

[145]

THE POLICE OFFENCES ORDINANCE, 1922.

Western Samoa.

No. 5, 1922.



## An Ordinance

made by the Administrator of the Territory of Western Samoa with the advice and consent of the Legislative Council of that Territory, and in pursuance of the Samoa Act, 1921.

1. This Ordinance may be cited as the Police Offences Ordinance, 1922.

### BREACHES OF GOOD ORDER.

2. Every person is liable to a fine not exceeding £5, who within the limits of the port of Apia as defined in the Samoa Customs Order, 1920 to wit a circle of two miles from the Customs House now existing at Apia and all land river and sea included within that circle or within any other portion or portions of Western Samoa outside the limits of the said Port to which portion or portions the Administrator may from time to time by Proclamation in the Western Samoan Gazette extend the provisions of paragraph 2 hereof or any part thereof,

- (a) Throws or places any glass, filth, dirt, rubbish, or other matter of a similar nature, or any earth, stones, or other material upon any public place, or rides or drives or wheels any truck, barrow, bicycle, tricycle, motor vehicle or carriage of any kind upon or along any public footpath, or
- (c) places any hoarding, scaffolding, timber, bricks, or other building material upon any public place without having first obtained the permission of the Engineer in charge of Public Works, or
- (d) leaves upon any part of a public place so as to obstruct the same, any truck, wheelbarrow or other similar thing, or any packing-case, crate, bucket, cask, barrel, package, or any other encumbrance, or
- (e) burns any litter, straw, shavings or other combustible material upon any public place, or on any open space near any building and so as to endanger such building, or
- (f) leaves any inflammable material in any public place or on any open space near a building, or
- (g) draws or trails any sledge, timber, or any heavy material in or upon any public place to the injury of such public place, or
- (h) casts into the Apia Harbour or on to or into any foreshore, place, or stream, whence it is liable to be floated into the said harbour, any log or floating debris likely to become a danger to boats or shipping, or

- (i) opens any drain or sewer or removes the surface of any public footpath or public place without having first obtained the permission of the Engineer in Charge of Public Works, or
- (j) has any awning or showboard or signboard on any public footpath not being 8ft. clear above such footpath, or hangs any goods on or under such awning over such footpath, or
- (k) exposes for sale any article in or outside of any shop window or doorway abutting on a public place so as to encroach thereon, or
- (l) suspends or places any carcase, meat, or offal so as to overhang any part of a public place, or
- (m) empties any privy or cesspool or carts away any nightsoil or other offensive matter without the permission of and without having taken such precautions as may be required by the Engineer in Charge of Public Works, or
- (n) spills or casts, or allows to be spilled or cast into or upon any public place any nightsoil or other offensive matter, or
- (o) slaughters, except in a case of inevitable necessity, or skins any animal upon any public place, or permits any slaughtered animal or skin to remain there, or leaves any dead animal on such place, or
- (p) throws or leaves any dead animal or part thereof, or animal remains or offensive matter of any kind upon any public place, or into any river, creek, stream or other water, or on the bank thereof, or
- (q) suffers any dead animal or part thereof to remain unburied upon his land or on premises in his occupation adjacent to any public place so as to become a nuisance, or
- (r) neglects to bury or cause to be buried the body or part of the body of any animal belonging to him, or in his charge or keeping, that may have died while straying or while being driven from one place to another, or
- (s) wantonly or maliciously disturbs any inhabitant by blowing any horn, beating any drum, ringing any bell, or using any other noisy instrument, or
- (t) places any placard or other document, writing, or painting on or otherwise defaces any house or building or any wall, fence, or lamp-post or gate without the consent of the occupier or owner thereof, or
- (u) places any advertisement or writing on or otherwise defaces or removes any portion of the wreck of the warship "Adler" in Apia Harbour, or any tomb, monument, memorial, or any object of interest which may be declared to be such by Proclamation of the Administrator in the Western Samoa Gazette or any portion thereof respectively, or
- (v) throws or discharges any stone or other missile to the damage or danger of any person or property, or
- (w) removes any sand, boulders or stone from any foreshore or from the bed or bank of any stream to the danger of any road, land, harbour work, public works or retaining wall, without the permission in writing of the Engineer in Charge of Public Works, or
- (x) blasts any rock, stone, or timber in or near any public place without permission of the Engineer in Charge of Public Works or does not comply with any directions in regard thereto, given by the said Engineer, or
- (y) discharges any firearm without reasonable cause or sets off any fireworks or explosive material in or on any public place or so near thereto as to endanger, annoy, or frighten passers-by or residents, or
- (z) Permits any horse to serve a mare in or within sight of any public place, or

