THE PERSISTENCE OF CHIEFLY POWER
AND ITS IMPLICATIONS FOR LAW AND POLITICAL ORGANISATION
IN WESTERN POLYNESIA

Charles Guy Powles

Thesis submitted in partial fulfilment of the
requirements for the degree of
Doctor of Philosophy

Australian National University

Canberra August 1979
This thesis represents the original research of the author, except where otherwise acknowledged.
ABSTRACT

Chiefly authority has been exercised in Western Polynesia for at least 2,000 years. This thesis examines the transformation of chiefly power from its origin to the present-day function it exercises as a constituent element of the political and legal framework of the state. Western Samoa and Tonga are the focus for this study of the interaction of indigenous and introduced elements of politics and law.

The approach is necessarily interdisciplinary, and the study commences with a reconstruction of the Samoan and Tongan societies prior to Western contact. Primary and secondary historical sources are then drawn on to recount the processes of the impact of Western ideas and the response of the chiefly systems. Much of the interest centres around the manner in which chiefly power has been recognised in constitutional and statutory provisions over the past 140 years, and the significance of its recognition. Western Samoa and Tonga are treated separately, and the consequences of early differences in political organisation become apparent within the broadly comparative framework.

With the persistence of chiefly power as its theme, the study proceeds to examine the nature and role of that power in the political and constitutional settings of the independent states. Challenges to power, such as those posed by Western forms of government and administration, and by institutions for the maintenance of order, the settlement of disputes and the regulation of landholding, are considered in relation to the Western Samoan matai system and the Tongan monarchy and nobility. In response, Western models have been adapted to accommodate some of the realities of chiefly authority, with the culmination, in each state, of a political order in which such authority
is entrenched in different ways. The study concludes with a review of the historical processes and a comparison of chiefship in the two societies, and with a discussion of implications for their future political organisation.
# CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>List of figures and tables</td>
<td>ii</td>
</tr>
<tr>
<td>Maps</td>
<td>iii, iv</td>
</tr>
<tr>
<td>Preface</td>
<td>v</td>
</tr>
<tr>
<td><strong>INTRODUCTION</strong></td>
<td></td>
</tr>
<tr>
<td>Chapter 1. Elements of traditional polity</td>
<td>1</td>
</tr>
<tr>
<td><strong>PART I WESTERN SAMOA</strong></td>
<td></td>
</tr>
<tr>
<td>Chapter 2. Impact and experiment</td>
<td>76</td>
</tr>
<tr>
<td>Chapter 3. Frustration and change</td>
<td>105</td>
</tr>
<tr>
<td>Chapter 4. Challenge and response</td>
<td>149</td>
</tr>
<tr>
<td><strong>Part II TONGA</strong></td>
<td></td>
</tr>
<tr>
<td>Chapter 5. Impact, adaptation and reform</td>
<td>230</td>
</tr>
<tr>
<td>Chapter 6. Humiliation and growth</td>
<td>271</td>
</tr>
<tr>
<td>Chapter 7. Leadership and law</td>
<td>308</td>
</tr>
<tr>
<td><strong>CONCLUSION</strong></td>
<td></td>
</tr>
<tr>
<td>Chapter 8. Implications of chiefship</td>
<td>351</td>
</tr>
<tr>
<td><strong>APPENDICES</strong></td>
<td></td>
</tr>
<tr>
<td>A. Orthography and glossaries - Samoan and  Tongan</td>
<td></td>
</tr>
<tr>
<td>B. Statistics - land and population</td>
<td></td>
</tr>
<tr>
<td>C. Codes, constitutions, laws and treaties</td>
<td></td>
</tr>
<tr>
<td>D. Analysis of Tongan constitutional and related legislative provisions 1875-1891</td>
<td></td>
</tr>
<tr>
<td>E. The 'Supplementary Agreement' between Great Britain and Tonga of 1905</td>
<td></td>
</tr>
<tr>
<td><strong>BIBLIOGRAPHY</strong></td>
<td></td>
</tr>
</tbody>
</table>
Maps

1. Western Samoa: traditional districts and principal villages iii
2. Tonga: the archipelago iv

Figures

1. Tongan Ha'a. Chapter 1. 57
2. Tonga: Tongatapu estates. Chapter 5. 256
3. Tonga: Vava'u estates. Chapter 5. 257

Tables

1. Western Samoa: Land and Titles Court judgments given 1903-1977. Chapter 4. 161
2. Western Samoa: Matai and population. Chapter 4. 189
3. Western Samoa: Types of title-holding. Chapter 4. 190
4. Western Samoa: High-level splitting of titles. Chapter 4. 207
PREFACE

The chiefs of Western Samoa and Tonga in the South Pacific have governed for at least two thousand years, and continue to do so in the third quarter of the twentieth century. These Western Polynesian states have slipped through the post-colonial net which was set to catch all 'emergent' nations and to impose institutions which would ensure observance of the Western notions of equality and individual rights. As such notions took many centuries to develop in Europe and North America, it is not surprising that those societies of which chiefly privilege was an integral part resisted attempts to force them to accomplish the same task for themselves over the short span of one hundred and fifty years during which Western influences have been dominant in the South Pacific.

Precisely how Western Samoa established its point of view and also appeared to satisfy international opinion has been recounted. It became an independent nation in 1962 and has joined the British Commonwealth and the United Nations. In so far as international recognition is a measure of statehood, Tonga made its debut over one hundred years ago in circumstances which have been examined, and proved to be quite unique in the Pacific. Then, after a long period of British intervention, Tonga became fully independent in 1970 and joined the British Commonwealth.

This thesis will examine the transformation of chiefly power from its origin to the present-day function it exercises as a constituent element of the political and legal framework of the state. Much of the interest will centre around the manner in which such power has been recognised in statutory and constitutional provisions over the past one hundred and forty years, and the significance of its recognition. Conclusions will be reached as to the enduring qualities of certain of the institutions of the chiefly systems of Tonga and Western Samoa and the reasons for their survival. Implications for

the future of political organisation in the two states will be considered.

The choice of two peoples, adjacent and ethnically related, as the subjects of research provides useful opportunities for comparison. That is not to say, however, that this is a study of "differences arising from similarities"\(^1\). At the point in time when observable adaptations to Western influences began to take place, the two societies of Tonga and Samoa had already diverged somewhat in political structure. Furthermore, similarities appear in the nature of the Western influences, and comparison of the manner and effect of their impact is valuable. It should be noted that the islands of the Samoan group were partitioned in 1900 and that the smaller sub-group to the east, called American Samoa, has subsequently had a very different constitutional history from that of Western Samoa. A different approach to the study of Samoan political development would have been to contrast the effects of British, German and American colonial influences - but the scope of the present study and its examination of types of chiefly organisation do not permit the inclusion of American Samoa. As is pointed out in the introduction to Chapter 3, the traditional political relationship between the two Samoas was such that each was able to develop independently.

The study is concerned with the development of politico-legal institutions, and, as the two societies are non-Western in origin and possess short recorded histories, the approach is necessarily interdisciplinary. The work of anthropologists and historians will be called upon in addition to the research conducted by the writer. The material available has, of course, been approached selectively, and, due to limitations of length, aspects of the two cultures and of their histories which do not make a significant contribution to the objective of the study have been omitted from the thesis. Other material, helpful by way of background or elaboration but inappropriate for the text, has been incorporated

\(^1\) Southall 1965: 131.
The terminology of the thesis is, as far as possible, non-technical in either the legal or anthropological sense. With few exceptions, the need to provide acceptable definitions in areas where special meanings are often attributed will be avoided. It has been more difficult to decide to what extent Tongan and Samoan terms should be used. For the reader familiar with Polynesian languages (or even one such language), generous employment of the vernacular of Tonga and Samoa would have enhanced clarity and insight. Even so, a very substantial glossary would have been necessary. In the interests of other readers, use of Tongan and Samoan has been kept to a level which may still require reference to the glossary, but only those terms are used which appear so frequently that they will become familiar, or which themselves contribute to understanding, through shifts or comparisons in meaning.

What is the significance of chiefly power in Western Polynesia? At first sight the questions are legal and political, for Tonga appears to be ruled by a class of hereditary chiefs, including a monarch possessing absolute residual powers, and in Western Samoa the election and membership of parliament are virtually in the hands of chiefs, who also control eighty per cent of the land. It would be a relatively simple task for a lawyer to produce an analysis of the formal constitutions and related legislation. But chiefly power is not a creature of the written law. It is founded in history and tradition and, together with kinship institutions, is an essential component of the socio-political systems of these two groups of islands. It can be said that, as a source of power which goes beyond formal law, the authority of chiefs has a parallel in disposable wealth. In each case, the resulting power may be given recognition, and may be regulated, in statutes which in no way explain the phenomenon. In the case of wealth in the cash economy, the law is meaningful to us if we are born into the system. The lawyer wishing to understand chiefly power must turn historian and anthropologist - while retaining a legal perspective.
As chiefship and kinship permeate Samoan and Tongan societies, an approach is required which enables law to be studied in that context. As legal anthropologists have pointed out, the 'angle of vision' needs to be broadened to include descriptions which will explicate law as part of a 'many-threaded fabric', and there must simultaneously be a 'long-term historical perspective'. On the other hand, it is not necessary for the purposes of the present study to analyse the relationship between chiefly power and kinship in the manner of a political anthropologist. It is sufficient to say that kinship is concerned primarily with roles, functions and relationships. The internal operations of a kinship group may demand, not simply formal compliance with rules of behaviour, but an allocation of power to those leaders who make decisions and give directions. The larger the kinship group the greater the social distance between leader and led. Ritual and deference indicators define and perpetuate status. In one society, namely Tonga, it will be shown that titled leaders may be ranked one against the other in accordance with a status hierarchy which had its origin in kinship group relations. In Samoa, the right to use a certain name and control certain land is conferred on a leader. The name is a title which has a rank and confers status, but which belongs as much to the kinship group as to the holder. In both countries, such kinship groups exercise political power.

Chiefly power thus operates in the context of kinship. But it may also be differentiated to a societal level where certain chiefly rank is recognised outside kinship considerations. To the extent that the same chiefly system applies throughout the state or territory in question, the conferral, use and control of chiefly power have political and legal implications which involve society at large as well as kinship groups. The lawyer is concerned with the mechanisms by which such conferral, use

---

1 Nader 1965: 17.
3 For example, M.G. Smith 1974: 13-70.
4 Southall 1965: 123.
and control are operated, and with the notions of legitimacy\textsuperscript{1} and consent\textsuperscript{2} which relate tradition to law\textsuperscript{3}.

How may chiefly power be characterised? Its exercise is political action in the sense that it is more or less directly related to the formulation and execution of authoritative decisions for the particular group or system - whether it be a kinship group, lineage, village, district or state. The nature of the sanction behind the decisions ranges from psychological or moral (such as fear of the supernatural or public opinion) to physical (in terms of bodily or economic harm). It adds little to assert that physical force is the ultimate sanction, as the extent to which its apprehension constitutes the motivation for obedience in a particular case depends on the nature of the roles being played and of the differentiation between them. The chief as head of a kinship group did not have at his disposal the band of warriors who would execute the commands of lineage head or village council - nevertheless he was obeyed. On the other hand, the repeated public exercise of power from a remote and exalted source such as a sacred high chief may have acquired considerable effectiveness, whether the sanction was understood in terms of religious belief or physical force.

For the purposes of the present study, the term 'power' must, of course, be used with care in a quantitative context. What is the measure of chiefly power? If to possess power itself is to have the means or capacity to require others to submit or act in a specified way, the exercise of power has two dimensions - scope and intensity. An agricultural inspector possesses powers with regard to a person's crops, but none as to his income tax, and conditions delimiting the exercise of such powers are defined by statute. The chiefly head of a kinship group

\textsuperscript{1} Weber 1954: 334-7.
\textsuperscript{2} Malinowski 1926: 20; Hogbin 1934: 288-290; and R. Firth 1964: 123.
\textsuperscript{3} Colson 1974: 74-88.
may exercise powers over that group and those who reside on land belonging to it. His discretion as to how the land is to be used from day to day may be absolute, but he may be unable to deprive any member of the group of the use of the land without the consent of the group. With regard to a particular area of the exercise of powers, therefore, the chief may be constrained by the need for support from below - or - as in the case of matters within the province of higher chief or village council, by the need to obey. Intensity is affected by scope, for, as the latter diminishes, so does the likelihood that the chief can exercise his remaining powers in an arbitrary manner. Also, it will be seen that the scope of chiefly power today is most usefully compared not historically with areas formerly controlled by chiefs in a traditional manner, but contemporaneously with the totality of the ways in which the daily lives of chiefs and people are affected by the use of power, from all sources. When new sources of power are introduced, such as the earning and saving of wages and cash by individuals, chiefly power is thereby diminished in intensity in the remaining traditional areas. Of course, the chiefly system may move to embrace the new sources, and enhance its position.

Just as absolute power may deny the existence of any law except that of blind obedience, so the notions of legitimacy and consent introduce rules which contribute to the body of law surrounding chiefship.

As to the nature of chiefly decisions themselves, they involve both 'policy' and 'administration' in varying proportions, according to context. One would expect that in the case of status-oriented societies, policy would often be directly concerned with competition for power through chiefly rank - and that status rivalry would manifest itself in the administrative action of chiefs. Indeed, whether or not policy-making and administrative roles are clearly differentiated, these two components of 'political action' are always present (Southall 1965: 118-120). Every policy decision possesses a degree of administrative efficacy, and administrative action inevitably
provides some scope for policy.

A Western observer will find no traditional basis for the categorisation of chiefly decisions as 'judicial', 'legislative' or 'executive'. In total, they constitute 'government' in the sense that they are political and that policy and administration are involved. However, it is sensible to limit the term 'government' to the larger systems - above family and kin group. Hamnet speaks of 'executive' law made by Lesotho chiefs in accordance with general norms of customary law.¹ In Polynesia where the law-making and law-applying functions and procedures of chiefs vary from one society to another, and from level to level, it is unwise to attempt such a definition.

As the proceedings of chiefs were not recorded until this century, it would be conventional for the lawyer to describe their law as 'custom' or 'customary law'. Unfortunately, the extent to which these terms obscure the true nature of the phenomenon they purport to designate is still a cause of much frustration.² In the English tradition, custom meant 'local custom'.³ As such, it was outside the 'common law' and, in court, required proof in the manner of the law of a foreign country. Even 'general custom', a term of little meaning to the English lawyer, has been discredited because it cannot be "a living and operative source of English law".⁴ If the lawyer is reminded that when a common law for the whole of England first became established, it was described as the "common custom of the realm"⁵, he is reinforced in his view that custom has no significance in modern times. When colonial governments were expected to introduce British justice, judges found indigenous or 'home-grown' law alien to them and required it to be proved in court like English local custom. Of course, in some societies, the diversity of indigenous law was (and still is) such that the court had to identify and inform itself as to the appropriate law.

before it could proceed\textsuperscript{1}. In other societies, however, where the culture is homogeneous and conforms to principles of general applicability, there was no such justification for describing indigenous law as 'custom' and for requiring tests of its content which gave it the appearance of 'second-class' law. Out of colonial experience came the conviction that custom could not be law and that, even where courts are applying indigenous law, it should still be called custom\textsuperscript{2}.

The terms 'custom' and 'customary law' are also deprived of much of their usefulness by their association with law which is unwritten. However, as 'home-grown' law gradually builds up a body of recorded case law, is re-stated in the writings of recognised authorities and is sometimes codified in statute, 'customary-law' ceases to be an accurate description. In short, 'custom' and 'customary law' are terms best avoided in a study such as this. The context will unfortunately require it in the case of the Constitution and statutes of Western Samoa.

Another adjustment to be made by the lawyer is the need to recognise the corporate characteristics of Polynesian groupings such as family, lineage, extended kin group and village. Any organised group of people may have a politico-legal system with its own institutions. As will be shown, society comprises such groups and systems, which often operate within or inclusive of each other at different levels and overlapping at the same level. Those groups which have their own systems at one level may be related to a larger system at another level\textsuperscript{3}. Just as a statutory limited company or trade union is amenable to courts of the national system, so the affairs of a kin group are, for certain purposes, subject to the wider

\textsuperscript{1} For example, in Papua New Guinea (Native Customs (Recognition) Ordinance 1963).

\textsuperscript{2} For example, the jurisdiction of the Land and Titles Court of Western Samoa is described as limited to "Samoan custom and usage" (Land and Titles Protection Ordinance 1934 s.37 and Constitution of Western Samoa 1962, Articles 100, 101 and 103) which nevertheless comprises both a body of law constituting part of the common law of Western Samoa and local custom.

\textsuperscript{3} Raz 1971: 815.
lineage or village system, and village law may be required to submit to the law of the state.

The wider, encompassing system is often centralised and remote, however, and its laws and procedures may appear 'external' to the familiar or 'internal' system which the people understand and operate themselves. The overlapping referred to in the previous paragraph must be stressed, providing, as it does, opportunities for the individual to activate membership in more than one group. Here one sees in operation the dynamics of rank-oriented systems. As chiefly rank is graded within and between groups, scope is provided for manipulation and mobility, and for a shifting base for chiefly power.

Like any other political institution, chiefly power can best be understood through a comprehensive view of society, and the lawyer thinks first of a constitutional approach. In the broader sense, the constitution of a state is "the system of laws, customs and conventions which define the composition and powers of organs of the state and regulate the relation of the various organs to one another and to the citizen". More commonly, the formal document is 'the constitution' and is accorded special legal sanctity. In the case of the United Kingdom and New Zealand which have largely unwritten constitutions, the former definition is particularly appropriate, but the constitutional study of any state may properly be concerned with all such "laws, customs and conventions". Indeed, the formal product represents only what certain people (not always the majority) wish to say about certain aspects of the polity at a certain time. Some such documents are more comprehensive than others in the extent to which they provide for institutions and rules at different levels of political and legal organisation.

1 Kidder 1978: 155.
2 The approach taken by Goldman 1970.
3 Hood Phillips 1973: 5.
A written constitution may declare 'national goals and directive principles' (e.g. Papua New Guinea) and many will attach overriding importance to the protection of certain interests (e.g. Fijian voting rights in Fiji; customary land in Western Samoa; investment of royalties in Nauru; hereditary titles in Tonga; or regional states in Australia), or the preservation of certain civil liberties (most constitutional documents). Selection of what is to be provided for from the total polity, and what is to be omitted, depends on constitutional 'philosophy', or sometimes expediency. No document purports to make equally definitive statements about, or even to mention, each of a list of institutions and rules - as if there were some understanding among constitution-makers on the subject. Like the royal prerogative of the British Crown which operates under a variety of constitutional arrangements throughout the British Commonwealth, the authority of chiefs is expressly provided for in only some of the states in which chiefly institutions exist.

Furthermore, whereas a constitutional document captures political thinking at a point in time, study of a constitution in the broader sense defined permits examination of institutions in their social and historical contexts. Over time, the relative importance of institutions changes, and there is a process of creation and extinction. When it is decided to formalise a constitution, the significance and effectiveness of existing institutions are considered - and then, in turn, when the document becomes law, the implementation of a prescribed political and legal order has its effect on the pre-existing system. Thus, the normative effect of written law becomes an important focus of the study.

Research

The writer began research in Tonga during the last four months of 1974 and, with the consent of the Tongan Cabinet and the co-operation of government officials, began obtaining data and interviewing. This continued at intervals during 1975 and a further visit was paid to Tonga in December 1976. In Nuku'alofa, archival and other material was examined at the Palace
Office, the Prime Minister's Department, the Lands Department and the Supreme Court Office.

Although the writer had previously lived and worked in Western Samoa, the present research in that country began in 1975. It was combined with an assignment for the Government (and funded through the Commonwealth Secretariat, London) in which the writer was appointed by Cabinet as adviser to a review committee consisting of Western Samoan judges, officials and members of Parliament. The committee was required to examine the procedure and criteria for appointment and registration of matai, chiefs, the classification of land according to types of tenure, and the composition, jurisdiction and procedure of the Land and Titles Court. In the course of public hearings and deliberations over twelve months, in Apia and principal villages throughout Western Samoa, the committee was engaged as part of the process of law reform. Its findings and proposed legislation (drafted by the writer) were reported to Cabinet. The writer carried out independent research and, in Apia, archival and other material was examined at the Attorney-General's Office, the Prime Minister's Department, and the office of the Land and Titles Court. As in the case of Tonga, a final visit was made to Apia in 1976.

Material relevant to Tonga and Samoa was also seen in Fiji at the Western Pacific High Commission Archives and the Fiji National Archives, in New Zealand at the National Archives and the Alexander Turnbull Library, and in Australia at the Mitchell Library of New South Wales, the National Library of Australia and the Pacific History Library at the Australian National University. Research has been funded by the Australian National University, Canberra.

Interviews in Tonga and Western Samoa were conducted with the objective of obtaining not only details of recent events but also a range of information and opinion from chiefs of different ranks and from untitled people. The latter included those who were serving chiefs and others who had attained influence and status without a chiefly title. Close
contact was made with members of the judiciary and the public service, in capitals and at district and village levels. The writer was fortunate in that he was able to renew earlier acquaintanceship with several families which resulted in access to official records and private information, occasionally on a privileged basis. Clearly, the confidentiality of the information obtained from informants in the course of this research must be respected. In the case of those many informants who hold subordinate or particularly sensitive positions, names and means of identification have been omitted. On the other hand, the writer trusts that those informants in high public office who generously assisted this research will not be offended by the writer's use of information and views which were not regarded as confidential. There is little point in endeavouring to conceal the source of such information and views, as any reader familiar with the country in question would be able to identify the informant by reference to the substance or the context.

The use of original and secondary sources, historical and anthropological, must also be mentioned. Where the writer has had access to archival and other documentary material not treated in detail in the principal historical works, the original sources are naturally cited. These include the early Samoan codes and constitutions; records of the German administration of Western Samoa; files of the Land and Titles Court, Apia; constitutional amendments and the statutes and ordinances of Tonga post-1875; and certain departmental and court records of the Tongan Government of this century. However as the scope of the present study has required the writer to rely on the principal works where relevant, they are frequently cited. Similarly, anthropological studies into particular aspects of Samoan and Tongan society are referred to. These have not been concerned specifically with the subject of this thesis but data and assessments which they contain have been useful in interpreting history and for comparison with the writer's findings. Unfortunately, little of the
anthropological work has been published. Published articles will be cited where possible, but it will also be necessary to refer occasionally to manuscripts.

As to the method of citation of references, the formal method required for legal writing would be cumbersome and inappropriate in this study. Author, year and page will enable unofficial published material and un-published manuscripts to be identified in the bibliography. In some cases the names of official publications will be abbreviated in the footnotes.

Summary

Chapter 1 introduces the thesis with an examination of the evidence of origins of chiefship now available from a variety of sources and sets up models of traditional political organisation for each of Tonga and Samoa prior to first European contact. Those elements of culture which are not of relevance for this study of chiefship have been barely mentioned, or ignored.

Parts I and II of the thesis, devoted to Western Samoa and Tonga respectively, each contain three chapters which deal with the impact and response resulting from continuing Western influences, with resistance and adaptation on the part both of chiefly organisation and of introduced institutions, and with the growth of what are now the political systems of the modern states. Parts I and II do not follow identical patterns because the historical processes of change in the two groups have worked at differing paces. The final chapter draws together certain conclusions from the evidence and discusses their implications for politics and law today.

1 Historical periods (favoured by archaeologists) are mentioned from time to time, and it is convenient to set them out here -

- lapita: 1200 BC - 0 AD
- dark age: 0 AD - 1000 AD
- classic or traditional: 1000 - 1700
- contact: 1700 - 1850
- compromise: 1850 - 1940
- modern: 1940 - present
INTRODUCTION

CHAPTER 1. ELEMENTS OF TRADITIONAL POLITY

GODS, CHIEFS AND MEN

For Polynesians, history began in the sky. Tangaloa\(^1\), lord of the heavens, created men and women in the islands of Western Polynesia where chiefly dynasties were founded and the first great Polynesian voyages of exploration originated.

Cultural map

Within the Pacific Ocean lies the great triangle of Polynesia, which has as its western margin a line of island groups from Hawai'i in the north down through the Tuvaluan, Samoan and Tongan archipelagoes to New Zealand. It extends eastward as far as Easter Island, and returns north through the Marquesas. The peoples of Polynesia possess an ethnic unity demonstrable on biological and linguistic grounds. During the 2-3,000 years since their arrival in their present homelands, however, the seven or eight principal sub-cultures of Polynesia have diversified within regional limits. Long before the beginning of the last century, each sub-culture had changed internally from causes upon which researchers and theorists have been unable to reach agreement\(^2\).

The Samoan and Tongan groups occupy a significant place in Polynesian history. It was from this western part of Polynesia that the rest of the triangle was settled and, indeed, it is believed that that culture which is now identifiable as Polynesian had developed its essential characteristics in this area 2,000 years ago. The following account of the original settlement of the Samoan and Tongan groups represents the findings to date

\(^1\) This is the Tongan spelling. It is Tagaloa in Samoan and Tangaroa in Eastern Polynesia. See Appendix A for orthography.

\(^2\) For example, Sahlins 1958 and Goldman 1970.
of archaeologists, linguists and anthropologists\(^1\).

The archipelagoes of Samoa and Tonga were originally settled from the north-west 3,000 years ago or more by people who, on arrival, lost significant contact with their source for about 1,000 years. During this period, there developed the ancient cultural complex which became uniquely Polynesian. After the isolation necessary for a 'proto' Polynesian language to be formed, a cultural divergence occurred which resulted in two languages, Tongan and 'nuclear' Polynesian. Because the languages of Samoa and Eastern Polynesia evolved from 'nuclear' Polynesian it is thought that there may have been a progression from Tonga through Samoa to the rest of Polynesia. Nevertheless, recent radio-carbon dating of Lapita pottery suggests that Tonga and Samoa were settled at about the same time - not later than 1,000 B.C.\(^2\)

The way in which the Tongan islands lie along a chain towards the Samoan group, and the relative proximity of Niue, Uvea and Futuna and the Lau islands of Fiji, make it possible to postulate an early Polynesian culture which maintained contact within this Western Polynesia area\(^3\) and which eventually developed the capability to mount more substantial ocean voyages. Here was required the authority of chiefs who could command the surplus production necessary for such large-scale undertakings. While the explorations 2,500 miles east to the Marquesas (whence the Polynesians later dispersed to Hawai'i, the Society Islands, Easter Island and New Zealand) took place during the first 300 years A.D., two-way voyaging between Tonga and Samoa has been going on for 3,000 years.

Opinion is divided\(^4\) as to whether the first arrivals in Tonga and


\(^{2}\) J.M. Davidson 1976.

\(^{3}\) The categorisation by Burrows op. cit. of the sub-culture of Western Polynesia is adopted.

Samoa were distinguishable by the nature of their economies - the one based on the produce of sea and lagoon and the other on agriculture - or whether throughout their pre-contact history, Tongans and Samoans were oriented to both economies. The more recent assessment of archaeological evidence\(^1\) suggests that, in both groups, use was soon made of all available resources, although variations in climate and terrain required different techniques.

Similarity in the use and decline of decorated, and then plain, pottery-ware throughout Western Polynesia over the first millenium of settlement, concluding with the abandonment of pottery by the year 0 A.D., is further ground for postulating early homogeneity in the area.

Comparatively little is known of the inhabitants of Western Polynesia during the first 1,000 years A.D. They did not lose the techniques of organisation and skill required for ocean voyaging for, by the end of this period, their canoes had probed deep into Melanesia (Tikopia and Ontong Java - the latter a distance of 2,000 miles from Samoa) and as far as the Micronesian atolls of Kapingamarangi and Nukuoro (a further 500 miles). As they emerged into what archaeologists and historians call the 'classic' or 'traditional' period (from the 10th to the 18th centuries)\(^2\), the Tongan and Samoan islands began to exhibit large stone mounds, earthworks and monuments as further evidence of authoritarian political systems which could employ substantial labour forces.

Contact between Tonga and Samoa had been maintained, but the physical appearance of structures paralleled linguistic developments in an increasing distinctiveness. Mounds used for house platforms and for snaring pigeons, and the houses themselves, were of different dimensions and style\(^3\); Samoa

---

\(^1\) J.M. Davidson 1976.

\(^2\) For example, Poulsen 1977: 23. Historical periods are defined in the Preface.

\(^3\) The elongated-oval house shape now seen in both groups was probably not imported from Tonga to Samoa until the 18th century (Green and Davidson 1974: 243-4).
did not develop the elaborate burial mounds of Tonga; the numerous and puzzling star-shaped mounds of Samoa are not found in Tonga; and despite several invasions and battles, and military occupation by the Tongans, there is no evidence that the design of the many and varied Samoan fortifications was in any way influenced by the Tongans.

Thus, science substantiates oral tradition that the Tongan and Samoan islands are the cultural home of the people who live there today. The archaeological evidence of political organisation holds significance for the study of later periods.

Physical environment

**Samoa**

The Samoan archipelago extends some 225 miles along an east-west axis about 14° south of the equator, beginning in the west with the two larger islands of Savai'i (680 square miles in land area) and Upolu (410 square miles). In between are the two small islands of Manono and Apolima (totalling 1.5 square miles). This part of the group is now the independent state of Western Samoa, of which the capital, Apia, is situated on Upolu. Forty miles to the east in what is now the United States territory of American Samoa are the island of Tutuila (50 square miles – capital Pago Pago) and, 60 miles further on, the Manu'a group of three islands (20 square miles).

The Samoan islands are of relatively recent volcanic origin and the terrain is characteristically rugged. Upolu and Tutuila have steep central ridges varying in elevation from 2,000 to 3,000 feet, and deeply dissected spurs often stretch to the coastline. Coastal plains are generally under a mile in width, except for the A'ana plain on Upolu which reaches four miles inland. Savai'i rises more gradually to central peaks of up to 6,000 feet.

While Tutuila has an excellent deep-water harbour, Upolu and Savai'i

---

1 Ibid.: 241-2.  
2 See map.
are almost completely surrounded by reefs or jagged cliffs. However, the reefs which protect the greater part of the coastline of the larger islands enclose wide shallow lagoons which until recent decades have supplied sea-food in variety and abundance.

With a good rainfall and relatively high temperature and humidity, the land supports a wide range of tropical, sub-tropical and temperate forms of plant life in soil ranging from very fertile to rocky.

Of the 1090 square miles of land comprising Western Samoa, an estimated 22 per cent (or 156,000 acres) is today settled or cultivated. 72 per cent of the population of Western Samoa of 151,515 lives on Upolu, and 21 per cent in the Apia urban area alone.  

**Tonga**

The three main groups and outlying islands of Tonga run generally north and south through a rectangle 400 miles in length. Of the 150 islands which lay claim to the 20,000 square miles of ocean, 36 are inhabited and vary greatly in size and character. Half the land area comprises the two principal southern islands of Tongatapu (101 square miles, with the capital of Tonga, Nuku'alofa) and 'Eua (33 square miles). The next main group 90 miles to the north is Ha'apai, a scattered archipelago of small islands (46 square miles). Vava'u is the third main group 60 miles to the north of Ha'apai consisting of a tight cluster of islands around a larger (totalling 55 square miles). At the isolated northern extreme of Tonga are Niuafo'ou (210 miles north west of Vava'u, and slightly closer to Western Samoa and the Fijian Lau group than to Vava'u) and Niuatoputapu, with Tafahi

---

1 Fox and Cumberland 1962, Chapter III.
2 Ibid.: 15 and 186.
4 Defined in terms of latitudes 15° to 23°30' south and longitudes 170° to 175° west by a proclamation of 1887 (T.G. Gazette Vol. 2, No. 55, 24 August 1887) and amended in 1972 (T.G. Gazette Extraordinary 15 June 1972) to include the Minerva Reefs lying slightly outside the rectangle.
(167 miles north of Vava'u). These outliers, known collectively as the 'Niua s' (a land area of 20 square miles) are at the northern end of a chain of volcanically active islands which runs south and parallel to the great majority of the Tongan islands which are coral in origin and have been subjected to subterranean upheaval. The non-volcanic islands are low-lying with gentle slopes and surrounding coral reefs. Approach from the sea is often difficult and only Neiafu at Vava'u has a fine harbour.

Like the Samoans, Tongans harvest the lagoons but, no doubt because of their reliance on the sea for communication between a scattered population, they are skilled in deep as well as shallow water fishing techniques.

Rainfall, temperature and humidity naturally fall gradually as one moves south from Samoa through the Tongan islands to Nuku'alofa. Soils are mainly clay with sandy types in the lower coral islands such as Ha'apai, and are generally fertile for the production of a wide range of crops.

Of the total of 258 square miles of land (after deducting lakes and periodically submerged islets), an estimated 80 per cent comprises islands which are inhabited, and 70 per cent of the total is arable land. Of the 1976 population of 90,128, 60 per cent lives on Tongatapu, and 20 per cent in the Nuku'alofa urban area alone.

Evidence and Assessment

As the sum total of knowledge of Polynesian societies grows and as their traditional period recedes further into the past, it becomes increasingly important to adopt reliable techniques for assessing data and reconstructing models for earlier periods. It is useful briefly to review the sources available today.

---

1 Wood 1972: 70-1.
2 A. Maude 1965: 167 and 218.
Oral histories remain an essential source provided their limitations are appreciated and local attitudes to the use of such information are taken into account. For example, the confidentiality of Samoan genealogies (to an extent not apparent in Tonga) has some bearing on their reliability. In the case of Tonga, oral tradition was recorded by Mariner and early missionaries, but it was not until the 1920s that composite pictures were attempted and, even then, some of the evidence of early explorers was not available. By the time field anthropologists began their work, oral tradition had become less reliable and the changes which had occurred to Tongan society last century confused the picture. On the other hand, modern anthropological techniques have contributed much to an understanding of early traditional Tonga. The role of archaeology has been mentioned, and geographer A. Maude has provided studies of land tenure. Historians have increasing access to material, and research in Tongan history is at present particularly active.

---

1 See Lātūkefu 1973.
2 See Barrere 1967.
3 Martin 1827. The observant young seaman, Mariner, provided a remarkable exposition of late 18th century Tongan society, which was said by Gifford to be largely supported by the latter’s own fieldwork in 1920 (1929: 3).
4 For example, the journals of John Thomas and Peter Turner referred to in Lātūkefu 1974, Cummins 1977c. and Gunson 1977; Farmer 1976 (reprinted from 1855); West 1865; and Monfat 1893.
5 Collocott 1921 a. and b., 1923 a. and b. and 1924; Williamson 1924, 1933, 1937 and 1939; Gifford 1924 and 1929; and Hogbin 1934.
6 Earlier group - Gifford op. cit.; E. and P. Beaglehole 1941; Koch 1955; Nayacakalou 1959; and Aoyagi 1966. Later - Kaeppler 1971 a. and b.; Korn 1974; Rogers 1968, 1975 and 1977; and Marcus 1975 a. and b. and 1977 a. and b. These, and the other references in this section, are by no means exhaustive. While the bibliography contains further references, it also is limited to those works which contribute most to the present topic.
7 A. Maude 1965 and 1971.
For Samoa, there was no early record comparable to that of Mariner but much study was undertaken by missionaries\(^1\) and under German consular\(^2\) and colonial\(^3\) authority. Early anthropologists\(^4\) contributed greatly to knowledge of the traditional polity. As in the case of Tonga, some of the more recent anthropologists have found it difficult to determine the antiquity of observed culture, and few anthropologists have incorporated historical material in their analyses\(^5\). To date, the only historical reconstruction to utilize recent archaeological evidence is that of an archaeologist\(^6\). Historians Gilson\(^7\) and J.W. Davidson\(^8\) were concerned principally with the periods 1830 to 1900 and 1930 to 1965 respectively.

By the time European explorers had begun to record their impressions of the South Seas, the peoples and cultures of Samoa and Tonga were presenting rather different appearances. Unfortunately for comparative purposes, while observations of Tongan settlement and lifestyle were made in the first half of the 17th century and elaborated upon in the late 18th and early 19th\(^9\), Samoa was not sighted by European observers until 1722 and subsequent violence...

