

Whether a regulation was issued or not I submit is immaterial. It is not the same where a man is charged with an offence in peace-time, and you say there is no regulation; in a time of war it makes all the difference, and Gaudin knew that all letters had to be censored, so that I do not think it makes any difference.

16. You referred to the fact that apparently there was no suggestion made that evidence was omitted in the official record of the Court proceedings at Samoa?—Yes.

17. But are you aware that it was stated before the Committee that important evidence had been omitted from that record?—I notice this: it was suggested that Mr. Hansen's evidence—

18. There were two or three instances?—I did not know. I did not observe in looking through it that there was any material evidence omitted that could have affected the result. There was the suggestion made that evidence was shortened and a certain amount omitted, but there was nothing omitted that I could see which could affect the position.

19. *Sir John Findlay.*] The main omission was the very clear statement by the prosecutor as to how he regarded the offence against Mr. Gaudin. I do not say it was deliberately omitted, but it was omitted?—That was in his statement.

20. Yes, it was a statement that he had changed his mind since he knew the whole of the facts?—Yes, that may have been omitted; but the addresses of counsel are not taken note of with the care that witnesses' statements are. They are not evidence, and that is probably the reason of the omission.

21. *The Chairman.*] Can you suggest any reason why the Administrator should refuse to receive Mr. Gaudin's gold and refuse to give him a draft on New Zealand?—No, I cannot. There will be some explanation, no doubt. As far as I can see there should be no reason why it should not be done. He said he would take the gold and hold it.

22. But he refused to accept the gold and give a draft upon New Zealand?—Yes. I do not know. You see he afterwards said, "I will hold the gold but will take no war risk." Possibly he may have had in his mind this fact: I must keep this gold here, but if I make myself responsible for it and we are raided by the "Scharnhorst" or "Gneisenau," and they take away all this gold, the New Zealand Government will have to pay it. It may have been something of that sort, but it is impossible for me to say.

23. You think he meant that by referring to the war risk?—Yes.

24. *Sir John Findlay.*] I understand, Colonel Reed, that you admit you have satisfied yourself that nothing Mr. Gaudin did in Samoa on the occasion in question was treason, either conscious or unconscious?—In the popular acceptance of the word "treason" I agree with you.

25. When Gaudin was your officer and from your knowledge of him for the years you had known him, do you think there is the slightest chance in the world that he would lend himself to a treasonable act?—I do not think so—not actual treason in the sense of committing it against his country. I do not think so.

26. You concede that from your knowledge of him as an officer he was as loyal and patriotic an officer as ever you had under you?—Yes, as far as I could see.

27. You will also concede as a lawyer that the severity of the sentence passed by a Court upon a prisoner is the exact measure of the gravity with which the Court regards the offence?—Yes.

27. So that in imposing a sentence of five years with hard labour upon Gaudin, you as a lawyer would infer that the Court regarded his offence as one of extreme gravity?—No doubt.

29. You told us that in the early stages of this war the people of Auckland visited the island where the German prisoners were interned, and they were regarded as gentlemen and allowed a very considerable amount of freedom?—Yes.

30. The bitterness and the necessary suspicion with which we now regard a German had not then arisen?—Not to such a great extent as now.

31. I want you to address your mind, as you have done, with complete fairness to Gaudin's position when he took those letters. You are aware that his firm had been doing business for many years with these Samoan merchants?—Yes.

32. You are aware that it had been the practice for letters to be handed to representatives of his firm and to himself on previous occasions?—Yes. I think Gaudin himself was only down there very irregularly—only three or four times—but the other members of his firm were there.

33. And the practice had grown up of letters being handed by German customers to these men to bring to New Zealand?—I have no doubt that is so.

34. In determining the offence of Gaudin taking those letters, would not you allow first for the knowledge Gaudin had of the man who handed him the letter—I mean supposing he knew the man to be a gentleman and a man of honour, and he got from that man an assurance that there was nothing in the letter that was objectionable: would not that in your judgment affect any probability as to whether Gaudin was guilty?—It might affect it, but certainly would not justify him, knowing there was a rigid censorship of all letters from the island—it would not justify him one iota. I know the pursers on the steamers down there before the war used to take letters like that, but no purser would think that his position was worth a moment's notice had he gone on doing it at that time.

35. It all depends upon circumstances. I am not disputing your conclusion; but Gaudin has sworn that he took those letters absolutely oblivious of the sense of an offence—he had taken them before from people he knew, and it never occurred to him that he was committing any offence either against his conscience, or King, or municipal law?—He must have thought there was an offence against the regulations.

36. But there were no regulations?—But I mean the unwritten regulations.

37. But I put it to you: if you have clearly stated regulations expressed and published and you choose to violate that clearly expressed prohibition, you must be conscious of an offence; but if there is an unwritten law which says letters are to be censored, and all you have taken