of £ \_\_\_\_\_:

Now, the condition of the above-written bond is that if the above-bounden \_\_\_\_\_ well and truly administers the said estate according to law and renders to this Court a true and just account of his administration on or before the day of \_\_\_\_\_, 19\_\_\_\_, then this bond shall be void and of none effect, but otherwise shall remain in full force.

Signed the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in the presence of—

THIRD SCHEDULE.

FORMS OF MOTIONS.

In the High Court of Western Samoa.

In the matter of the will of A. B., of , deceased.

THE applicant, C. D., of , claims probate of the will of the above-named deceased, who died at on the day of , 19 , on the ground that he is the executor named in the said will.

[Or]

In the High Court of Western Samoa.

In the matter of A. B., a minor.

THE applicant, C. D., of , claims the custody of A. B., a minor, on the ground that the minor is a child of the applicant and that possession of the minor is wrongfully detained by E. F., of .

[Or]

In the High Court of Western Samoa.

In the matter of A. B., a prisoner.

THE applicant, A. B., of , claims release from detention in the prison at , on the ground that he is there detained unlawfully under a warrant issued without jurisdiction.

[Or]

In the High Court of Western Samoa.

In the matter of A. B., a person of unsound mind.

THE applicant, C. D., Chief Medical Officer, of Apia, claims an order committing the said A. B. to medical custody, on the ground that he is of unsound mind.

[Or]

In the High Court of Western Samoa.

In the matter of A. B., an applicant for maintenance.

THE applicant, A. B., of , claims a maintenance order against the defendant in favour of the applicant and her children, on the ground that the defendant, being the husband of the applicant, has failed to provide her and her children with adequate maintenance.

FOURTH SCHEDULE.

Form 1.

INFORMATION.

In the High Court of Western Samoa.

Between A. B., Informant,  
and  
C. D., Defendant.

A. B., of , informs the Court that he has just cause to suspect and does suspect that C. D., of , did on the day of , 19 , at , steal [*Describe the article stolen*], being the property of E. F. and of a value not exceeding two pounds [*or not exceeding fifty pounds, or exceeding fifty pounds*]; and also that the said C. D. did, on the day of , 19 , at , break and enter the dwellinghouse of E. F. with intent to commit theft therein.

[Signature of Informant.]

Form 2.

SUMMONS TO ACCUSED.

In the High Court of Western Samoa.

Between A. B., Informant,  
and  
C. D., Defendant.

WHEREAS an information has been laid against you by the above-named informant that on the day of , 19 , at , you did [*Setting out charge as stated in information*]:

You are therefore summoned to appear before this Court on , the day of , 19 , at o'clock in the noon, at [*Place of trial*], there to answer the charge so made against you.

Dated this day of , 19 .

.....  
Judge [*or Commissioner, or Registrar, or Deputy Registrar*].

[SEAL.]

To the above-named defendant.

## Form 3.

## SUMMONS TO WITNESS IN CRIMINAL PROCEEDINGS.

In the High Court of Western Samoa.

Between A. B., Informant,  
and  
C. D., Defendant.

WHEREAS an information has been laid against the above-named defendant that on the        day of       , 19       , at       , he did [*Setting out charge as in information*]: And whereas it has been made to appear to me that you are able to give evidence relative to the charge so made.

You are therefore hereby summoned to appear before the High Court on       , the        day of       , 19       , at        o'clock in the noon, at [*Place of trial*], there to testify what you know concerning the said charge [and you are hereby required to bring with you and produce to the Court the following documents—namely       ].

Herein fail not at your peril.

.....  
Judge [*or Commissioner, or Registrar, or Deputy Registrar*].

[SEAL.]

To [*Name and description of witness*].

## Form 4.

## WARRANT FOR ARREST OF ACCUSED.

In the High Court of Western Samoa.

Between A. B., Informant,  
and  
C. D., Defendant.