\(^1\) Williams 1838; Turner 1861 and 1864; Ella 1895; Stair 1897; and Brown 1910.
\(^2\) Stuebel 1976 (reprinted from legends he collected 1884–94).
\(^3\) Kramer 1941 (translated from 1902) and 1958 (translated from 1923); and Schultz 1911 and 1953.
\(^4\) Mead 1930 and 1971 (reprint of 1928); Buck 1930; F. Keesing 1934 and 1937; F. and M. Keesing 1956; and Freeman 1947, 1948, 1971 (reprint of 1964 article) and 1978. As in the case of Tonga, Williamson op. cit. analysed 19th century material. Hogbin op. cit. refers principally to Mead.
\(^7\) 1970. Gilson's essays on social structure are valuable (1963 and 1970: Chapter 2).
\(^8\) 1967.
\(^9\) From the arrival of Schouten and Le Maire in 1616 until 1800, at least 14 expeditions visited one part or another of the Tongan Group and Cook spent two and a half months moving about the group on his third visit in 1777 (Langdon 1977: 40-62).
discouraged contact\(^1\). It was not until missionaries and explorers who arrived from 1830 onwards began recording their impressions that visitors described Samoa for posterity. Conversely, it is in Samoa that archaeologists and geographers have made the greater progress in reconstructing early settlement patterns, and the data for Tonga as yet reveals comparatively little\(^2\).

A difficulty for many ethnographers has been the failure to appreciate the immediacy of Western impact. Early recorded accounts which purport to speak of the pre-contact period are seldom explicit as to the source and age of their information, and the period being described. Unfortunately, the relative isolation of the Pacific islands and the few Western incursions into the ocean before missionaries and others began writing can readily lead to the assumption that, in contrast with many parts of the world where Western ideas had gradually infiltrated long before the societies were studied, the Pacific presented an untouched and unchanged picture which had merely to be recorded. Conflicting accounts and recent archaeological evidence draw attention to the possibility of often extensive and little appreciated change in Pacific societies immediately following initial contacts\(^3\). For Samoa this early contact period is 118 years (1722-1840) and for Tonga 224 years (1616-1840). By the time missionaries were arriving in strength, it was not easy for them to perceive what changes had already occurred.

\(^1\) Roggeveen in 1722 and Bougainville in 1768 did not land, and La Perouse in 1787 and Edwards 1791 quickly departed after being attacked (Gilson, 1970: 65-67).

\(^2\) More archaeology (Rogers 1974: 308, and J.M. Davidson 1976: 18) and a better understanding of social structure (Kaeppler 1973: 222) are required.

\(^3\) For example, the work of Gifford op. cit. and Williamson op. cit., whose knowledge of the literature was wide, has two serious faults; they relied heavily on material collected after Western influence had penetrated deeply, and they do not identify for the reader the changes which had taken place between the writing of the different accounts on which they relied. Their work has in turn been adopted extensively by others, such as Sahlins 1958 and Goldman 1970.
A further difficulty has been the tendency to regard 'traditional Polynesia' as an immutable and almost sacred state or condition of society, and as the only model which one could wish to compare with the present. Not only is little known of the very early post-contact period but those processes of change of traditional and non-Western origin which were at work before and during that period, and which may have had profound implications, are largely a matter of conjecture. By way of example, one may point to the apparent speed and effectiveness with which a single outstanding leader, Tāufa'āhau Tupou I, having accomplished the pacification of Tonga between the time of his ascendancy in Ha'apai in the 1820s and the final battle in 1852, established a central unifying administration from a capital at Nuku'alofa. In the meantime, missionaries were a powerful influence for peace, and the subsequent arrival of British advisers in Tonga effectively terminated any serious prospect of a resumption of hostilities between lineages. However, one asks whether, in the absence of the extraneous coincidental factors, Tāufa'āhau's consolidation would have had lasting effect. Or, indeed, if Europeans had arrived to 'freeze' the political scene, say, 50 years earlier, would the then-existing traditional processes of rivalry and adjustment have produced as they did in nineteenth century Samoa, an unstable government in which the competing claims to primacy were never satisfactorily resolved?

The reconstruction of pre-contact traditional culture is best attempted by examining the earliest material, oral and written, and by reviewing it in the light of contemporary field work. The techniques of historian and anthropologist must be combined to overcome, as far as possible, the gaps and ethnocentric distortions inherent in the work of the early European recorders. The following account takes advantage of the available material to describe the Tongan and Samoan societies which

1 Lātūkefu doubts whether it would (1974: 95).
immediately preceded contact with the West.

Settlement

One of the most striking differences between the two groups at the beginning of the 19th century was that, while the Samoan people were still well settled into village life, the Tongans appeared to be just beginning to adopt it. The evidence of archaeologists and in the case of Tonga, early mariners, must be looked at carefully to see whether it is capable of elucidating differences between Tongan and Samoan social structures.

Samoa

As far back as physical remains and oral tradition can attest, Samoans have lived in nu'u, villages, which have served as the focus of community life. Early last century, the villages, about 300 of them, were nearly all situated on or near the coastline in well-defined settlements, many of which showed evidence of centuries of occupation. However, recent archaeological reports substantiate information given to early European visitors that some villages earlier extended inland, with either scattered or spatially continuous housing and cultivation (which was not necessarily all in use at the one time). At least two or three villages are shown to have been isolated from the coast and of an exclusively inland character, but the usual pattern was for settlements which lay between sea and mountain ridge to be part of a single village organisation. The Samoan term nu'u is applied to the localised political entity which possesses a single fa'alupega, the ceremonial form of address which lists its chiefly titles; a fono, council of chiefs; and recognised land boundaries. Several distinct clusters of houses, or village sections, may comprise one nu'u, although a

---

1 Sahlins once built a theory of social stratification around evidence of this type (1958).

2 Pirie (1964: 38) believes there were six such villages, but only one of them has been investigated archaeologically (J.M. Davidson 1969: 57).
single residential area is more common\textsuperscript{1}. At about the time of first European contact, a number of inland settlements were abandoned in favour of habitation along the coastline\textsuperscript{2}. However, it is likely that this movement was generally within the lateral boundary lines of the territory of the nu'u - which in most cases run inland to the ridge from historic landmarks on the coast (and which, where there is a reef, run also in the opposite direction to encompass an area of lagoon). The main considerations affecting the siting of villages were availability of fresh water and accessibility to the sea, while suitability for defence against attack does not seem to have been a major concern and there are very few examples of permanent fortification associated with settlement, whether inland or on the coast\textsuperscript{3}. The plentiful evidence of earthworks and other fortifications located at a distance from settlements\textsuperscript{4} is consistent instead with the practice of temporarily retreating away from settled and cultivated areas and reflects the principal Samoan motive for warfare, namely the political prestige of victory and the settlement of chiefly title disputes rather than the long-term domination of territory\textsuperscript{5}.

It seems, therefore, that while settlement in nucleated villages on the coast is an outstanding feature of Samoa over the last 200 years, there

\textsuperscript{1} Earlier studies reveal confusion over what constitutes a 'village' (e.g. Stair 1897: 57), and processes of subdividing and combining occur over time. Watters calculates that there were 298 physically distinct settlements in 1840 (1958: 3). Today there are said to be 364 villages, of which 62 are part of the Apia urban area (letter from Government Statistician op. cit.). Nevertheless, the villagers are clear, at any point, as to what constitutes the nu'u, its organisation and boundaries.

\textsuperscript{2} Watters estimates that, by 1840, 96 per cent of the population was living within one mile of the coast (loc. cit.). Today there is a reverse trend, with new settlements and extensive cultivation moving steadily inland along public cross-island and forest-access roads. Of course, the distinction between 'coastal' and 'inland' is relative, as are the Samoan terms for 'seaward' and 'inland', and the most inland settlements are no further than one day's walk from the coast.

\textsuperscript{3} Green and Davidson 1974: 240-2.

\textsuperscript{4} J.M. Davidson 1969: 76.

\textsuperscript{5} People temporarily dispossessed could survive in alternative settlements, thus rendering difficult attempts such as that of Green and Davidson (1974: 281) to calculate early population size by reference to the land area needed for settlement and food production.
have probably been periods over at least 2,000 years of history when there was a more general distribution of population.

As to evidence of organisation within the nu'u, there are two features. First, while a typical village would have houses clustered around an open central meeting place, or 'facing' the sea, and with one or more houses higher and larger than the rest, there is no regular pattern. Archaeological remains reveal a variety of sizes, shapes and arrangements\(^1\). On the other hand, when early observations\(^2\) and oral history\(^3\) are also considered, one may conclude that the higher house platforms and substantial mounds, when compared with the majority of platforms of uniformly low or medium height, indicate societal levels and grades of rank\(^4\). In some cases, the authority necessary to command the larger constructions whether for residential, religious or other purpose, must have been considerable\(^5\).

**Tonga**

In apparent contrast with Samoa, the accepted view for Tonga is that in the traditional period the population was dispersed across all available land on each of the main islands, and on some smaller islands which are deserted today. Civil war at the end of the 18th century caused people to congregate into pallisaded villages\(^6\). Significantly, the only Tongan word for 'village', kolo, is also the word for 'fort', and there is nothing in the observations of early explorers to resemble the fortification and

---

2. Reviewed ibid.: 44-78.
3. Such as that collected by Freeman 1944: 145.
5. For example, a massive stone mound at Pulemelei on Savai'i (purpose unknown) measures 40 feet in height on a base of 200 by 165 feet (Green and Davidson 1969 I: 81), and an earth mound at Vailele on Upolu (early house platform) is 40 feet high on a 346 by 314 foot base (Freeman 1944: 145).
nucleated settlement pattern which predominated in the early 19th century. Tasman, Cook and Mourelle were impressed by the orderly lay-out of gardens, plantations and roads\(^1\). People lived in houses scattered amid their plantations, and "by far the greater part of the country [was] cultivated"\(^2\). Clear distinctions in rank were visible in the size and elegance of houses, with those of "principal people" being twice as extensive as those of middle rank, while "the lower people" lived in "poor huts"\(^3\). The only "village" described as such was at Mu'a on Tongatapu where the Tu'i Tonga and other leading chiefs resided\(^4\).

Although archaeology has, as yet, produced little evidence as to early settlement patterns in Tonga, the outstanding feature of Tongan remains is the number and size\(^5\) of mounds which have had a variety of non-residential uses. Burial mounds and monuments in honour of high-ranking persons predominate\(^6\) but they throw little light on the distribution of population. There is no archaeological evidence of nucleated settlement nor of fortification outside Mu'a before the late 18th century\(^7\). The villages formed for protection persisted (unfortified after the last battle in 1852) due to new influences such as the attraction of European contact, the copra trade and the desire of missionaries and chiefs to have the people concentrated for religious, educative and administrative purposes\(^8\). The role of the village was strengthened under land tenure and local government systems introduced in the latter half of the 19th century.

---

\(^2\) Beaglehole op. cit.: 139.
\(^3\) Ibid.: 935.
\(^4\) Ibid.: 127 and 904-5.
\(^5\) For example, the 'trilithon' of Ha'amonga on Tongatapu where a coral limestone slab 19 feet in length is supported horizontally across and mortised into the tops of the two upright slabs of similar length - each slab weighing over 40 tons. See also Poulsen 1977: 13.
\(^6\) McKern 1929: 33; and Rogers 1974: 326 and 337.
\(^7\) McKern op. cit.: 80-9; and Gilson 1969: 15.
\(^8\) Gifford op. cit.: 8; A. Maude op. cit.: 61; and Walsh op. cit.: 29.
Most of the villages came to be sited on land under the control of the chief to whom the villagers rendered service. Also, a principal consideration determining the distribution of population was, as in Samoa, the need to have ready access to marine resources. In all of the three main Tongan groups, the more densely populated areas were situated along those shores which were more productive in sea foods. Ha'apai, the group of densest population, is situated on an elaborate reef system which provides the most extensive marine resources.

**Assessment**

The peoples of Tonga and Samoa clearly arranged their settlements in different ways, but the patterns of settlement throw little light on the reasons for the differences. In both Tonga and Samoa, the spatial scattering of houses in earlier times did not necessarily mean that the socio-political relationships within the unit were significantly more diffuse or less authoritative than under a nucleated village regime. Nor can conclusions be drawn as to kinship and residence rules. Apart from indications as to ranking and, at times, political organisation necessary for the exercise of considerable power, the nature of these relationships is not explained by settlement patterns and housing design - and is unlikely to be. The search must turn elsewhere.

**Divine and chiefly power**

Stories of the creation of mankind and of the deeds of early men and women form a large part of Polynesian religious history. This may be described in terms of the legends of the people themselves or one may rationalise the beliefs as, for example, explanations of natural phenomena and the desire of human beings to seek the assistance of supernatural powers. Certainly it is understandable that, in order to meet the social need for leadership, Polynesians would confer human attributes on the supernatural - or vice versa - and would ensure that chiefship inherited

---

1 A. Maude op. cit.: 77.
2 Green and Davidson 1974: 236.
much of the glory - and authority. Nevertheless, the system of beliefs expressed in oral tradition may provide the raw material with which to explain behaviour and social structure. In Polynesia, man was descended from god, and the vital link between the two was the genealogy by which a person would endeavour to establish his connections with an honoured ancestor. Religious belief was a source of political power and law - operating through the sanctity of chiefs and sanctions of supernatural origin.

In Samoa, Tagaloa-a-lagi (god of the sky) has greater prominence than elsewhere as the highest god. Through his son, he founded first the Tui Manu'a lineage which is believed to have been dominant in Samoa until the 12th century. He also created certain other sa, or lineages, the modern descendants of which consider themselves to be the 'true Samoans'. Other gods ruled the elements and the underworld and are not part of the story of human creation, while legends link many chiefly lines with ancestors who had spiritual powers and consorted with the gods. Next came the natural spirits and ghosts encountered in daily life. Every district, village and household had its favourite gods and guardian spirits, and Samoans felt surrounded by influences which were potentially helpful or harmful. In the late traditional period, however, there is little evidence of the formal worship of gods or of the material adjuncts of religion as a separate institution. For example, although important gods had their priests, the priest was the servant of a high chief. The early high chiefs were themselves the highest priests and, indeed, the secular head of any social group performed sacred duties on behalf of the group. So, in early Samoa, the chief was able to call on the supernatural and he bore some of the mana, prestige and efficacy, of the gods of the group.

1 Krämer 1941: 16.
2 Stuebel 1976: 12; and Williamson 1924 II: 63-5.
3 Stair 1896: 33; and Turner 1884: 23.
Tongan theogony was similar, if a little more complex. Tangaloa shared precedence with at least four other deities. The souls of ancestors and spirits which inhabited the environment and took living form were of much the same character as the Samoan gods and spirits. There the similarity ends. While, in Samoa, small 'spirit' houses were occasionally used, consecrated houses and large tombs of chiefs were employed in Tonga as temples to invoke departed spirits. A separate priesthood was established, although by Mariner's day priests had no power independent of the chiefs they served. While Samoa was noteworthy for the relative absence of the formal rituals, offerings and sacrifices which characterised Polynesian religion elsewhere, Tongan practices of human mutilation and sacrifice, lavish tribute and the large-scale use of tapu indicate a more sustained relationship between gods and men.

Tangaloa gave to Tonga the Tu'i Tonga dynasty, an exalted blood line of successive holders of that title, which originated with 'Aho'eitu, the son of Tangaloa and an earthly mother and which survived into the 19th century. It was believed that the Tu'i Tonga represented the gods on earth, and, as will be shown later in this chapter, chiefs, and their lineages, called ha'a, who traced their origin to the Tu'i Tonga lineage, shared some of his mana. "The attribute of chiefliness, of which the Tu'i Tonga was the fountainhead, was essentially a thing sacred and of those things which men regard with religious awe. Chiefliness is, in its origin, a gift of the gods".

In both Tonga and Samoa the person of a great chief was said to be sacred, as also were the ground he walked on and the food he ate. Because,

1 Stair 1897: 225-8.
2 Martin 1827 II; 104-8; Collocott 1921a: 155; and Farmer 1976: 127.
3 West 1865: 257.
4 Martin op. cit. 87, 101 and 128.
5 Williams 1838; 464.
6 See orthography - Appendix A - for the linguistic connection between sā and ha'a.
7 Collocott 1921a: 154.
in Polynesia, the head and face are the most sacred parts of the body, it was disrespectful to stand in a chief's presence or to gaze on his countenance. Tapu were applied to chiefs, and offenders were severely punished. Serious transgressions such as assault, or seducing the wife of a chief or a high-born woman, merited death\(^1\). Public demonstrations of self-abasement included the placing of the backs of both hands (or the crown of one's head) against the soles of the chief's feet\(^2\). Peculiarities of address and vocabulary were adopted in speaking to chiefs. In Tonga, these were elaborated into different styles according to rank\(^3\), and vocabulary differed as between types of chief in Samoa\(^4\). Perhaps the clearest recognition of a high chief's status was the tribute paid to him in goods and services. Most spectacular were the annual 'inasi ceremonies in Tonga when, from all the inhabited islands of the group, came the lavish tribute of the 'first fruits' to the Tu'i Tonga as the representative of the gods. There were also presentations and ceremonies in which the 'first fruits' were shared with other chiefs. Such a level of tribute is not recorded for Samoa, although both groups had elaborate rules for the division and distribution of certain foods, particularly the turtle, shark bonito, chicken and pig, when, on ceremonial occasions, chiefs were entitled to predetermined portions of the body, according to rank\(^5\).

As chiefly status passed from one generation to the next, it retained something of its sacred origin, but, by the end of the traditional period, secular concerns had become paramount. The different ways in which, in Samoa and Tonga, the functions of chiefs were divided reflect the growth of forms of government no longer so dependent on religious belief. As will be shown

\(^1\) West 1865: 263-4; J.C. Beaglehole 1967 III: 962; and Stuebel 1976: 142.
\(^2\) Cook observed the ritual performed by high chiefs to the Tu'i Tonga (J.C. Beaglehole op. cit.: 121).
\(^3\) West 1865: 263; Martin 1827 II: 86; and C.M. Churchward 1953: 304.
\(^4\) Ella 1895: 598; and Milner 1961.
\(^5\) Buck 1930: 120-1.
in the case of Tonga, however, the sanctity of chiefship could be fostered, and even revived.

SOCIO-POLITICAL ORGANISATION

Samoa

The traditional model of Samoan society is formed around descent group and village, the organisation of which is based on ties of kinship and locality, and on notions of chiefly rank. The names and connections of great chiefs and lineages were woven into legend; they are part of an ideological backdrop against which the family and the village can be described with some certainty. The following account commences with the kinship unit and chiefship at family level, and proceeds to the village, concluding with the wider political organisation of district and lineage.

'Āiga

The kinship unit on which social organisation was based was the 'āiga, a descent group the composition of which, while fixed in theory, varied somewhat in practice according to its purpose. Broadly translated as 'family', the 'āiga was "the pillar of Samoan political organisation"¹ and, because society was the sum of its 'āiga, Samoa was said to be a "family state"². Unfortunately, early writers concentrated on the more striking, and often legendary, aspects of chiefly power and succession and produced no coherent picture of the 'āiga.

The basic unit is now seen to have been a non-localised descent group headed by a matai, chief, and consisting of people born or adopted into his household and, beyond them, of the descendants (through any combination of male or female links) of the common ancestor, wherever they were living. The chiefly matai title and the land occupied and cultivated by the household

¹ Krämer 1941: 58.
² Idem.
were property in which the members of the descent group had rights. While members of the group might exercise such rights no matter how removed they might be genealogically from the ancestral founder or physically from the land appurtenant to the title, there was a functional localised core of people who usually lived and worked on that land and were subject to the day-to-day authority of the matai. They were a domestic 'household' comprising an extended family of matai and wife, unmarried children and untitled brothers or married sons with their own immediate families - and sometimes remoter relations. While a daughter, on marriage, usually resided with her husband's family, the reverse also happened, and the spouse of a member of the 'āiga was recognised as having some rights if he or she lived with the core and served the matai.

The general principles for determining membership of the descent group were not explicit rules and permitted some flexibility. First, a person could claim membership in a descent group in respect of which he (which includes the female) could trace direct genealogical connection (consanguinity) to the ancestral founder. However, his claim would not be accepted if he had failed to maintain participation in that group's affairs (by means of direct support for its more important functions), and he was liable to exclusion from decision-making and group benefits if such participation fell below accepted limits. Thus, a person would have been able to maintain membership in one or two groups (and a matai or other person with means might have managed more) but if he extended himself too far, membership which became latent was at risk. Secondly, a person lacking consanguinity could claim membership by marriage, adoption or residence, but group rights were always contingent, in such case, on the rendering of tautua, service, to the matai. Membership by this means was not inconsistent with concurrent membership elsewhere founded on blood links with another group, subject to the requirement of participation.

1 Brown 1910: 287.
Strong preference for 'āiga exogamy extended the group's influence. As women very rarely succeeded to matai titles, marital residence with the husband's kin was favoured. Male descendants tended to dominate the group at the core, and to compete. Descent groups grew and divided. At first there were allocations of land and households under junior matai titles and finally, over time, new lines of descent were created which would retain varying degrees of connection with each other and the original line. As a group increased in size, its branches might extend to different villages and, if its links were maintained, the political influence of the group also grew. New titles were created to recognise prominent branches, and the status of lesser titles might be enhanced. Conversely, other descent groups withered away and titles fell vacant.

The significance of the male line must be put in perspective. Gilson does so as follows -

This ... enables one to regard Samoan lineages as predominantly agnatic, particularly in respect of the genealogical history of title succession and rank; but it must be emphasised that this generalisation represents the cumulative effect of many individual choices and decisions relating to succession and inheritance, for strict principles of unilineality, as such, are not characteristic of Samoan social structure¹.

Furthermore, Samoan culture, along with that of other Polynesian societies, recognised a special relationship between brother and sister - the intensity and consequences of which had particular importance in Samoa and Tonga, and which conceptually off-set, to some extent, the notions of male pre-eminence. To summarise the position for Samoa, the relationship was seen immediately in the brother's attitude of respect, his duty to provide for his sister when called upon and in their mutual restraint and avoidance. Most significantly for the chiefly system, adult brothers and sisters could assume different positions in the affairs of the descent group which reflected their divergent interests in the title and property of the

group. Because the woman was deprived of many rights in her father's group she was, in a sense, compensated by having the right to be consulted concerning title succession, although not the right to control or disposal of land. Where the brother-sister dichotomy had been established in the family of the founding matai of the group, its significance was often felt through many succeeding generations so that the brother and his descendants belonged to the tama tāne (male child) 'side' and the sister and her descendants belonged to the tama fafine (female child) 'side'. At times, tama fafine in a strong position could impose their veto on a decision of the tama tāne. However, studies of the character of the relationship have rejected Ember's idea that the descent group itself was regarded as segmented into opposing "male and female lines". Rather, blood and marriage ties were so complex past the first generation that a person might be tama fafine at one level and tama tāne at another, so that geographical and sentimental considerations also would determine allegiances for the purpose of decision-making. The more important the matter to be decided within a descent group the more likely would be interference by 'distant' tama fafine. Seemingly unrelated descent groups with their distinctive matai titles might find themselves bound together in a crisis, particularly where political support was required. It was to be expected that much tension would arise out of the respect-avoidance relationship, not only between siblings but in transactions involving their descendants. The expression feagaiga, which

1 Brown 1910: 42. She also had first choice of fine mats and tapa cloth in exchanges with other groups and the right to demand food from her brother (Schultz 1911: 51). According to legend, the sister's sanction was to place a deadly curse on her brother's line (Stuebel 1976: 114).

2 1959: 573.


4 Attention was then focused on the tama sā (sister's son) and his male issue (Brown 1910: 41 and Krämer 1941: 99). Development of the 'sister's son' concept may be seen from the eastern Manu'a group, where it was scarcely known (Mead 1930: 137-146), through Western Samoa, where Freeman noted its significance (1948: 159-167), to Tonga in the southwest where it was further institutionalised but where the same term, tamahā, was applied more often to the daughter of the sister.
means an agreement involving tension (and is also used to describe a
contract or treaty\(^1\)), conveys the conflict and balancing of interests
implicit in the relationship - and indicates the potential which the
relationship has for introducing much flexibility in title matters and
family affairs.

Lest too much importance be attached to the arbitrary nature of the
'sister's' powers - and because such powers were, as will be shown, more
significant in Tonga - the widespread reciprocal basis of \(\text{'aiga}\)
relationships should be stressed. The resources of the \(\text{'aiga}\), including its matai,
were devoted to the care of those members who provided tautua, service, to
it. Nevertheless, while the identity of the matai, household and land in
respect of which an individual had immediate rights and obligations was
determined de facto by the place where he lived and worked, he always had
de jure status within both his father's and his mother's \(\text{'aiga}\)\(^2\) which he
could activate at any time, and further lesser rights in extensions of
related family groups. Mead referred to the "blanket attitude" implied
in the use of the word \(\text{'aiga}\) as applied to any relative, and summed up
this fundamental Samoan concept as follows:

An aiga\(^3\) is always one's ally against other groups, bound
to give one food, shelter and assistance. An aiga may ask
for any of one 's possessions and refuse to take 'no' for an
answer; usually an aiga may take without asking. Such
relationships, except those between tama tane and tama fafine,
are reciprocal, and the strictly enforced reciprocity serves
to keep them effectively in check .... Under the shadow of these
far-flung recognised relationships, children wander in safety,
criminals find a haven, fleeing lovers take shelter, the
traveller is housed, fed and his failing resources reinforced,
property is collected for a house building or a marriage;
and a whole island is converted into a series of cities of
refuge from poverty, embarrassment or local retribution\(^4\).

M.G. Smith has drawn attention to the usefulness of the 'corporate
analogy' in describing the membership rules, perpetuity and common
interests of the descent group\(^5\). Such rules and on-going qualities have

---

1 Milner 1966: 8.
2 See orthography - Appendix A - for the plural of nouns.
3 Mead fails to use glottal stop and macron consistently - see Freeman
   (1972: 70-71).
4 1930: 40.
5 1974.
been referred to above, and the role of the individual is contrasted. Membership of a 'family corporation' was essential to every Samoan's participation in social life - whether an untitled person or a chief. As an individual, he had no standing and no rights - he was nothing. The corporation's ultimate sanction against a person, and the harshest social penalty known in Samoa, was exclusion from its affairs, or banishment from the group.

Mead has perhaps gone too far in stressing that a Samoan had "very little positive choice... in the selection of his role in the social structure" and that "the individual is still a pawn on the social chess board". While the harshness of the comment makes a point in demonstrating the weight of social pressures, the very complexity of the structure is evidence that the individual's role was far from being a passive one. Certainly, for the person who could aspire to be chief, there were stages in his life when he was able to exercise choices as to corporate membership and leadership. Perhaps it was this resourcefulness in taking advantage of opportunities within the system which prompted Krämer to remark - "Every adult Samoan is a politician".

**Titles**

The Samoan chiefly title also created conceptual difficulties for observers. A title was a name, suafa, which belonged to a descent group. It was often used to describe the group and its land and was conferred by the group on the person who would hold the title on its behalf. The group had considerable authority in this respect, as will be shown, as succession involved several considerations, of which the immediate blood line was only one. The title was evidence of chiefship, and no chief could be without a suafa matai. Each title also had a distinctive style of ceremonial address (alluding to origin and rank) for formal meetings and kava ceremonies. It

1. 1971: 172.
2. 1941: 155.
was the responsibility of every tulāfale, orator chief, at meetings and ceremonies to have intimate knowledge of the history and rank of the titles of all chiefs present. However, the early accounts appeared to confuse types of title with types of address. Ranking requirements and geographical limitations of titles were misunderstood. This may have been partly because it was polite to use a more respectful mode of greeting than the addressee's rank warranted. Lesser titles had no authority (and might be recognised only as a matter of courtesy) outside the group and village to which they belonged. A chief might hold several titles each with different connotations of rank and location depending on the context. For this reason, classification of titles without reference to locality can be meaningless - although reference may be made to types.

By the immediate pre-contact period, matai titles were of the two main types, ali'i and tulāfale, with styles of address, 'lau afinity' and 'lau tofa' respectively. A third distinct type, the ao, were few in number and will be described separately. The origin of the two main types has been

---

2 Turner observed: "It is usual in the courtesies of common conversation, for all to call each other chiefs .... Hence, I have heard a stranger remark that the difficulty in Samoa is, not to find who is a chief, but to find out who is a common man", and added that, nevertheless, there were "well-defined marks of chieftainship" not so obvious "at first sight to a European eye". (1884: 174-5).
3 A modern example of plural holding was the first Prime Minister of Western Samoa, Mata'afa Faumuina Fiame Mulinu'u II, whose highest pan-Samoan title was Mata'afa. Faumuina is a high title of Faleata district in northern Upolu, and Fiame of Lotofaga to the southeastern end of the island. When in Parliament, the Prime Minister was addressed as Fiame because Lotofaga was his constituency.
4 Schultz (1911: 48-9) misinterpreted the use of 'lau susuga' which is for some purposes a more general style of address but is also reserved for certain high titles such as Malietoa and those associated with that title.
explained by neither early writers nor anthropologists but, in so far as there was a division of chiefly functions between ali'i and tulafale, such separation had its parallels in Tonga and may have been due to similar processes. As will be shown, power-sharing by means of the permanent transfer of some of his authority by the Tu'i Tonga to a brother or son occurred in Tonga, and was described there as the division of religious from secular functions. Secondly, and at a lower level, the Tongan chief appointed a lesser chief as his steward and orator to organise ceremonial occasions and to represent the chief as spokesman. The great Samoan chiefs were ali'i who, in early times, appointed tulafale as their orator-administrators. To the extent that it was the 'sanctity' of the ali'i which the tulafale was required to uphold, and that it was the 'profane' duties which passed to him, the tulafale did not directly share the ali'i's prestige. Over time, the Samoan orator established himself as a chief in his own right, and thus came to enjoy a power-sharing relationship of a kind somewhere between the two Tongan concepts.

By the end of the traditional period, the relationship between ali'i and tulafale had become highly formalised. Every tulafale title was permanently associated with an ali'i title (although lesser ali'i did not have their own tulafale). Although the two title holders were occasionally of the same descent group, the title-to-title relationship operated without regard to any such link. Usually, ali'i and tulafale were members of the same village, each with their own descent groups. As segmentation created groups of related ali'i titles, so groups of tulafale, paired with the ali'i groups, came to have considerable power. Certain orator families, or alataua, were said to possess spiritual and oracular faculties and orator groups were associated with centres on each of the main islands where they became an indispensable part of traditional government. Within the village, the tulafale were the guardians of the honour of its titles. They

\[1\] Williamson 1924 III: 46 and 58.
presided over the fundamental conflict between, on the one hand, the ideology which required that every matai title had its fixed position in the ranking hierarchies of village and lineage and, on the other, the gradual but inevitable re-adjustment of rank to reflect the realities of shifting power, of which the creation of titles and the branching and re-grouping of 'āiga were a part.

While the division of function for ceremonial purposes was clear, the balance of power varied from family to family, and village to village. The tulāfale were the acknowledged experts in all matters relating to genealogy, seniority, and traditional observances and, on occasions involving the distribution of food and property, they could rightfully claim the best share in return for services as orator and steward. Rules of meeting and ceremony required that an ali'i who wished to be respected would speak only through his tulāfale. On the other hand, ritual concealed the extent to which, in a particular case, the tulāfale exercised power in the ali'i's affairs. The social relationship between the two was close and intense - founded on interdependence and rivalry, and thus feagaiga¹ (as in the case of tama tāne and tama fafine). Occasionally, a tulāfale could dominate a village where the ali'i title with which he was associated was vacant or held by a weak personality. It was also possible as the result of the re-alignment of families for the same person to hold both types of title - as a powerful tulāfale-ali'i.

The third type of title, having some ali'i characteristics and yet quite distinct, was the ao², the power to confer which was sometimes vested in the tulāfale groups associated with lineages of districts. The ao would be bestowed on an ali'i who already had substantial support and land -

¹ Schultz 1911: 46.
² The ao caused early writers much difficulty - see Stair (1897: 65-9) and Krämer (1941: 92). Reference must be made to the Land and Titles Court of this century for clarification - see Marsack (1961b:18-19).
the ao were too important to be left to a single descent group to dispose of, and reverted to the conferring body on the death of the holder. The number was strictly limited\(^1\) and they were highly prized. It is likely that the ao came to be separated from the titles responsible for ruling and day-to-day politics, for much the same reason as the secular functions were said to have been separated in Tonga. The difference (which is characteristic of distinctions between chiefship in Tonga and Samoa) was that, while the Tu'i Tonga was to retain the essence of chiefliness through the purity of his blood-line, the ao epitomised the Samoan idea of the de-personalised title which represented all the prestige of earlier holders, and particularly the ancestor for whom it was created. Ancient titles such as the Tui Atua and Tui A'ana became ao when the descent group links had been obscured over time by competing interests, and eventually they were regarded as honorific - as demanding loyalty far beyond specific interests in land and village, but exercising little power. The Tu'i Manu'a similarly retained ao status in the Samoan archipelago, but he ruled some of the villages of the Manu'a group (where the title had been isolated about the 12th century by invading Tongans under the 11th Tu'i Tonga) as their own chief\(^2\) and the title never subsequently became involved in the politics of the rest of Samoa. Most of the ao and some of the other exalted titles were called ali'i pa'ia, sacred chiefs, and had high-sounding names and elaborate styles of address. The prefix tui- was translated as 'lord' as in 'O le Tui-A'ana and tupu as 'king' in 'O le Tupu\(^3\) but, in the absence of a single 'royal line' in Samoa, the latter interpretation was misleading.

Finally on the subject of types of titles, it is apparent that some were more independent than others, and this was not simply a matter of status. Certain high-ranking chiefs had the authority to appoint persons

\(^{1}\) Stair listed twelve (1897: 69).
\(^{2}\) Mead 1930: 173-6 and 191-3; Poulsen 1977: 24; Ve'ehala and Fanua 1977: 33.
\(^{3}\) Stair 1897: 65-9.
to subordinate titles (matai pitovao or matai tautua) in recognition of past (and, no doubt, future) service. In this way an individual could rise to a position of honour and power but would have to consolidate his position by obtaining an independent title (matai fa'avae) if he wished to benefit his descent group long term.

Succession and appointment

With the aid of more recent studies of the internal working of the 'āiga, it is possible to reconstruct something of the decision-making institutions by means of which the group exercised control over its title. Ali'i and tulāfale were dealt with in the same manner (and, as has been mentioned, the ao were the responsibility of orator groups). The decision as to succession rested with the 'āiga potopoto, a meeting of those adult members of the descent group who fulfilled the requirements as to blood and participation which have been outlined. Credentials were scrutinised carefully to exclude persons who had lost membership rights, but also, as the choice of candidate for title could involve the adjustment of potentially wide conflicts between interests and individuals, the meetings' decision would probably be contested subsequently unless care was taken to invite all influential members of the group. In the case of a senior title with wide connections, the meeting was often restricted to blood relations possessing the best credentials, the filifiliga, who made the decision on behalf of the 'āiga potopoto. Also, where various branches met to decide succession to a senior title, only the titled representatives of those branches would participate.

Usually, the meeting was obliged to resolve the matter in the light of a number of recognised, and often conflicting, considerations. None of these was itself a rule to be adhered to, but, equally, none could be excluded as irrelevant. The considerations may be summarised as follows:-
1. Consanguinity with apical ancestor - a sulimoni (true heir)
   a) tama tāne
   Close blood relationship was desirable with earlier title holders who were themselves sulimoni. In this category were son and grandson of the previous holder, and his brother. The claim of 'o le toe o le uso, the surviving brother, was a strong one. If the brother was chosen, there was a strong presumption that, on his death, the title would return to the descendants of the first brother. Felafoa'i, the principle of alternation between the families of brothers, was a recognised consideration.
   b) tama fafine 'side'
   A candidate who was himself tama fafine was unlikely to succeed, and then only if no suitable tama tāne was available. This 'side' of the 'āiga potopoto had the right to be heard, however, and, if its candidate was another tama tāne who was more pleasing to them than the tama tāne's own candidate, the former's claim was entitled to careful consideration.