- (a) Permits any bitch belonging to him or under his control to be at large in any public place while on heat, or
- (b) Tethers or permits to be tethered any horse, pig, goat, or cattle on any road or street or so as to be able to go on to any road or street, or
- (c) Rides any bicycle or tricycle between the hours of sunset and sunrise without a sufficient brightly shining light.

CRUELTY TO ANIMALS.

3. (1) When an offence against Section 195 (Cruelty to Animals) of the Samoa Act 1921 is committed, any constable may on his own view thereof or on complaint made to him by any other person who declares his name and place of abode to the said constable, take possession of any animal the subject of such offence, and convey such animal to some place of safety and there detain the same until the information in respect of such offence has been heard and determined or for any shorter period.
- (2) In any such case where the person charged is convicted the High Court shall in addition to all other powers vested in it by this Ordinance, have power to order the offender to pay any reasonable sum for defraying the cost of keeping such animal while so detained as aforesaid or otherwise incurred by the constable in connection with such detention.
4. Where an offence against Clause 195 of the Samoa Act 1921 is committed:
  - (a) any constable, on his own view thereof shall, or on the complaint of any other person who declares his name and place of abode to the constable, may take the offender into custody and forthwith without any other authority or warrant convey him before a Judge or Commissioner of the High Court.
  - (b) any such Judge or Commissioner may, without previously issuing any summons forthwith issue his warrant for the apprehension of any person charged with any such offence whenever good grounds for so doing are stated on oath before such Judge or Commissioner.
5. Where any person having charge of any vehicle or animal is taken into custody by any constable for any offence against Section 195 of the Samoa Act, 1921, such constable may take charge of such vehicle or animal and deposit the same in some place of safe custody as security for payment of any fine to which the person having had charge thereof, or the owner thereof, may become liable, and for payment of any expenses necessarily incurred for taking charge of and keeping the same; and the High Court upon hearing of the case may order such vehicle or such animal to be sold for the purpose of satisfying such fine and reasonable expenses, in default of payment thereof, in like manner as if the same had been subject to be and had been distrained for the payment of such fine and expenses.
6. (1) Any constable may enter at any time into any place where animals are usually kept and may inspect the condition of such place and of any animal found therein and of the appliances for the comfort, food and shelter for such animals.
- (2) Every person who hinders such constable from so entering and inspecting is liable to a fine not exceeding £10.
7. If it appears to any Judge or Commissioner of the High Court by personal inspection or by the testimony of a competent witness that any animal impounded in any pound or found elsewhere is in such a weak, disabled or diseased state that it ought to be killed he may by writing under his hand order that the animal shall be forthwith killed; and such order shall be sufficient authority to the pound keeper or owner of the animal or any other person authorised by the said Judge or Commissioner, to kill the same.

## FALSE REPORTS AND SEDITIOUS WRITINGS.

8. (1) Every person is liable to a fine of £20, who—
- (a) sends or causes to be delivered to the proprietor, printer, or publisher of any newspaper for the purpose of publication therein an untrue notice of the birth of a child or of the marriage of any persons or of the death of any person; or
  - (b) being a printer or a publisher of the newspaper, prints or publishes any such notice knowing the same to be untrue.
- (2) Every printer or publisher of a newspaper is liable to a fine not exceeding £20 who on application in writing made to him by a person interested, within fourteen days from the publication of the notice of a birth, marriage or death in such newspaper refuses to furnish the person so applying with the name of the person who sent or delivered such notice for publication.
9. Every person is liable to a fine of £20 who makes or repeats or publishes any false statement or originates or repeats or publishes any false rumour whereof such person believes such statement or rumour to be false or not, if such statement or rumour is of a nature likely to agitate or distress or to create disaffection, resentment or dissension among the population of Western Samoa or any section of it and if such person knew or reasonably might have known that such statement or rumour was of such a nature, provided however that a prosecution under this clause shall be heard before a Judge only, and provided also that no such prosecution shall be instituted without the previous consent in writing of the Administrator.
10. Every person who knowingly gives a false alarm of fire is liable to a fine of £5.
11. (1) The importation into Samoa of any book, document, writing or paper which incites, encourages, advises or advocates violence, lawlessness or disorder or expresses any seditious intention as defined in Section 102 (1) of the Samoa Act 1921, is hereby prohibited and any person who imports any such document, writing or paper is liable accordingly under the Customs Act 1913.
- (2) Any person who prints, publishes, sells, distributes, or exhibits to any other person or has in his possession for sale or distribution any such book, document, writing or paper, as mentioned in the preceding sub-clause, is liable to a fine of £50.

