

POLICE v ROSABEL NELSON
POLICE v PRISCILLA MUENCH

High Court Apia
15, 22 April 1930
Luxford CJ

SENTENCING - Discharge without sentence on conditions, Samoa Act, 1921, s 240 - Europeans convicted of offences against The Maintenance of Authority in Native Affairs Ordinance - Special circumstances indicating defendants had no realisation of the seriousness of their actions nor their responsibilities - Sentences to be imposed in future for offences of a seditious character.

LUXFORD CJ. Both of you have been convicted of taking part in unlawful acts, and I must say that I regard very seriously your actions and their consequences.

I am satisfied that both of you, for reasons best known to yourselves, have chosen to throw yourselves against the law and to further stir up and bring trouble upon the Samoan people.

If only the eyes of the Samoan people could be opened, if only they could realize how people like you are preventing them from living in peace and harmony, then the tranquillity which should be their lot would soon come.

I have been in this country for nearly a year. Very few people have been in a better position than I have to view dispassionately and impartially its conditions. I find an Administration working its hardest to promote the physical and social welfare of the Samoan people, but meeting with what appears to me to be an organised attempt to frustrate its efforts. The Administration keeps up its work nevertheless, but the organised frustration spoils for the Samoan people many of the benefits which otherwise they would derive from the Administration's work.

I am convinced that there is a body organised for the single purpose of attempting to undermine and destroy the Government's authority in this country, and it is making the Samoan people its catspaws. I am not convinced that you are part of that body, but let me assure you by your present actions you tend to assist it.

I am determined while I hold my present position to treat with the utmost severity any Europeans who in the future are proved to be guilty of offences of a seditious character unless there are very special circumstances.

The Government of New Zealand has recently been put to heavy expense to restore order in Samoa. And all law abiding citizens must indeed be grateful and thankful that its efforts have been so successful.

But its efforts will have been wasted if people similarly minded to you are allowed to carry on unchecked; also, I might add, if insidious and false propoganda from New Zealand is allowed to issue and to find its way into Samoa unchecked.

I have now to consider whether I shall straightaway sentence each of you to the punishment which the class of offence which you have committed deserves, that is, a term of imprisonment to be followed by exile from this country. That is the kind of sentence I propose to inflict where persons are found guilty of offences of a seditious character unless there are special circumstances.

The main thing that can be said in your favour is that you appeared to me not to have realised the seriousness of your actions nor your responsibilities. So, in the circumstances, I propose to deal with you

under section 240 of the Samoa Act, 1921, which means you will be discharged without sentence, but subject to the following conditions:-

- (1) You will forthwith cease to be members of and will not hereafter directly or indirectly assist or encourage any organisation of which Samoans are members, except such organisations as may be approved by the Court or a Judge or a Commissioner.
- (2) You will not directly or indirectly take part in or encourage the holding of any meeting gathering or procession of Samoans or partly comprising Samoans, except with the permission of the Court or a Judge or a Commissioner.
- (3) You are not convicted of an offence (committed subsequently to this date) against any Act, Regulation or Ordinance in force in Samoa relating to the Maintenance of Order in Native Affairs.
- (4) You will each pay within twenty-eight days from this date the sum of £5/5/- towards the costs of these prosecutions.
- (5) Conditions (1), (2) and (3) will apply until further order of the Court. Leave is reserved to you to move the cancellation or modification of the said conditions or any of them.

You are to note that the breach by either of you of these conditions or any of them is an offence and upon proof thereof the guilty one is liable to be sentenced on the charge upon which you have been convicted.

Therefore your own conduct in the future will determine whether you will retain your liberty and whether you will be allowed to continue your residence in Samoa.