2. Close relative who lacked consanguinity
   a) The adopted son of previous holder, who had served the family well, was considered. Adoption was a recognised manoeuvre to attempt to defeat a more distant claimant and to keep the title in the family.

---

1 Schultz 1911: 53; and Marsack 1961b:11.
2 The higher the title the more important it was that the candidate be closely related by blood (Marsack 1961b:10).
3 Schultz 1911: 51. Goody's study of chiefly succession (which does not deal with the Pacific) demonstrates that, as it was in Samoa, alternation is generally popular as a traditional resolution of the conflict where competing families are equal in status, and from the point of view of involving a large number of people in maintaining the long-term unity of the total group (1966: 161 and 163).
4 The potentially divisive nature of the feagaiga has been explained.
b) The husband of a woman who was the close blood relation (usually daughter) of the previous holder, and who had been living with her family and serving her father was a possible choice, but he was not likely to succeed against a suitable sulimoni.

3. The dying wish of the previous holder. Early writers disagree as to the extent to which such a wish was regarded as binding. It is likely that the chiefs and orators responsible for selecting the successor to a title of high rank would feel freer to override a dying wish than would the 'āiga potopoto of a family possessing a lesser title.

4. Tautua, service to the local core of the descent group and its matai. The 'man on the spot' had a strong claim.

5. Personal characteristics of leadership and dignity.

6. Acceptability to the village council of chiefs. The weaker the family's position was in village politics, the more important was this consideration.

Thus, ascription and achievement - the relative strengths of blood-based and behaviour-based relationships - formed the ground for valid arguments in support of competing candidates. A dominant theme was the way in which inheritance within the localised core of the tama tane was assailed by the heterogeneous descent group and the village council.

Once the 'āiga potopoto reached its decision by consensus, the successful candidate was ceremonially served kava and preparations were made for the saofa'i, the public 'investiture' at which the matai of the village were invited to signify their approval of the appointment. Hospitality and gifts were sometimes necessary to secure their attendance. No title holder was recognised as such until the saofa'i had taken place.

1 Schultz 1911: 52; Stair 1897: 75; Brown 1910: 288.
2 Williamson 1924 II: 167.
3 Schultz 1911: 53.
Further explanation is required of the position of women, and of adopted sons. Women seldom held titles, although they figured prominently in legend\(^1\), and were often the means whereby lineages were brought together. The first holders of the ancient ao, Gatoaitele and Tamasoāli'i of the Sā Malietoā (Malietoa lineage), were women, as was their successor in the 14th century, Salamasina (the daughter of the union between a Tui A'ana and the daughter of a Tu'i Tonga). By means of marriage alliance, adoption and warfare, Samoa was forced to acknowledge Salamasina as the first chief to combine the principal titles and so to be tafa'ifā, supreme in terms of prestige\(^2\).

Adoption was common and an adopted son was eligible to hold the title. Natural relationships were maintained during the adoption, however, and the extent to which an adoption involved the acquisition of rights in the adopting family often depended on the son's worthiness and the determination of all parties over a period of years to continue with the adoption relationship\(^3\). Once confirmed by all concerned, the adoption operated for the rest of the lifetime of the son. On his death any title or property he held or inherited within the adopting descent group would normally pass to a sulimoni of the group to the exclusion of his own natural issue and other kin\(^4\). Of course, powerful families or a determined adopted title holder might attempt to interfere with normal succession\(^5\).

\(^1\) Krämer 1941: 24; and Brown 1910: 286.
\(^2\) Krämer 1941: 23; and Freeman 1947: 295. This institution is explained later.
\(^3\) Krämer 1941: 100; and Turner 1884: 83.
\(^4\) Schultz 1911: 53.
\(^5\) Krämer cites the case of Tupua, who was adopted by Muagututia, third in the Tui A'ana line after Salamasina (above) but who became tafa'ifā and earned sufficient respect and military support to be able to require the titles to be passed to his own son, Galumalemana, thereby depriving Muagututia's blood line of the titles. A new lineage was created called Sā Tupaue in which the previous acquisition by adoption was legitimated (1941: 26-7), but the tafa'ifā titles subsequently came to be passed in accordance with different rules.
Land and pule

Title and land went together like two sides of the same coin. A large coin could be divided into progressively smaller denominations, and with each substantial branching into a new descent group went title and land, to take up positions in the hierarchy. Titles of higher rank sometimes retained rights, a superior pule, authority and control, over lesser branches. After a period of delegation of pule, a branch might achieve virtual autonomy\(^1\). Within the branch and under its title, the matai might allocate house sites, gardens, and plantation land, but would retain the pule unless a degree of pule was relinquished to a junior matai as the head of a related household. Essentially, a matai administered the land appurtenant to his title on behalf of the descent group. He, in turn, was subject to demands which might be made on him by a lineage chief holding superior pule or by the council of the village in which the land was situated.

As an analysis of early land tenure is not proposed, those features will be mentioned which relate to the authority of the matai. First, as the 'āiga system afforded everyone extensive rights to use and share, so, in respect of land which a young member of the 'āiga was prepared to clear and cultivate, he could expect the matai exercising pule over the land to protect his interest - which was subject to the rendering of tautua. The young man would be expected to provide food for his own family, and to contribute on occasions to that of the matai. As time went on (unless he succeeded to the title), he could expect that he, and after him his children, would be entitled to remain on the land which he had cultivated, on the same conditions. While such rights were undoubtedly the ideal, they demonstrate that Samoan land tenure was not 'communal'\(^2\) except in the sense of holding in common of the ultimate or beneficial rights by the descent

\(^1\) Schultz 1911: 44.
\(^2\) The term is used ambiguously by anthropologist S. Tiffany (1972: 88-9 and 90).
group as a whole. Rights to use and occupation of different types were allocated among members of the 'āiga. These limited the authority of both matai and descent group as a whole, as far as the disposal of land rights was concerned.

Secondly, while chiefly title and land were vested in the descent group (which meant that individual rights in respect of land and to protection of the matai were acquired only through membership of the group), pule was worked out in a three-way relationship. In theory, the group had pule over the matai who in turn, in exercising pule over the land, allocated areas and tasks to members of the group. The type of pule was not the same in each case. In order that the matai could be free to administer the land and the day-to-day affairs of the group, in which the best interests of the group required that the matai's word be obeyed as law, the group's control over the matai was limited to the ultimate right to remove him for disastrous mismanagement or erosion of the group's reputation. This century, a "legal limitation of the matai's power exists with respect to his authority over the land which belongs to the family". The matai is described as "trustee" and the group as "beneficial owners". Nevertheless, the absence from early accounts of examples of such removal by the group (as opposed to the removal of a subordinate matai by his senior) leads to the conclusion that, in traditional Samoa, a matai who was bad enough to be notorious was also powerful enough to hold his 'āiga in check. On his appointment, delegation to the matai of the group's authority over land and affairs was almost absolute - virtually a delegation of pule.

Thirdly, the value of land lay in the prestige of possession, and in the power it conferred as the means of requiring the performance of service and obligation. In an environment where life could be sustained and enjoyed

---

1 Brown 1910: 287.
2 Schultz 1911: 43-4.
3 Marsack 1961b:22.
with comparatively little effort, land was not regarded in terms of wealth. Consequently, interests in land were not 'given' except in expectation of returned favours or service over time. Security for such performance lay in the retention of a residual pule, which no descent group would relinquish. The exchange of land between descent groups by way of boundary adjustment was the only example of the peaceful acquisition of residual rights in traditional Samoa.

**Village**

The Samoan nu'u, village, was a single political unit, sometimes physically divided into sections spreading along the coast or inland. The territory of one village extended until it reached that of its neighbour so that there was no land in the archipelago which was not claimed on a village basis. Apart from 'āiga land appurtenant to the pule of individual matai, there were two classes of village land subject to the jurisdiction of the fono, council of matai. First, there were the common public areas such as the open meeting space, access ways, lagoon foreshore and sometimes village gardens. Then, behind the village, often extending from 'āiga boundaries up to the ridge inland, was the uncultivated bush, any part of which, with the consent of the fono, could be cleared and brought under the pule of a matai.

Administration of village land was only one of the functions of village organisation, which embraced all 'those localised activities which are considered indispensable to life in Samoa'. For its stability and continuity, and for the immediate implementation of its decisions, village government depended on two features - first, chiefly hierarchy, expressed most effectively in the fono, and second, and perhaps equally significant, status groups cross-cutting 'āiga and domestic households, and compulsorily

---

1 Stair 1897: 83.
involving all members of the village. Because chiefly authority at village level operated in the context of these status groups\(^1\), it is convenient to review them briefly before examining matai functions.

1. The 'aumāga\(^2\) was the body of taulele'a (untitled men over the age of about 20) of the village which carried out clearing, planting, fishing and building tasks under the direction of the fono, and constituted a fighting force when necessary. The relationship between fono and 'aumāga was close and the notion of chiefly dignity underlay all relationships. The 'aumāga met regularly in a 'mini fono' to organise its activities.

2. The aualuma, comprising the women (unmarried, widowed or divorced) who belonged to the village descent groups by birth or adoption, was the female counterpart and had similar organisation tasks such as the preparation of food and thatching, weaving and tapa-making. Its most important member was the täupou, holder of the 'village maiden' title, who had a leading ceremonial role in village affairs and, outside, embodied the honour of the village.

3. The married women (mainly born outside the village), being wives of ali'i, wives of tulāfale and the wives of untitled men, more often met in separate groups, particularly as the women tended to adopt the rank of their husbands in all village women's activities.

All matai titles, ali'i and tulāfale, were graded in rank on a village basis, even though some came from the same descent groups and others might not be related. A chief's formal authority was determined by that rank. The most senior of a group was its matai sili, and the same term might be applied to the holder of the highest title in the village. In some

---
\(^1\) Which Gilson regards as "a unique Samoan departure in the development of political institutions in Polynesia" (ibid.).

\(^2\) Early missionaries had little to say about village organisation and these groups were not accurately identified as such until Mead (1930) Keesing (1937) and Freeman (1948) carried out studies. This account is based on their findings.
villages, a matai sili of supra-village rank could, if he wished, use that rank to dominate the scene, but in most cases there were several chiefs of sufficient rank to require discussion and agreement in major village matters. Village government was "seldom an autocracy of one and never a loose, indecisive confederation of household chiefs". The village depended for its public functions on material contributions, the provision of monotaga, food and services, by each constituent family. The matai was responsible to the village for such contributions.

"The political organ of the village is the fono." Because of the significance of ceremony and symbolism, village decision-making is best seen first in its setting. The fono, or meeting, of ali'i ma faipule of the village (a traditional phrase meaning 'chiefs and representatives', and in fact comprising the ali'i and tulafale) would take place in the large building reserved for the purpose, where the matai took allocated positions at, or between, the supporting posts. Every detail of the proceedings rigorously institutionalised - and demonstrated for all to see - the precise rank of each title. Kava was served in ceremonial fashion according to a precedence in which the ali'i were called by certain kava titles not used at any other time. The fono began with the ritual recitation of the fa'alupega, described as "a compressed community history and 'Who's Who'" , since it referred to all village titles, together with traditional and genealogical allusions. When the chiefs began their deliberations it was in the knowledge that the interests of every member of the village were represented by one or more of their number and that no person, even a visitor to the village, nor any corner of village territory, was beyond their jurisdiction.

The fono was a "legislative body" , it was responsible for the administration of justice and it was "the common court of appeal in all cases of difficulty". It governed the village - from the making of

2 Schultz 1911: 45.
3 Keesing 1934: 48.
4 Turner 1884: 177.
5 Brown 1910: 288.
6 Turner: loc. cit.
tulāfono (general laws) controlling behaviour and the use of village amenities to the enforcement of such laws; from the administration of matters relating to chiefly titles and land to the organisation of all practical and ceremonial functions affecting the honour and defence of the village; from the settlement of disputes between families to the banishment from the village of persistent trouble-makers; and from the delegation of matai and committees for village tasks to the selection of representatives to district fono.

As in the case of meetings within the 'āiga, decisions of the fono were reached by a formal consensus, and the mechanics of decision-making reveal much about the basis and operation of chiefly power in Samoa. After prior consultations on the issue to be discussed, thus ensuring that views were well known, the meeting would begin by hearing the lesser chiefs and the principal arguments, and would conclude with summations from the high chiefs and, if there was one, the matai sili. There was no vote, no identification of majority or minority, and it was the task of the last speakers to present a view which would go forward as the consensus of the meeting. Discussion would be prolonged, or even adjourned, rather than end in deadlock. Finally, members were asked to signify consent. Unanimity was the goal, the public expression of which was essential for the binding nature of the decision. But to describe Samoan decisions as 'unanimous' implies a degree of single-mindedness as to the decision itself which would seldom have existed. There was in fact a 'meeting of the minds' on only two things - the ranking order of the respective titles and the obligation to abide by a decision once consented to. Consent would be given formally out of respect for rank (and, perhaps in earlier times, fear) and out of concern for harmony. Authoritarian to some extent, the process provided opportunity for the influence of higher chiefs to be moderated by the lesser. The intimate knowledge which each member had of the other, as well as the

1 Schultz 1911: 45. 2 F. & V. Ala'ilima 1966: 252.
weighting to be given to each voice\(^1\) - gave scope for skilled oratory and manoeuvre. Submerged opposition would continue to influence the situation after the meeting, while the formal consensus would be adhered to.

The Samoan language was the medium of decision-making, and it was also a daily reminder to everyone of the status of their chiefs. In addition to the 'vocabulary of respect' and the stylised modes of address, the Samoan language possesses a full and versatile vocabulary relating to concepts of māmalu (dignity) and pule (authority) in addition to mana; relating to names, places and events of historic significance; to important meeting places, houses, kava bowls and fine mats; to ceremonies, meetings and speech and decision-making; and, indeed, to all aspects of chiefly status. For Samoa, "language is, uniquely and above all others, the rich and mobile medium through which eliteness is demonstrated and honoured"\(^2\). The traditional knowledge and manipulative skill of the tulafale has sustained and enlivened the medium.

Some of the mechanisms of the government and organisation of village affairs require elaboration. It has been said that provisions in Samoa for the deliberate punishment of specific breaches of the social order were the most highly developed in Polynesia\(^3\). If the harmony of village life was threatened by misconduct, the fono might move swiftly to deal with the offender, but usually families would first be given the opportunity to try to settle matters between themselves. Principal offences against the village included dishonouring or insulting the origin of a descent group, the dignity of a matai, a high chief's wife, the tāupou, the fono or another village, stirring up trouble with insults or scandal, or failing to observe etiquette in the preparation or distribution of food, mats or kava\(^4\). Offences and penalties varied from village to village. Penalties ranged from those inflicted against property, such as fines,

\(^1\) F. and M. Keesing 1956: 98.  \(^2\) Ibid.: 84.  
\(^3\) Hogbin 1934: 272.  
\(^4\) Turner 1884: 178; Krümer 1941: 175; and Mead 1930: 169.
seizure or destruction of houses, livestock or crops - to personal punishment (corporal or capital) and were carried out by the 'aumāga as agents of the fono. The fono's most effective sanction was to banish the offender, and usually his family, from the village. Of course, the effectiveness of a fono as a 'judicial/peacekeeping' body depended on the state of village politics. The most powerful faction in the village might prevail on the fono to exact swift and severe punishment against another faction, or to allow it to carry out its own vendetta, but even then "the leading members of the community would interfere ... if the punishment was considered excessive".

As to procedure in dealing with offences, it was the 'āiga which was a party before the fono - an offence by an individual rendered his family liable as the only party recognised in village jural relations. Then, the 'āiga would be represented by one or more matai who would have their opportunity to speak and influence the fono's deliberations. As the individual offender (unless himself a matai) was, like any untitled person, prohibited from attending the fono, the question of guilt or innocence was usually decided within the family beforehand, and its matai would endeavour to persuade the fono accordingly. Occasionally, fear of the supernatural survived as a means of detecting and punishing offenders. Such fear was also called in aid in the protection of crops and livestock when a sā, tapu, was placed on them to keep away thieves, or the fono.

1 Stair 1897: 91-3; Brown 1910: 289-91; and Turner 1884: 178.
2 In the case of a chief with some local support, the fono might be unable indefinitely to resist his request for permission to return. However, some chose to stay away with another branch of the 'āiga (Stair 1897: 94) or to leave the island group permanently - as did the Tui A'an in the early 18th century who sailed to Rarotonga after banishment for tyranny and oppression (Stair 1895: 99).
3 Stair 1897: 91.
4 Freeman 1978: 163.
5 Brown 1910: 288.
6 Ibid.: 268 and 288; and Turner 1884: 19 and 184.
would place a sā on all pigs and fowls needed for a forthcoming ceremony.

As the principal means of mending breaches in the social fabric, techniques of settlement were skilfully pursued and developed - by families and fono alike. Mediation by a third party (high chief or fono) was often attempted but the most effective technique was the ifoga, a public and ceremonial self-abasement. The matai of the apologizing family (usually the weaker party, or the one which saw political advantage in apologising) would go before the house of the other family's matai and sit, humbly, defenceless and with head bowed, for hours or days until the apology (and compensation in 'ie tōga and food) was accepted. Once accepted, the ifoga constituted an absolute bar to further dispute in the same matter, and it was in the interests of the fono to uphold its finality.

An essential function of the fono was the supervision of its most precious possession - the dignity of its matai titles. The ali'i ma faipule did not hesitate to castigate members who failed in their duty as matai to ensure proper behaviour on the part of their families but, more important, a strong fono could refuse to recognise a new appointee as the legitimate holder of a title. Indeed the orators of the fono came to regard the most prestigious titles represented in the village as their own responsibility.

In short, the structure and organisation of the village was rigorously institutionalised. All roles were established and known, and all important matters determined in public. Conformity to standards and adherence to conventions involved more than the dignity of individual matai - they were matters of village unity and survival, in which all had common interests.

1 Kramer considered that in the provision of laws to protect agricultural products could be seen the origin of the Samoan administration of justice (1941: 167) and Turner regarded supernatural fear as an "auxiliary (to civil power) towards the maintenance of peace and order" (1884: 183).


4 Mead stresses the feeling that "things done alone are at least suspect, if not downright wrong" (1930: 81).
District and lineage affairs

Villages were grouped into sub-districts and districts "by common consent" and "for mutual protection". The grouping was a "federation" to the extent that villages had autonomy in respect of their own affairs, but the early writers made no attempt to analyse (and Europeans in 19th century Samoa never fully understood) the scale and complexity of supravillage organisation. The fortunes of groupings fluctuated and support shifted to form new alliances, thus reflecting the fact that villages were not isolated, that villagers maintained tama tāne and tama fafine links in a network of relationships and that the tendency was for groupings to reflect support for those lineages which held the highest titles. These were usually the ancient sā which were reputed to have descended from gods or ancestors remembered for their valour and prestige. One such sā, that of Malietoa, had its origin about the end of the 13th century following the final expulsion of the Tongans from Samoa. The more recent creation of the Sā Tupuā has been described. Lineages have waxed and waned, and, as an example of the latter, the Sā Tui Manu'ā suffered isolation and loss of influence culminating in the decision of the United States administration in American Samoa not to accept the appointment of a successor to the last Tui Manu'a who died in 1909.

The ancient sā, or maximal lineages, were giant historical edifices the mortar for which was provided by the links which branching

1 Turner 1884: 180.
2 Brown 1910: 286. In some respects it was a 'confederation'.
3 Turner 1884: 183.
4 The departing Tu'i Tonga (the fifteenth) is said to have shouted from his canoe "Ua malie toa! Malie tau!" ("Brave warriors! Well fought!") and part of the salutation was adopted by the Samoan leader as the name of his lineage. (Ella 1899: 231; and Stuebel 1976: 60).
5 See above p.32 n.5.
7 Freeman 1948: 23; and Gilson 1970: 42.
descent groups retained over time and space. Such links were remembered as genealogies, called gafa, in which were recited descent, title succession, origins of subsidiary titles and putative connections through marriage and adoption. Important in the political context, the value of the gafa for every descent group lay not in its historical depth or accuracy but in the way it expounded "former relationships and ties which, actual or not, conform to and validate relations among chiefly titles and descent groups in the present and recent past". The fa'alupega, which has been mentioned, had a similar function as the 'genealogy' of the village. Preservation of the gafa of great titles was committed to a select group who were careful and jealous of the honourable function they held, and any public recitation of genealogues was strictly forbidden. Offences against this law provoked great bitterness and often led to the shedding of blood.

Krämer recorded the main lineages which existed in the 19th century and the summaries of Keesing and Gilson reflect further subdivision and changes in affiliation. For present purposes it is sufficient to describe the sort of groupings which existed about the time of European contact, their motivation and the limited extent to which combinations were capable of producing Samoa-wide cohesion.

Apart from the eastern Manu'a islands in which the Tui Manu'a lineage remained politically isolated, Samoa was from time to time the scene of lengthy disputes, and occasionally minor wars, in which maximal lineages contended for the supreme prestige of tafa'i fā - which required possession of the four honorific pāpā, the titles of Tui Atua, Tui A'ana, Gatoaitele and Tamasoāli'i. The last two titles belonged to the Sā Malietoā and were reputedly conferred on whoever contended successfully for the other two - on the ground that, stemming from the circumstances of their origin,

2 Ella 1895: 598-9.  
3 Schultz 1911: 50.  
4 1941.  
5 1934 Ch.2.  
6 1970 Ch.2.  
7 Stair 1897: 87.
the Sā Malietoā titles stood in a tama fafine relationship (inferior in terms of succession) to the others. By the 18th century and early 19th, however, the Malietoa chiefs had gained greater prominence, allegedly culminating in the acquisition of the four papa by the head of the Sā Malietoā, Malietoa Vai'inupō. He was engaged in a war of succession when the first missionaries landed in 1830. The other two maximal lineages were the Sā Tui Atuā and the Sā Tui A'anā, the affairs of which were usually brought together as the one Sā Tapuā. The great 'houses' were largely administered by their tulafale, the groups of orator chiefs whose influence was to prove significant in the subsequent development of Samoan politics. Support for the respective lineages may be described in general terms. Sā Tui Atuā and Sā Tui A'anā had their traditional centres in the Upolu districts bearing their names (and Tutuila in Eastern Samoa was considered part of Atua) and their orators were known collectively as Tümua. Sā Malietoā interests were spread, with its principal traditional base in Tuamasaga, the central district of Upolu, a further base in Fa'asaleleaga district on Savai'i and an important traditional connection with Manono island in between. Earlier, the orator groups serving Sā Malietoā were called Pule. During the 19th century, there was a shift from a division along sā lines to a more geographical division, and only Savai'i orators came to be called Pule, while Tümua was applied to all Upolu orators, and eventually those of Manono. The orators of Tümua and Pule arranged for the proper conduct of district fono in their respective centres and strove to uphold the dignity of the titles for which they were responsible. Although, in 1830, Malietoa Vai'inupō was opposed principally by the Sā Tui Atuā, in no sense was there a permanent alignment into two sides. When a tafa'ifā died, the four papa reverted to the constituent families to be further contested individually. The protracted nature of negotiations is demonstrated by the fact that, although

1 Gilson 1970: 59 and 117.
2 See Map: Western Samoa - traditional districts and principal villages.
the first person to be tafa'ifā was Salamasina in the 14th century, Malietoa Vai'inupō referred to above was only the seventh to hold the honour. In the absence of a rule of primogeniture and of an "overarching hierarchy"\(^1\) and because of the dispersal of linked descent groups, some lineages which had supported a candidate for a title might in a subsequent contest find themselves opposed to former allies. After negotiation and ceremonial, "a tafa'ifā would finally emerge at the head of a party which, because of the extenuation of kindred ties and alliances of expediency, cut across most or all of the districts and maximal lineages"\(^2\) of all the islands (except Manua'a). The dominant party was mālō\(^3\), the stronger, and the other vāivai, the weaker. The mālō was able to consolidate its position through its supporters in the decentralised groups, sometimes in an oppressive fashion\(^4\), but no formal council or administrative body was set up to govern Samoa. On the death of the tafa'ifā, intrigue and the re-aligning of forces would commence.

In the context of the European search for a stabilising influence in 19th century Samoan politics and of the rise of a successful monarch in neighbouring Tonga, notions of royalty were understandable. Because, when the four pāpā had been conferred, the tafa'ifā made a triumphal circuit of the islands hailed as 'O le Tupu o Samoa! ' ('the highest dignity in Samoa'), observers supposed that 'Tupu' meant "King' in the sense of a single ruling sovereign. Subsequent rival contenders were encouraged by Europeans to assume the title 'Tupu', or 'Tupu Sili' (Highest King), thus distorting the term (which has today become the word for monarch, as in Britain and Tonga).

Today, the pre-eminent titles originating from the Sā Tupua (combining Tui Atua and Tui A'ana) are Tupua Tamasese, Mata'afa and Tuimal-eali'ifano. Both the latter two also have links with the Sā Malietoa (for example, Mata'afa Iosefa as a Tui Atua claimed the Malietoa title in the

\(^1\) Freeman 1971: 97.  
\(^3\) Mālō is today the word for the Government or the State.  
\(^4\) Keesing 1934: 52.
late 1800s). Claims within the Sā Tupuā to the honorific Tui Atua and Tui A'ana are still made today, but the titles have less significance. The head of the Sā Malietoā continues to be called Malietoā. As will be shown, the tafa'ifā did not survive into the present century.

The special rules governing succession to the tafa'ifā did not apply to the other high titles. The choosing of successors to such titles was nevertheless a more complex process than has been described for ordinary matai. In the case of the high ali'i titles belonging to particular descent groups, the preservation of blood line by direct descent and marriage alliance was a greater consideration than at lower levels. The decision sometimes rested with heads of districts and bodies of chiefs who would meet in "electoral colleges"¹ and would receive recommendations from orators more closely associated with the descent groups². In the case of ao titles which belonged to no single genealogical line, other considerations were paramount. The orators of Tūmua or Pule would constitute colleges in accordance with the rules prescribed for each title. Further down the scale, appointment of chiefs to represent the district required approval of the district fono³, and so on down, with the relationship between descent group and 'electors' drawing closer until, at the very lowest level, the village fono showed little interest in minor family titles.

When district fono did meet, early writers were impressed by their size and dignity - each with their fa'alupega which ranked the villages and principal titles of the district. The district fono was attended by representatives of each village called together to discuss business of importance to the district as a whole. Leaders would sometimes travel

1 Williamson 1924 III: 171.
2 A balance was necessary between kin group control and public acceptance. Tikopia appears to be the only example in Polynesia of selection strictly by the leaders of a group other than that of the deceased chief (R.Firth 1964: 160).
3 Stair 1897: 84.
from village to village before the fono to seek support for their proposals. The fono itself was held in the open assembly place of the leading village of the district, and was a solemn and lengthy affair at which concern for dignity and protocol not only helped to preserve good relations, but enabled a consensus eventually to be reached. Occasionally, a 'Fono of all Samoa' was called by the mālo, the prevailing party. Tūmua and Pule would together arrange the meeting at the oldest traditional centre, that of Leulumoega in A'ana - but such a 'Fono' had no regular function. Decisions of fono at the supra-village level would not generally interfere with village matters. The extent to which individual villages could successfully dissent from fono decisions would seem to have depended on the strength and determination of the mālo.

The principal societal divisions of political organisation were the maximal lineages, which, through subordinate lineage groups, reached all Samoans. The residential cores of these groups joined as villages to produce local elements with a degree of autonomy. Consequently, each person had networks of relationships with people living near and elsewhere. Considerations of locality, the ranking of titles and lineages, and immediate kinship ties all played their part, but only at village level were these elements accommodated in such a way that stable group organisation was maintained. Groups of villages shared interests, but the district was not a unit designed for government and their interests were prestige and influence rather than administration. Samoa seems to have been unique in this respect, and the cause has not yet been satisfactorily explained. The widely held view, consistent with legend, is that Samoa in the late traditional period represented the breakdown of a much earlier lineage-dominated structure in which there were great family lines, probably emphasising primogeniture of the type which persisted in Tonga.

---

1 Stair 1897: 88.  
2 Ibid: 84.  
3 As Turner 1884: 183 and Brown 1910: 237 said they could.  
4 Williamson 1924 II: 472.  
5 Gilson 1970: 47.  
Two principal phenomena had established themselves long before European contact—pre-eminence of the secular over the religious, and village organisation. As an old chief said to Mead, "the people of old had two great gods, Tagaloa and the village, and the village was the greater of the two". The growth of village powers was initially at the expense of the sā and 'āiga. The orator groups also extended their influence over the high titles. As far as the choice and behaviour of matai generally were concerned, a compromise was reached between 'āiga potopoto and fono in accordance with the political tradition of each village. Thus, as an authoritative, representative, secular and enduring governing body, the village fono had become the means by which social values and political necessities could be articulated and by which the law of the descent group could be translated into the law of the community.

TONGA

The entire Tongan society was kinship oriented and ordered principally on the basis of kinship ranking. Mention has been made of the ranked lineages, called ha'a, which, in a manner very different from the Samoan sā, have persisted into modern times as societal divisions. A traditional perspective will be gained first through the kinship groups and their chiefs.

Kāinga and fa'ahinga

The basic socio-political unit was the kāinga descent group headed by its 'eiki, chief. Several related kāinga comprised a ha'a under the leadership of the senior kāinga and 'eiki. It is thought that, during the pre-contact period when people were living dispersed on their plantations, as observed by early explorers, power was decentralised in the local kāinga, under the supervision of the ruler of the group. A long period of stability in kāinga would account for the persistence of the term in a

---

1 Mead 1930: 84.
3 Lātūkefu 1975: 3.
variety of kinship contexts. In earlier times, the kāinga was probably equivalent to the Samoan 'āiga, as a term of relationship indicating all those persons in one's consanguineal group. Similarly, today, kāinga is virtually meaningless out of context. A kāinga of the period under discussion comprised several branches, or fa'ahinga, each constituting the extended family which lived and worked under the pule, authority, of its head, the 'ulumotu'a. The smallest unit was the immediate household, the 'api, of one to two generations.

Although they were obeyed and respected within their group, 'ulumotu'a were not of the same order of chief as the 'eiki of the kāinga and ha'a. No subdivision of the kāinga had political significance. Intermediate in chiefly rank were the matapule, administrators and ceremonial attendants. The 'eiki/matapule relationship had much in common with that of the Samoan ali'i/tulafale. Differences between the two 'orators' were of degree rather than kind. Although there were certain ceremonial functions which an 'eiki was obliged to delegate to his matapule, he was not subject to the limitations on his authority which the tulafale came to impose on the ali'i by means of the more formalised and strictly observed rules governing the conduct of business in Samoa at village and district level. The matapule served rather as an extension of 'eiki power, particularly in respect of the three principal lineages. A measure of independent status could be earned, however, and three matapule were created nobles by Tupou I, while a further six were given hereditary estates under the Constitution. 'Eiki and matapule were 'ulumotu'a in respect of their own fa'ahinga.

The fa'ahinga (and, by definition, its parent kāinga) was a descent group of persons born into the group, together with those who joined through marriage or adoption - with the emphasis of membership, although optative.

---

1 This term, and its successor matakalii, are seldom used today except to explain social history (Rogers 1975: 239) and the English famili now has wide currency.

2 R. Firth 1957: 5.
being somewhat in favour of persons related through male links from a common ancestor\(^1\). Marriage could take place within the same ha'a or even käinga, provided that the relationship was not so close as to offend the extended rules of brother-sister avoidance to be discussed — and a person might marry several times\(^2\). Adoption was common\(^3\). It is not clear how strictly membership rules were applied in traditional Tonga. The likelihood is that the two overlapping concepts of grouping according to bilateral consanguineal relationship and grouping according to locality and mutual support developed together from earliest times. An individual might have based his claim on blood ties, but the use of a chief's land, and service to him, also established a relationship of obligation. When Tonga became more sharply divided between ha'a domains, and warfare more common between competing factions, as it was in the 18th century, the relationship of ordinary people to their acknowledged chief (whether consanguineal or not) may have approached that of fealty to a lord who had the power physically to move groups from one locality to another. Within the sub-groupings, however, there is no reason to believe that considerations of kinship were less important than they are today. The 'family' basis of the käinga and the kinship rules to be described applied to the high-ranking families of the Tu'i Tonga and related lineages. Indeed, the political system which sustained these lineages depended on an ideology of kinship which was universal.

**Kinship**

Status between kinsmen was determined by age, sex and whether the link was through father or mother\(^4\). More important than age was the pre-eminence of female over male sibling, which was extended to give superior-

---

1 Gifford 1929: 31.  
2 Martin 1827 II: 141.  
3 Ibid: 96.  
4 Mariner was impressed by respect shown for the elder over the younger and for the father as head of the family (Martin 1827 II: 95 and 134), but the other relationships were not understood until this century.
ority, regardless of age, in favour of the woman's children and her husband over her brother and his children. Many tapu surrounded brother-sister avoidance and the relationship - faka'apa'apa, respect and deference - appeared less than reciprocal when viewed from the brother's side. The implications were far-reaching. They were worked out through kinship categories which defined relationship and behaviour. They are best illustrated by taking two prominent categories which impressed themselves on early observers.

Of all relatives, one's mehekitanga, father's sister, was most respected, and feared. She exercised considerable control over her brother's children, and she was generally in charge of their marriages and funerals. As might have been expected, the Tu'i Tonga's sisters were a source of potential embarrassment to his sons, as was symbolised by the high status of the eldest sister, the Tu'i Tonga Fefine. In order to ensure that the corresponding rank of the Fefine's husband did not upset the social balance in Tonga, he was frequently chosen from overseas. It was on account of this kinship 'imbalance' that newcomers to Tongan society had the advantage of fewer kinship rules to restrain their ambitions and they could be honoured without upsetting the local political 'balance'. A famous example was that of the Tu'i Lakepa of Fiji who came to the court of the Tu'i Tonga in the 17th century and founded a new lineage, the Ha'a Fale Fisi which was joined later by other chiefs of Fijian origin.

1 Gifford 1929: 17.
2 Collocott 1921b: 420-1. Mariner observed them, but said he did not understand (Martin 1827 II: 134-5.
3 Gifford 1929: 23. Marcus gives examples of brothers today who have not married in order that they may care for their sisters (1975a: 52).
4 Kaeppler 1971a: 175-9. English 'brother' and 'sister' are inadequate to convey the breadth of Tongan kinship concepts as seen from ego. So also, behaviour was described in relative terms which deceived early observers.
5 She could curse, or 'pray a person to death' (Gifford 1929: 331).
7 Gifford 1929: 181; and Rogers 1975: 281-2.
8 Collocott 1924: 180.
In ritual terms, however, one's 'ilamutu, children of one's sister, enjoyed even greater eminence, as was recognised ceremonially at marriages and funerals. The children were fahu, ritually superior or 'above the law', to their uncle, and furthermore, could make demands on him and take such of his property as they wished. The fahu was a one-sided, non-reciprocal institution of behaviour which could persist over succeeding generations between a generation in the sister's descent line and the same generation and above in that of the brother. One lineage could be fahu to another. However, such a situation reflected only the extravagant lengths to which such notions of kinship status were taken in higher society. Fahu, then, as Rogers has pointed out, was more than just a kinship relationship, and is a relative term to indicate who is ceremonially superior in a particular social context.