## GAMING AND LOTTERIES.

12. Any person who plays for excessive stakes or otherwise to the injury of public morals at any game of mixed chance and skill shall be liable to a fine of £5.
13. Any person who makes or offers to make any bet or wager on the contingency of any horse-race, boat-race, cricket match or other game, sport, exercise or pastime, with any person other than a European, shall be liable to a fine of £20 or to imprisonment for three months.
14. (1) No person shall, without the consent in writing of the Commissioner of Police or otherwise than in accordance with the terms of such consent, dispose of or agree to dispose of any property whatsoever to or among any person or persons whomsoever by means of any game of chance or any other device whereby such property shall be disposed of divided or allotted by lottery, raffle or chance.
- (2) No person shall use or permit to be used any totalisator without the permission of the Administrator or in breach of any conditions imposed by the Administrator upon the granting of such permission.
- (3) Any person who commits an offence under this clause is liable to a fine of £50.

FALSE WEIGHTS AND MEASURES.

15. Every person is liable to a fine of £20, who—  
 (a) uses or has in his possession any weight or measure or weighing machine that is false or unjust or imperfect or  
 (b) wilfully commits or is party to any fraud in the use of any weight, measure or weighing machine.

DOGS.

16. Every person who permits any dog known to be dangerous or to have bitten or injured any person, to go at large is liable for every such offence to a fine of £5, and any such dog so at large may be forthwith seized by a constable and the Court may order the dog to be destroyed.

17. If any dog on any road, street, or unenclosed place, rushes at, attacks or startles any person, or any horse, cattle, or other animal, whereby the life or limb of any person is endangered, or any property is injured or endangered the owner or keeper of every such dog shall be guilty of an offence and liable to a fine of £5, and the Court which convicts the owner may order such dog to be immediately destroyed by a constable.

18. (1) Any person who permits any diseased dog to be at large shall be liable to a fine of £5, and the Court may order such dog to be immediately destroyed.

(2) Any constable or Pulenu'a may forthwith destroy or cause to be destroyed any diseased dog found at large without a collar, duly issued in respect of such dog under the Taxation Licensing and Revenue Ordinance, 1921.

KINEMATOGRAPHS AND ENTERTAINMENTS.

19. In the succeeding Clauses "Censor" means the person appointed by the Administrator to act as censor under this Ordinance.

20. It shall not be lawful to exhibit any cinematograph film unless it has been approved by the Censor, nor to exhibit any such film outside the township of Apia without the consent of the Administrator.

21. It shall be the duty of the censor to examine every film submitted to him for approval and give a certificate in writing in respect of every film approved.

22. A film to which matter has been added after it has been approved shall be again submitted for approval and until it has been again approved shall be deemed not to have been approved.

23. The censor shall not approve of any cinematograph film which in his opinion depicts any matter that is against public order or decency or the exhibition or performance of which is for any other reason, in the opinion of the censor, undesirable in the public interest.

24. Every person who exhibits any film in breach of this Ordinance is liable to a fine of £50.

25. There shall be payable to the censor for the Samoan Treasury for every film submitted to the censor for approval, such fees (if any) as the Administrator shall prescribe by notice in the Western Samoa Gazette.

26. It shall not be lawful to exhibit any cinematograph film in any building unless such building shall have been approved for the purpose by the Engineer in charge of Public Works.

DISINTERMENTS.

27. It shall not be lawful to remove from its burial place any body, or the remains of any body whether buried in any cemetery or burial-ground or elsewhere, without a permit under the hand of the Administrator and save with such precautions as he may prescribe as the condition of such permit.

