

then, in any or either of the cases aforesaid, it shall be lawful for the Court if it thinks fit so to do (by order to be called a "judgment order"), to order that, unless the judgment debtor pays into Court, either forthwith or by such instalments as the Court may fix, or within the time limited in such order, the money so unsatisfied and the costs of any fruitless writs or warrants of execution and of levies thereunder, together with the costs of and occasioned by such summons and examination, he shall be committed to prison for a period not exceeding three months.

7. Where it appears to the Court that the hearing of a judgment summons cannot fairly proceed owing to the absence of either the judgment debtor or the judgment creditor, or a witness through illness, accident, or other reasonable cause, the Court may adjourn the same, subject to the payment of such costs as it thinks just. Except as aforesaid, no judgment summons shall be adjourned unless it is shown at the original hearing thereof that sufficient grounds exist for the making of an order of committal. And in no case shall an adjournment be made *sine die*. All such costs shall, if the Court so directs, form part of the costs of the judgment summons for all purposes.

8. For the purpose of this order the Court may direct any debt due from any person in pursuance of any order or judgment to be paid by instalments and may from time to time vary or rescind such order.

9. Whenever any judgment order has been made under this Order, and the money and the costs specified therein or any part thereof or any instalment has not been paid into Court in pursuance thereof, the Registrar upon the request in writing of the judgment creditor shall issue a warrant of committal in the form hereinafter prescribed, and the constable and the keeper of the prison to whom such warrant is directed shall respectively execute and obey such warrant, and all constables shall aid and assist in the execution of such warrant.

10. No imprisonment under this Order shall operate as a satisfaction or extinguishment of any debt or cause of action, or deprive any person of any right to issue execution against the lands, goods, or chattels of the person imprisoned, in the same manner as if such imprisonment had not taken place.

11. Any person imprisoned under this Order shall be discharged out of custody—

- (a) Upon payment of the moneys in respect of which he was imprisoned;
- (b) Upon being adjudged a bankrupt;
- (c) Upon the Court granting a rehearing under clause 13 hereof.

12. (1) Where a judgment debtor shall, upon the return day of a judgment summons, satisfy the Court that he has been adjudicated a bankrupt, and the debt was provable in bankruptcy, a judgment order shall not be made.

(2) Where a judgment debtor is adjudged a bankrupt after the making of a judgment order, but before the issue of the warrant of committal, the said warrant shall not be issued.

13. (1) Every person against whom a judgment order has been made may apply for a rehearing of the summons on which the order was made, and, upon the Court granting the application, all proceedings on the former summons shall be vacated.

(2) The rehearing shall take place at a time to be fixed by the Court, and shall be in all respects in accordance with the provisions of this Order relating to the hearing of a judgment summons in the first instance.

14. All summonses and orders issued or made under this Order in Council shall be served personally upon the judgment debtor, and shall be accompanied by a translation in the Samoan language if the judgment debtor is a Samoan, or by a translation in the Chinese language if the judgment debtor is a Chinese: Provided that service of a judgment order shall not be necessary where the order was pronounced in open Court in the presence of the judgment debtor.

15. (a) Clause 83 of the Order in Council of the 30th day of June, 1924, known as "The Rules of the High Court of Western Samoa Consolidation Order, 1924," is hereby repealed.

(b) Clauses 3 and 4 of the Order in Council of the 23rd day of July, 1928, known as "The Rules of the High Court of Western Samoa Consolidation Amendment, 1928," are hereby repealed with the exception of the words following:—

"83B. In clause 82A hereof the words 'Samoan' and 'Native land' have the meanings given to them respectively in sections 3 and 266 of the Samoa Act, 1921."

16. Every application for the issue of a judgment summons shall be in writing in the form prescribed herein, or to like effect signed by the judgment creditor or his solicitor, or agent duly authorized in writing: And every such application shall be accompanied by an affidavit or a statutory declaration made by the applicant, his solicitor or agent, as aforesaid in the form prescribed herein or to the like effect.

17. The forms set out in the First Schedule hereto shall be used in all proceedings under this Order with such variations as the circumstances of any particular case may require.

18. All matters and proceedings commenced under any of the rules hereby repealed and pending or in progress on the coming into operation of this Order may be continued, completed, and enforced as if this Order had not been passed; subject, however, to the provisions of the next succeeding clause hereof.