The pinnacle of 'ilamutu status was seen in the Tamahā, who was originally the eldest daughter of the Tu'i Tonga Fefine and, as such, "the person of highest rank in the kingdom". Although no Tamahā is recorded before the 17th century, when the first Tamahā was the daughter of the Tu'i Lakepa from Fiji referred to above, the status had come to have a

---

1 Collocott 1923: 223; and Kaeppler 1971a: 177-8.
2 Fahu (compare with the Fijian vasu - Hocart 1915) was a right to be exercised on formal occasions (Collocott 1927: 30) but also entitled the 'ilamutu to take liberties when it suited him, as Anderson observed in 1777 when Latunipulu, nephew of the Tu'i Tonga, "made no scruple of taking anything from the people even if it belong'd to the King" (J.C. Beaglehole 1967 III: 954).
3 Gifford 1929: 23.
6 Ibid.: 80. Gifford is here referring to kinship rank in relation to the Tu'i Tonga and not to prospects of succession to his title - of which she had none because they could only come to her through her father - as will be explained.
title and ceremonial recognition by the time of Cook's visits. About 1700, the aspiring leader of the Tu'i Kanokupolu lineage established his greatness by marrying the Tamahā ¹.

In kinship terminology, status inequality may have been stated even more broadly - that kāinga'i tamai, all kinsmen related through one's father, had higher status, and that kāinga'i fa'e, kinsmen related through one's mother, had lower status². Between adjacent generations, this status inequality might be seen as the working out of privileges which could be enforced against ego through father's sister and her children, and conversely, as the privileges which ego could claim against mother's brother and his children. However, male-female status was more commonly articulated in terms of the brother-sister relationship which could produce an extension of fahu through generations in broad divisions. Inheritance of titles and land was based on different principles, as will be shown later.

Ha'a

The Tu'i Tonga dynasty held sway over the Tongan group into the traditional period and it was the 11th ruler who was particularly renowned not only for conquering Samoa and Fiji but also for using labour from the surrounding islands to construct the massive trilithon and some of the large tombs³. Whether or not the origin of Tonga's royal families lay in alien chiefly lineages which penetrated the group⁴, their personal authority and political power were absolute - and tradition to this effect is reflected in more recent attitudes towards the representatives of these families. Certainly, the Tu'i Tonga took steps to preserve the purity of

¹ Collocott 1924: 181.
² Kaeppler 1971a: 177; and Rogers 1975: 277. At funerals, all those on the side inferior to that of the deceased were called liongi, and demonstrated their lower status by dress and demeanour. (Evidence from Cook's third visit is cited by Kaeppler 1971b: 209-210).
³ Ve'ehala and Fanua 1977: 33. During the height of their power, the Tu'i Tonga are said to have had official residences on Upolu and Savai'i in Samoa (Poulsen 1977: 24).
⁴ Gunson considers the nobiliary structure to be suggestive of an alien hierarchy imposed on an earlier Tongan system (1977: 91-2).
their blood line, and succession passed (exclusively, according to legend) to the first son of the principal wife of each Tu'i Tonga. About the 15th century, the then Tu'i Tonga is said to have re-organised the political framework and to have appointed his younger brother to the office of hau, or secular ruler, to bear the responsibilities of government. Thus, a second lineage was created down which the title Tu'i Ha'atakalaua was passed by the same means. About 200 years later, further segmentation occurred when the sixth Tu'i Ha'atakalaua sent a younger son, Ngata, to control western Tongatapu and conferred on him the title Tu'i Kanokupolu, to be inherited by his lineage. Subsequent holders of the new title increased its power and prestige until it eclipsed that of the Tu'i Ha'atakalaua and became the hau. The last Tu'i Ha'atakalaua to hold that title was killed in 1799. Any hope of resurrection of the title was frustrated by the determination of the Tu'i Kanokupolu, Tāufa'āhau, to hold the reins of power and become King in the 19th century. In the meantime, the influence of the Tu'i Tonga had waned, even as a spiritual head, and, when the 39th Tu'i Tonga, Laufilitonga, died in 1865, no further appointment was made (partly for the reason which applied in the case of the Tu'i Ha'atakalaua).

Writers have been impressed with the separation of functions which occurred when the Tu'i Ha'atakalaua lineage came into being. Williamson sums up the commonly held view that the separation was necessary in order to remove from the Tu'i Tonga the burden of administrative duties, to concentrate sanctity in his person and to lessen the risks of assassination (which were real) and other indignities associated with secular rule. It was the sanctity of chiefship itself which was at stake, and this was saved from attack at its 'fountain-head' by removing the Tu'i Tonga from situations where his dignity might be threatened. Certainly this view

1 Ve'ehala and Fanua 1977: 35. The power of hauship may have grown over generations (Gunson 1979:38).
2 Ibid: 36.
is well founded in legend and is a colourful explanation of the inevitable collateral segmentation of chiefly lineages which occurred in Polynesia. It is also true that, after the splitting had taken place, none of the three title-holders ever enjoyed the legendary reputation earned by the Tu'i Tonga of the early traditional period. The respective fortunes of the three great chiefly houses fluctuated, and it was as hau that the Tu'i Kanokupolu, Ĥaufa'ahau, became Tupou I, King of Tonga, secured his position in Tonga and extended his influence to Fiji and Samoa last century. The splitting of functions into sacred and secular may be seen as a rationalisation of the need to share chiefly power, to recognise and resolve competing claims and thus, as Williamson hints, to preserve the essential authority of the ruling lineages. Cummins considers that there was a period of relative stability during the century preceding Cook's arrival, under a "tripartite pattern of government, with the Tu'i Ha'atakalaua as the nominal political leader, the Tu'i Kanokupolu, maintaining effective political dominance and the Tu'i Tonga as religious head of state"¹. The lineages shared divine origin, were closely linked by marriage and, as will be shown, the complex relationships and principles of ranking gave effect to kinship rules.

The lineages formed by collateral branching were the descent groups called ha'a. Each ha'a had a rank in relation to the Tu'i Tonga determined, in theory, by the chronological precedence of the segmentation. In fact, as will be shown, the origins of some lineages appear to have been parallel to, or separate from, that of Tu'i Tonga. Over time, ha'a themselves sub-divided, some re-grouped and others disappeared. According to tradition, a ha'a was created when the Tu'i Tonga, the hau or the head of a parent lineage conferred sufficiently high chiefly status on someone who would not otherwise have succeeded to it, and who had the means and determination to establish a new political unit. A sharing of power, also

¹ 1977c: 65.
could result in the splitting of one ha'a into two. The heads of ha'a were high-ranking 'eiki whose titles were associated with the ha'a, but seldom had the same name.

Legend divides ha'a into two main divisions. The Kauhala'uta, or 'upper' division, includes the Tu'i Tonga lineage and those which are said to have descended from the five half-brothers of the first Tu'i Tonga. Although oral traditions differ, one at least of the half-brothers was of celestial origin, and his lineage became the second 'house', or Fale Ua. Figure 1 shows the origins of the named Ha'a which exist today, and the noble titles (appointed under the Constitution) which associate with each Ha'a. In the case of the first three 'descent' lines shown, no. 1 connects the Tu'i Tonga with the modern lineage descendant, Kalaniuvalu, who, in effect, heads a separate un-named ha'a. Similarly, no. 3 connects the early origins of the Sina'e (said to have been earthly half-brothers of the Tu'i Tonga) with the noble Veikune who may also be described as heading a ha'a. In every other case, the ha'a are called Ha'a or Fale. It will be seen that the lineages created by the introduction of Fijian blood and inter-marriage with the Tu'i Tonga line in the manner already explained are represented by six noble titles today.

The Kauhalalalo, the 'lower' division, began to be formed with the creation of the Tu'i Ha'atakalaua, and subsequently there was a split to produce the Ha'a Lātūhifo and the Ha'a Ngata - the latter of which was headed by the Tu'i Kanokupolu. Finally, a separate group of lineages called collectively the Toutai is recognised as descending from the ancient navigators of the Tu'i Tonga, but without blood connections through the ha'a.

When kinship rules are considered in the broader sphere of ha'a and of society as a whole, the picture becomes confused, and information from early accounts must be used with care. In relation to the three great

1 Constitutional titles and their ha'a connections will be discussed in later chapters.
**Figure 1**

lineages and in relation to each other people and the ha'a which they constituted appeared to be bound by considerations which extended beyond the kinship relations described. There were two principal distinctions. To begin with, Tongan society was divided into, and used a terminology of, class divisions which placed the Tu'i Tonga at the top and the 'eiki, matapule and tu'a (commoner) in descending order. Secondly, chiefly titles and the ha'a to which they belonged were ranged according to historical origin and genealogical distance from their founding lineage.

Before examining in detail these methods of ordering society, two points should be elaborated. First, it was early recognised as a feature of traditional society that genealogical status in terms of distance from the centres of high-ranking lineages was often inherited through one's mother. For example, within the Tu'i Tonga lineage, the main requirement in the 17th and 18th centuries was that succession should pass to the eldest son of the principal wife, who should herself be the daughter of the Tu'i Tonga's closest rival in terms of rank, the Tu'i Ha'atakalaua or the Tu'i Kanokupolu so that each Tu'i Tonga would have, in addition to precedence in fahu terms over his mother's side of the family (and particularly if her brother succeeded to the Tu'i Ha'atakalaua or Tu'i Kanokupolu title), the high-ranking blood of his mother's father. 'Eiki who headed ha'a inherited, patrilineally, chiefly titles ranked according to their origin, but, in addition, each individual could derive higher or lower status depending on the rank of his mother in the same status system. A man of low birth did not take on his noble wife's status. The second point to be noted is that the term 'eiki is misleading when used synonymously with 'title holder', as it often is today.

1 Martin 1827 II: 89 and 98; and West 1865: 260.
2 Gifford 1929: 153.
3 Gifford 1929: 61; and Farmer 1976: 145.
4 Lätükefu 1974: 3.
5 Martin 1827 II: 96. However, his children would be of noble blood - for example, the first Fakafanua (a modern noble title) was said to have been the son of a marriage between a daughter of the Tu'i Kanokupolu and a fisherman (Gifford 1929: 133).
Since the enforcement of primogeniture in the male line (in respect of titles and land) by the 1875 Constitution, the modern Tongan view of traditional inheritance and 'eiki-ship has been distorted. Indeed, 'eiki is a relative concept opposed to tu'a, by which the 'blood status' of two people can be compared. A person who had no title might have high 'eiki genealogical status through close links with the Tu'i Tonga lineage1. In other words, each person was in theory more or less 'eiki or tu'a than the other. 'Eiki adjective is distinguished from 'eiki noun.

To return to the class divisions, it seems that these were operated and articulated in such a way as to leave little doubt in the minds of observers that they constituted social classes with political and economic implications well understood by Europeans2. Because of its importance in assessing the extent of chiefly power, the evidence must be examined. That a gulf existed between the sanctified beings who inherited power and the bottom of the social scale, the tu'a were believed to have "no souls"3. They were "ground down and oppressed"4 by those above them, and neither life nor property was secure5. Certainly, considerable manpower must have been necessary to launch the ocean-going expeditions, to construct the monuments and tombs (and later the fortified villages) and to provide

---

1 Kaeppler 1971a: 179. Mariner spoke of how his protector, Finau 'Ulukālala, one of the most powerful men in Tonga, would try not to meet 'high-born' children so that he could avoid showing the necessary signs of respect (Martin 1827 II: 98). Those of such status were "sinai eiki" (Gifford 1929: 33) - in modern Tongan sino'i 'eiki - of the chief's body (Churchward 1959: 430; and Marcus 1975b: 30).
2 Martin 1827 II: 82-98; and West 1865: 260.
3 Martin 1827 II: 100.
4 West 1865: 262-3.
5 They appeared to be at the whim even of petty chiefs (Martin 1827 II: 91) one of whom killed a man out of hand in Cook's presence (J.C. Beaglehole 1967 III: 100) and there are several accounts of chiefs ordering cruel deaths for little apparent reason (e.g. Farmer 1976: 131-2, and Martin 1827 I: 68 - in which Finau 'Ulukālala observes of the victim "neither his life nor death are of any consequence to society"). See also West 1865: 263.
the fighting forces. However, what was the traditional relationship of ordinary people to their chiefs? There is little direct evidence. It has been suggested\(^1\) that, because anthropologists have found that people in some villages today have no knowledge of their relationship to ha'a\(^2\), commoners were generally not concerned with the ha'a, which were the "affairs of chiefs"\(^3\) - but it is not clear for how long that has been the case. As far as the arbitrary and brutal treatment of people by their chiefs was concerned, Lātūkefu considers that such treatment was not traditional, but rather a feature of the unstable 18th century during which contact with Fiji (which many young Tongan chiefs visited for fighting experience) and demand for European goods and weapons contributed to the disruption of social order\(^4\).

The likely sequence in the development of the ha'a was that it began as a lineage-based kin group in which membership was ranked according to genealogical distance. Over time, the process of segmentation, coupled with the determination of those who held power not to share it, produced an increasing proportion of the population which was so remote from the lineage that kinship ties ceased to have meaning at that level. In place of kinship grew fealty - a reciprocal relationship of service and protection between ha'a heads and groups of commoners bound up to some extent with an ideology of the semi-divine status of 'blood line' chiefs which was sufficiently compelling to facilitate the mobilisation from time to time of large numbers of people. It has been said that the ha'a was therefore "not a pure lineage in the classical sense, but a political association of people around a lineage core under a powerful chief"\(^5\). So long as Tonga was relatively stable under Tu'i Tonga and hau, kinship was centred on the kāinga and its fa'ahinga subdivisions, and land was distributed and held from kāinga heads.

\(^1\) Kaeppler 1971a: 188-9.  
\(^2\) E. and P. Beaglehole 1941: 12; and Aoyagi 1966: 150.  
\(^3\) Kaeppler loc. cit.  
\(^5\) Nayacakalou 1959: 95.
within ha'a districts. When the power of the main lineages weakened and local leaders (such as Fīnau 'Ulukalala of Mariner's time) grouped to contest supremacy in civil war, many people were forced into villages and associations which reflected a new order and further divorced them from the original ha'a. Fresh relationships of service and protection were established and, by the middle of the 19th century, only those whose 'eiki status depended on the genealogical connections were concerned with the ha'a links. However, in 17th and 18th century Tonga, every person who could not aspire to high chiefly status was nevertheless oriented to society in two ways. He had kin relations within the kainga and he owed allegiance through the kainga head to the head of the ha'a. Every such person was tu'a in relation to those with high blood, but he may also have been 'eiki to others within the kin groups. There were chiefs and commoners in every household in terms of these relationships.

Social division and ranking were more complicated than they first appeared. The number of recognised ha'a in the Tongan group at that time can be estimated at 10 to 15. In Tongatapu alone, Anderson had named 30 "districts" each headed by a chief. These were kainga. Cook noted the ha'a, saying that there were many classes of chiefs, and "there are a few that are Lords of large territories, the rest hold their lands under them". Thirty years later Mariner described in detail how chiefs were each surrounded by matapule and adherents - including a category called mu'a, who were closely related to chiefs and matapule, who had plantations of their own and lived on their own land or near their chief. A tu'a family could become mu'a by succeeding to a title. It seems likely that every Tongan's kinship relations with his kainga head were important, and even

1 Gifford 1929: 19.
2 From Kaeppler 1971a: 179-186.
4 Ibid.: 177.
5 Martin 1827 II: 208-9.
6 Ibid.: 90-1; and Gifford 1929: 109.
7 Martin 1827 II: 90.
more so in day-to-day terms with the 'ulumotu'a of his fa'ahinga.

Other classifications were priests and artisans. The priesthood was hereditary and powerful, and of different levels of status\(^1\). Their influence was felt at religious ceremonies - and in matters involving sickness, omens and tapu - when they represented or interceded with national and family gods\(^2\). Tufunga, artisans, were described as belonging to "professions"\(^3\), some of which were hereditary, but others of which were not exclusive along 'class' lines. In short, the rigour of class was mitigated by kinship and other factors and was thus relative rather than absolute.

**Titles**

Chiefship was confined to a higher level of social ranking than was the case in Samoa. Segmentation and the formation of new groups appears to have been slow. Because chiefly rank was determined by genealogical distance from the Tu'i Tonga or original ha'a founders, the tendency was to re-group rather than to break away. Matapule titles derived their rank from those of the 'eiki. Just as chiefly rank, genealogical rank in relation to the principal lineages and kinship rank were different orders, so notions of control over titles and property varied according to context.

Although the temporal power of the Tu'i Tonga had waned, ideology required that the inheritance of his blood (more than a mere title) should continue to pass strictly according to primogeniture. Nevertheless, the Tu'i Tonga belonged to all Tongans, and the successor was not publicly recognised until acknowledged in the kava ceremony organised by the Fale Fā, the four chiefs of his court\(^4\). In the case of the Tu'i Ha'atakalaua and

---

1 Ibid.: 87; West 1865: 257; and Cummins 1977c: 72-3.
2 Gifford 1929: 316-320.
3 Martin 1827 II; 91-94.
Tu'i Kanokupolu, succession was also ideally from father to son until, in the 18th century, it was extended in the case of the then more powerful Tu'i Kanokupolu to close relatives in the descent group such as brother, nephew or uncle. Procedures and considerations relevant to selection of the new hau may be gleaned from the literature but they were not as clearly articulated as in the case of Samoa. The selection was made by heads of the ha'a most closely associated with the Tu'i Kanokupolu line, the Ha'a Havea. As in the case of Samoa, the group of chiefs has been described as an 'electoral college'. Their task done, the chiefs summoned a meeting of all the ha'a heads and their matapule, and the new title holder was announced in a kava ceremony. Considerations affecting choice of successor included the dying wish of the former incumbent, blood connections and seniority, and the character and prowess of the claimant. Similarly, succession to other chiefly titles was in the hands of the principal chiefs of the ha'a to which they belonged. As in the case of the Tu'i Kanokupolu, the disturbed late traditional period saw a swing away from primogeniture as the main consideration.

Once appointed, a chief depended on the support of lesser chiefs and people, but there were no recognised grounds or procedures for removing him from office. The Tu'i Tonga commented wryly to Cook that if he was too severe on his chiefs he would be assassinated, but in fact it was the hau who had the secular power to make demands and the next two assassinations were of the Tu'i Ha'atakalaua and the Tu'i Kanokupolu, both in 1799. The only pre-contact evidence is of higher chiefs deposing the lesser, which action involved humiliation, and down-grading in the kava.

---
1 Ibid.: 152-3; Collocott 1924: 182; Lātūkefu 1975: 4; and Gunson 1979:45-6.
3 West 1865: 58 and 261; and Thomson loc. cit.
4 Lātūkefu 1975: 5-6.
6 Gifford adds that "assassinations and other executions for political reasons were exceedingly common in Tonga" (1929: 183).
ceremony. Early last century, the chief Tu'i Vakanö was deprived of his title by outraged constituents for having adopted Christianity, and in 1840 the Tu'i Kanokupolu removed titles from Ata and Vaha'i and conferred them on other members of their families. Examples are rare.

Marriage and adoption are mentioned further as techniques by which status could be enhanced, both in kinship terms and in relation to chiefly titles. While successive 'marriage and divorce' was the practice for two thirds of married women, polygamy was not uncommon for those of high rank. Marriages were arranged so as to retain the purity of 'eiki blood. Similarly, adultery with a chief's wife and seducing a high-born woman were often capital offences if the offender was of lower or equal rank, and not likely to be punished otherwise. Cross-cousin marriage was an illustration of the operation of kin status in this context. Such marriage - called kitetama - was theoretically impossible, in kinship terms, as breach of the brother-sister tapu which extended to their children. However, the concept of fahu was found to provide a rationalisation within the same ideology - a man could demand from his mother's brother (in relation to whom he was 'ilamutu) the hand in marriage of the latter's daughter, and, if in fact it suited the two families to approve of the union, the notional breach of tapu could be regarded as justified. The difficulty for ordinary people was that, although widely understood, the use of fahu was regarded as the privilege of chiefs. First-cousin marriage was, of course, the

---

1 Martin 1827 I: 175 and 286. 2 Gifford 1929: 123-4. 3 Lätükefu 1975: 8. 4 Martin 1827 II: 140-147. 5 Gifford 1929: 183; and J.C. Beaglehole 1967 III: 962. 6 Collocott 1923b: 227. 7 Gifford quotes from a letter of 1923 from A.R. Radcliffe-Brown in which this rationalisation is suggested (1929: 24).
inevitable consequence of intermarriage between Tu'i Tonga and hau, and the cross-cousin type might well have been indulged in even if the fahu explanation had not been available. It was certainly frowned on outside chiefly circles\(^1\).

Adoption was common and of various types, but only one, ohi, was of any significance in the manipulation of chiefly rank and kin status. By this means, a boy could be adopted completely so as to take on his new parents' attributes - with the exception of the capacity himself to pass on those attributes to his own children. In other words, such adoption was complete for life, and, on the death of the adopted son, all his property, rights and status reverted to consanguineal members of the adopting family. Ohi provided the opportunity for a group lacking a suitable successor available to take the group's title to adopt a young man who would uphold the title's prestige without depriving the group permanently\(^2\).

**Land**

As the Tu'i Tonga belonged to Tongans, so the whole of Tonga - the fonua - was the Tu'i Tonga's. The spiritual basis of the relationship was recognised in rituals such as the 'inasi, presentation of first fruits, but, by the 18th century, the Tu'i Tonga had no direct authority over land apart from that belonging to his own lineage. In earlier times, Tonga had been divided among the ha'a into tofi'a, inheritances, to be held from the Tu'i Tonga, who then passed his rights of control to the secular hau. West's understanding was:

> The feudal principle, that the whole country belonged exclusively to the king (the Tu'i Kanokupolu) regulated the disposal and tenure of lands .... The lands were held in fief. The great landlords derived them by hereditary right, in conjunction with their chieftainships; but held them, nevertheless, at the will of the supreme ruler. These, in turn, subdivided them among their families and followers. It was on the great chiefs that the king

---

\(^1\) This was "imitating the chiefs" (Collocott: loc. cit.). Nevertheless the statute law of modern Tonga recognises it.

\(^2\) Since the determination of Tupou I in 1875 to recognise blood links only, ohi has disappeared, and the only adoption possible in modern Tonga is that of a close relative by blood.
depended for military support, which they gladly rendered him, as the title by which they retained their possessions. This view of feudal chiefs and tenant farmers has been accepted by those who see the modern system of individual holding from the Crown as reflecting traditional tenure. From the point of view of the farmer paying his tribute, and having no right himself to dispose of his holding, the picture is much the same as it used to be and the only real changes have been in the relationship between chiefs and Crown. On the other hand, the 'feudal' view may have been a distortion caused partly by upheaval of civil war which disturbed kin relationships and highlighted military service. A chief was said to be able to dispossess his commoners or transfer them at any time, even if they objected but the Tu'i Tonga could not dispossess a chief from his land. There is evidence that land was held in käinga groups, and was divided further so that the chief granted the land to the 'ulumotu'a to allocate among the households responsible to him. In this way, a family household obtained its land through the kinship system. In the light of present knowledge, it seems that Tongan land tenure was originally group-based in the more usual Polynesian pattern, subject, however, to more extensive chiefly power than was the case, for example, in Samoa. The rights of the kin group were passed on indefinitely within the broader ha'a/tofi'a system.

Also, there was no concept of sale, but it seems that gifts in recognition of services could be made by chiefs powerful enough to

---

1 1865: 262.
5 Gifford 1929: 174-5. 6 Williamson 1924 III: 266.
7 A. Maude 1965: 33. Maude refers to records which show early käinga association with particular areas within tofi'a.
8 This is consistent with the observation that, at the levels of "inferior chiefs, matapule and mu'a", people had "plantations of their own" (Martin 1827 II: 209).
give undisturbed possession.\(^1\)

To conclude, in the 18th century, ha'a titles and land went together and the 'eiki exercised control over the latter. Below that level, it is not clear what measure of control people of the kāinga had over their 'eiki and over the administration of kāinga lands. In times of peace, and except in the case of the more exalted 'eiki, it would be surprising if the relationship between chief and people in such closely knit communities was not based largely on reciprocity.

Inheritance within the kāinga and fa'ahinga transmitted land and other property, and the status of 'ulumotu'a, head of the family, down the male line. Brother or eldest son were preferred.\(^2\) This was in contrast with the manner in which the female could transmit her superior kinship status to her children. The dichotomy is highlighted between the authority over ordinary affairs and property belonging to men, and the ritual and ill-defined power passed on by women.

**Authority**

Although titles and property originated with the Tu'i Tonga, he no longer sat at the apex of a pyramid of power extending down through the ha'a. His was the mystical shadow, and the substance was vested in the hau, who, by the 18th century, was himself from time to time forced to share power with vigorous ha'a leaders. These had virtually exclusive jurisdiction over their people and tofi'a (neither they nor the hau could interfere in each other's internal affairs), subject only to the subordinate authority of kāinga heads. Yet ritual respect for the Tu'i Tonga was preserved, probably as part of a general concern felt by high-ranking chiefs that such respect symbolised deference due to all of chiefly rank.

The 18th century was a confused period reflecting the desire of some to

---

\(^1\) Martin 1827 I: 240 and 248; and Whitcombe 1930: 9-10.

\(^2\) Gifford 1929: 30; and Kaeppler 1971a: 178.
preserve tradition strictly\(^1\) and of others to cast aside wasteful ritual\(^2\). When the fate of the concept of Tu'i Tonga as embodied by a person of 'royal' blood was finally sealed by Tāufu'āhau in the next century, it was but the culmination of a long process\(^3\).

Government in traditional Tonga was concerned mainly with the control of production, exaction of tribute and conduct of expeditions and warfare. Apart from the need for provisions for expeditions, the main purpose of food production was to establish a surplus beyond subsistence requirements, so that when the lavish ceremonies were held, no chief or district would be dishonoured through inadequate contribution. Wealth and prestige depended on production from plantation and sea, and therefore on the degree of control. On behalf of the great lineages, the hau was in supreme command and, until more recent times, could make demands on any chiefs he chose. Matapule were employed to exhort the farmers and fishermen, and an elaborate system of tapu surrounded the growing, preservation and presentation of food-stuffs.

In preparation for the largest annual presentation of tribute to the Tu'i Tonga, the 'inasi, planting and harvesting was strictly supervised. The presentation of food upwards from farmers through family and ha'a heads from all over the Tongan archipelago, and so to the Tu'i Tonga, was followed by a distribution in which shares went to the priests, the

---

1 Cummins records the view of missionary John Thomas that the appointment as Tu'i Tonga in the 1770s of Paulaho, who was not the eldest son of the principal wife, was such a violation of custom that it was the beginning of "great changes in Tonga" (1977a: 13). Certainly, much violence followed, in which war was waged against Paulaho, and the standing of the Tu'i Tonga title was never the same again. See also Cummins 1977c: 66-7; and Gunson 1979: 40.

2 Steps were taken to abolish both the 'inasi ceremony and the strangulation of the Tu'i Tonga's widow. (Martin 1827 II: 127-8).

3 Even before European ideas intervened, "a rationalism was apparent which recognised the weakness of a King who did not govern and whose god did not influence the harvest" (Collocott 1924: 181).
Tu'i Tonga and the *hau* - and to their servants\(^1\). Tongans had a reputation for superior sailing and navigation skills. The stock of canoes for the long expeditions to Fiji and Samoa also required preparation and organisation on a large scale, and such expeditions were not infrequent as recently as the mid-18th century\(^2\). Not only did expeditions and warfare interrupt agriculture, but the loss of life, particularly in the large-scale killing of 18th century battles, was considerable. At kāinga level, the liberal provision of food and other goods was a matter of honour at title installations, weddings and funerals - and demands were again made on the farmers and fishermen of the kāinga.

The principal instrument of government was a *fono*, meeting of people. Although most authorities agree that the *fono* differed markedly from the Samoan version because, in Tonga, people gathered not to discuss matters but to receive instructions\(^3\), it is not clear whether that was the position in earlier times\(^4\). It is also likely that the *hau*, and also the *ha'a* leaders at lower levels, held consultative meetings from time to time. When, however, the *fono* was summoned in the 18th century, it was usually the opportunity for the head of the kāinga to give orders, remind people of their duties and announce punishment for offenders\(^5\).

An active leader like Fīnau 'Ulukālala would call *fono* for one purpose or another "every 14 or 20 days"\(^6\). Attendance was compulsory for all.

\(^1\) Martin 1827 II: 173.
\(^2\) The double-hull sailing canoe, 40 ft.-90 ft. long, carried 100-150 people. In 1846, West watched the arrival of Tāufa'ahua's fleet of 14 such canoes (West 1865:48-9).
\(^3\) Lätukefu 1975: 12; Williamson (recording Radcliffe Brown's view) 1924 II: 475-6; Thomson 1894: 85-6; and Gifford 1929: 181.
\(^4\) Williamson (his own view) 1924 II: 480 and III: 14.
\(^5\) Lätukefu loc. cit. West describes such meetings called by the *hau* (1865: 261 and 265) although both he, and authorities cited by Williamson (1924 II: 478), may be confusing a *fono* with a kava ceremony. A consultative meeting is a *fakataha*.
\(^6\) Martin 1827 I: 229-231.
members of the group, regardless of rank.

The kava ceremony, on the other hand, was concerned, as in Samoa, not with administration but with the very political exercise of establishing or affirming the ranking of chiefs. The formal elliptical circle comprised "the assemblage of the representatives of the ancestors, the first holders of the titles"¹ and it was often associated with religious occasions². Seating positions defined rank. Matapule were the principal actors. A new title holder would not be recognised as such until his name was called. Ceremonies were of varying importance, from the taumafakava presided over by the Tu'i Tonga or the hau (details of the ceremony and seating differed depending on which presided) to kava at marriages and funerals. The kava ceremony reinforced the ranking system through ritual inequality³, and also symbolised, in a small-scale society from which there was no escape, the concern of society to contain and resolve internal conflicts⁴.

Other reminders of rank and authority persisted in the 18th century. Refinements of vocabulary and style in addressing the Tu'i Tonga, Tamahâ, hau and chiefs were still necessary⁵. Heroic style appeared in poetry and prose to glorify deeds and personages⁶. Association of particular dance forms with different lineages also preserved status distinctions in a public manner⁷.

The power of the gods and the need to invoke them for help and protection remained important in people's thinking⁸. Of the human virtues, "paying respect to the gods, nobles and aged persons"⁹ came

¹ Gifford 1929: 157.
² Martin 1827 II: 150.
⁵ See above p. 18.
⁶ Gifford 1929: 153.
⁸ Martin 1827 II 99-124.
⁹ Ibid.: 101. As between men of the same rank, however, the most admired attributes were generosity and liberality (ibid.: 131-3).
first - and "all human evil (was) inflicted by the gods upon mankind, on account of some neglect of religious duty"¹. Punishment in the form of "chiefly conspiracies, war and famine" and "sickness and premature death"² would follow, but in this world. When told of the Christian doctrine of eternal punishment, some Tongans told Mariner that that was "very bad indeed for the Papalangi (Europeans)!"³ Thus, "the respect that is universally paid to the chiefs as a superior sacred duty .... forms the stable basis of their government"⁴.

It follows that tapu was the principal instrument of authority. Breaches of the many tapu surrounding high chiefs were severely punished, and likewise action was taken to enforce prohibitions relating to seniority and brother-sister relationships - indeed all rules governing interpersonal behaviour. Tapu and punishment in this area were universally applicable so that, although by European standards, punishment sometimes appeared cruel and to have been inflicted without inquiry, yet everyone seemed to understand the law and to accept the consequences⁵. Applied temporarily by chiefs, tapu became a useful instrument of government, in the regulation of behaviour for a number of purposes. In addition to the common tapu on fences and boundaries for the protection of crops against theft⁶, sometimes crops and livestock were themselves declared tapu so that they could be accumulated for a ceremony - or built up again afterwards. Feasting associated with the burial of the Tu'i Tonga in 1806 so depleted provisions that many foodstuffs were declared tapu for eight months thereafter⁷. Just as the ceremony of imposing a tapu was a serious matter, so its lifting was a formal

---

occasion involving the gathering of priests, matapule and crowds\textsuperscript{1}.

Tapu accordingly signified the concept of sacredness, the organising principle by which behaviour was forbidden, as well as the object of the prohibition. Observers noted that notions of what was and was not acceptable behaviour - of right and wrong - were still articulated in terms of tapu and obedience was still expressed as a sacred duty\textsuperscript{2}. On the other hand, with the decline in religious significance of the Tu'i Tonga, and the general breakdown of civil order, expression of the law may well have fallen behind changing values. The ready acceptance of Christianity and a secular monarch within a short time afterwards leads to the conclusion that, by the 18th century, mana and tapu were being rationalised in terms of the need for order and harmony. Although not expressed as offences as such, actions which threatened to disturb the peace were abhorred. As in the case of insulting a person's antecedents in Samoa, making false accusations in Tonga about a person's failure to observe kinship rules was a serious matter. As elsewhere in Polynesia, settlement of disputes was an important consideration, and a public apology was sometimes offered, but discussion and negotiation do not appear to have been formalised to the extent they were in Samoa.

TRADITIONAL GOVERNMENT

In the period immediately prior to contact with the West, the political organisation of Tonga and Samoa operated in two spheres, in both of which the dynamic determinant of status and power was rank. As rank was relative, so the concept of chiefliness - to be more or less like a chief - permeated society from top to bottom. In the first sphere, the ideology was one of kinship in which status in terms of rank as ascribed by kinship rules was the paramount consideration. Descent groups, of defined membership but offering choice through marriage and adoption,

\textsuperscript{1} Martin 1827 I: 117 and II: 187.
\textsuperscript{2} Collocott 1921b; 415-6; and Martin 1827 II: 187.
were ranked internally by sex and age, and more specifically by the idea of the inheritance of leadership by the male and by the application of a variety of prescriptions stemming from the brother-sister relationship. While Tonga emphasised the latter at the expense of the status of the male head of the group, the Samoan trend was towards the recognition of chiefly status per se - greatly assisted by the village 'club' of chiefs engaged in the supervision of daily life. Kinship in both societies was a check on the exercise of chiefly power, but the penetration by a recognised Samoan chiefly order through to the lower 'family head' levels meant that the organisation of kinship transactions was a matter for chiefs in a way that was not possible in Tonga.

Kāinga and 'āiga shared much in common as dispersed 'family corporations' but the differences in the manner of dispersal had proved crucial. In Samoa, village residence as a stable organising principle over centuries interfered with high-level kinship relationships but added a dimension of political organisation at the lower level. The dimension which disturbed the Tongan kin system was the separation of a limited number of blood-related lineages from the rest of society and the consequent formation by the latter of relationships between people, chiefs and land in which, as in the case of the Samoan village, kinship was only one of many considerations. Nevertheless, it was the kinship or 'family' image, projected down from 'eiki lineage to kāinga and below in the case of Tonga, and projected up from the local 'āiga core to sā in Samoa, which, on the arrival of Western influences, constituted the single principle that bound together, respectively and independently, the Tongan and Samoan groups of islands.

In the second sphere, the ideology was one of authority founded on chiefly rank. The two spheres overlapped and interacted, but political organisation and government were based on the public exercise of authority. Here lay the essential contrast between Samoa and Tonga which determined
divergent political development into the second half of the 20th century. Although showing signs of weakening, the Tongan lineage system had established a belief in mana and tapu, and an acceptance of authority from a remote and exalted source, which were strengthened and persisted long enough to see the Tongan group welded together under a central government. The exclusion of a large part of the population from direct kinship with its leaders required dependence on alternative relationships. Similarly, and unlike the Samoan chiefs, the heads of Tongan lineages succeeded in retaining power in the hands of a comparative few. Consistent with the less reciprocal aspects of Tongan kinship, the exercise of power in the 18th century was less dependent on support and more on the acceptance of orders and prohibitions.

Samoan chiefship had become more secular, more dispersed and more self sufficient in terms of a reciprocal system in which every social institution - family, title and village - had had its place for a considerable time. Commitment to the fa'a-Sāmoa was fundamentally secular, and only traces of supernatural fear survived. However, as the beginning and end of Samoa-wide relationships were the federations of villages owing allegiance to loosely organised hierarchies which were lineages or 'houses' more in ideal than practice, there was no institution on which the concept of a unified political structure - a state - could be based. Samoa had lost the capacity to organise people and resources on a large scale (which it appeared to have had before the traditional period) and, in its place, was a complex and reciprocal system in which local concerns were paramount.