WHEREAS information has been laid against the above-named defendant that on the        day of       , 19       , at       , he did [*Setting out charge as in information*]:

You are hereby required and authorized to arrest the said defendant and bring him forthwith before a Judge of this Court, there to answer the charge so made against him, and for so doing this shall be your warrant.

Dated this        day of       , 19       .

.....  
Judge [*or Commissioner, or Registrar, or Deputy Registrar*].

[SEAL.]

To all constables in Samoa.

## Form 5.

## RECOGNIZANCE OF PRISONER ADMITTED TO BAIL.

Know all men by these presents that we [*Defendant and his sureties*] are held and firmly bound unto His Majesty the King in the sum of        pounds, for which payment to be well and truly made to His Majesty we do and each of us doth bind ourselves and each of us, and the executors and administrators of us and of each of us, jointly and severally, firmly by these presents.

Whereas the above-named defendant has been arrested on a charge of       , and has been admitted to bail to await his trial for that offence before the High Court of Western Samoa:

Now, therefore, the condition of this bond is that if the said defendant appears before the said Court in due course for trial for the said offence at the next sitting of the said Court held by a Judge thereof [*or by a Commissioner thereof*] at       , then this bond shall be void and of no effect, but otherwise shall remain in full force.

Signed this        day of       , 19       , in the presence of—

## Form 6.

## WARRANT OF APPOINTMENT OF ASSESSORS.

In the High Court of Western Samoa.

Between A. B., Informant,  
and  
C. D., Defendant.

WHEREAS C. D. is accused in this Court of the murder of E. F. [*or as the case may be*]: And whereas (in pursuance of an order made by this Court in that behalf) the trial of the said accused must take place before assessors:

Now, therefore, I do hereby appoint as assessors for the said trial the persons following, being duly qualified by law in that behalf:

Dated this        day of       , 19       .

[SEAL.]

.....  
Judge.

Form 7.

CONVICTION.

In the High Court of Western Samoa.

Between A. B., Informant,  
and  
C. D., Defendant.

BE it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, C. D., \_\_\_\_\_, is convicted before this Court on the information of A. B., \_\_\_\_\_, for that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, he did [*Set out the offence*]; and it is adjudged that the said C. D. for his said offence shall be imprisoned in the prison at \_\_\_\_\_ for the space of \_\_\_\_\_

Given under my hand and the seal of the said Court, the day and year first above written.

[SEAL.]

Judge [or Commissioner].

Form 8.

WARRANT OF COMMITMENT FOR DEFAULT IN PAYMENT OF FINE.

In the High Court of Western Samoa.

Between A. B., Informant,  
and  
C. D., Defendant.

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the above-named defendant was convicted in this Court of the offence of \_\_\_\_\_, and sentenced to pay a fine of \_\_\_\_\_: And whereas the said fine remains unpaid:

It is ordered that the said defendant be imprisoned for the term of \_\_\_\_\_ from the date of this order, or until the said fine shall be sooner paid.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

[SEAL.]

Judge [or Commissioner].

Form 9.

SEARCH-WARRANT.

WHEREAS it has been made to appear to me, on the oath of A. B., that there is reasonable ground for believing that there are in the dwellinghouse of C. D. [*or as the case may be*] at \_\_\_\_\_ certain goods in respect of which an offence has been committed against the Customs Act, 1913 [*or as the case may be*]:

Now, therefore, I hereby authorize you to search such dwellinghouse for such goods and to seize the same and bring them before me; and for so doing this shall be your warrant.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Judge [or Commissioner].

To E. F., Constable.

F. D. THOMSON,  
Clerk of the Executive Council.

## THE SAMOAN CROWN ESTATES ORDER, 1920.

LIVERPOOL, Governor-General.

ORDER IN COUNCIL.

At the Government House, at Wellington, this nineteenth day of April, 1920.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL PRESIDING IN COUNCIL.

