

to the President for a rehearing. The Court is highly respected by the Samoan people, and its judgments rarely need to be enforced through the High Court. Large numbers of disputes are settled out of Court through the mediation of the Native Department.

40. The present Samoan District Court system was re-established in 1938 after a lapse during the *Mau* period. The fourteen Samoan District Judges, like the Associate Judges, are nominated by the *Fono* of *Faipule*, and appointed by the Administrator every three years. Their jurisdiction extends to civil actions up to the value of £5 where both parties are Samoans, and to criminal offences by Samoans only in the case of theft of under £2 value, adultery, breach of the peace, and some twenty five other offences prescribed by the legal code. It cannot be said, however, that these Courts adequately fill the needs of the outlying districts. The number of cases they deal with is small in comparison with the number of cases dealt with judicially by the Samoan-style Village Councils on the basis of local custom. The village title-holders (*matai*) continue to exercise the real authority, and prefer to deal with offenders themselves, rather than sending them for trial before the District Judges. Cases on which the Village Council cannot agree are likely to be referred directly to the Apia Court, or to Savai'i to the Resident Commissioner's Court. The Government is now considering the possibility of giving statutory recognition to the right of Village Councils to exercise jurisdiction in terms of traditional custom.

K. *The Statute Law and Samoan Custom*

41. Samoan "customary law" is in general allowed to continue without official interference, except for certain old customary acts now held to be criminal. There are some actions which, when committed by Samoans, are offences against their own custom without being offences against the written law, as, for example, supplying the wrong type of food on ceremonial occasions, or failing to provide services to the title-holder. These are handled by the Samoans, if they so wish, through their customary family and community procedures, and by applying their own sanctions, in the form of rebuke, fines, ostracism, or even banishment. A notable instance of divergence of custom from the written law is in the attempted settling of criminal offences by "reconciliation" through fines of pigs or other wealth by the Village Councils, who then share in the proceeds.

42. From time to time Samoans have expressed their willingness to bring their custom and the written law into closer harmony, either by modifying the custom or by amending the law. At the request of the *Fono* of *Faipule* two special customary offences in the form of extreme Samoan-style insults have been incorporated as statutory offences in the written law. It would be difficult, however, to codify Samoan law in any comprehensive fashion, partly because of regional and local variation. However, most of the statutory offences already prohibited by the written law as being anti-social or anti-Christian are also now regarded as acts contrary to modern Samoan custom as modified by the influence of western civilization and the missions.

43. A serious problem in using Samoan custom as a basis for law arises from the fact that it is undergoing considerable change in the modern period, and tends to become less precise as the elders who have