Chiefship fulfilled the social need for leadership - for authority to maintain order without which civilised life in close-knit groups would have been impossible. The worship of gods and ancestors was a means by which authority was conferred on successive leaders as the pillars of
society. As the supernatural elements disappeared in Tonga and Samoa, they were replaced by different orders of secular chiefship.
PART I

WESTERN SAMOA

CHAPTER 2. IMPACT AND EXPERIMENT

The most significant single concept introduced by Europeans into Polynesia was the notion that, in the eyes of both heavenly and secular rulers, each man or woman was an individual whose soul and earthly identity were to be respected as such. From the beginning, missionaries compromised somewhat in their teaching in order to earn chiefly support, and subsequent foreign administrations and advisers found that stable government depended on group-based chiefly authority - but, for 150 years now, ego-centred and egalitarian attitudes and influences have swept across the islands in waves of increasing strength. As far as possible island cultures endeavoured to slow down and soften the impact by modifying introduced concepts to suit the rate of change within. By the beginning of this century, this process of adaptation and change (which was not seriously disrupted until the outbreak of World War II), had produced a period of temporary equilibrium which had two important consequences. In the field of law and government, certain compromises and understandings had been achieved in Samoa and Tonga (very different ones, and at different levels of awareness, as will be shown) which laid the foundation for subsequent developments. Secondly, as history moved into the 20th century, there was a growing tendency for people to regard that temporary state of affairs as traditional - or at least acceptably Samoan or Tongan as the case may be.

This chapter, like its Tongan counterpart, Chapter 5, describes the main types of influence and agents of change. Then, a necessarily brief account will be given of the introduction of Western ideas of law and government, and of the experiments with those ideas which engaged
the chiefs of Samoa last century. As Samoa was not partitioned until 1900, the group will be considered as a whole for the purposes of this chapter.

MISSIONS AND OTHER WESTERN INFLUENCES

The two major missions which played dominant roles in Samoa and Tonga, the London Missionary Society (L.M.S.) and the Wesleyan Methodist Missionary Society (Wesleyan Mission), had much in common. Non-conformist Protestantism had enjoyed a revival in 18th century Great Britain which led to the formation of missionary societies and to the recruitment of men from the lower middle class who were generally tradesmen with little further education, virulently anti-Roman Catholic and proud of being British. The missionaries "were quite certain of the superiority of their culture, the infallibility of their cause, and the absolute peril of the heathen". Unfortunately, "they lacked the inclination as well as the intellectual equipment to distinguish between what was essential to Christianity and what pertained merely to the moral and social code of that section of English society to which they belonged. Their work had two sides, but to them they were inseparable: heathenism was summed up both by nudity and by polytheism". That they were not discouraged in this "stupendous effort to impose their values by moral suasion on a people utterly alien by race and culture" is testimony to their enthusiasm and the narrow rigidity of their outlook.

Christianity came to Samoa a little later than elsewhere in Polynesia and, at first, it was through the efforts of Samoans who were anxious to take advantage of the new opportunities of which their visits to Tonga and Tahiti had made them aware. When that "Ulysses of

---

2 Lätūkefu 1974: 41.
3 J.W. Davidson 1942: 27.
Protestantism in the Pacific", John Williams of the L.M.S., arrived in Samoa in 1830 from successes in the Society and Cook Islands, he left eight Tahitian teachers and was unable to follow them up with resident European missionaries until two arrived in 1835 and a further seven the following year. Williams secured an agreement with Malietoa Vai'inupō, who had only recently contended successfully for the highest Samoan honour of tafa'ifā, that, if the chief pledged himself to no further war, he would have charge (and, implicitly, the support) of the L.M.S. in Samoa. Vai'inupō's half-brother, Taimalelagi, at first supported the L.M.S. also, but, on the death of the former in 1841, Taimalelagi as the new Malietoa defected from the L.M.S., helped to plunge Samoa into war and left the mission without support at that level. The first Malietoa to work consistently for the mission as a Christian teacher was Vai'inupō's son Molī, who, unfortunately for the mission, died soon after receiving the title.

Before the resident L.M.S. missionaries arrived, however, the Wesleyan Peter Turner crossed from Tonga in 1835 and the lotu toga, Tongan religion (Wesleyan), soon surged ahead of the lotu taiti, Tahitian religion (L.M.S.), in popularity. This was due partly to Samoan factionalism which meant that, so long as Malietoa had even nominal control of L.M.S. activities, everyone else sought alternatives.

The fortunes of the L.M.S. subsequently recovered, and benefited from the departure of Turner to Tonga in 1839 in reluctant response to orders from London where the Wesleyans and L.M.S. Committees enforced an agreement alleged to have been made in the field in 1830 to the effect that the L.M.S. should occupy Samoa and the Wesleyans Fiji. The lotu toga did not die out, however, and, in answer to pleas from Samoa, thinly disguised threats by the Tongan leader Tāufa'ahau (who had almost consolidated his political position in Tonga) and pressure from

---

3 Ibid.: 85.  
Methodists in London and Sydney, the Methodist mission in Samoa was re-opened in 1857. By then French Marists (the *lotu pope*) had arrived in 1845 and established a mission supported by their major convert, Mata'afa Fagamanu (a contender for the Tui Atua title), and, for a time, by a French trading and shipping enterprise. So the L.M.S. in Samoa at no time acquired the dominant position enjoyed by the Wesleyans in Tonga, due partly to the presence in Samoa of both Methodism and Catholicism as well as the L.M.S., and partly to the tendency of Samoan chiefs to use denominational differences for political purposes.

The people of Samoa flocked to the *lotu* in wholesale fashion and with enthusiasm. According to figures (sometimes exaggerated) provided by missionaries at the time, the people were almost entirely 'Christianised' by 1840. Obviously, the material benefits of association with the white man played a most significant part in the rate of 'conversion'. John Williams recorded a Samoan chief who, having listed the marvellous things brought by the English people, concluded "I therefore think that the god who gave them all things must be good, and that his religion must be superior to ours. If we receive this god and worship him he will in time give us these things as well as them." There were other factors. Where leaders were persuaded to adopt the new faith, chiefly authority swept their people into the fold. Koskinen in his survey considers that chiefly influence was "decisive". Village chiefs recognised that the church had its place at a local level and quickly made it clear to the missionaries that village authority would be thrown behind them provided it was not circumscribed in any way.

---

3 In Samoa (population 35,000) by 1837, the L.M.S. claimed 25,000 adherents (Gilson 1970: 85), and the Methodists 13,000 - of whom 3,000 were 'full members' (Wood 1975: 282).
It has been pointed out that, in the immediate pre-contact period, the special blend of what in Western terms is called politics and religion was an ideology the character of which in each of Samoa and Tonga had its own significance for the way in which the new faith was adopted. While missionaries naturally sought to belittle traditional religion, it was nevertheless true that, insofar as it is possible to talk of purely religious elements such as priesthood and belief in traditional gods, these elements offered no real resistance to the new cosmology. Because Samoan religion had declined to the point where it was less institutionalised and no longer essential to chiefly politics, Samoa was able to accept Christianity without political change\(^1\). The greatest threat to the new ideology, although the missionaries were not at first aware of it, was the resilience of Samoan traditional organisation.

Samoa and Tonga established independent local church organisations. The Samoan development was of a totally different character and reflected the significance of the village in the Samoan political scene. Two factors began to affect L.M.S. policy soon after the establishment of the first church and church district in 1837. First, the missionaries were learning that the courting of high chiefs for support produced few advantages and was, indeed, counter-productive in the Samoan context. The patronage of some chiefs meant the hostility of others. A policy of disregarding high rank resulted, and the L.M.S. was never able to dominate the political scene in the manner of the Wesleyan Mission in Tonga. Secondly, as Samoans would not leave their homes to settle at or near mission stations, the L.M.S. was forced to establish its church districts in accordance with traditional territorial districts and often to accept local opinion as to the siting of churches at traditional centres\(^2\).

\(^1\) Samoa may be contrasted with Tahiti where traditional religion underlay political organisation, and Christianity destroyed both (Hanson 1973).

This meant that, even with the 150 Samoan teachers trained by 1850, the 16 missionaries were unable to control church affairs throughout Samoa. At first, teachers and local deacons were not permitted to administer the sacraments. Another rule was that teachers were forbidden to hold chiefly titles and they were to live and work in districts away from their homes. However, by comparison with the Wesleyan Society, the L.M.S. was governed by relatively few organisational rules and missionaries could run their stations as they liked. The teachers were dependent on the villages for support, and became susceptible to local control. Missionary authority was weakened by reductions in funds from London and in the number of missionaries, and also by the failure of the missionaries to prevent general warfare from 1848-51. Perhaps sensing their growing importance to the L.M.S., the teachers, often backed by the village fono, pressed for the right to receive local church collections for their own maintenance and to have more authority in their churches and districts. London directors favoured independent local churches and in 1875 missionary opposition finally gave way to permit the ordination of all teachers with full pastoral powers - and also to sanction the administration of the L.M.S. in Samoa by a Mission Committee of missionaries and pastor-delegates, an annual assembly of pastors, and district committees of missionaries and pastors. More important, it was now possible for churches to be reconstituted at the village level, where every village had its L.M.S. pastor, and most villages had a self-contained church. Effective control passed to the congregation under the guidance of the pastor and chiefs appointed as deacons. This was facilitated by the absence of a settled hierarchy in the presbyterian structure of L.M.S. church organisation. Consequences of the 1875 reformation were that the L.M.S. cause increased markedly in

---

1 Gilson 1970: 102. A comparable figure for Tonga was 527 local preachers in 1853 (Wood 1975: 113).
popularity\(^1\), that the faifeau, pastor, with his enhanced status, came
to have a secure place in village politics and that the well-proven
capacity of the fono of village chiefs to manage its own affairs and
resist outside interference was extended to embrace the church as its own.
In terms of the long-term teaching impact of the L.M.S., it was significant
that, because pastors lacked the power of missionaries and, unlike their
Wesleyan counterparts in Tonga, were not supported by formal rules and
organisation, conflicts between 'Christian principles' and 'Samoa custom'
tended to be resolved rather more often in favour of the latter than the
missionaries would have permitted. For example, disciplinary procedures
took account of chiefly rank\(^2\) and generally the church became oriented
more towards the community, as opposed to the individual, than would
otherwise have been possible. A Roman Catholic priest commented in 1861
that Samoa's resistance to mission control made Samoa a refuge for other
Polynesians, especially Tongans, who wished to escape the laws of their
own islands - where restrictions were enforced which the L.M.S. would
have liked to impose in Samoa\(^3\).

When the Wesleyan Mission (more often called Methodist in Samoa)
reopened in Samoa in 1857 it pursued a policy of co-operation with the
L.M.S. In 1863 a separate Samoan District was created and the connection
with Tonga diminished, although the same detailed system of church
government was in force. Inevitably, the L.M.S., with the allegiance of
75 per cent of the people\(^4\), overshadowed the Wesleyan Mission in the last
three decades of the 19th century.

The significance of the Roman Catholic Missions in Samoa and Tonga

\(^1\) Gilson 1970: 134-7.
\(^2\) Ibid.: 137.
\(^3\) Ibid.: 127 n.40.
\(^4\) Wood 1975: 310.
was out of proportion to their size. This was partly due to the "obsessive fear" of 'Popery' and French government intervention in the minds of Protestant missionaries but also due to the high calibre of the priests (in terms of both education and dedication), and their more sympathetic attitude towards custom. The Catholic Mission in Samoa had made the same mistake as the L.M.S. in initially pinning their hopes on the support of a leading chief but Catholic involvement in local politics seldom went beyond occasional support for Mata'afa Fagamanu in the 1870s. Adherence to the Catholic Church never quite reached the proportions of the Methodist following.

By the end of the century, the enthusiasm with which the people of Samoa had adopted the three *lotu* was evidenced by the number of substantial church buildings to be found incorporated in the villages. In 1897, when the population was said to be 38,000, 306 churches and chapels were counted.

*Commerce and foreign power*

Because Samoa was not on a recognised navigational route, shipping built up earlier in Tonga, where small-scale trading began in the 1820s. By the late 1850s, however, Apia had become a thriving commercial centre with resident traders of British, American and German nationality. Just as Nuku'alofa was largely the product of missionary activity, Apia was created by commerce - which in turn attracted Samoan politicians and, by 1869, rival factions had established headquarters on the Mulinu'u and Matautu peninsulas on each side of Apia bay.

The significance of settlement and trade was not only that it introduced the people to new concepts and new types of Europeans but also

---

1 Wood 1975: 104.  
5 Campbell 1976: 47-8 and 64.  
that the concern of missionaries to control European behaviour led to the drawing up of laws aimed both at Europeans and at the local people whom they 'corrupted'. Then, as the value of the South Pacific trade in the coconut came to be fully appreciated in Europe, pressure was applied on Samoans and Tongans to participate in trade for its own sake and to provide labour and land. At first, these developments made little impact on the chiefly system. While contact with the European and the concept of money opened up new possibilities for all concerned, yet chiefs, through their control of labour and land and therefore the benefits of contact, were able to enhance their position in relation to those who served them.

In the 1860s and 70s, the Hamburg firm of Godeffroy and Son and its successor, the Deutsche Handels- und Plantagen-Gesellschaft (D.H.P.G.), firmly shifted the balance of foreign interest in Samoa from mission work to trade, and helped to establish Germany's claim that, in commercial terms, her interest in Samoa outweighed that of any other power. Of all the major firms, Godeffroy/D.H.P.G. was the earliest and the most intelligent in its acquisition of large tracts of land and, as far as labour was concerned, was able to reduce its dealings with chiefs by importing Gilbertese workers.

In the first half of the 19th century, the European powers (except France) and the United States of America showed little inclination to obtain territorial rights in the South Pacific. As the number of their nationals in the area increased, they felt obliged to take steps to protect their interests and also, as missionaries and naval captains sent back reports of misconduct by Europeans, they were concerned to protect islanders from more serious abuses. The policy of minimum intervention in

---

1 Ward 1948: 303; and S.G. Firth 1977: 5.
3 1,200 were employed in the early 1870s (Sterndale 1874: 11).
the affairs of island communities was left to the chiefs and naval officers to work out. The latter were often ignorant of local conditions and expected the former to have more control over their people than they in fact possessed. In the 1840s and 1850s, Samoan villages were levied, 'damages' collected, and punishment inflicted (including the execution of offenders and the destruction of villages), without regard for local political institutions. More enlightened officers, in co-operation with missionaries, sought to promote local government. Britain resisted increasing pressure to 'protect' Tonga and Samoa from feared French influence and refused to annex them.

The appointment of resident consuls began an era of more active foreign power rivalry in the second half of the century, in which concern to place a check on the activities of other powers was a principal objective. At this point, foreign power treatment of Samoa began to differ from that of Tonga.

It is indicative of the European perspective of 19th century Pacific history that, while the principal studies of Tonga have related to church involvement, those concerned with Samoa have concentrated on the foreign power 'imbroglio'. For Samoa, the three-power tangle was a "fateful accident of history" which, while premised upon the alleged inability of Samoan chiefs to form a stable government, actually prevented the natural development of an organised Samoan approach to the impact of the West. As late as 1883, the official British opinion was that the Samoans were incapable of forming or maintaining any form of

---

3 Ibid.: 154; and Gilson 1970: 164.
5 France had ceased to be involved.
government\(^1\). The policy of the powers was to exercise as much authority as possible short of total annexation by any one of them\(^2\), and the means officially employed were to confer extensive extra-territorial jurisdiction on their consuls and specially appointed administrators, and to secure rights in their favour by treaty\(^3\). In one way or another, the powers also supported the activities of their nationals who attempted to form governments and engaged in high-handed military action. The manner in which Britain, Germany and the United States carried out their policies is incidental to the remaining concern of this chapter - the introduction of certain forms of law and government.

**CODES, CONSTITUTIONS AND CONDOMINIUM**

With Bibles and school books came codes and laws\(^4\), often translated into Samoan by missionaries and appearing strange to the chiefs because they were in writing. Life under village government ensured that everyone was familiar with rules regulating behaviour and defining social order, but the chiefs who administered Samoan law, naturally wary of provisions suggested or imposed by foreigners, were doubly suspicious of the European insistence that law was not law unless written. Later in the century, however, the making and un-making of schemes of constitutional government became a pastime in which the chiefs, and particularly, the orators, indulged with enthusiasm.

Codes introduced under L.M.S. influence in the Society Islands between 1819 and 1822\(^5\), harbour regulations provided by the British navy

---

1. Thurston, High Commissioner for Western Pacific, to Des Voeux 1 December 1883, WPHC 1/III/7.
3. Treaties with Samoa were completed by the United States in 1878, and by Britain and Germany in 1879 - see Appendix C for references. For reference to the British legislation which applied in the area, see Chapter 5.
4. Details of the relevant codes, constitutions, laws and treaties of the 19th century - and references to sources where the texts have been inspected - are set out in Appendix C, in chronological order by island group.
5. Tahiti 1819, Raiatea 1820 and Huahine 1822. See Appendix C for reference to Huahine.
in the same group in 1829 and the constitution adopted in the Hawaiian Islands in 1840, led the way for a similar pattern in Samoa and Tonga, and in other parts of Polynesia. These documents contained provisions which came to be characteristic of the area and period - such as those providing for offences aimed at protecting people from European vices, controlling behaviour of a 'sexual' nature and observing the Sabbath (the 'blue laws'); for the prohibition of 'immoral' customs and interference with 'property'; for assisting naval captains and controlling their men; and generally for the promotion of the Christian institutions of worship, marriage and burial. Subsequent codes reveal a change in the nature of the power of Europeans to intervene in matters which they thought concerned them. Initially, the only effective sanction was the warship, backed occasionally by local chiefs, then, as both local institutions and consular activity developed, treaties enforced separate jurisdictions and European intervention was channelled through Samoan leadership.

**Early Codes**

Chiefs on Tutuila and Upolu were encouraged to adopt the first Samoan codes in 1837 and 1838, respectively, by a British captain who brought precedents from the Society Islands. In addition to providing the 'blue laws' desired by the missionaries, the codes established control by local chiefs over the harbours of Pago Pago and Apia, and the Upolu code provided, in addition, for enforcement by chiefs in other districts or towns and for the districts to elect a Fa'amasi, judge. Whether the chiefs put these additional provisions into effect is not known, but the codes were enforced against foreigners in the two principal harbours. The next code, the 'Commercial Regulations' of 1839, was intended to

---

1 See Appendix C.
2 See Appendix C.
3 Clause 14 of each Code.
5 See Appendix C.
involve the chiefs still further\(^1\), although in practice it was often the naval captains who enforced it\(^2\). Only seven chiefs signed the Regulations and, as was the situation repeatedly during the rest of the century, the signatories did not have the traditional authority to require full compliance. Nevertheless, the navy endeavoured to demonstrate to the Samoans that European governments would rely on the written word as the basis for wielding power. Subsequent exhortations to the chiefs of Samoa to establish "a proper system of laws and a settled form of government" were made at meetings of chiefs\(^3\), in letters\(^4\) and in proposals for a constitution for Upolu\(^5\). None of these made much impression on the Samoans, no doubt partly because they suggested that laws should be enacted, not by chiefs, but by elected representatives of the people, in the manner of the Hawai'ian lower House\(^6\). Regional codes were adopted in 1860 by meetings of chiefs in respect of Vaimauga (which encompassed Apia) and two other parts of Upolu. Again, the authority of a number of chiefs to make laws for even their own geographical area was questioned, but, in Vaimauga at least, Samoan judges and police were appointed and, from time to time, the law was enforced\(^7\). District laws were attempted and some

---

1 Clauses 12-15.  
3 Hope MS. Journal I, letter 28 July 1866; and see Hope, ibid. letter 24 October 1866; and Hood 1863: 136-7.  
5 These were made in 1854 by St. Julian, a journalist who had secured appointment as the Commissioner for Hawai'i in New South Wales and the South Pacific (text in St. Julian 1857: 73-5).  
6 The chiefs would have been even less impressed if they had seen the 'Sydney Morning Herald' of 30 March 1855 in which the draft constitution was printed together with an explanation that "Samoan chiefs are far too numerous and, as a class, have too little real power, too little education and intelligence, and too little individual wealth and independence, to be considered politically as an aristocracy in the true sense of the term" (St. Julian ibid.: 73).  
7 British consul J.C. Williams (son of the missionary) in 1860 proposed the codes to deal principally with the control of liquor, weapons, adultery, the Sabbath, property and trading. No texts have been found but they are discussed in contemporary reports, e.g. Hood 1863: 93-4 and Williams, Trade Reports, 1 January 1861 and 1862, BCS 3/2. Clashes with European interests ultimately resulted in the latter forming an association in 1864 with its own judge in respect of European affairs (Williams to Foreign Office 1 April 1864 BCS 3/3).
proclaimed between 1865 and 1867\(^1\). While laws in a single political unit could be passed and administered in the traditional manner, the inherent difficulty with district laws was that the choice of an administrative centre and appointment of officials was often not acceptable to all villages in the area. Europeans began actively engaging in Samoan politics with a view to persuading leading chiefs to form a 'confederation'.

In fact, the orator chiefs of Tūmua and Pule were strongly supporting the idea of a union of the districts which would be the basis of Samoa's first cohesive government. Representatives met at Matautu, Apia and worked out details of administration and a code or constitution\(^2\). However, the initial hope that the *tafa'ifā* question could be deferred until firm government was established was not realised when the supporters of Malietoa Laupepa, including the L.M.S. and other Europeans, passed a resolution declaring him 'Tupu'\(^3\). The supporters of Malietoa Talavou and the union movement set up in opposition across the bay at Mulinu'u in 1868.

When battles in the Apia area in 1869 demonstrated that any nation-wide consensus would have to recognise the reality of the mālō/vāivai relationship, one would have expected the European participants to have learned a lesson. However, they could not appreciate that harmonious political organisation on a national scale was not a normal state of affairs which the Samoan people would naturally adopt once certain obstacles were removed.

Meanwhile, chiefs had shown that they would take action themselves to redress wrongs occasioned by European settlement. For example, Apia

---

\(^1\) No texts have been found, but Williams wrote as if some district laws were effective (*Trade Report*, 2 January 1867 BCS 3/3).

\(^2\) The document has not been found (Gilson 1970: 262 and 264).

\(^3\) See Chapter 1.
chiefs met in 1855 to pass a law purporting to lower some retail prices and subsequently imposed a boycott which was broken only when a British naval captain arranged a compromise which recognised the right of the chiefs to control their own people. More important were attempts by Samoan leaders to stop the sale of land to Europeans. During the rivalry for leadership in 1869, both sides introduced laws to this effect but the consuls refused to recognise them.

There had also been agreements between chiefs and Europeans which were intended to set up administration in specific areas. A 'mission-chief' code in 1850 was aimed at enforcing L.M.S. standards of behaviour in Tutuila, but met with little compliance. A mixed court was established in Apia in 1857 to decide cases between Samoans and Europeans residing in the area. The two Samoan judges and the consuls adjudicated complaints which came before them, but the court's effect was limited.

**Constitutions**

Following the 1869 war, missions and consuls tried again to establish central government and, for their part, both sides in the Samoan leadership dispute wished to join in a strong administration which could deal more effectively with European interests. Apia was by now "the greatest trading centre of the Pacific Islands". Rivalry was put aside and a constitution - Samoa's first - was drafted by the chiefs at Mulinu'u and adopted on 21 August 1873. It was founded on the traditional authority of the Tūmua and Pule who chose one of their number from each district to form

---

2 They considered the laws unlikely to be enforced (Williams to Moepa'u, Judge of Apia, 22 April 1869, BCS 4/1).
3 Gilson 1970: 124. No text has been found.
5 Morrell 1960: 209.
7 See Appendix C.
a seven-chief supreme council, or 'House of High Chiefs', called the Ta'imua. There was also a 'House of Chiefs', the Faipule, comprising 40 representatives from each district (about one per village), and the bi-cameral concept reflects the Hawaiian model of House of Nobles and House of Representatives which St. Julian and others had diligently advocated. The legislature proceeded to pass a code of laws - including some of the 'blue' type forbidding night dances (or the 'heathen custom' of dancing naked), work or noise on the Sabbath, adultery and elopement; providing for the sale of land to be subject to Government approval, the enforcement of trading agreements and the forced sale of property for failure to pay debts; requiring payment of a head tax of $1 and compulsory attendance at school; restricting customary practices by forbidding tattooing; making it an offence to take property without the owner's consent on the ground of family relationship; prohibiting the public entertainment of malaga, travelling parties, except those on government business; and requiring that no goods or 'ie tōga be exchanged "according to heathen custom" to celebrate an informal marriage.

The first nation-wide administration was set up, judges, clerks and police were appointed for districts and sub-districts, and rules were made for their guidance. The Ta'imua went further and appointed four governors with administrative functions, but it is not known whether they were

---

1 Clauses 2, 8 and 12.  
3 1873. See Appendix C.  
4 Laws III(5), IV, XI(1), and XX.  
5 Laws VII(1) and XXII(1) and (2).  
6 Laws II(2), II(8), IX, XVII, XIX and XXV.  
7 Rules 1874. See Appendix C.  
8 1873 Constitution, clause 14; and Gilson 1970: 305.
allocated to traditional districts at that stage. The traditional district was not a unit designed for government, rather a federation of villages joined for prestige and influence. There was no precedent for an official to have authority over a district. Accordingly, a concern expressed in the constitution that "the customary rights and privileges of the matai at the fono of the village or district" should not be abridged sounded a warning which administrators failed to heed after the turn of the century. The question of head of the government, or 'kingship' as it was called, was not settled, however. A further constitution proposed by chiefs and consuls in January 1875 provided for election by the Faipule (reduced to six from each district) not only of the seven Ta'imua but also of a Tupu from the Malietoa or Tupua family who was to sit with the Ta'imua, but whose signature was required, in addition to that of the President of the Ta'imua, on all legislation. This proposal contained detailing provisions for the main branches of government, i.e. Tupu, Ta'imua (translated on this occasion as House of Nobles), Faipule (House of Commons), Fa'amasino (Judges), and police for administrative supervision by standing committees of Ta'imua and for financial control with estimates presented to the Faipule. A modification to the proposal suggested early in 1875 introduced the notion of two Tupu holding office concurrently and provided for an upper house of fourteen Ta'imua and a lower of the original forty Faipule per district. It is not clear to what extent these proposals were implemented and they were overtaken in May 1875 by a fresh constitution under which the American, Colonel Steinberger, became Premier.

Steinberger's controversial intervention in Samoan affairs need not be examined in detail. His impact was not so much in the drafting of

---

1 1873 Constitution, clause 21.
2 See Appendix C.
3 Proposed constitution 1875, clauses 10 and 11.
4 See Appendix C.
constitutions and laws\(^1\) (at which Shirley Baker excelled in Tonga) but in that he professed to support the concept of a strong Samoan government which would establish control over land\(^2\) and stand up to high-handed foreign interference. Indeed, the basic ideas of the earlier constitution of 21 August 1873, which had been drafted by the chiefs and followed by their laws, were more comprehensive - and the subsequent proposals negotiated with the consuls were better expressed - than Steinberger's May 1875 document\(^3\). Beginning with the support of missionaries and traders as well as that of Samoans, Steinberger helped to resolve some difficult issues. As no other European appeared to have done before him, he realised that, although 'kingship' had to be provided for, it could be given a more symbolic place and that the need to contend for the tafa'ifá and for mālō status might be avoided if there was a central government organised on the basis of district representation in parliament and a district administration responsible to a premier. No doubt Steinberger noticed that the 1873 and previous 1875 constitutions, which had worked quite well\(^4\), had conferred no real power on the 'kingship'. The solution adopted was that the two great 'families' would be represented alternately on a four-yearly rotation\(^5\) and that the Tupu, as nominal head of government, would, in consultation with the Ta'ımua, appoint a premier, a supreme court Fa'amasino, and district governors, called Ta'ita'itū. Parliament was built on the 1873 concept of Ta'ımua (as enlarged to 14) and Faipule, with the novel refinement that there would be only about 20 Faipule (one for 2,000 people) to be "elected

---

\(^{1}\) Prior to his second visit in May 1875, he had been in Samoa for only two months in 1873 (Gilson 1970: 296 and 301) which was time to do no more than establish his position and formulate plans. His influence is found mainly in the May 1875 constitution.


\(^{3}\) See Appendix C. The constitution of 18 May 1875 contains a preamble referring to "the foundation of our Government laid on 21 August 1873".

\(^{4}\) Gilson 1970: 305.

\(^{5}\) S.4 Article I, May 1875 Constitution. Malietoa Laupepa was installed as King in the same month, and Mata'afa Iosefo of the Sā Tupuā was due to succeed him.
by ballot" on a proportional basis\(^1\). Here Steinberger displayed a lack of appreciation of what was feasible in the Samoan context and no elections were held under the constitution. The necessary legislation was not passed and the members were "selected" by the districts\(^2\).

Although the Ta'imua were also in the supreme government council under the May 1875 constitution, their law-making powers were not greater than those of the Faipule, and they could not refuse to pass revenue bills originating in the lower house\(^3\). The Fono of Faipule was never to have such power under later enactments. Steinberger is credited with 'unifying' Samoa in the sense that he brought Tutuila temporarily into central government\(^4\). He established a 'militia', and government ministers and departments were provided for together with control of government appropriation\(^5\).

Despite his contributions, Steinberger ensured his early downfall

\(^1\) Ss 2, 3 and 5-8, Article I, May 1875 Constitution.
\(^2\) Gilson 1970: 316.
\(^3\) S. 3 Article I and S.7 Article IV, May 1875 Constitution.
\(^4\) Gilson 1970: 319-321; but Manu'a remained aloof, as it did right through the century.
\(^5\) Ss. 1 and 2 Article V and Article II, May 1875 Constitution.
and added to Samoan disillusionment with European behaviour by taking so much power (as premier and chief judge) that traders and missionaries became apprehensive and ultimately succeeded in revealing that Steinberger held a current contract to further the interests of Godeffroy and Son\textsuperscript{1}. It is ironic that Samoan confidence in its government had reached such a point that foreign powers were anxious to topple Steinberger, and that the means adopted, both devious and aggressive, succeeded only because Europeans used evidence of Steinberger's alleged employment by them in order to persuade Malietoa Laupepa to sign a deportation order. Only nine months after formation of the new government, Steinberger was seized and removed from Samoa in arbitrary fashion and the administration and leadership began to collapse. The Ta'imua and Faipule were so incensed at Malietoa's conduct that they deposed him\textsuperscript{2}.

Some confusion followed for four years during which the Ta'imua and Faipule continued at Mulinu'u (without a premier) under the May 1875 constitution and the Malietoa Laupepa faction chose to administer the areas loyal to them under the original 1873 constitution. There was little effective government and, behind the constitutional facade, decisions were reached by customary procedures\textsuperscript{3}. The foreign powers then endeavoured to secure their interests by treaties and a convention for the establishment of the Apia municipality\textsuperscript{4}, the provisions of which documents severely limited the scope of the authority of the Samoan government. Nevertheless, Samoan chiefs, policemen, clerks and labourers engaged in the municipal administration gained experience in government\textsuperscript{5}. The Samoan constitutional position was settled and then disrupted on several occasions, as parties grouped and re-grouped in support of leaders who contended for the

\textsuperscript{1} Contract 16 September 1874, FOCP 2849: 27-9.  
\textsuperscript{2} Gilson 1970: 325-331.  
\textsuperscript{3} J.W. Davidson 1967: 59.  
\textsuperscript{4} See Appendix C.  
\textsuperscript{5} Gilson 1970: 366-7.
'kingship'. Laws were enacted 1880 to 1883 and officials were appointed but there was no strong ruler to enforce them.

Determined intervention by Germany, which petitions to the British Queen by Malietoa Laupepa and others failed to prevent, placed the Bavarian cavalry officer, Brandeis, at the helm in another attempt to force local leaders to form a government. This time, in 1887, the method was not to seek an all-Samoan consensus but blatantly to back one contender, the Tui A'ana Tupua Tamasese, and to establish once and for all, a dominant mālō. In other ways, the Ta'imua and Faipule and district administration provisions under Brandeis were like those of the May 1875 constitution and he had much the same powers as Steinberger. Activity included the defeat and exile of Malietoa Laupepa, the systematic collection of taxes, the taking over of the Apia municipality, and laws for such matters as the registration of land. Nevertheless, this attempt was doomed to failure when Brandeis moved to make Tupua Tamasese ta'fafa. When Tamasese claimed the Tui Atua title as well as the Tui A'ana and called himself 'Tupu o Samoa', determined opposition formed behind Mata'afa Iosefo as the 'true' Tui Atua, and the two sides of the Sā Tupuā engaged in the bloodiest battle since the arrival of the 'Messenger of Peace'.

---

1 See Appendix C.
2 A Fa'amasino Sili, Chief Justice of Samoa, Suatele, was appointed (note 30 June 1882, Gurr MS. 14).
3 Gilson 1970: 363-75.
5 The Tamasese-Brandeis Constitution of 1887 is described in Brandeis' Papers 1887-8 which contain no official text.
7 $1 per adult, with the help of up to five German warships, produced $21,000 in one year (ibid.: 383).
8 See Appendix C. Laws of 1887 and 1888.
9 According to British consul Trood, the "brutal oppression of the regime led to its downfall". Excessive fines were imposed by Samoan chiefs appointed as magistrates - e.g. $20-30 for tying a horse too near the road (Trood 1912: 85).
10 John Williams' vessel in 1830 (Wood 1975: 267).
were defeated at the end of 1888 and the three powers established their condominium.

The 'Final Act' of Berlin of 1889\(^1\) constituted a further encroachment on Samoan government and interests, which, typically, had not been consulted\(^2\). Presented as a 'fait accompli', it virtually restored the municipality and set up further cumbersome institutions and procedures, mainly directed at settling disputes between foreigners, land questions, and the issue at the apex of Samoan politics, namely who should be King\(^3\). Although it was intended that a Samoan government should operate beside the condominium, the Act left the Samoans with little scope for raising revenue for their own purposes\(^4\). Also, how was a monarch to be chosen? Despite majority support for Mata'afa, he was unacceptable to the consuls as the 'rebel' who had caused so much damage in the battle against Tamasese and Brandeis, and the powers insisted on Malietoa Laupepa as King.

There was much legislative activity under his government including laws for marriage and divorce, registration of births and deaths, a comprehensive system of supreme, district and village courts and procedures, and providing for the local government of each district by a Ta'ita'itū, with the assistance of a district Fono and a Fa'amasino (magistrate)\(^5\). For the first time, there appeared the explicit exhortation - "In the eyes of the law, all people are alike, chiefs and commoners, rich as well as poor"\(^6\). A massive code of criminal laws reflected concern for the protection of property against theft, damage and trespass, for the prevention of forgery and tampering with or hiding land deeds and for preserving the peace\(^7\). The code recorded, for the first time, the traditional power of banishment\(^8\), and

---

\(^1\) 'Final Act of the Conference on the Affairs of Samoa'. See Appendix C.
\(^2\) P.M. Kennedy 1977: 110.
\(^3\) Articles III and IV.
\(^4\) Article VI.
\(^5\) Laws 1890-91. See Appendix C.
\(^6\) S.3, Law Regulating Native Courts 1891.
\(^7\) The Criminal Laws of 1892. See Appendix C.
\(^8\) Ibid. S.5, Ch.IV.
significantly omitted reference to the 'heathen' offences of traditional
taking, marriage exchange, tattooing, night dances and malaga entertainment-
offences which Samoan police and courts were not inclined to enforce.

