

complainant, Papalii-Ulu, had been ordered to leave Apia, where his boat was kept and used, and to remain at Vailele, two or three miles away. It is not disputed that complainant was notified that his boat license was cancelled, and it was stated that "his boat was in Apia and his license was for Apia. If he was sent out of Apia his license was cancelled, so that there would be no excuse for his coming to Apia." Boat licenses are provided for by the Boat Traffic Ordinance, 1921, and the Taxation, Licensing, and Revenue Ordinance, 1921.

We are of opinion that the license was a license of the passenger-boat itself, and no provision was made for licensing the owner or person in charge of the passenger-boat. It appears clear that the only power to cancel the license of the passenger-boat, which was contained in section 16 of the Boat Traffic Ordinance of 1921, could not in the circumstances have been invoked. We think, therefore, that, though there may have been sound practical reasons for stopping the use of the boat in question, there was no legal power to do so—at all events, in the manner adopted.

POWER OF LOCAL BANISHMENT.

The last matter we have to deal with is the third question stated in the Orders in Council—namely, "Whether, having regard to the Samoan Native customs and to the due maintenance of government and order in the Mandated Territory, it would be prudent and safe to wholly repeal and abrogate all power to require a Samoan to remove for a definite period from one place on the islands to another."

At the inquiry there was no demand on the part of the Samoans that this power should be repealed. As we have said, it is incorporated in the customs and usages of Samoans, and even in recent years it has been on many occasions exercised on their application. For instance, in the list put in by Mr. Allen, affecting in all eighty-four persons, the applications made by chiefs or on behalf of the families of the persons affected numbered no less than sixty-seven. It is to be remembered, as Captain Bell has observed, that, as a rule, the so-called banishments mean that a man goes from one part of his family to another part of his family in another village or district. The custom appears to have been evolved from the family and communal system under which the Natives live. It has undoubtedly its uses, as pointed out by Captain Bell, in preserving order in villages and in preventing irritation likely to result in violence. Moreover, the power appears to us to be useful at times or places where there may be Native unrest and it may be desirable to isolate affected Natives and restrict the growth of disorder. We do not think that it is possible to rely wholly upon the ordinary criminal procedure. Many acts which might well justify the removal of a Native from a village might not come within the definition of any crime. Moreover, there is practically no adequate Police Force in the Territory. The gaols are few and are wholly insufficient to provide for a number of persons whom it might be desirable, as a safeguard, to keep in custody. We are, therefore, of opinion that it is not prudent or safe to wholly repeal the power which we are considering; and, further, that no demand exists for such a repeal. The power, of course, ought to be exercised with wisdom and caution.

We have the honour to be,
Your Excellency's most obedient servants,

C. P. SKERRETT, Chairman.

Wellington, 29th November, 1927.

CHARLES E. MACCORMICK, Member.