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28. Any person who removes any body, or the remains of any body, contrary to the last preceding clause or who neglects to observe the precautions prescribed as the condition of the permit for removal shall be liable on conviction to a fine not exceeding £50 or to imprisonment for a term not exceeding three months.

#### PROTECTION OF SAMOAN FEMALES.

29. (1) Every male person who takes or causes to be taken any unmarried female Samoan under the age of nineteen years without the consent of her parents or guardian or other person having charge of her to any place where her parents or guardian or such other person aforesaid cannot exercise control over her with intent that she shall be carnally known by him or any other man whether any particular man or generally is guilty of an offence and liable on conviction to one year's imprisonment.
- (2) It is no defence to a charge under this clause that the female was taken with her consent or at her own suggestion.
- (3) If in any charge under this clause the female appears to be under the age of nineteen years and if there is no satisfactory evidence that she is or over that age she shall be deemed to be under that age.
30. Every person who aids abets counsels or procures the commission of an offence under the preceding clause or who knowingly affords asylum to any person committing the offence or who knowingly accompanies or makes any demonstration in company with any person committing the offence shall be liable to one year's imprisonment.
31. Any Samoan Government Official being a Faipule Pulefaatoaga, Komisi, Faamasino or Pule'u'u who is credibly informed that a female is being taken in breach of clause 29 hereof may take charge and custody of such female and may remove such female from the control of the offender and if any person resists any such Samoan Government Official such person shall be guilty of an assault and liable accordingly.

#### GENERAL.

32. Every person commits an offence and is liable on conviction to a fine of £10 or to imprisonment for two months who unlawfully and without colour of right, but not so as to be guilty of theft thereof within the meaning of Section 156 of the Samoan Act 1921, takes or converts to his use or to the use of any other person any horse or any motor car or other vehicle or carriage of any description or any launch, yacht, boat or other vessel.
33. Every person who without the permission in writing of the Commissioner of Police or otherwise than in accordance with the terms of any such permission uses any explosive for killing fish, commits an offence and is liable to a fine of £10 or to imprisonment for 3 months.
34. Every person who uses any profane, indecent or obscene language in any public place or within the hearing of any person in such place is liable to a fine of £20 or to imprisonment for three months.
35. Any person who disturbs any congregation assembled for public worship, or any public meeting, or any audience at any entertainment or lecture or interferes with the orderly conduct of any religious service, is liable to a fine of £10.
36. Every person is liable to a fine of £10 or to imprisonment for one month who wantonly and maliciously defaces, injures or removes any notice of any public nature exhibited by any person having authority so to do.
37. Everyone who has in his possession or offers or exposes for sale anything being part of the cargo of any ship in distress or wrecked, or anything belonging to such ship and does not satisfy the Court that he came lawfully by the same, is liable

to three months' imprisonment or to a fine not exceeding £20, and such thing shall by order of the Court be returned to the rightful owner thereof.

38. Everyone who publicly advertises a reward for the return of any property which has been stolen or lost and in such advertisement uses any words purporting that no questions will be asked is liable to one month's imprisonment or to a fine not exceeding £10.

39. (a) Anyone who consumes methylated spirit as hereinafter defined, whether the same has been subjected to any process of purification or not, or who has any such methylated spirit in his possession for the purpose of consumption by himself or by any other person, is liable to a fine of £10.

(b) "Methylated spirit" means any spirit mixed with methyl-alcohol or with wood spirit, or to which any other substance has been added which has the like effect as methyl-alcohol or wood spirit in rendering spirit unsuitable for human consumption, and includes any spirit from which methyl-alcohol, wood spirit or such other substance has been unlawfully removed.

(c) In proving the consumption of such spirit for the purpose of any proceeding relative to an offence under this Clause, it shall not be necessary to show that any such spirit was actually consumed if the Court hearing the case is satisfied that any consumption of such spirit was about to take place.

40. For the purpose of Section 339 of the Samoa Act 1921 the words "intoxicating liquor" shall include methylated spirit as hereinbefore defined.