The condominium and Malietoa Laupepa governments worked under serious
difficulties. They had only partial Samoan support because Mata'afa
claimed the Malietoa title as well as the 'Kingship'. When Mata'afa was
deported after a battle in 1893, the son of Tupua Tamasese kept alive the
Tupua claim. The Samoan government failed to collect taxes, except
occasionally with naval help. By 1895 it was apparent that the Final
Act had "utterly failed to restore order to the group" and, when Malietoa
Laupepa died in 1898, the provisions of the Act empowering the European
Chief Justice to decide his successor were put to the test - and found
wanting. In the absence of agreement among the Samoans, the issue was to be
determined in Court according to "the laws and customs of Samoa". But how
could a European judge pronounce upon the political complications of the
Tafa'ifā? Or perhaps it was intended that he should simply choose a 'King' -
between the Tupua and Malietoa sides (Mata'afa had returned to represent
the former, and Laupepa's son, Tanumafili, opposed him). The Court was
influenced by more mundane considerations, however, and although Mata'afa
appeared to have the support of the Tūmuia and Pule orator centres, and
although the Germans had by now come round to the view that Mata'afa had the
stronger claim to leadership, the decision went to 18 year old Tanumafili
on the ground that protocols relating to the Final Act had provided that
Mata'afa (due to his revolt against the earlier German-backed regime) was
ineligible for the kingship. German officials had made their preference

1 Gilson 1970: 394 and 422.
2 'Statement' addressed to the Directors of the L.M.S. 19 February 1895
   signed by the missionaries in Samoa (FOCP 15: 106-9).
3 S.6 Article II, Final Act.
4 Decision of Chief Justice Chambers 31 December 1898 (FOCP 7233: 149-52).
clear¹, having received advice from the ethnologist Krämer that Mata'afa possessed the stronger claim at customary law². Mata'afa had been represented at the hearing by the leading orator of Pule, Lauaki, and a local German, von Bülow³. The Chief Justice was publicly criticised for relying on protocols instead of deciding the matter, as the parties had expected, according to its merits, and for his ignorance of Samoan custom⁴. The resultant reaction left Mata'afa overwhelmingly dominant.

The consuls were obliged to accept him, the young Malietoa resigned⁵, and, pending three-power discussions as to Samoa's future, commissioners were appointed by them to draw up fresh proposals for government. The office of king was to be 'abolished forever', there were to be a legislative council and an assembly of district representatives, all nominated⁶. Although never implemented, the proposals, said to have been approved by a meeting of 450 chiefs⁷, subsequently influenced colonial policy. Nothing more than a provisional administration was achieved before, at the turn of the century, the Final Act was annulled⁸, Germany assumed control of Western Samoa and Samoan leadership was faced with a new situation.

Before leaving the 19th century, mention should be made of a landmark in the history of Samoan law which proved to be of the greatest

---

² Sturdee to Pearson 14 December 1898, ibid. 116-18.
⁴ W. Cooper 1899.
⁵ Proclamation 10 June 1899, FOCP 7235: 10.
⁶ Draft of proposals, ibid.: 55-62.
⁷ Report of Commissioners 18 July 1899, ibid.: 55.
⁸ Convention between the Three Powers, 2 December 1899. See Appendix C.
significance in defining and perpetuating chiefly authority - the work of
the 1891 Land Commission. Although earlier in the century, Samoans had
seen immediate advantages in selling to traders and settlers - and the
transactions had been generally conducted with a measure of consultation
among the Samoans with interests in the land, including the village fono1 -
the rush by Europeans to acquire rights in the 1870s worried the leaders2.
Not only were prices low3 and the legal effects of sale misrepresented
by the purchasers, but of at least equal concern was the practice of
chiefs who concluded transactions with purchasers without consulting the
people traditionally entitled to decide matters relating to the disposal
of land. Laws passed under the 1873 constitution to prevent the sale of
land by Samoans "with a false title"4 proved ineffective, and, by the
time the Final Act of Berlin froze sales and set up the Commission5,
rights to land had become an issue of importance to those Samoans who
appreciated the magnitude of the problem. In the course of a painstaking
review over three and a half years, the Commission heard and determined
all claims by foreigners to Samoan land6 and allowed only 135,300 acres,
or eight per cent of the total of areas claimed7. Hailed as the only
commendable contribution of the Final Act administration8, the Commis-
sion's findings 'returned' enormous areas to Samoans, and the prohibition
of further alienation to Europeans (except as town lots in the Apia

---

2 For example, speculative purchases by the Central Polynesian Land
    Company were claimed to be at least 300,000 acres (Gilson 1970: 276) -
    or more than half the land area of Samoa.
3 Godeffroy and Son paid 75 cents per acre, and the speculators below
    50 cents (Sterndale 1874: 3).
4 S.2 Law VII 1873. See Appendix C.
5 The Commission of Inquiry comprised a Commissioner from each of the
    three powers assisted by a Natives' Advocate (Article IV of the Final
    Act).
6 Any claim not lodged in time was forever barred (ibid. ss2 and 3).
7 Review and synopsis of claims signed by Skeen, Commission Secretary
    FOCP 6663: 3.
8 'Statement' by missionaries (op.cit.).
area and by way of 40-year leases of agricultural land\(^1\) laid the foundation for the protection of the interests of the Samoan nation until independence. The effect, also, of course, was to confirm a lasting freehold anomaly which has had economic, and indirectly, political significance for Western Samoa to the present day\(^2\).

However, the Commission accomplished more. In the course of its obligation to determine whether the sale was made by "the rightful owner or native entitled to make it"\(^3\), the Commission heard evidence as to custom and confirmed the pule of chiefs, subject to clear limitations where the disposal of land was concerned. The concluding view was summed up by the British Commissioner:-

It became evident, after many enquiries that the chiefs had not necessarily the control or 'pule' over the land.... As chief, he is simply guardian without power of disposal, of tribal lands which could not be sold.... In the event of a sale of family land, to be valid, the members of the family must have consented to the sale, or shared the proceeds thereof, which was evidence of their acquiescence\(^4\).

That this is an oversimplification of Samoan law is apparent from some of the individual decisions in which interests based on tama fafine and joint pule relationships were made clear, and from the obvious need to define "family" before any meaningful proposition can be stated. Nevertheless, the reciprocal basis of chiefship was enunciated for all to see, thereby helping to perpetuate a stable and acceptable basis for chiefly authority.

By the end of the century, Samoan leaders had tried to implement certain forms of government and had had some experience of what

\(^1\) S.1 Article IV Final Act.

\(^2\) The 135,300 acres represented 18 per cent of the total area of the Samoan group. Due to acquisitions by governments and the growth of Apia, the area of freehold (including government) land in Western Samoa is now 142,000 acres, or 19 per cent of Western Samoa (Fox and Cumberland 1962: 191). Samoan land, which comprises the balance, is described as 'customary land' in the Western Samoan Constitution 1962, and will be so described hereafter.

\(^3\) S.4 Article IV Final Act.

\(^4\) Report of Commissioner Haggard 31 December 1894, FOCP 6663: 12-16.
Europeans considered necessary for stable government on a national scale. That experience was significant in two ways. First, nothing had survived which directly imperilled the foundation or structure of chieflyship. In administrative terms, Samoan leaders had learned the value of certain innovations - such as levies on villages, taxation on a national scale, and the appointment of local judges and policemen who could be supported by fines and costs imposed - to name a few. But the chiefs' ideas about political organisation had changed little. Each constitution had built on chiefly authority, with some modifications to traditional decision-making which had proved ineffective whenever chiefs were expected to meet on equal terms. Elections by the people for assemblies of representatives had been proposed but never held. Although often encouraged to think in terms of a 'king', and, while fully prepared to exploit European misunderstanding, Samoans realised that theirs was a different concept - as evidenced by their 'dual office' proposal of 1873. Secondly, Samoan leadership rejected European solutions not only because they were jealous of their own dignity and standing in national affairs but because they were disillusioned. They found the apparently superior organisational abilities and military power of the foreigners, and the manifest goodwill and sincerity of some of them, difficult to reconcile with the way in which the Samoans, as a people, were treated, with the shilly-shallying and blundering of the foreign governments and with the political failures of many of the individuals who came amongst them. They could appreciate that they were pawns in a European struggle. It was constantly claimed that everything should be done to build up a strong Samoa, yet the treaties and conventions in which these intentions were expressed operated effectively to prevent such a result. By the last decade of the century, it is not surprising that overseas opinion was

¹ For example, Sir Robert Stout's criticisms (1893: 18-19).
beginning to ask how the interests of a handful of Europeans\(^1\) could justify such impositions as the Final Act of Berlin. Yet it was not as if any of the powers demonstrated the determination and effectiveness which Samoans at first thought they possessed.

The establishment of the town of Apia as the seat of government rather than one of the traditional political centres had raised the hope that a neutral site would ultimately encourage factions to unite, but there also lay the seeds of future discord. The conviction of orator leaders like Lauaki that the only truly Samoan form of government was one based on the authority of the Tūmua and Pule, and centred on Leulumoega and Safotulafai respectively\(^2\), spilled over into the next century. Apia remained the focus of foreign activity and influence, strange and remote to the villagers and colouring their thinking about any Samoan administration established there. The key to Samoan nationhood would be found, over time, in the skilful separation of the prestige of the tafa'ifā and its attendant orator groups from the other aspects of chiefly authority, the operation of churches at local level - a sort of feagaiga between village ali'i ma faipule and church faife'au - left chiefs feeling secure, if not fully aware of the long-term effects of Christian teaching. For the villagers, constitutional experiments had meant little. Their lives had been only occasionally disrupted by political struggles and limited warfare. The following extract from Hogbin describes the basis of the order which persisted -

\(^1\) 378 (full) whites in 1895 (Census of Foreign Residents, FOCP 6663: 96) in a population of 35,000.
Social order was explained not by such conceptual entities as collective mind or sovereign will but by the organic nature of a culture in which gifts, chains of mutual obligation, ties of family and kinship, complex economic co-operation, social approval, prestige and family education - all interact to help the individual conform to social standards and therefore to keep the governmental functions of the culture operating with the maximum of efficiency.\footnote{1934: 60.}
CHAPTER 3. FRUSTRATION AND CHANGE

From 1900 to 1962, the history of Western Samoa is broken into three periods - German colony 1900-14; New Zealand military and mandate administrations 1914-45; and New Zealand trusteeship 1945-61 - each of which had its own implications for the chiefly system. The principal themes to be discussed are the control of traditional authority, its incorporation in schemes of national government, the administration of local government, jurisdiction over chiefly titles and land, and resistance to change. By way of clarification, 'local government' is used to refer to district and village organisation, together with such part of central government as may be established to deal with it. 'Samoan government' comprises, in addition, the organs of decision-making and leadership which are intended to operate at the centre. During the first half of this century, 'Samoan' excluded those offices and bodies which were occupied by Europeans.

The Pacific was partitioned, and the rivalries were over, for the time being. This was accomplished when Germany renounced her interests in Tonga (and rights under the Treaty of 1 November 1876) in favour of Great Britain, and Great Britain renounced her interests in Western Samoa (and rights under the Treaty of 28 August 1879) in favour of Germany. Then Great Britain and Germany renounced their interests in Eastern Samoa in favour of the United States, while the United States renounced in favour of Germany her interests in Western Samoa. From this point, Eastern Samoa had a different political fate. Called American Samoa, the group came under the administration of the U.S. Navy and, as in the case of the people of German Samoa, their people were citizens of a separate political entity, and lived under different laws.

The splitting of a single people must be condemned, and the consequences in human terms of living under two adjacent but foreign governments have

1 Conventions 14 November and 3 December 1899. See Appendix C.
ranged from absurd to harmful. Nevertheless, as has been said in the Preface, the traditional political structure of the western group was virtually self-sufficient. Although the island of Tutuila in the east was linked with the Atua district of Upolu, the former was not a necessary political adjunct to the latter (and the Manu'a sub-group had long since withdrawn into themselves). On European contact, the chiefly titles of the maximal lineages were centred on Upolu and Savai'i, and the high titles of the eastern islands were of lesser rank. From the point of view of political change and the development of institutions in Western Samoa, the absence, politically, of American Samoa (population between one sixth and one fifth that of Western Samoa) had little direct significance. Western Samoans noted the economic prosperity which seemed to follow the United States dollar, but also the erosion of matai status under the United States Constitution\(^1\). For their part, the chiefs of American Samoa were aware that their prestige would suffer in a unified Samoa.

**GERMAN CONTROL**

In March 1900, Governor Solf raised the German flag in the Western Samoan Islands, proclaiming them to be under German "protection and sovereignty"\(^2\). Particular aspects of the colonial regime have been studied, such as policy\(^3\), personalities\(^4\) and local response\(^5\). A history of the period, using material in Apia, Germany and New Zealand, is yet to be written.\(^6\)

**Samoan leadership**

The German Governor, Solf, and his successor in 1911, Schultz, had

---

\(^1\) Gray 1960: 262. For example, universal suffrage and secret ballot were introduced in American Samoa in 1952.

\(^2\) Lascelles (Berlin) to Salisbury 27 April 1900, FOCP 27-7471: 63-4.


\(^6\) Keesing 1934 and J.W. Davidson 1967 provide brief overviews. The present study is based mainly on the files and reports of the German Colonial Administration (GCA) which were brought to Wellington during the First World War and are held in the National Archives, Wellington. Their use is facilitated by English translations by T. Newbury (for R.P. Gilson).
been given a relatively free hand by the Imperial Government\textsuperscript{1}, which carried with it the implication that they should manage without Imperial troops and endeavour to make the colony self-supporting financially. That they were marginally successful on both counts\textsuperscript{2} reflected the restrained and essentially political, as opposed to military, level at which Governor and Samoan leaders were able to contain their relationship, and the prosperity of the copra industry. Imperial policy was translated by Solf into the promotion of local German interests, and those of the D.H.P.G. in particular, combined with paternalistic concern for the welfare of the Samoan people. As much of the significance of the German colonial period for the adaptation and persistence of chiefly power lay in the strategies and personality of Solf, it is helpful to review the Governor's objectives and resources\textsuperscript{3}. Essentially, he proposed to prepare for commercial and limited political progress by eliminating contests for leadership and title honours. This meant abolishing the concept of 'kingship' (the 'Tupu Sili' and the contest for the Tafa'ifā), and destroying the power of the orator chiefs of Tūmua and Pule. It was, as Solf euphemistically put it, the "decentralisation of Samoan self-government\textsuperscript{4}. It was also necessary to build up a central administration of Samoans responsive to the Governor's wishes; to promote agricultural development and, generally, the 'work ethic'; to preserve Samoan land for the Samoans; and to allow local government and the settlement of disputes, after some modification, to be carried on

\textsuperscript{1} Hempenstall 1978: 35.

\textsuperscript{2} The German navy merely threatened to open fire once, in 1909, and the colony cost Germany very little (Townsend 1966: 264-6).

\textsuperscript{3} The principal source is Solf's revealing Memorandum of 1907 on 'the Decennial Programme for the Colony', a copy of which is in GCA II/46, and the original of which was sent to Berlin in stages. Page references are to the translation by J. Moses (held by him). Also numerous reports and speeches are recorded in the GCA material. References in this chapter to GCA material beginning with Roman numerals are to 'new series' records and all others are to 'old series' (mainly pre-1903).

\textsuperscript{4} Memorandum, ibid.: 5.
in the traditional manner - in so far as that was possible having regard to the need to preserve harmony and to achieve the principal objectives. Later, these over-riding considerations made it necessary to dismantle local government machinery as well.

The Governor sought to achieve his aims by bringing to bear an understanding of culture and attitudes which the Samoans had not before experienced in a European. In addition to travelling frequently on mala'aga throughout the group, Solf obtained advice on custom from Schultz (who was pursuing a study of Samoan law), von Bülow (on village communities and fishing rights), Krämer (whose Die Samoa-Inseln was published in 1902, although Solf found the genealogies "almost all faulty" and had fresh ones compiled for Savai'i) and from a commission of Samoans under C. Taylor which studied the protocol observed in district and village fono. By employing his knowledge and an efficient intelligence service (including Samoan clerks in local government who brought him reports) Solf manipulated natural factions within society without compromising his ultimate authority, and used this technique, together with a considerable amount of bluff, to avoid several potentially violent confrontations between Governor and governed. Tact and discretion were essential, but so also was determination. His policies required Solf to interfere in every potentially disruptive situation and, if necessary, to bare the iron fist as an Imperial prerogative by taking hostages to secure obedience by villages, and by imprisoning, banishing and deporting individuals who defied

---

1 Ibid.: 12, 28, 33 and 40.
2 There is abundant evidence of this, and of Solf's contacts with Samoan leaders, on the GCA files.
3 Sent to Auswärtige Amt (Foreign Office) 21 November 1909, GCA XVII A/1/5, and see Schultz 1911.
4 21 August 1903 and 26 August 1902, GCA XVII A/1/3.
5 Solf to staff, 7 March 1904, GCA XVII A/1/3.
6 Report, 14 April 1904, GCA Appendix to XVII A/1/4.
that authority\(^1\). In order to 'play God' in this manner, it was no doubt helpful to Solf that he had the personal philosophy of "white man and master"\(^2\) to whom the projected image of "tāmā\(^{\prime}\) father, to the "big children in need of education and loving guidance\(^3\) came easily.

While reporting on the need for drastic steps to neutralise Samoan political activity\(^4\), Solf moved slowly by at first accepting the pre-1900 structure of Samoan government based on the laws of 1890-1892 and by agreeing, "against my convictions", to the appointment of Mata'afa Iosefo as 'Ali'i Sili (Head Chief)\(^5\). Essential to German policy was the principle that no one but the Emperor could be 'Tupu Sili' (King) and that only the Emperor's deputy, the Governor, could make appointments - thereby ensuring that Mata'afa did not operate the mālo/vāivai relationship to stack positions with his supporters\(^6\). Solf was then faced with a demand for the immediate distribution of 'ie tōga, fine mats, which was the traditional ceremony yet to be carried out to mark the recognition of Mata'afa's ascendancy over Malietoa Tanumafili. Unless the Governor could de-fuse the situation, this very political occasion would be used to humiliate the loser and divide the country. The Governor insisted that Mata'afa distribute the 'ie tōga as Ali'i Sili on behalf of the Emperor.

---

\(^1\) Examples appear in the GCA files, some of which will be mentioned below.
\(^2\) Memorandum ibid.: 27.
\(^3\) Ibid.: 1 and 31.
\(^4\) Annual Reports 1900-1901, GCA IV 5a. The "aim must be to get rid of the central government at Mulinu'u, this body of lazy intriguers, and to confine the Samoan self government to districts and villages" (Solf to Auswärtige Amt, 6 February 1901, GCA 17 b./l).
\(^5\) Solf to Auswärtige Amt, 6 February 1901, GCA 17 b./l. He believed that the Tümua and Pule with well-armed forces were prepared for war to establish Mata'afa as 'King' (ibid.), so he played for time in order to secure the surrender of weapons (Hempenstall 1978: 35).
\(^6\) Oaths of allegiance to the Emperor were required, and certificates of appointment by the Governor were issued to all office holders "by order of the Kaiser" (Annual Reports 1900-1901, GCA IV 5a.). Solf's first real trial of strength had been in negotiations with Mata'afa after the March proclamation when, on receiving the latter's proposals for 29 Faipule to live at Mulinu'u, the Governor replied "Send them home. There is only one Pule (authority) in Samoa, namely the Pule of the Kaiser, whose representative I am" (Solf to Mata'afa, 26 June 1900, GCA 17b/l).
and, although Mata'afa went ahead in accordance with his own priorities (using a total of 1,899 fine mats), Solf was eventually able to control the situation by travelling to offended districts and securing peace\(^1\).

Tension between colonial administration and traditional Samoan elements did not, during the first four years, prevent the implementation of new policies - with the replacement of the Apia municipality by an advisory Government Council of Europeans\(^2\), the appointment of a resident (European) administrator (Amtmann) to guide Samoan officials and settle disputes on Savai'i\(^3\), and a drive to increase agricultural production. There was an influx of new settlers and money\(^4\), and a growing demand for Chinese labour. Despite the greatest pressure from plantation owners, however, Solf and Schultz were successful in containing Chinese numbers and the terms on which they could enter Samoa\(^5\) - thereby averting what would have been a serious threat to the ethnic composition and, ultimately, the political structure of Western Samoa\(^6\). The main thrust of official policy was towards production on Samoan land, which was encouraged by regulations to enforce clearing and planting under the supervision of newly-created agricultural inspectors\(^7\), and by road building\(^8\).

\(^1\) Samoanische Zeitung, 31 August 1901.

\(^2\) Annual Reports 1900-1901, GCA IV 5a.

\(^3\) An Amtmann was appointed for Upolu in 1910 (Samoanische Zeitung, 23 April 1910. GCA XVII A/1/5).

\(^4\) The number of plantation and commercial enterprises increased from 42 in 1900 to 124 in 1903 (Moses 1973: 104).

\(^5\) Ibid.: passim.

\(^6\) Of the 3,084 Chinese in Western Samoa in 1914, the number had been reduced by repatriation and natural causes to 166 in 1951 (Census Report, Western Samoa 1961: 26). Some Chinese descendants now participate in the chiefly system, with implications which will be discussed.

\(^7\) Every individual landholder was required to plant fifty coconuts annually (Order of 31 August 1900 - Annual Reports 1900-1901, IV 5a. - which was followed by exhortations such as instructions, Solf to all Ta'ita'itū, 22 September 1903, GCA XVII A/3). By 10 September 1904, 250,000 new trees had been planted (Samoanische Zeitung of that date, GCA XVII A/1/4).

\(^8\) Lewthwaite 1962: 153.
work meant less play\(^1\) and less church building\(^2\). The inevitable poll-tax which was increased from time to time, was collected from all adult males (with a higher rate payable by matai) after Solf had conceded to the Chiefs' demand that tax monies be used solely for the upkeep of the Samoan administration\(^3\).

The real struggle for assertion of the Kaiser's authority arose over the 'Oloa issue. Solf saw the crisis as "a welcome opportunity to break the Mālo and Ta'ita'itū".\(^4\). In 1904, grievances over reduction in the price of copra and control of marketing\(^5\) gave Samoan leaders the stimulus to organise resistance to the Administration behind a popular cause. When a company was formed to handle the collection and marketing of copra from Samoan growers on a cooperative basis\(^6\), the Ta'imua and Faipule took the matter up with enthusiasm and passed a tulāfono requiring a tax to be paid to the 'Oloa (company) for the purpose of purchasing facilities and paying Samoan growers a guaranteed minimum price\(^7\). By the time Solf had moved to stop what he saw as a challenge to his Administration\(^8\) it had gathered momentum throughout the districts and was at first supported with

---

\(^1\) Cricket had become so popular and involved so many people and villages that administration files reveal an official obsession with attempts to control cricket 'epidemics'. Eventually, laws were introduced prohibiting matches between villages and limiting the number of games per week (Orders by Schultz, 11 February 1906, XVII A/1/4 and by Solf 17 September 1909, XVII A/1/5).

\(^2\) Villages and denominations competed for the finest buildings and borrowed heavily for the purpose (Riedel of D.P.H.G. to Solf, 13 August 1901, XVII A/1/2). Government policy to restrict the building of stone churches was enforced in 1906 by the requirement that a permit and cash be obtained first (Order by Schultz, 28 August 1906, XVII A/1/4).

\(^3\) Hempenstall 1978: 35-6.

\(^4\) Solf to Schultz, 20 June 1905, GCA XVII A/2/2. 'Mālo' was by then used to describe the central institutions of Samoan government, comprising at this time the Ta'imua (which included Mata'afa and representatives of the Tupua and Malietoa families) and the Fono of Faipule.

\(^5\) Samoans produced over half the copra exported but were obliged to sell to local European traders (Annual Reports 1901/02, 1903/04, GCA IV 5c. and d.).

\(^6\) Samoanische Zeitung, 3 December 1904.

\(^7\) Ibid.

\(^8\) Minute of Solf of discussion in the Fono, 22 November 1904, GCA XVII A/2/2.
some determination by the leaders. People stopped collecting copra and waited for the 'Oloa to commence operations. Solf issued orders to stop the movement and two orator-organisers were arrested. The crisis developed as Mata'afa petitioned the Kaiser over the 'Oloa and other issues\(^1\), and leading chiefs helped the orators to escape from jail. Solf campaigned to undermine the 'Oloa and, when his position was secure, engaged in publicly humiliating the chiefs of the Mālo by refusing to accept their *ifoga*, public apology, and denouncing them at Mulinu'u in 1905. On this last occasion he put his policy for the restructuring of government into effect. He announced that, just as the knife "cuts away the rotten part of the bread-fruit and leaves only the healthy part", he had dissolved the two houses of the Mālo - the Ta'imua and Faipule - and appointed a Council of twenty-seven Deputies from fourteen constituencies, to meet only twice yearly\(^2\). He gave preference to *ali'i* chiefs over orators, while all appointees held office subject to good behaviour. In this way, some of the most powerful men were to have no further formal function in government and, indeed, Solf planned to abolish the concept of *Ali'i Sili* on Mata'afa's death\(^3\).

In the meantime, the widespread and cooperative nature of the 'Oloa movement had demonstrated how a little patriotism and anti-European feeling over an economic issue could produce quick response in the villages. Nevertheless, as the 'Oloa had no clearly definable political objectives, it soon collapsed.

\(^2\) Speech of 14 August 1905, *ibid.*: 95-102. Solf emphasised the nature of his Administration by concluding - "There is only one government in Samoa and that is the government of His Majesty Wilhelm II, which is styled the "Malo Kaisalika", meaning belonging to the Kaiser and subject to his rule". He announced a new formal salutation for the chosen Council in place of the traditional fa'alupega, further use of which was forbidden (*ibid.*).
\(^3\) Solf to Secretary of State, Colonial Office, 12 December 1909, GCA XVII A/2/3.
The determination of Solf to abolish 'kingship' and break the influence of Tūmua and Pule had been quickly appreciated by some Samoan leaders, particularly Lauaki Namulau'ulu Mamo who, having been an active politician since 1870, had become the leading orator of the Safotulafai centre of Fa'asaleleaga, Savai'i, and spokesman for Pule. Shortly before the German flag was raised, Lauaki had organised a meeting on Upolu at Leulumoega (the Tūmua 'capital') between Tūmua and Pule and the supporters of Mata'afa and Malietoa to form a Samoan government which would demonstrate the power of the traditional centres and support Mata'afa as 'king'. As Solf worked to neutralise his efforts, Lauaki later commented "Oh, the Governor is a very good man, but he is too tricky for the Samoans" and pointed to the way in which the power of district chiefs, the Ta'ita'itū, had been weakened.1

For Lauaki, now in his sixties, whose struggle for a strong traditional Samoa was a life-long commitment2, the loss of prestige suffered by Tūmua and Pule in 1905 was unacceptable. As the time was approaching when a successor to Mata'afa Iosefo as Ali'i Sili would have to be chosen, meetings were held in 1908 to renew requests for reinstatement of the former order3. Lauaki planned a mass demonstration at Mulinu'u, but, when his fleet of canoes from Savai'i called at Leulumoega, Tūmua support was not forthcoming and the protest was postponed. Back in Safotulafai, the 'Mau (opinion or testimony) of Pule' was established as a dissident organisation with objectives inimical to the new Mālō under Solf. The latter again travelled and made speeches to try to undermine Lauaki - and the two skilful orators clashed at Safotulafai in December 1908, when Lauaki sought to embarrass Solf in time-honoured fashion with a combination of Samoan and biblical stories4. Impressed with the determination of the Mau, but believing that it did not have majority

---

1 Memo Taylor to Solf, 27 November 1903, GCA XVII A/2/1.
support, Solf invited Lauaki to Mulinu'u, in Apia. When it appeared that the presence of a large number of Mau supporters might lead to civil war, the German navy sent warships to Solf's aid. By ensuring that the split between Tūmua and Pule remained open, and with all the persuasion he could command, Solf prevailed on Lauaki to surrender. Lauaki and nine others were deported to Saipan and the Mau of Pule was over. After Mata'afa's death in 1912, Schultz announced that the two leading contenders for traditional office, Malietoa Tanumafili I and Tupua Tamasese Lealofi II, one from each of Sā Malietoa and Sā Tupuā, would be appointed as Fautua, advisers, with no independent power of decision.

Lauaki and the Mau had sought more recognition of the status of traditional institutions within the colonial framework. Their weapons were political intimidation and ridicule rather than open rebellion against the order. By appealing to the first loyalty of every Samoan to his kinship alliances, Solf undermined a movement which, if it had been led against the European population, could have wiped it out. Organisation of political opinion was not attempted again on such a scale for twenty years.

The events of 1905 and Solf's success in controlling the backlash which followed them ensured that the period of the German Administration was of the greatest significance in the history of the Samoan chiefly system. Since initial contact with the West, and in the development of a Samoan response, no political question had been more important than whether traditional leadership could be effectively incorporated in national government which would inevitably be Western in style. The orator-based institutions of Tūmua and Pule had achieved little in this respect in the 19th century and its official repudiation by the German Administration delivered a crushing set-back from which it never fully recovered. Samoa was losing ritual and law of long standing. It was

---

1 Lauaki died on the return journey to Samoa in 1915 (J.W. Davidson 1970: 298).
2 Schultz to Colonial Office, 10 July 1913, GCA XVII A/2/5.
losing the context within which heroic deeds and genealogies could be
recited and manipulated in perpetual struggles for ascendancy waged on
behalf of the great chiefly titles. On the other hand, the Tūmua and Pule
had demonstrated, when they made the Ta'īmua and Faipule vehicles for
their own political concerns, that the function of orator groups ritually
associated with the appointment and control of the major titles could
not be the cement which would hold together a system of national govern­
ment. Because many chiefs of districts and sub-districts, particularly
those whose traditional roles were minor, found that modern thinking
meant that they could have recognition and a voice in national affairs
free from traditional controls, Solf had always had a measure of support
from those who benefited from participation in the new Mālo. For
example, he increased the number of constituencies from the traditional
eleven districts to fourteen and, as the larger ones had two Faipule each,
he was able to appoint chiefs who, as the representatives of minority
sub-districts, were looking for opportunities to enhance their status¹.
Nevertheless, while not incorporated in national government, Tūmua and
Pule continued to operate naturally as a powerful force in fostering
intrigue outside it.

Local government and dispute settlement

In the 19th century, chiefly authority at district and village level
responded to impetus from above only when it was associated with mālo/
vāivai rivalries, and there is no evidence that local government provisions
in the early constitutions were effective as instruments of the policy of

¹ Keesing cites the case of three Savai'i villages which approached Solf
as early as 1901 to be released from the authority of the alataua orator
chiefs of their district, Satupa'itea (1934: 84). However, it was not
until the number of constituencies rose to thirty-nine in 1936 that these
three villages became the separate Faipule district of Alataua West.
central administrations. Offices such as district Ta'ita'itū (governor) and Fa'amasino (judge) were sought for prestige and the possibility of extra power. After Solf had the legislation of the 1890s translated for German use and had observed the work of the officials he had appointed or confirmed in office\(^1\), he resolved gradually to bring about a drastic reduction in the numbers and responsibilities of local officials\(^2\). First by appointing many of the former Ta'ita'itū to his new Fono and failing to replace them, he emphasised the dual role of a Faipule as representative of his district to the Governor and also as representative of the Governor to the people - except that his loyalty to the Governor who appointed and paid him was a primary consideration. Then, as part of the policy to break the power of larger districts and governors, the role of the Amtmann was extended to keep a finger on all local activities and deal direct with a Pulenu'u, a sort of mayor, in each village\(^3\). At this point, in rejecting proposals for conferring official recognition by appointment and salary on "village councillors"\(^4\), Solf seemed to show that he appreciated some of the dangers involved in interfering with the traditional fono of ali'i ma faipule, but, on the other hand, he saw no inconsistency in his objective to appoint as Pulenu'u the principal orator or chief who would then work "with double authority"\(^5\). Even if the Administration could decide who was the principal orator or chief of the village, the concept failed whenever such orator or chief declined appointment and the Administration was forced to accept a Pulenu'u who had little pule over the nu'u. Schultz saw this difficulty but seemed to think that, on bestowal by the Governor, the title Pulenu'u "should

\(^1\) GCA XVII A/1/2; and Solf, report on malaga, 5 October 1901, GCA 17b/3.
\(^2\) Solf to staff, memorandum 7 March 1904. GCA XVII A/1/3.
\(^3\) Idem.
\(^4\) Von Bulow, proposals for a Gemeindeordnung - a set of local government regulations - 21 August 1903, GCA XVII A/1/3.
\(^5\) Solf to staff, op.cit.
become the highest and most influential in every village"^1. The institution of Pulenu'u has become traditional in Samoa - 75 years later - but the village techniques for dealing with it are also traditional.

While retaining political control through the European Amtmann and relegating supra-village affairs to the ceremonial, the Samoan Administration preserved and strengthened the system of Samoan judiciary, closely supervised from the centre. Essential to this plan was the replacement of the Samoan Chief Justice, Suatele, and Assistant Judgeships by a single German Chief Justice - over attempts by the Ta'imua and Faipule to perpetuate the offices for chiefs^2.

While Western ideas of justice were thus effectively imposed for the first time, Solf and Schultz also devised a tribunal which would enable them to de-fuse title disputes and ensure supervision at the highest level of the most sensitive Samoan traditional concerns^3. When the Land and Titles Commission was established in 1903, Solf required that all claims be seen by him before submission to the Commission and Schultz as Governor retained the right to deal with disputes involving high titles^4.

The apparent success of the Land and Titles Commission and its subsequent acceptance as a court of the greatest importance for Western Samoa indicate that, as warfare and the use of dominant relationships ceased to be practicable means of settling disputes, there had developed

---

^1 Memorandum to Solf, 23 March 1904, GCA XVII A/1/3. As a means of 'up-staging' the Pulenu'u, some villages formed committees called pulemau (firm authority), and although their abolition was recommended (Williams to Schultz, 19 May 1914, GCA XVII A/2/5) they remained until recently a popular style of organisation (J.W. Davidson 1967: 279).

^2 Minute by Solf, 11 November 1903, GCA XVII A/2/1; Mata'afa to Solf, 28 July 1094, and reply, 16 August, GCA XVII A/2/1.

^3 Minutes of discussions, Solf and Schultz, February 1903, GCA XVII A/3/1.

^4 Proclamation and Instructions, 28 February 1903, published Samoanische Zeitung same day, GCA XVII A/3/1; and Schultz to Commission chairman 2 August 1912, GCA XVII A/3/2.
a need for a centralised body to apply traditional law. The concept was that, if officials of the Samoan Administration were unable to settle disputes in relation to matai titles and customary land, a claim would be filed and, if approved by the Governor, submitted to a Commission of three white members chaired by the Chief Justice. In addition, if the Commission wished to do so, it would consult members of a 'Native Commission' comprising fourteen matai chosen from the districts, who had no part in decision-making. The Commission was itself to emphasise its role in the settlement as well as the adjudication of disputes, and it was not to be "subject to any formality in its search for truth".

Central government set out to regulate daily life, and chiefly authority in relation to it, in further ways and with a thoroughness the people had not experienced before. Village fono were required to comply with a range of legislation, promulgated from March 1905, in a monthly government newspaper, 'O le Savali, and notice boards were sent to all villages. In addition such matters as road and church building, planting and cricket already mentioned, the building of pig fences and the registration of dogs were enforced, as was the burial of the dead in a single village graveyard instead of between houses in the customary manner. Sometimes laws and decisions of a village fono would conflict with those of the Administration, and, where European interests were

---

1 Proclamation and Instructions, 28 February 1903, op. cit.
2 In the first year, 38 cases were disposed of, 13 by settlement and 25 by judicial decision (Annual Report of Commission 1903-1904, GCA XVII A/3/1). Although the Commission sat in one or two sessions annually, the Chairman and one of the members were attending the office on a weekly basis to assist in settlement (Schultz to Schlettwein, 2 August 1912, GCA XVII A/3/2).
3 Proclamation and Instructions, op. cit.
4 Circulation had doubled to 3,000 by 1913 (Schultz to Haidlen 25 June 1913, XVII A/6). Savali is today's government newspaper.
5 Schultz Memorandum, 10 September 1904, XVII A/1/4.
6 References are to be found in GCA 17b./3 and XVII A/9/1.
affected - as in the provision of plantation labour and road building - official action by imposing fines or taking hostages was swift\(^1\). In two traditional areas, interference in village affairs challenged the authority of the fono. Saofa'i ceremonies recognising matai appointments would, if held in secret or under duress, result in the prosecution of the organisers\(^2\). More important, the fono was forbidden to banish villagers according to custom\(^3\) - although the Governor did not hesitate to follow 19th century precedent and deport Samoan politicians to other German colonies.

