

M. JUDICIAL POWER

76. No serious criticisms of the Judiciary were presented to the Mission, and the present system seems generally adequate. The Mission believes, however, that certain changes should be made as a basis for progress in judicial responsibility.

77. Appeal from the High Court of Western Samoa to the Supreme Court in New Zealand seems unnecessary. This existing right has rarely been exercised.

78. Samoan associate Judges should be granted the constitutional right to participate in decisions of the High Court, a power they already exercise in effect. For the present this may best be confined to cases in which the defendants are Samoans.

79. Cases in which Europeans are the defendants should continue as now to be subject to trial by the European Chief Judge or Commissioner. Later, however, the special problems arising from the existence of an important foreign community in Apia might perhaps be solved by the creation of a special Court with competence to decide cases concerning the inhabitants of this town without distinctions of race.

80. The Land and Titles Court should be presided over by the Chief Judge, as now. The question should be studied regarding how to increase the responsibilities of the Samoan Associate Judges and Assessors so as to place the maximum powers of decision in these matters of Samoan custom upon those best informed.

81. Constitutional recognition should be given to acknowledged Samoan custom and tradition. Once the right of the people to decide their own destinies or to frame their own institutions is recognized, no other course seems possible. Along with this should go the grant of constitutional power to district Judges or Village Councils to adjudicate upon matters arising out of traditional Samoan custom and also under the written law to the extent to which such jurisdiction may have been conferred upon them. The jurisdiction of these lower tribunals naturally would be confined in criminal law to minor offences and in civil cases to minor disputes. Such grant of power should take account of Samoan judicial procedure.

82. Such a step would require the keeping of records and the right of appeal from local tribunals to the High Court, so as to ensure justice to any person considering himself injured thereby.

N. GOVERNMENT PERSONNEL

83. The Mission encountered strong criticisms of the present personnel situation in the Territory (see Annex I, paragraphs 44-52). Samoans and locally-born Europeans alike attacked the system of recruitment of overseas personnel from New Zealand while recognizing that expert personnel would still be needed from outside the Territory. They also