

HIGH COURT. Apia. 1959. 1, 3. September. ROTHWELL J.

Liquor - defendant giving Samoans written authority enabling them to procure intoxicating liquor - whether this constituted offence of giving or administering intoxicating liquor.

Giving a Samoan written authority to enable him to procure intoxicating liquor is not "to give or administer ~~to him~~ any intoxicating liquor" within the meaning of section 339(1) of the Samoa Act 1921.

Information dismissed.

Sergeant Fagatele, for Police.
Defendant in person.

Cur. adv. vult.

ROTHWELL J.: The defendant was charged with that he did on the 15th day of May 1959 give intoxicating liquor to two named Samoans. The charge was laid under section 339 subsection (1) of the Samoa Act 1921. The defendant pleaded guilty but on a statement of the facts by the prosecuting sergeant, the defendant was given the opportunity of reversing his plea which he did and at the same time agreed that the facts stated by the prosecution were correct. The subsection in question reads as follows:

"339. (1) Except by or with the approval of a medical officer for medicinal purposes it shall not be lawful in Samoa to give or administer any intoxicating liquor to a Samoan or to permit any such liquor to be consumed by a Samoan."

The prosecuting officer stated that the defendant was the holder of a permit to procure liquor from the Customs Department and that on the request of the two named Samoans he gave them a blank authority in the following form:

"Customs Dept.

Please let bearer draw 12 points out off (sic)
my May 1959 liquor permit.

Yours faithfully,

J.A. Westerlund
15/5/59"

The two Samoans went to the Customs Department and on presentation of the authority were permitted to buy and pay for two bottles of gin.

The wording of the section is clear and unambiguous and accordingly it is not for the Court to speculate on whatever other or additional meaning might have been intended by the Legislature. The offence is "to give or administer any intoxicating liquor". The defendant in this case clearly gave the two Samoans something which enabled them to procure intoxicating liquor, but if this is intended to be an offence it is the duty of the Legislature to say so in clear and unequivocal terms. I find that the offence disclosed by the information is not supported by the facts stated. The information will be dismissed accordingly.