German policy-makers saw that much Samoan tradition ought to be preserved, but it is not clear where they would have drawn the line if their rule had continued. Although Solf was aware that "the establishment of the new Weltanschauung [conception of the world] has gradually influenced traditional ideas"\(^4\), he resisted a proposal to incorporate Samoa in a uniform penal code for all protectorates\(^5\). The dilemma was illustrated by Schultz's concern in 1914 that the pule, authority, of chiefs was generally deteriorating. In an open letter to all Samoans, Schultz deplored "o le pule foa'i" (the giving away of authority), and, after citing many examples of taulele'a, untitled men, who operated stores and plantations and in more direct ways defied their fono and matai, he called on chiefs to enforce the rendering of tautua, service, and to control the young men "or there will be much trouble and distress in the country, the villages and the families"\(^6\). In asking chiefs to

---

1. Examples of the taking of hostages appear in Samoanische Zeitung, 3 August and 28 September 1901 and in GCA XVII A/5/1.
2. Savali, September 1911, GCA XVII A/1/5.
3. Proclamation by Solf, 16 September 1901, GCA XVII A/1/2.
4. Solf to Auswärtige Amt, 9 September 1909, GCA XVII A/1/5.
5. Correspondence with Auswärtige Amt, 15 January 1905 and 28 February 1910, GCA XVII A/1/4 and 5.
"do their part by governing their village properly"¹ Schultz seemed to be pointing to the terrible inconsistency implicit in any theory of colonial administration which professed to preserve some of the people's traditional institutions by means of control and manipulation. That Schultz, at least, would not concede that drastic interference with Samoan politics had widespread social repercussions is apparent from his address on the subject of the strength of the Samoan family, which, he said, "is the educational result of the social structure and must be preserved, whereas the political constitution of the Samoans must be destroyed"² - thus echoing Solf's 'pruning' approach to the selective maintenance of culture³.

MILITARY AND MANDATE ADMINISTRATIONS

When New Zealand troops took peaceful possession of Western Samoa mid 1914, Samoan leaders were not involved in the transfer of authority⁴. New Zealand's position was not clarified until the Powers allocated the territory to New Zealand and a mandate was confirmed by the League of Nations in 1920, and, in the meantime, the military administration under Colonel Logan was responsible to the British government through the Governor of New Zealand. Although Logan was left very much to his own devices to carry on essential administration under the German framework⁵, he was hampered by the removal of most German public servants and, as time went on, the effectiveness of his administration was further weakened by its reliance on military and ex-military personnel who were increasingly restive⁶. On the other hand, Logan made it his business to learn

¹ Ibid.
² Speech to Government Council, 10 July 1913, GCA XVII A/2/5.
³ Memorandum of 1907, op. cit.: 1 and 2.
⁴ News of the War "had not greatly impressed them" (Minute of Schultz, 8 August 1914, XVII A/1/6).
traditional forms and procedures\(^1\) and to deal personally with chiefly disputes\(^2\). When one of the Fautua, Tupua Tamasese Lealofi II, died in 1915, he chose, instead of interfering with the distribution of 'ie tōga, to allow discussion of successor to the office of Fautua, and, six months later, to appoint Tuimaleali'ifano Sī'u\(^3\). Interference with local government was also kept to a minimum, and "laissez-faire replaced paternalism"\(^4\). Attitudes favourable to continued association with the British after the War later turned sour, however, and positively resentful after the disastrous influenza epidemic of 1918 which killed 8,500 people or 22 per cent of the population - and when the high mortality rate was found to have been due to bad judgment and poor administration\(^5\). The toll among the more vulnerable older people, and therefore among matai, influential leaders and their families, was particularly severe\(^6\), and a store of anti-New Zealand resentment can be traced to the catastrophe. When Colonel Tate arrived to replace Logan in 1919 he was greeted by a petition requesting that Western Samoa be administered by the United States or Great Britain - anyone but New Zealand.

New Zealand civil administration got off to a muddled start\(^7\) and,

1 He ordered that at least part of Solf's 1907 Memorandum be translated, and added his favourable observations (Memorandum of Logan on Solf's Memorandum n.d. - B.M.O. 2/11).
2 Boyd 1968: 152.
3 The Sā Tuimaleali'ifanō is a branch of the Sā Tūpua.
5 Epidemic Commission Report - A.J.H.R. 1919 H - 31C. By comparison, New Zealand lost only 0.5 per cent of her population in the same epidemic, and her losses during the entire 1914-1918 War were less than 1.5 per cent (J.W. Davidson 1967: 94).
6 Most of the Fono of Faipule died, and Davidson named several leaders, who were to become prominent in later events, who each lost several close relatives (ibid.).
7 After the Versailles Treaty and a British Imperial Order in Council (11 March 1920) empowering the New Zealand parliament to make laws for Western Samoa, the Samoa Constitution Order 1920 (N.Z. Gazette 1920) was promulgated in anticipation of grant of mandate by the Council of the League of Nations on 17 December 1920. The definitive authority for New Zealand administration within Western Samoa, the Samoa Act 1921, did not come into force until 1 April 1922. In this chapter, references to Acts prior to 1962 will be to New Zealand Acts.
yet again, Samoan leadership was not consulted as to the destiny of their country. It is not proposed to examine in detail administrative policy and constitutional changes from 1921 to 1945, but the developments will be outlined in relation to Samoan government, local organisation, and chiefly resistance. In a constitutional framework somewhat reminiscent of the constitutions of the 1870s there was once again a single charter providing for the executive, legislative and judicial branches of government. In colonial fashion, laws could be made for Samoa in both Wellington (by Act and Order in Council) and Apia — where the Administrator, who was responsible to the New Zealand Minister, could legislate by Ordinance for the government of the territory with the advice and consent of a Legislative Council of official and unofficial members. Failure to provide for Samoan representation was given token acknowledgement in 1923 by amendment to enable two Samoans to be elected to the Legislative Council, but, although European elections were subsequently instituted, the only two Samoans on the Council were appointed by the Administrator and were usually the Fautua. In relation to the Fono of Faipule, the judicial and criminal system and local government, all previous laws.

1 Samoa eventually learned that New Zealand had sought and obtained a class 'C' mandate which would enable Samoa to be administered as an "integral portion" of New Zealand. New Zealand covenanted to apply "the principle that the well-being and development [of the Samoan people] form a sacred trust of civilisation" (Clauses 1 and 6 of Article 22 of the Covenant — quoted in Wright 1930: 591-592). Self-government was not mentioned.

2 These have been the concern of historians, J.W. Davidson 1967 and Boyd 1969.

3 Use will be made of the legislation and official records of the period.

4 Part II, Samoa Act 1921. The administrator unsuccessfully sought authority from Wellington for the Fono of Faipule to make regulations in respect of Samoan affairs, which would have made it a "legislative Assembly" for Western Samoa (Richardson to Minister, 5 February 1924, IT 67/34).

5 Samoa Amendment Act 1923.

6 Samoa Legislative Council (Elective Membership) Order 1923 (N.Z. Gazette 1923).

7 Existing Local Laws Continuance Ordinance 1920 (Western Samoa No.1). Some of the laws of the Malietoa Government of the early 1890s were in force or had been re-enacted by the German administration.
remained in force. Essential to New Zealand policy was acceptance by Samoans of the European community in their midst and recognition by local Europeans that Samoan affairs were none of their business. As will be seen, however, intermarriage and frequent identity of interest ensured that the relationship between the races was always a complex one. New Zealand's early brand of paternalism was founded on a poorer understanding of Samoan custom and attitudes than Germany's had been. Due to ignorance, and to exposure to public scrutiny in New Zealand and the Mandate Commission in Geneva, the New Zealand Administrator, unlike his German predecessor, seemed unable to behave in a manner which was effective as well as autocratic. This comment applied particularly to General Richardson who was appointed in 1923.

Without regard for Germany's experience, early New Zealand Administrators failed to accord proper respect to the tama'āiga. New Zealand stuck rigidly to the idea of only two Fautua in the face of claims by heads of others of the four tama'āiga families, thereby depriving the institution of Fautua of its function as the means of enlisting support

1 Land and citizenship statuses were categorised. Until 1944, any person with some Samoan blood was 'Samoan' and could enjoy rights in respect of customary land, provided that Europeans and Chinese and their legitimate part-Samoan issue were classified as 'Europeans' and could not do so (S.3 and Part IX, Samoa Act 1921). Such part-Samoan issue were often called 'local Europeans'. The Administrator opposed the presence of Samoans in the Legislative Council because he considered that, subject to his supervision, Samoan affairs should be the concern of the Fono rather than of the Council and, conversely, that the Fautua should advise on Samoan affairs only (Mandate Report 1920-1921, A.J.H.R. 1922 A-4).

2 Leaving aside Chinese and Melanesians, of 2498 people classified as European, only 446 were full European; and, when it came to election for the Council, of the 222 on the European roll, two thirds were part-Samoan or married to Samoans (Census 31 December 1925, Mandate Report 1925-1926, A.J.H.R. 1926 A-4). See also Appendix B.

3 The Commission's views are quoted in Chappell 1928: 58-9.

4 'Royal sons'. This term was, by this time, increasingly used for the leading representatives of the four main 'families', Malietoa, Mata'afa, Tupua Tamasese and Tuimala'ifāno. They were the four tama, sons, who, in earlier times, would have had the best claims to the pāpā titles (and thus, one of them, to be called tafa'ifā).
and containing rivalry at the highest level. Also, too much importance was attached to the twice-yearly and advisory Fono of Faipule which, ever since the creation of the Fono by Solf following his sweeping changes in 1905, had been appointed by Governor and Administrator without fixed term and "held their seats from the Government and not from the people". The Fono and the civil administration were the Administrator's Malō which, in traditional terms, it was easy for the Samoan population to ignore and humiliate. Perhaps the greatest single provocation in the build-up of resistance which was to become the Mau was the insensitivity and determination of one man, Administrator Richardson, who believed that as the Samoans had "no vision as to the future of these islands" it was his function to "change the psychology of the Samoan", to "treat matai and taulele'a alike" and to urge them forward with dramatic reforms in agricultural practice, land tenure and local organisation.

Local administration and resistance

By 1914, there was an established organisation for Samoan affairs under the Chief Justice, Amtmann and senior Police officer - with the Governor, behind the scenes, very much concerned with any matter of political significance. The Faipule, district Fa'amasisno, commissioners, inspectors, police and Pulenu'u had well-defined functions which the New Zealand military Administration did not interfere with. Logan grasped the importance of the role of the ali'i ma faipule and sought rather to define

---

1 Submissions of Samoan committee on native affairs to Minister Nosworthy, 1927 (A.J.H.R. 1927 A-4B). "The Samoans now regard the Faipule as the phonograph of the Administration" (Holland 1928: 5).


3 Announcement of Richardson, appendix to Mandate Report 1926-1927, A.J.H.R. 1927 A-4. Richardson's failure to respect the dignity of high titles, and, in particular, his refusal to accept an ifoga from Tamasese in 1926 was probably the turning point which caused Samoans to form the Mau (Boyd 1969: 146).
their jurisdiction so as to reduce conflict with the Fa'amasesino and Land and Titles Commission, and to limit their interference with the 'rights' of villagers to choose European employment, to sell produce to whom they chose, and not be banished from their land. Under the mandate, New Zealand began to work with the same system and administered all Samoan affairs through one Native Department and a Secretary of Native Affairs. An early innovation which had lasting consequences was the use of women's committees based on the traditional village groups to carry out public health work in the villages.

Richardson, however, believed that Samoan ideas of government needed stimulation and direction. Disregarding the German experience that Samoan administration at district level would not work as the instrument of policy, he promulgated a blueprint for local government under District Councils and Village Committees who were empowered to enforce wide-ranging provisions. District could override Village, even to the extent that a District Council could make by-laws prescribing the duties of residents "in regard to services to be rendered to chiefs by their people". For a time, the Fono of Faipule promoted the new

1 Notice - The Power and Authority of Ali'i and Faipule, 14 April 1917, BMO 2/22.
2 Boyd 1969: 137. See Chapter 1. The encouragement of such groups from the centre gave them additional status and, gradually, some independence from the ali'i ma faipule.
3 The Native Regulations (Samoa) Order 1925 (N.Z. Gazette 1925).
4 These applied to village design (Richardson proposed a model lay-out, see plan, 21 November 1924, IT 15/7), health and sanitation, burial, water supply, road-making, animals, village finance, schools, gatherings, production and land allocation. In addition, District Councils could make by-laws for the "good rule and government of villages" covering almost every aspect of daily life - subject to the Administrator's approval (Regulations 7-10, op. cit.).
5 Regulation 7(19), ibid.
6 Eight of whom visited New Zealand to observe modern municipal government (Boyd 1969: 140).
Regulations and, of course, it was they who presided at the District Councils. In 1926, the experiment had the appearance of success\(^1\), but then, as the village *fono* came to realise the encroachment involved and the 'double' function of the Faipule as promulgator of Richardson's ideas, and as resistance to the Administration generally increased, the whole local government scheme ground to a halt. An attempt was made to prop it up with European officials\(^2\) but, after the Mau, all prospect of resurrecting the scheme had disappeared and in 1938 the provisions relating to District Councils were revoked\(^3\).

Administration policies of the 1920s seemed designed to antagonise village chiefs\(^4\), and further attempts at reform highlighted the gulf between Samoan and European approaches to productivity and the control of land. Richardson, wishing to encourage notions of individual property and independence, and at the same time to develop uncultivated areas, introduced a scheme (based on the Tongan system\(^5\)) whereby every adult male was theoretically entitled to a five-acre plantation block (and, if that was cultivated, to a second one) to be held by self and family for life and inherited by the family or disposed of by will—together with a village allotment of one-eighth acre for every married man\(^6\). The Fono of

---

3. The Samoa Regulations 1938, No. 87 N.Z.
4. In addition to imposing a tax of £1-16-0 for *taulele'a* and £2 for *matai* (Native Personal Tax Ordinance 1927, No.4), Richardson attempted to enforce the long-standing laws restricting cricket, *malaga* and fine mat exchange (Report of Minister Nosworthy 1927, A.J.H.R. 1927 A-4B).
5. Eight Faipule were sent to Tonga in 1924 to examine the 8\(\frac{1}{2}\) acre per adult male scheme which, having been devised there in 1882, was being slowly introduced (Mandate Report 1924-1925 A.J.H.R. 1925 A-4B).
Faipule accepted the concept of subdivision and allocation, and some villages began acting accordingly. The experiment with land distribution had made little headway when matai generally came to realise that land which could be disposed of and inherited by untitled persons was effectively removed from their pule. While custom recognised the limited right of an untitled person to have a piece of land for self and family, the further implications of the scheme were a gross interference with traditional tenure and contributed further to the genesis of the Mau. A lesson in Western thinking had been learnt. Samoan matai had been confirmed in the belief that their authority must be protected, and, from the Land and Titles Protection Ordinance 1934 to the Constitution 1962, and to the present day, conservative elements have had little difficulty in holding sway in relation to land tenure.

As Lauaki had already demonstrated, Samoan awareness of the consequences of any interference with chiefly pule would provoke a hostile response. The effectiveness of that response, however, depended on village attitudes. The Samoan village had the organisational capacity effectively to resist all outside interference, short of force, but there was little point in its doing so except as part of a more widespread movement under which lasting benefits could be consolidated. The price of subjection to a common cause under leadership from outside the village was high, but, if traditionally acceptable methods could be used and if,

---

1 However, Richardson's proposal that matai titles as well as land should be capable of being disposed of by will was resisted by the Fono as altogether too progressive (Mandate Report 1926-1927, A.J.H.R. 1927 A-4).

2 The 1925 Regulations were revoked by the Samoa Regulations 1938 No. 87 (N.Z.).

3 That New Zealand was slow to learn its lesson in Samoan thinking was evident from a newspaper editorial crediting Richardson with "a touch of genius" for his land tenure proposals because "to change the Samoan himself into a being as worthy as he is lovable, the communal system must give way to one of individual ownership" (The New Zealand Herald 19 June 1925, IT 62/5).

4 The control of land, and its significance for chiefly power, will be discussed in the next chapter.
finally, pressures on village authority were severe enough, the price would be paid. It is not proposed to examine the reasons for Samoan resistance to the New Zealand administration, nor its fate. The processes and techniques however, provided opportunities for the exercise, and therefore longer life, of traditional chiefly authority at village and supra-village levels.

Resistance to the New Zealand Administration was complicated by a number of factors, such as the involvement of local Europeans and the New Zealand press, but, in the villages, the issue was one of authority. When the matai discovered that non-violent non-cooperation could be effectively organised and very embarrassing to New Zealand, the Mau became a national movement. The first, and perhaps the most significant, characteristic of the Mau then, was that it was an exercise of chiefly power. It was established and operated by matai, and, as it involved village and supra-village affairs, there was no traditional reason for the matai to consult the taule'ale'a - who carried out his orders. Nevertheless, the excitement and appearance of victory, fostered by public demonstrations, uniforms, songs and a flag, all contributed to a popular experience for the great majority of Samoans.

Forerunners of discontent, which provided a link with the 'Oloa movement, were the activities of the Toeaina Club, a trading company of senior chiefs led by Afamasaga Toleafoa Lagolago. The Club had its own vessel and in 1919-1920 traded in copra to increase the return to Samoan growers. After a sä, boycott, had been placed on European goods, the Club attracted such attention that it was brought down by competitors and wound

---

1 Although the papers and correspondence of O.F. Nelson and the Mau itself have yet to be studied, Administration records of the period have been treated (J.W. Davidson 1967 and Boyd 1969).
2 The figure of 90 per cent claimed by Nelson is more accurate than the official two-thirds (Boyd 1969: 157).
3 With connections going back to the days of Lauaki, and having been tragically affected by the epidemic, Afamasaga owned several stores with which he competed with European interests.
Another event which demonstrated a consistent element in Samoan attitudes to colonial administration was a petition to the British Crown signed by most of the Faipule asking for the Mandate to be transferred to Great Britain\(^2\). Samoan leaders had never accepted the notion of full dependence under a particular power. Under the Final Act of Berlin, Samoa had been 'neutral' and had had the right to be consulted\(^3\), and, from the turn of the century, Samoans had thought in terms of the continuation, under one flag, of the loose arrangement they had had with the three powers in the 1880s and 1890s\(^4\).

In 1926 and 1927, initial impetus and basic organisation were imparted to the Mau by a committee of Samoan and European leaders in Apia, outstanding among whom was a part-Samoan business man, O.F. Nelson, who used his chain of trading stores and his matai title Taisi (linked with the Sā Tupuā) to encourage villages to form Mau committees and to regard the Mau as an alternative government\(^5\). As support grew, there was close communication between the villages and a large working committee of sixty to seventy matai at Vaimoso near Apia. Instructions were issued to all Samoans to refuse such obligations as the payment of tax, obeying Government officials, referring disputes to the Commissioner and sending children to school. Uniforms were issued. Three to four hundred Mau 'police' picketed stores which did not support the Mau, and 'protected' Mau demonstrations. Fines were imposed for disobeying Mau directives. Although the Faipule and many officials remained loyal to the Mālō, government under the Administration had become largely ineffective\(^6\).

---

1 A second club which took over the assets also collapsed - ending attempts by Samoan leadership to compete with Europeans in business terms (Mandate Report 1920-1921, A.J.H.R. 1922 A-4).
3 Articles I and II. See Appendix C.
5 Report of Royal Commission, A.J.H.R. 1928 A-4B.
6 Idem.
Richardson's over-reaction to early opposition added to its determination. Not content with existing powers, he secured further legislation, and the implementation of his 'law and order' policies became repressive on a scale never attempted by the undoubtedly firmer German Administration. In customary terms, the most severe actions were the suspension of chiefly titles and the banishment orders, particularly those effected against the highest title holders such as the tama'āiga Tupua Tamasese Lealofi III and leaders Afamasaga Toleafoa Lagolago (of the Toeaina Club) and Faumuinā Fiamē. Another tama'āiga, Tuimaleali'ifano Si'u, was suspended from office as Fautua. Subsequent pardons and amnesties served only to lower further the Administration's reputation in the eyes of Samoans. While there was much that was beneficial for Samoa in the various policies, success was forfeited by inconsistent and arbitrary interference with chiefly authority, and, ultimately, by the use of force. In 1928, after the deportation to New Zealand of European

1. The Samoan Offenders Ordinance 1922, No.6, had provided for Administrator's power (without court hearing) of banishment and suspension of chiefly titles. Under the 1929 Amendment Order (N.Z. Gazette, 1929) to the Native Regulations (Samoa) Order 1925 (N.Z. Gazette, 1925), the Administrator could himself exercise any of the wide powers vested in local officials in respect of district and village affairs, such as allocation of land. Intended to "stop the preaching of disobedience" (Samoa Times 18 March 1927) was the Maintenance of Authority in Native Affairs Ordinance 1927, No. 2, which prohibited the spreading of "false reports" aimed at undermining the government. The following year, a second Ordinance by the same name (1928 No.1) enabled the Administrator to prohibit the holding of fono, malaga and visits of more than 3 hours, and the wearing of uniforms or badges, and permitted arrest without warrant. His powers were extended under the Samoa Seditious Organisations Regulations 1930 and the Administrator's Additional Powers Order 1930 (N.Z. Gazette 1930) to outlaw the Mau, restrict travel and authorise the seizure of documents.

2. A banishment order often carried with it an order prohibiting the use of the title - otherwise a chief could exercise authority from a distance. Richardson used the prohibition on use of title as punishment for failure to co-operate - as where matai failed to attend fono called by the Administrator while on malaga (Report of Royal Commission, A.J.H.R. 1928 A-4B).

3. In 1924, "for failing to remove a badge", he was banished indefinitely to Savai'i and prohibited from using the title Tupua Tamasese (Order exhibited in appendix to Report of Royal Commission, A.J.H.R. 1928 A-4B). He was subsequently imprisoned and banished again.

4. Faumuinā became president of the Mau and later took the title Mata'afa.
and part-Samoan leaders, hundreds of Mau 'police' were arrested by marines from naval cruisers. Military police were increased, arrests were attempted in provocative situations, and, in December 1929, the Mau cause claimed its martyrs when Tupua Tamasese and ten other matai were shot and killed by police. Tuimaleali'ifano and Faumuina were injured. The navy returned and, for over a month, thousands of Mau supporters took to the bush. Appalled at the shooting, both sides subsequently avoided violence.

Two features of the relationship between Administrator and chiefs particularly concerned the latter. First, banishment was a contentious issue, not because the chiefs did not recognise it as a traditional peace-keeping technique, but because of the manner in which it was carried out as an instrument of government. The decision-making process in village fono which culminated in the banishment of a member of a village and his family took into account matters of chiefly rank and did not purport to deprive a chief of his title, as this was a family matter. Banishment was the last resort, ordered only after long deliberation, and although often expressed as a permanent order, it was always open to the banished person to seek to return to the village.

For Richardson's administration, however, banishment was the principal sanction. Having by-passed the Land and Titles Commission, and continuing to deprive the village fono of authority to banish, he

---

1 Coroner's Findings in Inquest, A.J.H.R. 1930 A-4B.
3 By 1928, 58 banishment orders had been made, and a further 59 orders which had the effect of confining people to their own homes (Report of Royal Commission, A.J.H.R. 1928 A-4B).
4 The village chiefs had exercised their traditional jurisdiction without hindrance until Solf and Logan purported to interfere, and they now asked in vain that it be returned to them (Report of Royal Commission, A.J.H.R. 1928 A-4B).
wielded his power as a political instrument\(^1\).

Secondly, having seen that the Fono of Faipule was the Administrator's chosen vessel for conveying to the people the views of the New Zealand administration\(^2\), the chiefs proceeded to attack it on the ground that it did not, in traditional terms, represent the people of Samoa. Actually, as the Fono became associated with the carrying out of government policies as well as the formulation of them, district chiefs had already adopted the tried and proven technique of allowing the Administrator to have as his supporters chiefs who sought the advantages such office afforded — provided that those chiefs were of sufficiently low status to ensure that they could be politely ignored when they visited their districts. Further, no concept requiring one representative from each district to sit with others to make laws for the country as a whole could be traditional, so that it was resistance to central government itself, and particularly to one dominated by New Zealand Administrators, which was behind the opposition. Since 1873, the success of a 'Fono for all Samoa' as a legislative body had depended on the extent to which it represented the mālo, the ascendant political grouping in terms of the long-standing power struggles. With a

\(^1\) Banishment by the Administrator under the 1922 Ordinance was considered valid by the High Court of Western Samoa (Inspector of Police v. Tagaloa and Fuataga (1927) 1921-1929 W.S.L.R. 18) and on appeal to the full bench of the Supreme Court of New Zealand (ibid. 23). Both Courts held that banishment was political and not punitive, and expressed the assumption that it was traditional. Woodward, C.J., found that the Ordinance providing for banishment without trial was not contrary to natural justice "having regard to the community for which it is made" (ibid. p.21). Ironically, if it had not been for the Mau context, the village chiefs could only have approved of the Courts' resolution of the conflict between Samoan custom and individual rights — a conflict which is today revived under the Fundamental Rights provisions of the Constitution 1962.

\(^2\) The type of decision which doomed the Fono under Richardson was its resolution requesting the introduction of a regulation to make the attendance of village chiefs compulsory (enforceable by fine) at all district fono called by a Faipule (Resolution of May 1927 - Mandate Report 1927-1928, A.J.H.R. 1928 A-4).
shift in meaning, Mālō had come to be the word for Government, but it was not until they saw that they could not have independence without a government based on district representation - and that independence was a real possibility - that Samoans tried to make a success of representative government.

There is little doubt that the organisation of the Mau was traditional. Small groups of influential title holders worked through orators to secure commitment at district and village level. Consensus for the Mau was sought, and, in traditional manner, great pressure was brought on the unwilling minority to withdraw their opposition, or at least to remain silent. As leaders of the Tūmua and Pule centres of Leulumoega and Safotulafai were actively involved\(^1\), why did not the Mau movement disintegrate into factional rivalry along nineteenth century lines? To begin with, although Tupua Tamasese and Tuimaleali'i'ifano of the Sä Tupuā were Mau leaders and Maoietoa Tanumafili remained aloof, there is no evidence that competition for leadership was promoted by either side. More importantly, rivalry did exist to sustain the natural Samoan affinity for duality. In this case, it was a split between on the one hand, the official Mālō with its New Zealand officers, the Fono of Faipule, the salaried Samoan public servants and groups and families throughout Western Samoa who had their reasons for supporting it - and, on the other, those chiefs who saw opportunities for advancement and prestige in an alternative organisation which, thanks to its determined leadership in Apia (and from overseas during the exile of Nelson and others), provided real prospects for the exercise of power and the extension of influence. Ever since Europeans had begun to interfere in Samoan affairs, clamps had been progressively screwed down on the Samoan political system to prevent the operation of the mālō/vaivai duality and the expression of political, ceremonial and social aspects of daily life which were both elemental force and popular pastime. Through failure\(^1\) Boyd: 1969: 157.
to recognise the psychological and emotional nature of the Mau and by declining to use the planned and thorough techniques of the German Administration, the New Zealanders allowed the clamps to shake loose. The pressure, when released, moved through traditional outlets. Keesing, in his analysis, speaks of "an exhilarating revolt from the disciplines of nearly three decades".

It is difficult to characterise the complex motivations behind the Mau. In the light of subsequent political developments, two final points should be made. The freedom made possible by the breakdown of official government allowed the splitting of districts and villages to occur in a manner reminiscent of one hundred years before. Just as rivalries between the great chiefly families had been set in a shifting scene in which ties and loyalties could be claimed and rejected - and then re-negotiated - in such a way that there was a struggle between mālo and vāivai elements within most districts and many villages and families, and just as, in more recent times, divisions between Christian denominations had provided some opportunity for traditional techniques, so Mau resistance gave free reign to these concepts. The split between the official Mālo and the Mau separated the Faipule from his principal rival (who was bound to join the Mau as a means of attaining leadership of the district) and sometimes divided two holders of the same title (who went in opposite directions for the same reason). In other words, the motive for seeking to oppose and rise above one's rival existed before the 'cause' arrived which provided the context for the interplay. To the extent that Mālo officialdom was associated with Apia, the split was between the government decision-makers and the puletua, those 'back home' in the electorate - a duality which continues to plague modern government.

1 1934: 179.
2 In a personal communication from the late C.G. McKay, formerly Secretary for Samoan Affairs, in November 1975, he listed six examples of such splitting - a notorious one having occurred in Aleipata, where, of the two principal chiefs, Tafua was Faipule and Catholic and Fuataga was Mau and L.M.S.
Secondly, while the chiefs could sense a weakening in their authority under onslaughts from Western ideas generally and New Zealand's proposals in particular, and while there may have been a yearning for the past in the mobilisation of Tūmua and Pule, nevertheless the Mau itself incorporated the new with the old. On this occasion, competing tama'āiga were not the focal point. The rebellion was essentially non-violent and women played an accepted role. Samoans and part-Samoans had a common cause and enjoyed some European support (albeit, mainly overseas). Then, as the issue was finally one of control, members of the Mau eventually sought and obtained the positions in the official Mālo which they had boycotted - and the need for the drive for self-government to be channelled through Western-type institutions was accepted.

After the Mau

As the mandate administration deteriorated further, the Fono of Faipule and the Fa'amasino were suspended and further attempts were made to smash the Mau organisation by seizing their documents and sentencing their leaders to imprisonment. By 1935, as the authority of the ali'i ma faipule (chiefs of the village fono) appeared to continue unaffected, government activity and Western influence in the villages had been reduced to a minimum. With the election of a Labour government in New Zealand in that year, reforms were introduced, but progress was slow. Provision was made in 1939 whereby the matai of each district could choose their Faipule by election or "in such manner as they think fit", and then submit the chosen name, supported by the signatures of the

1 After the Mau had been declared a seditious organisation, wives of the leaders in Apia organised the 'Women's Mau' to keep protest alive through village women's committees, in processions and other activities in which men identified with the Mau could not participate (Boyd 1969: 166-7).


3 Most of the repressive legislation was repealed. The Faipule became entirely elective every three years, and in 1936, of the thirty-nine seats, thirty-five were newcomers - all Mau supporters (Boyd 1969: 176).
majority of the matai, to the Administrator for his approval\(^1\). In this way, those districts where the matai were able to reach agreement by adjustment of rival claims - and often by an arrangement as to alternation (felafoa'\(i\)) between groups - chose their Faipule without an election\(^2\). It was essential for the working of the concept that Faipule district boundaries be determined by tradition - despite imbalances in population\(^3\). Of course, the districts themselves were by now fragments of the larger traditional units - subdivided, nevertheless, along well-established boundaries. The increase in constituency numbers from fourteen in 1905 to forty-one in 1939 finally destroyed any hope that the forces of Tūmua and Pule might have had of decisive influence in modern government.

The District Council concept had failed because, without any justification other than the desire to introduce new ideas for promoting government and economic activity, it placed certain chiefs in authority over others. The pendulum then swung the other way, and in 1938, the New Zealand Administration in Apia proposed to accept village autonomy, which had been boosted by the Mau and to grant legal recognition to the traditional ali'i ma faipule for various local government purposes\(^4\). However, Wellington refused, explaining to the Mandate Commission in Geneva "to formulate native custom and social discrimination into law might retard healthy evolution towards more completely democratic

---

1 Faipule Election Ordinance 1939, No. 1.
2 Reform was not achieved without a struggle. During debate in the Fono, some Faipule who represented the thinking of Tūmua and Pule had urged return to traditional forms and to representation determined in the political centres - but the majority of Faipule supported the idea of one Faipule per district (McKay 1968: 83).
3 The Administrator accepted that "custom regards the political standing and rights of a district according to traditional lore as of greater importance than relative numbers" (Turnbull to Minister of External Affairs, 16 January 1939, IT 69/44/27).
principles"\textsuperscript{1}.

Under New Zealand's brand of paternalism, the pre-Second World War administration of local government seemed a confused policy ranging from misguided stimulation to uncertain withdrawal. Although in 1936 all Samoan official positions, including Pulenu'u, became elective every three years\textsuperscript{2}, and the Pulenu'u were no longer to be regarded as government agents, but "as a channel of common understanding" between village and government\textsuperscript{3}, the Department of Native Affairs continued to supervise them together with the Fa'amasino and agricultural inspectors - and land and title disputes - until the Department was abolished in 1954\textsuperscript{4}. As far as the ali'i ma faipule were concerned, the relaxation from central control which followed Germany's departure in 1914 had in fact been only briefly interrupted by Logan's rules and Richardson's regulations, leaving traditional village government largely unaffected - as it has remained to the present day.

Beyond the village, German policy-makers had eventually recognised that Samoan chiefly titles were all ranked one against the other to produce a range of statuses from which one could not select - in traditional terms - a regular framework of supra-village officials. Authority which Samoans understood at that level was founded in the power of the orator groups of Tūmua and Pule, together with that of certain other chiefly families and paramount titles. The New Zealanders, having attempted unsuccessfully to force the pace of adaptation to more Western concepts of local government, persevered with the offices of Fa'amasino and Pulenu'u, however, and, by independence, these had had a substantial history.

\textsuperscript{1} Statement to Commission, 12 December 1939, IT 25/1/23.
\textsuperscript{3} An expression of Administrator Turnbull's optimism in 1938, quoted in J.W. Davidson 1967: 154.
\textsuperscript{4} Ordinances Amendment Ordinance 1954 No.6.
More important for future political developments was the emergence in this later period of leaders of ability and personality, some of whom were also the highest title holders, such as Tupua Tamasese Mea'ole (brother of Tupua Tamasese Lealofi III who had been shot), formerly a Mau president, who was appointed Fautua in 1938, and Faumuinā Famē, by now Mata'afa, who was appointed Supervisor of Police, and later a Fautua in 1943. Others who had proven themselves as traders and planters, also took leadership roles in politics such as Fonoti Ioane and To'omata Tua (each of whom was Leader of the Fono of Faipule for a period) and Tofa Tomasi (active in proposing reform and later a member of the Legislative Assembly). Fonoti and Tofa as part-Samoans\(^1\) and To'omata as a successful Samoan planter, demonstrated that wealth and influence in Western terms were becoming increasingly acceptable qualifications for the holding of matai titles - and that title-holding conferred advantages two ways. On the one hand, a person of whole or part Samoan blood could not operate effectively in political or other social affairs without a title of some standing, and such a title provided useful material support from the 'āiga. For its part, on the other hand, the 'āiga gained a powerful member (if not always a traditional leader) who was experienced in Western ways, in return for the title which it conferred.

Gradual post-Mau reconstruction had made little progress, however, before the Second World War brought an influx of 10,000 American troops\(^2\) whose largesse boosted a range of activities and caused many fono to take measures to tighten control of their villages.

**TOWARDS A NEW CONSTITUTION**

The period from the Second War to independence in 1962 was one of profound change. Western thinking penetrated every village and fa'ale.

---

\(^1\) Fonoti was formerly John Brown, and Tofa was a German national, Thomas Nauer.

\(^2\) The average figure over twenty months from March 1942 (Boyd 1969: 185).
Growing numbers of young people were educated in secondary schools, some overseas. While the object of the Mau had been to obtain recognition for a Samoan Mālō, there was now talk of national status. So long as momentum towards self-government could be maintained through the necessary preparatory stages, revival of Samoan resentment could be avoided. Attention turned to the processes by which such advances would be made. Because most of the issues considered during this period are vital today and are best dealt with in a contemporary context, the following account will deal very briefly with the procedures adopted for decision-making from 1945 to 1962, and with the extent to which chiefly interests and thinking were involved.