WHEREAS by Article 297 of the Treaty of Peace with Germany, which was signed at Versailles on the twenty-eighth day of June, nineteen hundred and nineteen, it is provided that the Allied and Associated Powers shall be entitled to retain all property belonging to German nationals or companies controlled by them within the colonies, possessions, and protectorates of those Powers, and that the value of such property shall be accounted for to the Government of Germany : And whereas by Article 121 of the said Treaty the foregoing provision is made applicable to the Territory of Western Samoa : And whereas it is necessary accordingly to make provision for the disposition of property situated in Western Samoa and belonging to German nationals or German companies :

Now, therefore, His Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of that Dominion, and in pursuance of the authority to make laws for the peace, order, and good government of the Territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, nineteen hundred and twenty, under the Foreign Jurisdiction Act, 1890, and further in pursuance of the authority conferred upon him by the Treaties of Peace Act, 1919, doth hereby order as follows :—

1. This Order may be cited as the Samoan Crown Estates Order, 1920, and shall come into operation on the same day as the Samoa Constitution Order, 1920.

2. All land situated in Samoa which belongs or at any time since the commencement of the late war with Germany has belonged to any company incorporated in Germany or having its head office in Germany is hereby vested absolutely in His Majesty in right of the Government of New Zealand free from all encumbrances affecting the title of the owner.

3. If the Minister of External Affairs is satisfied that any land situated in Samoa belongs or has at any time since the commencement of the late war with Germany belonged to a German, and that the vesting of that land in His Majesty is expedient in the public interest, the Minister may at any time before the first day of January, nineteen hundred and twenty-one, make an order under his hand and the seal of Samoa vesting such land in His Majesty in right of the Government of New Zealand, and every such order shall have effect according to its tenor, and shall vest the land absolutely in His Majesty free from any encumbrances affecting the title of the previous owner.

4. In this Order the term "land" includes any leasehold interest in land, or any right, title, or interest recognized by the laws heretofore in force in Samoa and corresponding to a leasehold interest as recognized by the laws of New Zealand.

5. In this Order the term "German" means any person who or whose father was born in territory which at the commencement of the late war with Germany was part of the German Empire in Europe.

6. All lands vested in His Majesty by or in pursuance of this Order shall be known as Samoan Crown estates, and shall be administered under this Order for and on behalf of His Majesty in right of the Government of New Zealand.

7. There shall be appointed an officer of the Samoan Public Service who shall be called the Commissioner of Crown Estates, and who shall, subject to the direction of the Administrator of Western Samoa and the Minister of External Affairs, be charged with the execution of this Order and with the administration of the Samoan Crown estates.

8. There shall also be appointed or employed by the Minister of External Affairs or by the Administrator such other officers, clerks, and servants as may be necessary for the assistance of the Commissioner in the execution of this Order and the administration of the said estates.

9. All rents, profits, and other revenues derived from the Samoan Crown estates shall be received by the Commissioner of Crown Estates on behalf of the Government of New Zealand, and shall constitute a separate fund distinct from the public revenues of Samoa and known as the Samoan Crown Estates Account.

10. All expenditure incurred in the execution of this Order and in the administration of the said estates, including the salary and allowances of the Commissioner and of all such officers, clerks, and servants as aforesaid, shall be paid out of the Samoan Crown Estates Account.

11. From time to time, in accordance with the directions of the Minister of External Affairs, there shall be transferred from the Samoan Crown Estates Account to the Public Account of New Zealand, to the credit of the Consolidated Fund, such balances as in the opinion of the Minister are not required to meet expenditure in the execution of this Order or the administration of the Samoan Crown estates.

12. If at any time the moneys in the Samoan Crown Estates Account are insufficient to meet the calls thereon the Minister of Finance may, out of moneys appropriated by Parliament for that purpose, pay into that account such sums as may be required.

13. The Samoa Treasury Regulations, 1920, shall, so far as applicable, extend and apply to the Samoan Crown Estates Account in the same manner as to the public revenues of Samoa, save that every reference in those regulations to the Treasurer shall be read as a reference to the Commissioner of Crown Estates, and every reference to the Treasury shall be read as a reference to the Samoan Crown Estates Account.

