

the confirmation by the confirming officer. Under those circumstances it would have been my duty to report to the Minister any irregularities with regard to the proceedings, and furnish a recommendation with regard to the sentence. If the proceedings had taken place here it would have been my duty to have drawn attention to the sentence, and made any remarks in connection with the trial. The Minister of Defence simply passes that advice on to His Excellency, who has the final prerogative in the matter. It is therefore in that capacity that I attend before this Committee, and, of course, as far as possible to place the Committee in possession of the whole of the facts such as may not have been elicited before you, and to help you in any possible way I can. The proceedings in Samoa were the proceedings not of a Court-martial, but of a Military Court. There is a considerable amount of difference between them. A Court-martial is administered under the Army Act; it is regulated by rules, and very strict rules. A Military Court is regulated by no fixed rules at all. It administers martial law, which is practically the will of the Commander-in-Chief. He is in control of the territory. The Military Governor for the time being sets up any Military Courts, there being no other administration in existence, and he deals with all matters as he pleases. That is the position with regard to this Military Court, but at the same time that Military Court fairly complied with the regulations referable more properly to Courts-martial. I notice that in the proceedings which have already taken place before this Committee it has been alleged that at Samoa they did not comply with a certain section in the Rules of Procedure, which requires the evidence to be read over to the witness after he has given his evidence. It was certified on the official record of the proceedings that that had been done. I respectfully submit that it would be unwise for this Committee to lay great weight on the evidence given before it on this point, or to express any opinion with regard to whether that section of the Rules of Procedure was complied with. If that has been certified officially by, I take it, Colonel Head, who was the President of the Court, and it had not been done, it means that that gentleman would probably forfeit his commission.

*Sir John Findlay:* I did not lay any stress whatever upon any irregularity, Mr. Chairman. It was mentioned by Mr. Gaudin when he was giving his evidence, but we did not attach any importance to it.

*Witness:* I am glad to hear that, because it is necessary to see that absent officers are not prejudiced, for it may be possible that there is some explanation. It is a very serious matter to certify to a thing of that sort when it has not been done. There is also another matter which I think the Committee should not deal with, and that is the administration of Colonel Logan down in the island. There have been, during the course of the proceedings, attacks upon his administration. Now, that is a matter, of course, upon which he has not been heard, and it might be a very serious matter if the Committee, in reporting to the House, made any statements reflecting upon his general administration. I particularly refer to the suggestion that after refusing to allow Mr. Gaudin to deposit the gold with him and obtain a draft upon New Zealand, that concession was subsequently granted to a German subject. Now, we know nothing of the circumstances regarding that concession. There may be an explanation. One may be this: under the rules of warfare confirmed by the Hague Convention—which, of course, Germany has not observed but we have—the ex-Governor of the island, Dr. Schultz, is entitled to the pay of a General, and he is entitled to draw that from the New Zealand Government. The regulations prescribe that when officers are made prisoners, the nation which has captured them is required to pay them the same rate of pay during the time they are in confinement as an officer of corresponding rank in their own army. That money is afterwards collected from the nation whose officers are captured. It is quite possible that our Government does not feel inclined to pay these officer-prisoners, whom they have interned at Motuihi, large sums of money, and may have permitted them to draw upon their private resources. Dr. Schultz probably had a credit established. In fact, I am informed that he had a credit established with the German firm at Samoa. Dr. Schultz is allowed to purchase wines, and cigars, and delicacies at the island, and he probably wanted money, so that it may have been necessary for something to be done. I do not know that these are the facts, but that may be the explanation, or there may be some other explanation. I submit, therefore, that perhaps the Committee should not deal with the administration of Colonel Logan. As a matter of fact, Colonel Logan is, to all intents and purposes, an Imperial officer, acting as Administrator at Samoa. It was distinctly laid down by the British Government that in taking possession of Samoa by the agency of the New Zealand Forces it was in no way to be taken as putting Samoa under the jurisdiction of New Zealand. The Imperial Government reserved to itself entirely the disposal of Samoa after the war. In the meantime it is administered by an Imperial officer, though he holds the rank of Colonel in the New Zealand Forces. With regard generally to the evidence in this case, it appears to be plain that Mr. Gaudin undoubtedly broke the War Regulations. I am not giving evidence, but I know Mr. Gaudin. I have known him for a considerable time. He was Adjutant when I was in command of the 3rd Auckland Regiment, the Countess of Ranfurly's Own. I know his character exactly, and I am perfectly satisfied of this, that no intention of committing what we know as treason ever entered his mind. I am perfectly satisfied of that. But that does not dispose of the fact that he deliberately broke what was conceived by the Administrator to be a very necessary regulation for the safety of Samoa and the administration of the place. I suggest that the seven months which he served was not an excessive punishment for the deliberate breach of those regulations, but the sentence of five years was altogether out of the question. I entirely agree with that. As I have said, had the proceedings taken place in New Zealand, and had the question of the sentence come before me in my official capacity, I should certainly have made a recommendation that the sentence be reduced before confirmation. Perhaps while I am on this matter I might say that Colonel Logan would have nothing to do with the original fixing of the penalty—that would rest entirely with the Military Court. He was only a witness in the case, and the Military Court would itself fix the penalty—he was only the confirming officer. He could, of