

appear also that this Administration now has taken up the matter of the banishments into its hands. It will be our case to show that there were very few banishments in the old days. When they were made they were made after full deliberation and discussion by the people concerned; and, while it might have been justifiable to take away the local powers of banishment, that does not justify the Administration in extending it on its own behalf and using it wholesale. The operative part of the Ordinance is this: "(3) If the Administrator is satisfied that the presence of any Samoan in any village, district, or place is likely to be a source of danger to the peace, order, or good government thereof the Administrator may, by order signed by him, order such Samoan to leave any village, district, or place in Samoa, and to remain outside such limits for such time as the Administrator shall think fit; and by the same or any subsequent order the Administrator may order such Samoan to reside in any place specified in such order."

*The Chairman:* The first part of the section apparently only authorizes the Administrator to prohibit residence at a particular village, district, or place, and under the second part of the section there would be no jurisdiction to require him to do anything but to live in a particular area.

*Mr. Slipper:* That is so. It is proper for me to inform the Commission that there is a test case about this matter, which was sent to New Zealand in April, and it was of this nature. As we look further into this we find that if an order of banishment is not obeyed the proceeding then is that the offender is brought before the Court. I may say that in one case a sentence of four months was passed on one chief, Tuisila, and shortly afterwards on two other chiefs—namely, Tagaloa and Fuataga—and they were brought before the Court on a similar charge. The case that was put up on their behalf was not in the direction of its being a dispute as to the facts, but it was a legal argument on the ground that these men had had no trial at all on the merits, for the trial before the Court was on the specific charge of not having obeyed the order; that it was contrary to the principles of British justice to send men away to prison without presumably a virtual trial, and that they had never been told what they had done, and that they did not know and were never questioned, and that they were being banished because of these words: "If the Administrator is satisfied that the presence of any Samoan in any village, district, or place, is likely to be a source of danger to the peace, order, or good government thereof the Administrator may, by order signed by him, order such Samoan to leave any village, district, or place in Samoa, and to remain outside such limits for such time as the Administrator shall think fit." There was nothing to show how the Administrator had become satisfied by inquiry. That generally is the form of our argument that has gone to New Zealand. Another point is that the banishment order was invalid because it provides a form of punishment not within the confines of the Samoa Act.

*The Chairman:* What do you mean?

*Mr. Slipper:* That Act does not provide for these serious punishments, and therefore the Administration has no right to bring forward a new form of punishment. That appeal is presumably in New Zealand—it went forward a month ago. I want your Honours to know exactly the position.

*The Chairman:* The subject has been discussed in the Court of Appeal in the celebrated *Hunt v. Gordon* case. The Order in Council in that case was issued pursuant to a statutory power; here what was done was done pursuant to a statute. The decision is an authority upon the construction of the New Zealand statute. The Court of Appeal held that the exercise of the jurisdiction depended on the opinion of the High Commissioner, and that this opinion was conclusive and could not be questioned in a domestic tribunal.

*Mr. Slipper:* The committee desires to strongly represent to the Commission that an Ordinance of this sort can be used for no purpose, because there was no evidence taken on oath—in fact, no evidence was taken at all—and there was no charge made, and the man did not know what he had done wrong.

*The Chairman:* That is altered by the Act of 1927—you do not want any recommendation.

*Mr. Slipper:* It is part of our case that the existing Ordinance was arbitrary and was not necessary. The same thing would apply with respect to any Ordinance under which the power was exercisable upon the Administrator being satisfied. As a matter of fact a great number of chiefs have been banished.

*Judge MacCormick:* You started to tell us about one chief being made the subject of a banishment order, and then you went on to the question of two other chiefs who were brought before the Court. Do you wish to refer to the original instance?

*Mr. Slipper:* No, sir. I was only referring to those cases in order to make it clear what the appeal was that had gone to New Zealand. They will all speak for themselves as they appear before the Commission. There were about eighty-six banishment orders made—or, rather, eighty-six persons put on the list of banishment orders. I cannot produce all the orders, because in many cases the Natives have lost them. I do not think this matter will be contested by the other side. It will be our contention that the reports of the Administrator show that this country is gradually growing up politically, and should grow up politically, and have a share in its own government. Ever since the committee of the Mau started and went into political matters at all those people were banished. We know nothing against those chiefs except that they are members of the Mau. It will be shown that in a great many cases the chiefs were not sent to their homes, but they were sent away from their homes; and it will be shown that the Administration made no provision whatever for the maintenance of these banished people when they got there. They made no provision whatever for the maintenance of their dependents who were left at home. The Administration has been asked and has refused assistance. They are not all living *fa'a-Samoa* still; some are living *papalagi*—that is, European style; and it is a great hardship to those who have been earning wages to be suddenly cut off without any assigned reason and sent away, and have to live on the chance benevolence of such Natives who wish to look after them.