#### SURETIES OF THE PEACE.

41. Where on the hearing of an information it appears to the Judge or Commissioner hearing the same that the defendant has used any threats or done any act for which he might in New Zealand be required to enter into recognisance of the peace under the Justices of the Peace Act 1908, such Judge or Commissioner may require the defendant, either in addition to or in lieu of the punishment to which he is liable on conviction of the said offence to enter, with one or two sureties as such Judge or Commissioner thinks fit, into a recognisance to the King in the form of the 2nd. Schedule to the said Act, in such sum or sums as such Judge or Commissioner deems expedient, conditioned that the defendant do keep the peace, either generally or towards any specified person, for a term to be fixed by such order, not exceeding one year from the date of the recognisance.

42. If the defendant refuses to enter into such recognisance or fails to find sufficient surety or sureties to the satisfaction of the Judge or Commissioner requiring the same, the said Judge or Commissioner may issue his warrant under his hand commanding that the defendant be taken to prison there to be kept until he enters into such recognisance. Provided that no person shall be detained in prison under any such warrant for any longer period than he would have been under recognisance if he had entered into the same upon the day of the making of the order.

43. Where any recognisance of the Peace is entered into by any person as principal or surety a Judge of the Court may on application, order such recognisance to be estreated for such amount as he may think fit, upon proof:—

(a) of conviction of the party bound by the recognisance of any offence which is in law a breach of the condition of the same; or

(b) that the party so bound has done any act the doing or threatening whereof would in New Zealand have been a ground for requiring him to enter into such recognisance.

44. (1) If any such recognisance is estreated the Registrar shall certify the amount for which the same is estreated upon the back thereof and shall forthwith proceed to levy the amount so endorsed by distress and sale of the several goods and chattels of the therein bound parties respectively.

- (2) Nothing herein shall prevent the recovery of such amount in any other manner provided for the recovery of Crown debts.

TRADERS.

45. (a) Every person commits an offence and is liable to a fine not exceeding £50 or to imprisonment for a term not exceeding six months who being the manager of or in charge of a trading station in Samoa under an agreement in writing as hereafter mentioned gives out goods or money belonging to his employer from the said station on credit without the written authority of such person's employer or his duly authorised agent first had and obtained.
- (b) Every person commits an offence and is liable to a fine not exceeding £50, or to imprisonment for a term not exceeding six months who being the manager of or in charge of a trading station in Samoa under an agreement in writing as hereafter mentioned fails at any time to fully and properly account for the goods and money of his employer received by and entrusted to such person aforesaid unless it appears to the Court that the deficiency or shortage has been caused by an Act of God or the King's enemies or by accidental fire or other inevitable accident or by robbery or theft or other cause not attributable to the negligence or default of such person aforesaid.
- (c) Nothing in this clause shall affect or prejudice any civil claim an employer may have against any person convicted under this clause in respect of such deficiency or shortage or otherwise however nor shall any conviction under this clause affect the liability of such person aforesaid to a prosecution and conviction for theft under the Samoa Act 1921.
46. No person shall be liable to a prosecution under Clause 45 hereof unless the agreement for his employment shall be in writing executed by him in the presence of a Commissioner of the High Court or a Solicitor of the Supreme Court of New Zealand and unless such agreement shall have written or endorsed thereon at the time of such execution Clauses 45 and 46 hereof, and unless such Commissioner or Solicitor shall certify after his signature that the said Clauses 45 and 46 have been written or endorsed on the said agreement before the execution thereof and that the said agreement and clauses have been read over to the said person before the execution thereof and that he thoroughly understood the same.
47. If in a prosecution for an offence under Clause 45 hereof the Court is of opinion from the circumstances of the case that the defendant should be prosecuted for theft the Court shall abstain from adjudicating upon the aforesaid prosecution under Clause 45 until the prosecution for theft has been dealt with.

INTERPRETATION.

48. In this Ordinance except where a contrary intention appears, the words "Public Place", "Samoa", "Samoan" and "Constable", shall have the meaning assigned to them respectively by Section 3 of the Samoa Act 1921.

REPEAL.

49. The following enactments are hereby repealed:—The Ordinances of the former Municipal Council of Apia entitled the Abatement of Nuisances Ordinance, 1894, and the Cruelty to Animals Ordinance, 1893.

Assented to this 13th day of  
September, 1922.

[L.S.] R. W. TATE,  
Administrator.