14. All Samoan Crown estates shall, as the Minister of External Affairs thinks fit, and on such terms and in such manner as he thinks fit, be either sold, or leased, or managed by the Commissioner as a plantation, or utilized by him in such other manner as may be proper for the production of adequate revenue therefrom.

15. If any Samoan Crown estate is in the opinion of the Administrator required for the purposes of the Government of Samoa, the Minister of External Affairs may, if he thinks fit, by order under his hand and the seal of Samoa, transfer that estate to the Government of Samoa on the payment of the value thereof out of the Samoan Treasury into the Samoan Crown Estates Account, and the estate shall thereupon cease to be a Samoan Crown estate and shall become Crown land to be administered as such in the ordinary course by and on account of the Government of Samoa. For the purpose of this clause the value of an estate shall be the value as assessed by a competent valuer or valuers to be appointed for that purpose by the Minister of External Affairs. This clause shall apply to any portion of an estate in the same manner as to the whole.

16. All moneys which at the coming into operation of this Order are in the hands of the Military Government of Samoa as the proceeds of the administration of any property which by this Order becomes vested in the Crown shall be forthwith paid into the Samoan Crown Estates Account.

17. All liabilities which have been incurred by the Military Government of Samoa in the administration of any such property and are outstanding at the coming into operation of this Order shall

become the liabilities of the Government of New Zealand, and the amount thereof shall be paid out of the Samoan Crown Estates Account accordingly.

18. All investments which at the coming into operation of this Order are in the possession of the Military Government of Samoa, and represent the proceeds of the administration by that Government of any property which by this Order becomes vested in the Crown, shall by virtue of this Order become the property of the Crown in right of the Government of New Zealand, and shall be disposed of as the Minister of External Affairs directs. The income of such investments and the proceeds of the disposition of such investments shall be paid into the Samoan Crown Estates Account.

19. If any such investments consist of bonds, debentures, inscribed stock, or other securities of the New Zealand Government, such securities shall on the coming into operation of this Order be deemed to be discharged and cancelled, and the New Zealand Treasury shall take action accordingly.

20. All property (other than the aforesaid lands, moneys, and investments) which at the coming into operation of this Order are in the possession of the Military Government of Samoa, in its capacity as administering the properties which by virtue of this Order become Samoan Crown estates, shall become the property of the Crown in right of the Government of New Zealand, and shall be disposed of by the Commissioner of Crown Estates in such manner as the Minister of External Affairs directs, and the proceeds of such property or of the disposition thereof shall be paid into the Samoan Crown Estates Account.

21. If any such property as is referred to in the last preceding clause is in the opinion of the Administrator required for the purposes of the Government of Samoa the Commissioner of Crown Estates may, with the approval of the Minister of External Affairs, transfer that property to the Government of Samoa on the payment of the value thereof, as agreed upon between the Commissioner and the Administrator, into the Samoan Crown Estates Account.

22. If any question arises as to whether any revenues or other moneys are payable into the Samoan Treasury or into the Samoan Crown Estates Account, or as to whether any expenditure is chargeable on the Samoan Treasury or on the Samoan Crown Estates Account, the question shall be determined by the Controller and Auditor-General, whose decision shall be final and conclusive.

23. Nothing in this Order shall affect the title to any land which before the commencement of this Order has been alienated by the Military Government of Samoa, and every such alienation is hereby confirmed.

24. Roads over the Samoan Crown estates may be proclaimed by the Administrator in pursuance of the Samoa Constitution Order, 1920, in the ordinary course in the same manner and with the same effect as if such estates were ordinary Crown land in Samoa.

25. Subject to the provisions of this Order, all the provisions of the Samoa Constitution Order, 1920, and of any other Order in Council in force in Samoa with respect to Crown land or to the property, rights, and obligations of the Crown, shall apply to the Samoan Crown estates and to all other property, rights, and obligations which are subject to this Order, in the same manner as if such estates, property, rights, and obligations were those of the Crown in right of the Government of Samoa.

F. D. THOMSON.  
Clerk of the Executive Council.