

course, have mitigated the sentence. I think it is agreed that Mr. Gaudin was extremely indiscreet, to say the very least of it. It is alleged—Mr. Gaudin says so—that he intended to hand those letters over to the officer who was in command at Motuihi Island: that is where these prisoners were interned. That may be so, and I do not wish to question Mr. Gaudin's statement with regard to that, but it would have been a perfectly simple matter to have conveyed those letters to those prisoners down on the island without ever the officer commanding there knowing anything about them. The atrocities which the Germans have committed had not then become so patent, and there was not the strong feeling against them which obtains now. They were allowed much more liberty than now. Occasionally picnic parties went down there, and ladies from Auckland often went down there to afternoon tea. It would have been as simple as possible to have handed those letters to the prisoners there without any one knowing anything about it. Mr. Gaudin says that he intended that they should pass through the hands of the proper officer to have them censored, but that it was possible for him to have handed the letters direct to the prisoners, and that that would be known to the Military Court is perfectly clear. It seems to me that Mr. Gaudin took a most enormous risk, because had one of those letters contained anything that could have been construed into being in any way traitorous, or in any way affecting the Government or the safety of the island, he would have been shot. As sure as fate he would have been shot. So that he took an enormous risk. He could not read German, and he did not know what was in those letters; and you must remember that the "Scharnhorst" and "Gneisenau" were in those waters and had not been driven away, so that down there there was always the possibility of either of those ships raiding the island or something happening. Consequently there was an enormous risk being taken by him in conveying those letters. The statement is made according to the evidence that he carried a photograph of the wireless station. Now, it was alleged during the proceedings, but I do not see any evidence about it, that that photograph was shown in the newspapers or on a screen in a picture-show in Auckland before the war.

*Sir John Findlay:* He was on oath, and swore to the contents of the petition.

*Witness:* Perhaps his notice was not directed to that point in the petition; but supposing there were pictures of it taken prior to British occupation, when the war broke out we took possession of the wireless station and fortified it. There were trenches put down which the photograph would show. That was where the danger was. It was not a mere picture of the place as the Germans knew it; but that photograph had not been published, and such photograph must show there were trenches. I am quite sure that if Mr. Gaudin had looked at the photograph when he started he would have at once recognized that it was a thing that should not be taken and shown.

*Sir John Findlay:* But the evidence was that the photograph was taken before the British occupation—it was a German photograph, sold in the shops of Samoa as a post-card.

*Witness:* Well, that is possible; but Mr. Gaudin did not know what it was when he was carrying it. Then there was the manuscript for publication in the *New Zealand Herald*. I have no doubt the *Herald* would not have published anything which they considered would be likely to damage our administration in Samoa, but it is significant that the previous letter, copy of which this was, had never been published in the *Herald*, and, it is suggested, had gone astray. It is not improbable it was stopped by the Censor. Whether that letter was subsequently published by the *Weekly News*—

*Sir John Findlay:* As a matter of fact it had passed the Censor, and it had gone to America, and was returned through the Dead Letter Office.

*Witness:* Is that so? That would not be known on the island. All these matters were matters which pointed, as far as those persons who were administering the law down there were concerned, to a far more serious state of affairs than is actually disclosed by the evidence. Hence the sentence, which I admit was altogether out of all reason once we admit the fact that Mr. Gaudin never intended to injure his country. Still, there is something to be said for the state of mind of the members of that Court-martial at the time the case took place. It was a very critical time in Samoa, and no doubt there was a certain amount of hysteria down there about it. No doubt persons under those circumstances became more nervous than they would be on calm reflection, and possibly that might have influenced the sentence that was passed. As regards the mitigation of the sentence, in my opinion the matter rested entirely with His Excellency as the representative of the Imperial authorities, and he exercised that clemency, I have no doubt, in view of the fact that the evidence did not disclose any real treacherous or treasonable design on Mr. Gaudin's part. I do not know, gentlemen, whether you think I would be exceeding what I should do if I were to suggest something which the Committee might do in connection with this matter—something that would relieve Mr. Gaudin of the stigma which attaches to him of having committed an actual treason. I have drafted a suggestion of what the Committee might possibly feel disposed to do. Am I justified in making the suggestion?

*The Chairman:* Yes.

*Witness:* "That Mr. Gaudin undoubtedly committed serious offences against the military laws and Government of Samoa by removing gold in wilful defiance of a Proclamation issued by the Administrator, and also by carrying correspondence which had not passed the Samoan censorship. Such offences could not have been overlooked by the military authorities of Samoa, and military detention for six months was not an excessive punishment. There is, however, no reason to suppose that in so acting Mr. Gaudin was animated by any intention to assist the enemy or by any other traitorous or disloyal purpose. The term 'war treason' as used by the Military Court in Samoa must be taken to have been used in a general sense as including all offences against the Military Government as opposed to breaches of the ordinary criminal law. The term in no way implies treason in the ordinary sense. Of the actual offence of treason in its popular acceptation, the Committee are of opinion that Mr. Gaudin was not guilty." I do not know whether that would be acceptable to Sir John Findlay. I suggest the Committee could