The Trusteeship Agreement required New Zealand to promote "progressive development towards self-government or independence" and at the same time (inter alia) to have regard to "the freely expressed wishes of the people", "to encourage respect for human rights", and, in framing laws, to consider "Samoan customs and usages". To begin with, a Legislative Assembly was formed to include eleven Samoans to be elected by the Fono of Faipule. However, the Fono requested the Fautua to make the selection and, in doing so, the latter and some of the more progressive Faipule staved off an attempt by the representatives of the Tūmua and Pule to assert their opinion. Here was renewed a pattern of behind-the-scenes struggles in which the district orators sought in vain

---

1 Such was the policy of New Zealand's High Commissioner, G.R. Powles (now Sir Guy, the writer's father), the office of Administrator having been re-named in anticipation of self-government. The policy was seen, for example, in announcements made in 1953 and 1959 as to specific proposals for government and independence, respectively, which, according to one adviser, seemed "to anticipate Samoan aspirations" (Aikman 1961: 353) and were also calculated to keep New Zealand ahead of potential United Nations criticism (Boyd 1969: 222).

2 Articles IV and VIII, Trusteeship Agreement, First Schedule to Samoa Amendment Act 1957, No.22.

3 Samoa Amendment Act 1947, No.48.

to restore their waning influence in respect of such matters as the selection of leaders and representatives. Generally, their speakers held the more conservative views on matters where custom appeared to be affected. By involving the Fautua, Tupua Tamasese Mea'ole and Malietoa Tanumafili II, in regular discussion and policy-making in the Council of State, the High Commissioner encouraged them to take the lead in working out the necessary reforms and, in the case of Tupua Tamasese in particular, outstanding leadership was demonstrated. Because of the unimpeachable dignity of his title (matched only by that of his bearing), and because he was known to be a conservative on certain issues such as suffrage, Tamasese was able to guide thinking forward with regard to parliamentary forms, governmental processes, citizenship and status in a way which prevented frequent divisions between progressive and conservative elements.

Conscious of the need to know more of the day-to-day operation of traditional local government, New Zealand appointed a seventeen-man Commission chaired by J.W. Davidson to inquire into the organisation of districts and villages. The result of painstaking investigations throughout Western Samoa was a report which recommended the progressive setting up of district councils under the guidance of a statutory local government board and the passing of legislation conferring limited authority on committees of ali'i ma faipule and creating additional district judges. Despite wide interest, those who favoured such legislation were unsuccessful. Conservative Samoan opinion - which would simply leave the ali'i ma faipule alone - and cautious European views

---

1 Mata'afa of the Mau had died, and neither his successor nor the fourth tama'aiga, Tuimaleali'ifano Suatipatipa, became Fautua. The role of tama'aiga in recent times is discussed in the following chapter.

like those expressed with regard to the 1938 proposal\(^1\) were among the reasons for inaction\(^2\). Unfortunately, the otherwise valuable report did not address itself to the implications for custom and social harmony of clothing traditional functions with statutory authority.

The High Commissioner's 'blueprint' for self-government required a Constitutional Convention representative of all sections of the Samoan community\(^3\). However, Samoan leaders would not accept a wider group than one consisting of the two Fautua, the Legislative Assembly, the Fono of Faipule, and two additional representatives from each Faipule district chosen by customary procedures - plus the two remaining tama'āiga, the Samoan judges and ten local Europeans. The Convention sat for six weeks in 1954 and conducted its business under the chairmanship of the two Fautua in a manner which varied from Samoan to parliamentary\(^4\). Two of the most difficult issues were suffrage and head of state. Despite the views of some 'fast runners', the Convention overwhelmingly favoured matai suffrage\(^5\), and approved the forty-one Faipule districts in the face of Tūmua and Pule pressure for the traditional eleven\(^6\). The question of head of state required discussion of eligibility and the right to select\(^7\).

\(^1\) Of the 1950 Report, F.M. and M.M. Keesing asked whether "it is wise to put a 'straight-jacket' upon the local Samoan society just at the time it needs informal manoeuvring room for development and change"(1956:58).
\(^2\) The Board was established and some district co-operation achieved (District and Village Government Board Ordinance 1953, No.11) but the main objectives were not realised.
\(^3\) Statement by High Commissioner, 18 March 1953 (Boyd 1969: 223-4).
\(^4\) Boyd (1969: 229-234) who attended as official observer.
\(^5\) Universal suffrage was advocated by the young Mata'afa, who held all his predecessor's titles and was thus Mata'afa Faumuina Flame Mulini'u - hereafter called Mata'afa F.F.M. II. When he later became Prime Minister, Mata'afa changed his position on the issue.
\(^6\) Aiono Fatu, a member of the Convention, said he sought not to destroy tradition but to extend the "dignity and power once held by the Tūmua and Pule to include other sections of the community" (quoted in J.W. Davidson 1967: 327).
\(^7\) Although the tama'āiga withdrew from the meeting, debate was emotional (Boyd 1969: 233) and it must have been a novel experience for most Convention members to be required to discuss matters so sensitive to their personal political interests in such a fono. It would have been unthinkable had un-titled Samoans been present.
Part of the problem was that, of the four titles currently recognised as conferring the status of tama'äiga, three were associated with one sä, that of Tupua, and only one with Sä Malietoā. If any of the four could be head of state, the chances would be that Sä Malietoā would be 'out of office' for a long time, while alternation between the two sä would penalise the Sä Tupuā leaders. Samoan thinking as to which concept - sä or tama'äiga - is more important depends on the potential usefulness of one or the other in relation to the attainment of some immediate objective. In any event, at a later session of the Convention (and after Mata'aafa, and representatives of the Salevalasi orator group associated with that title, had unsuccessfully protested at his exclusion) the Convention recommended that the first heads of state should be the current holders of the Tupua Tamasese and Malietoa titles - jointly. As to who should choose future heads of state, some still thought the matter should be left to the tama'äiga themselves (and, by implication, the people who traditionally chose them) but, finally, it was agreed that future vacancies should be filled in a way Parliament would decide "when the time comes".

As self-government approached step by step, the two Fautua and four elected Samoans were increasingly involved in making and interpreting policy in the Executive Council. The Council was encouraged to develop as a 'cabinet of ministers' until 1959 when cabinet government was established under an elected prime minister. This was the conventional Westminster pattern, except that the Fautua and High

1 Tupua Tamasese, Mata'aafa and Tuimaleali'ifano. However, individual holders could have links with both sä, as did Mata'aafa F.F.M. II.
3 Samoa Amendment Act 1956 No.11.
4 Samoa Amendment Act 1959 No.21.
Commissioner did not withdraw entirely from the scene. Tupua Tamasese felt he should continue to be involved in the new Cabinet\textsuperscript{1}, and, indeed, it is unlikely that he would have agreed to relinquish the effective leadership of government were it not for the fact that his title and standing throughout Western Samoa were such that he was needed as a head of state\textsuperscript{2}. As the Council of State, they were kept informed of all Cabinet decisions and could, when sitting with Cabinet as the full Executive Council, review them, subject to Cabinet's final say in the event of disagreement. In this way, the experience - and traditional leadership on sensitive issues - of the Fautua was retained. During the late 1950s, the Fautua led the working committee on self-government towards a second Constitutional Convention to which recommendations and a draft constitution would be submitted. A crucial issue for the future relationship between those who wished to live fa'a-Sāmoa and those who preferred fa'a papālagi (the European way) was eligibility to vote and to hold rights to titles and customary land. In seeking a common status, the committee felt obliged to preserve the rights of Europeans and part-Samoans who, although citizens, were outside the matai system. By recommending that any citizen "related" (by marriage, adoption or otherwise) to families possessing rights to customary land, should be eligible to hold titles and pule and, if a matai, to vote on an electoral roll for matai candidates\textsuperscript{3}, and by recommending that eligibility to vote on a separate 'universal suffrage' roll should be open only to a citizen who (not being a person holding title or pule or married to such a person) had previously chosen registration on the European roll or was the child (and not merely the descendant) of such a person\textsuperscript{4}, the committee

\textsuperscript{1} Aikman 1969: 320.
\textsuperscript{2} Tupuola Efi, personal communication, November 1974.
\textsuperscript{3} The recommendation (set out in Resolutions by the Constitutional Convention 1960: 10) did not deal with suffrage but automatically affected it.
\textsuperscript{4} Ibid.: 5.
hoped to encourage 'Europeans' to join the Samoan system. Gradual assimilation would bring outsiders in, and legal distinctions based on race would be eliminated. If change was to come, it would do so from within the matai system and not by attrition from competing systems.

After an amendment designed to link customary rights with possession of Samoan blood - but which in its effect was little more than an expression of Samoan nationalism - these proposals were accepted and enacted into law after independence as a most significant foundation for the future development of the chiefly system. On the other hand, the vital legal distinction between freehold and customary land remained, and will be referred to in the next chapter.

An important event in the history of matai ship was the registration of titles in preparation for the election of the new Legislative Assembly which would give this successor to the Fono of Faipule a distinctly Samoan character without detracting from its constitutional function as the sovereign parliament. Western Samoa was introduced to the idea of a 'closing date' every three years by which date all objections to saofa'i were required to be disposed of and those

---

1 The amendment was important for those few citizens whose links with the fa'a-Samoan were by relationship and not blood. By limiting eligibility to hold title or pule to a citizen who has "any Samoan blood" (ss 3 and 6 Samoan Status Act 1963, No.14) the Legislative Assembly on the motion of Prime Minister Mata'afa F.F.M. II re-introduced 'race'. Then the Electoral Act 1963, No.16 which established the 'individual voters' roll disenfranchised a person of no Samoan blood who was married to or adopted by a person holding such a pule (s.19 (2)).

2 Samoan Status Act 1963, No.14 and Electoral Act 1963, No.16. It should be noted that, since 1962, the title of Western Samoan legislation has changed from 'Ordinance' to 'Act'. To distinguish between Western Samoan and New Zealand Acts, 'N.Z.' will appear after post-1962 New Zealand Acts only.

3 Land and Titles Protection Amendment Ordinance 1957, No.4.

4 Samoa Amendment Act 1957, No.22 (N.Z.). The Fono was abolished (s.44, ibid.). On paper, at least, the immediate precedents for this Assembly in terms of their constitutional character and power were the assemblies of the 1873 and 1875 constitutions. Because of reserve areas and limitations (ss 32, 33 and 36, ibid.), the Assembly did not become fully sovereign until independence (Part V, Constitution 1962). The 1957 Assembly also included five European elected and three official members (s.21, Samoa Amendment Act 1957, op. cit.).
matai who held more than one title had to decide which they would use for voting purposes, and, if titles were held in more than one electorate, where they would vote. The manner in which the people have adapted the electoral process to their needs will be discussed later, but it is noted that the Western system was not adopted fully in 1957. While, in twenty-five of the forty-one constituencies, single nominations were secured by discussion and agreement and, in ten, secret ballots were conducted, there was an intermediate category of six constituencies in which one of two or more nominations secured the signatures of an absolute majority of matai - in the manner of selection of Faipule under the 1939 Ordinance¹.

For Western Samoa, the culmination of the drive towards independence was the Constitutional Convention of 1960 which comprised the two Fautua as chairmen, the newly-elected Prime Minister Mata'afa as deputy, the fourth tama'āiga, Tuimaleali'ifano, the members of the Assembly, three additional representatives from each constituency and four additional European citizens². Apart from the European representatives, the 173 members were matai. By adopting the recommendations of the working committee the 1960 Convention built on the foundation-laying decisions of the 1954 Convention. In the course of considering these and the draft constitution, clause by clause, members in 1960 debated a range of issues and passed six additional resolutions³. The debates on suffrage and other sensitive questions were again indicative of roles played by traditional leaders. Although the former issue was not fully re-opened, the Fautua Malietoa helped to defeat an amendment designed to do so - with memorable oratory:

Green wood cannot be broken...until it dies...and custom in Samoa can be compared to a tree that grows luxuriantly. Yet there is a proverb...that for each season of breadfruit a new stick must be cut to get

¹ This 'intermediate' practice was rejected after 1957 (Boyd 1969: 241; and Part VII Electoral Act 1963, No.16).
² Constitutional Convention Ordinance 1960, No.3.
³ Resolutions by the Constitutional Convention 1960.
at the fruit. When the children we are now sending to school begin to assume their titles and duties that will be a new season and they will have to look for a new stick.

The speakers for Tūmua and Pule again came to the fore on the item of head of state (which will be discussed in the next chapter), and a final attempt by the traditional centres to obtain constitutional recognition came near the end of the six-week Convention when Toluono Lama observed that, at a time when young people were being educated in new and different ways, "we must ensure that nothing as far as the law is concerned in future will supersede our recognised customs and traditions." Although he made this remark in support of the rather impracticable contention that the words "Tūmua" and "Pule" should be included in the definition of "State" at the beginning of the Constitution, he expressed the concern of many that, somehow, the document had done little to resolve the basic issues of custom and law, and more particularly, chiefly authority. A consequence of saying that pule derived from custom and not the constitution was that the document took on an alien character in the minds of the conservatives. In retrospect, it is clear that crucial questions relating to chiefly authority were not debated and decided by the working committees and two Conventions. The sense of urgency felt by the leaders to establish the institutions of state and the unwillingness of their advisers to divert

3 This is not surprising in view of the apparent desire of the working committee to put aside such questions in favour of more concrete proposals. For example, J.W. Davidson replied to criticism by saying "... the relationship of the authority of the ali'i ma faipule to the law of the country is a very complicated matter which the Working Committee did not feel could be dealt with in this Constitution itself" (ibid. Vol. I: 74).
4 Davidson, ibid. Vol. I: 76. There was, of course, nothing else that the constitutional advisers, J.W. Davidson and C.C. Aikman, could have said.
them were such that the questions could not be given the time and probing analysis they required. The problem was also one of experience and perspective. How could Samoans be asked to imagine (much less to see the merits of) their society without a chiefly system? In the end, the Constitution of 1962 left much space for the future — for decisions as to eligibility for head of state, suffrage, the status and authority of ali'i ma faipule, regulation of matai titles and customary land — indeed, for the whole future of custom, but no guidance had emerged as to how that space was to be filled. Furthermore, once the Conventions had concluded and neither New Zealand nor the United Nations could any longer be a forum for the discussion of Samoan affairs, prospects for the consideration of these issues in an atmosphere free of local politics were greatly reduced. As a concomitant of independence, the new legislature was left to shoulder responsibility for the future of the fa'a-Sāmoa.

A pre-requisite for independence was the holding of a plebiscite of all adults on the two questions of approval for the draft constitution and for independence. Although it was a novel opportunity for every adult to express a secret opinion, the exercise aroused little interest or enthusiasm and no issue was raised which involved the testing of

---

1 These areas are elaborated in the next chapter.
2 Reluctant to accept anything less than universal suffrage, the U.N. General Assembly would not approve independence without a plebiscite. This was so despite New Zealand's argument that, although neither the Legislative Assembly nor the Constitutional Convention had been elected by universal suffrage, "there was no doubt that they fully represented the views of the Samoan people" (quoted in Boyd 1969: 267-8). In explaining the conservative nature of his people to the United Nations in 1960, Prime Minister Mata'afa likened the new state, founded in custom, to "a slow-growing tree which has thrust its roots deep into the soil [and thus] is better able to withstand a hurricane" (quoted in Boyd 1969: 266).
3 Ibid.: 268.
chiefly authority. Of those eligible, 87 per cent attended the polling booths. The fact that the vote in favour of the constitution was only 83% of those eligible, and that in favour of independence only 79 per cent, has been variously interpreted. New Zealand's claim that enough people voted 'no' (about 5,000 on the independence question) to show that the matai system "intimidated nobody" is without foundation. The 'no' vote is equally open to the interpretation that (except perhaps in the Apia area) people generally voted as instructed by their matai, some of whom had their own political reasons for opposing aspects of the new order which displeased them. Certainly, the matai of Western Samoa were not intimidated by their leaders.

When independence came in 1962, it was not on the basis of a so-called 'Tongan relationship' between Western Samoa and New Zealand. Samoan leaders in the 1940s and 1950s had been impressed with what they understood to be the degree of both freedom of action and financial assistance then enjoyed by Tonga under Queen Salote, in Tonga's relations with the United Kingdom. They became aware of the limitations of the Tongan relationship, however, and, in 1960, Western Samoa accepted New Zealand's preference for full independence and a Treaty of Friendship.

1 McKay 1961: 354.
2 Statement by High Commissioner, J.B. Wright, to the Trusteeship Council and apparently supported, by Boyd (1969: 269).
3 McKay, an official Plebiscite Commissioner, observed that opposition in the centres of Tumu and Pule was due rather to the dissatisfaction of the orators with the system of rotation of district representation which had caused some of them to lose their seats in the Assembly earlier that year (letter McKay to Boyd, 19 November 1969, p.17).
4 The Fono, the 1954 Convention and subsequent working committee had favoured it (Boyd 1969: 191, 227, 237 and 249).
5 As recently as the Treaty of 1958, the Tongan government was bound to obtain the consent of the United Kingdom government to any legislation dealing with defence, banking, currency and exchange - and was subject to the law of the United Kingdom in other respects (Treaty of Friendship, 26 August 1958 - see Appendix C).
6 1 August 1962, Treaty Series 1962, No. 5 (N.Z.). Sovereignty is mutually respected and New Zealand will assist in the conduct of external relations "when requested".
CHAPTER 4. CHALLENGE AND RESPONSE

The presence of chiefs, and of the chiefly system, is felt throughout Western Samoan society. The theme of this chapter is the mid-20th century challenge to chiefship, and its response. There are challenges in a number of areas, and the discussion is only concerned with those aspects which have implications for politics and law. The principal areas are the constitutional and legal framework of the state, institutions controlling the maintenance of order and the settlement of disputes, bureaucracy and the public service, areas of economic significance, and the electoral and parliamentary system. The chapter will at the same time look closely at the manner in which the chiefly system has expanded, both in areas of influence and in numbers. The strength of the system is such that it will also be seen that it is being used by non-traditional forces, and that it is being built into non-traditional institutions.

CONSTITUTION AND LEGISLATION

The Constitution itself gives little explicit recognition to chiefship, leaving room for change. As the "supreme" law against which all inconsistent law is void\(^1\), the Constitution declares that the state is "based on Christian principles and Samoan custom and tradition"\(^2\). The document begins with Fundamental Rights provisions, comprising statements of principle subject to derogations. Head of State, Executive, Parliament, Judiciary, Public Service and Finance are provided for. Essentially, a Westminster-type parliamentary system has been adopted, with provision for elections every three years to a Legislative Assembly which chooses its own Prime Minister, if necessary by ballot. He, in turn, selects a Cabinet of eight Ministers. The Prime Minister and Cabinet are responsible to Parliament\(^3\). The office of Head of State is filled by Malietoa Tanumafili II


\(^2\) Preamble, ibid.

\(^3\) Part IV, ibid.
under survivorship provisions, and, on his death, the Head of State is to be elected by the Assembly every five years. A Council of Deputies, consisting of not more than three persons elected by the Assembly, shall perform the duties of Head of State during vacancy, absence or incapacity. The respective qualifications for these offices, and the relationships between them, will be elaborated in the appropriate sections of this chapter.

As pointed out, the Constitution also reflects the reluctance of its architects to prejudice the gradual resolution of problems arising out of the relationship of chiefly authority to the 'law' of the country. The principal areas in respect of which the Constitution is not definitive may be summarised in the following manner.

1. Suffrage. The qualifications for election to Parliament and to vote are to be determined by statute, which provides for the two voters' rolls, territorial and individual. Those eligible for the territorial roll (and for election from it) are registered matai of or over the age of 21, and in the case of the individual roll, the more detailed provisions referred to in Chapter 3 are set out.

2. Eligibility for Head of State and Council of Deputies. This is to be determined by resolution of the Legislative Assembly. No such resolution has been passed, and the need does not arise, in the case of Head of State, during the lifetime of the present incumbent. Members of the Council of Deputies have been tama'āiga.

3. Equality before the law. The 'freedom from discriminatory legislation' provision - no discrimination "on grounds only of descent, sex, language, religion, political or other opinion, social origin, place of

---

1 Part III, and First Schedule, ibid.
2 Articles 44 and 45 ibid., and Parts II and III Electoral Act 1963, No.16.
3 Articles 18 and 25 Constitution 1962.
4 Debate in relation to the office will be mentioned later.
birth[or] family status" affects the operation of no law or executive or administrative practice being observed on Independence day\textsuperscript{1}. New provisions or practices which accord preference to matai could lead to constitutional argument, although the possibility seems remote.

4. Matai titles. "A matai title shall be held in accordance with Samoan custom and usage and with the law relating to Samoan custom and usage"\textsuperscript{2}.

The 'holding' of titles in accordance with custom is thus protected, while the legislature and courts may provide for matters 'relating to' such custom. Procedures relating to appointment, or the settlement of title disputes appear to be within the competence of Parliament. It is not so clear whether the 'holding' of a title includes the exercise of customary powers appurtenant to it. In the absence of express mention in the Constitution, the implication is that the statute and common law of the state apply to the exercise of such powers.

5. Customary land. Such land is "held from Western Samoa" on the same terms as matai titles. That is to say, customary land is vested in the state but held by those persons who can establish rights in accordance with Samoan custom and usage and with the law relating to custom and usage\textsuperscript{3}.

6. Authority of ali'i ma faipule. There is no relevant constitutional provision, and legislative mention is rare\textsuperscript{4}. An argument that the protection of the constituent titles held according to custom extends collectively to the village body would be unlikely to shield the latter from legislative intervention. Such issues as the authority of the fono to banish villagers have not yet been tested in the Supreme Court against the constitutional guarantees of 'freedom of movement and residence' and

\textsuperscript{1} Article 15 ibid.  
\textsuperscript{2} Article 100 ibid.  
\textsuperscript{3} Article 101 ibid. As will be discussed, the Land and Titles Protection Ordinance 1934 is an example of law 'relating to' custom and usage.  
\textsuperscript{4} The only current statutory provision conferring authority on village councils is s.8 of the Liquor Act 1971, No.12, which requires that no licence to sell liquor in the village be granted without the prior approval of the ali'i ma faipule.
of the right not to be convicted other than of an offence defined by law.1

The law of Western Samoa is thus written and unwritten. Because Samoans refer to 'custom' in relation to matai titles, customary land, and chiefly authority generally, it is convenient to describe such custom as 'customary law'. While the existence of custom in relation to titles and customary land is recognised, the constitutional status of customary law is limited by the definition of "law", which includes -

any Act ..., the English common law and equity for the time being in so far as they are not excluded by any other law in force...and any custom or usage which has acquired the force of law in Western Samoa or any part thereof under the provisions of any Act or under a judgment of a Court of competent jurisdiction².

Custom or usage remains subject to English common law and equity unless the former has acquired the force of law.

The law relating to matai titles and customary land requires elaboration in a broader perspective. As to matai titles, the New Zealand administration adopted the German practice of declaring that no appointment would be recognised until the saofa'i ceremony had taken place and made the Pulenu'u of each village responsible for notifying the central authority. Any person other than the "rightful holder" according to custom who used a title or acted as its holder was liable to imprisonment.³ After the registration of all titles was required in 1957, it was found necessary to provide that no person could be the "rightful holder" until registration was completed.⁴ A Register of Matai has been maintained in the office of the Land and Titles Court. As each title has a single domicile, the entries are kept on a village by village basis.⁵

---

1 Articles 10 and 13 Constitution 1962.
2 Article 111 ibid.
3 Samoan Titles Protection Order 1928 (N.Z. Gazette 1928) followed by ss. 28 and 30-33 Land and Titles Protection Ordinance 1934, No.2.
4 S.2 Land and Titles Protection Amendment Act 1969, No.29.
5 A person holding two titles will appear twice, with a cross reference. Deletions are made on death, but absence overseas is seldom recorded.
To bring the position with regard to customary land up-to-date, the stabilisation of the status of land under the Final Act of Berlin appeared to have ensured enough land for both subsistence agriculture based on villages and large-scale plantation enterprises. The significance of the large European holdings was that they lay outside the jurisdiction of the ali'i ma faipule and provided an independent economic base for Samoans who (in increasing numbers as indentured labour was repatriated) chose to work and, sometimes, to live on them. Small freehold sections constituted an anomaly within village boundaries. When New Zealand inherited most German freehold and government land in Western Samoa by way of war reparations, the New Zealand Government became the largest single land owner and land classification was clarified in terms of Crown land, European land and customary or Native land. While the categories and prohibitions originating with the Berlin Act Commission were adhered to, their artificiality was becoming evident. Freehold land inherited by part-Samoans or bought by Samoans was often held by Samoan families and administered by matai in accordance with custom. In order to prevent further alienation of such land to the detriment of those who would otherwise have customary rights, an intermediate category of interest was created called 'Samoan freehold land' - being any freehold in which a Samoan had an interest - which could not be alienated (except by will) without the Administrator's consent.

1 At the beginning of the first World War, the holdings of the D.H.P.G. included three large copra-producing plantations (9,000 acres) which contributed half of the annual copra exports (Boyd 1968: 153-4).

2 S.268 Samoa Act 1921. By S.278 of the same Act, Native land was vested in the Crown "as the trustee of the beneficial owners thereof," and held by the Crown subject to Native title "and under the customs and usages of the Samoan race".

3 Samoan Individual Property Ordinance 1925, No.5, which was incorporated in Part IV, Land and Titles Protection Ordinance 1934, No.2. Keesing noted that "more ambitious matai" were accumulating in their own right land other than that which would come to them according to custom, but he incorrectly described the new type of tenure as "individualised native land" (1934: 278-9). Rather it was 'Samoanised freehold'.
A development begun in the early 1930s, and continued until 1956, created future problems for land classification and the jurisdiction of ali'i ma faipule and of individual matai. Areas of 'reparations' land which were not needed by management and would be useful to nearby villages were made available by the Crown and placed under the administration of the ali'i ma faipule - either without formal deed, in which case the Government retained ultimate control, or by grant of the freehold title to be held by the ali'i ma faipule in accordance with custom and usage. The Constitutional Convention recommended that the classification of land be reviewed and the Samoa Act provisions have been replaced by corresponding constitutional categories, but only part of the problem has been examined. While the preponderance (nearly 80 per cent) of land in Western Samoa is classified as customary, areas of public land (over 11 per cent) and freehold (over 8 per cent) are scattered. The areas made available by the Crown are variously classified and, together with pockets of privately owned freehold land within village boundaries, they constitute an insidious threat to village pule. In most of the cases where substantial areas of land of ambiguous status are concerned, the ali'i ma faipule have subdivided the land and distributed it to families, matai and taule'ale'a, sometimes as a cash 'sale' but more often subject to rules drawn up by the village to provide for village supervision of tenure and rights of disposal. In no case has any such interest been registered against the relevant freehold title in the Land Registry. The Department of Lands and Survey has no clear policy with

---

1 The condition made the land subject to the jurisdiction of the Land and Titles Court (ss.16 and 17 Land and Titles Protection Ordinance 1934, No.2).
3 S.65 Taking of Land Act 1964, No.1; and Articles 101 and 123 Constitution 1962.
4 Crown grants totalling 4,300 acres were made to the ali'i ma faipule of fifteen villages on condition that the land be held in accordance with custom, and a further 4,250 acres is held by Government on the understanding that it will be administered by five villages in accordance with custom (Land and Survey Department files, Apia).
regard to these areas and has allowed village people to treat them as a type of freehold - which of course they are glad to do if they can obtain the benefits of sale and security. There is evidence of confusion, disputes and fraud\(^1\). It appears from the 1934 Ordinance and the Constitution that these areas were intended to be held and administered entirely as customary land.

With regard to customary land itself, no scheme for the determining, surveying and recording of interests has been attempted. Beginning with the work of the Berlin Act Commission and continuing with the surveying of some Court decisions, certain areas are defined piecemeal. Although recommendations have been made\(^2\), Government is concerned over the host of dormant claims which a systematic review of interests would arouse, and its unsettling effect on society (and the voter).

**Resistance to legislative intervention**

Appointment of matai carries with it appointment to at least nominal pule over the land appurtenant to the title. While it is accepted that subordinate titles sometimes have lesser rights subject to higher pule, matai have successfully resisted attempts by reformers to allow such rights to be vested in untitled people. Proposals that customary land should be capable of being leased or licensed to taulele'a should be seen against the constitutional background.

Since the Berlin Act, chiefs have accepted that Samoan land should not be sold or mortgaged. As a vital safeguard, the Constitution prohibited "any alienation or disposition of customary land or of any interest in customary land, whether by way of sale, mortgage or otherwise howsoever" except that the granting of leases or licences and the taking of land for

---

\(^1\) Land and Titles Committee Minutes 1975. Even in the case of the further 18,500 acres declared to be held by the State in trust for the people of Falealili district, and which is administered by an official committee, problems of status and control persist (Decision of Commission of Inquiry into Falealili Public Land, 18 September 1973, Justice Department, Apia).

\(^2\) For example, by Keesing (1934: 287) and successive economic planners (Third Five-year Development Plan 1975-1979, 169).
public purposes was permitted pursuant to Act\(^1\). Furthermore, the fact that this provision appears to prevent any disposal of customary land interests between Samoans has not yet been a cause of concern. The notion that untitled persons might acquire enforceable interests was another matter altogether, however. The Convention of 1960 accepted over much opposition the recommendations of the Working Committee that a Select Committee of Parliament be appointed to consider whether, for the benefit of families and the economy generally, provision should be made for the granting by the Minister of Lands, with the consent of the matai and ali'i ma faipule, of fixed term leases for agricultural purposes to any approved person, whether matai or taule'ale'a, subject, in the case of the latter, to his rendering the tautua ordinarily required according to custom\(^2\). The subsequent delay in obtaining a Select Committee report and in passing any legislation at all to empower the granting of leases as envisaged by the Constitution is some measure of the political sensitivity of the question. Conservatives on the Committee in 1963 and in Parliament in 1965 persuaded the majority that no leases for agricultural purposes should be granted to a person who is not a matai\(^3\). Their argument appealed to the emotions. "If we institute this leasehold system, it will appear as if my own relatives will not be my own people, but will be regarded as people not related to me"\(^4\). The only concession obtained by the reformers was a recommendation in the Committee's report that a matai should leave a taule'ale'a free to use for his own family the bush land he is developing so long as proper service is rendered\(^5\) (which was already the policy of the Land and Titles Court\(^6\)).

---

1 Article 102 Constitution 1962. This is the only entrenched provision, requiring for amendment a two-thirds majority of a referendum of territorial constituency voters (Article 109 ibid.).
6 Marsack 1961b: 24-25.
The late J.W. Davidson, who assisted the case for reform in the Convention and had hoped for some "significant advances in political thinking" as a result of efforts by the "progressives" who espoused universal suffrage as well as leasing to the untitled, would see little change today, some fourteen years later. A further example of conservative thinking was, in 1970, the unopposed amendment of the Taking of Land Act 1964 to ensure that all compensation moneys owing by Government in respect of customary land taken for public purposes would be paid direct to "the matai who had the pule over that land" as "the only person so entitled" to the moneys. The previous law which required payment to "every person having any estate or interest" or, if in doubt, to the Public Trustee was described as "not in accordance with the customs and usages of the Samoan people". Little thought appeared to have been given to the possibility that the amendment also departed from custom (and was therefore in breach of the constitutional requirement that customary land be held in accordance with custom) on the ground that a matai is not the only person recognised by custom as "entitled" to land and therefore to payment for the taking of it. Despite the fact that, in practice, it is the matai who administers customary land and that, in any dealings with it, he is recognised as having authority to consent to the use of it by others, the view of the Land and Titles Court is that the interest of a matai is "partial" and not "absolute" - and that, in appropriate cases,

3 Ss. 25 and 46 Taking of Land Act 1964, No.1 (as originally enacted).
4 To'omata L.T., Minister of Lands, in Explanatory Memorandum to the 1970 Bill.
5 The Department of Lands accepts the signature of the matai as evidence of the consent of the "beneficial owners" of land to be leased by the Minister - Ss. 2 and 5 Alienation of Customary Land Act 1965, No.24.
6 Re Petition of Seumanutafa Moepogai (1969) 1960-1969 W.S.L.R 228. The rejection by the Court of Seumanutafa's claim for payment to him of $8,890 for land taken for water conservation led to the statutory amendment.
the interests of persons using the land subject to his pule would be upheld against him. The terms 'trustee' and 'beneficial owner' have found favour among judges and lawyers, but it is a question of defining the 'trustee's' powers accurately in terms of custom - if the matai in Parliament are to be satisfied that their interests are protected.

No thorough study has been made of the principles and operation of custom in relation to land today. The increasing number of court claims in respect of lesser interests appears to be establishing the right to use family land - subject always to the proper rendering of service to the pule holder - as almost hereditary. The onslaught of Western individualistic attitudes has had its effect - particularly where control over work on family and village land is concerned. Prime Minister Tupuola Efi put it thus -

With the advent of the concept of constitutional rights of individuals, enlightened and laudable though they are, what we have now under our law is a system that poses a challenge to the authority of the matai to exert on the idle to be active.

Chiefly pule over land poses serious problems for any Government policy directed at planning land use, the registration of interests in customary land, establishment of a long-term forestry industry or the more economic development of land in larger blocks. So long as Government limits its activities to programmes which depend on village co-operation, the matai's authority in respect of land will remain the shield of his defence against change, for some time to come.

---

1 "Pule is a vastly different thing from beneficial ownership" and "a matai is virtually in the capacity of trustee for the family" (Marsack 1961b: 22). See also note 5 p.157 and Chapter 1.

2 'Pacific Way' address, University of South Pacific (Savali 25 October and 11 November 1976). It has been of little consolation to matai that work or service required by Samoan custom is exempted from the constitutional 'Freedom from Forced Labour' (Article 8 Constitution 1962).

3 A Regional and Town Development Planning Bill, drafted by a United Nations planning adviser and introduced in 1973, which provided for plans and rules to govern the use of land, subject to objection by "any person affected", was politely allowed by Parliament to lapse.
MAINTENANCE OF ORDER AND SETTLEMENT OF DISPUTES

Chiefly authority in this area has been eroded by the law of the state in two ways. The courts, as the agents of introduced law, have encroached upon the authority of matai, acting individually and in fono, and have substituted their own. Secondly, the nature and processes of introduced law have struck at the foundation of the two notions essential for the support of status in Western Samoa, namely rank, and that facility for negotiating relative positions which enables rank to adjust to power over time. Western Samoa has two types of tribunal, those which have jurisdiction in matters relating to chiefly concerns such as titles and land, and the remainder of the courts which have functions familiar to the Western lawyer.

So long as the Western-style court is fixing penalties or awarding damages as the consequence of conduct, it appears to be performing a traditionally recognisable function - namely, what the village fono does. In reality, such court - which, for Western Samoa, means the hierarchy of Magistrates Courts, Supreme Court and Court of Appeal - being different in approach, procedure and the law which it applies, tends to erode the standing and effectiveness of the fono. To begin with, the court is required to apply the criminal and civil law to all citizens equally, thereby taking no account of rank. Secondly, only individuals and statutory corporations are legal persons, and families and villages not only have no standing as such, but they are not permitted to take responsibility for an individual. Thirdly, although excluded from deciding matters relating to matai titles and customary land by the jurisdiction of the first type of tribunal mentioned above, the court is not obliged to take into account decisions of village fono, as the fono have no statutory recognition. Judges and Magistrates often do so, but

1 Article 15 Constitution 1962.
there are numerous situations every year in which the court and fono are in conflict and the offender is in 'double jeopardy'. Fourthly, the court may or may not take other traditional institutions into account. When relatives of an insulted chief exact a rough penalty from the offender, they are usually punished in court. The solemn ifoga, public apology, poses a problem if accepted in a civil claim.

On the other hand, in exhibiting its own deficiencies, the Western-style court strengthens the standing of the fono and traditional processes. For example, where a fono and its leading matai can act promptly to prevent violence, or its continuation, police and court enter the scene too late. More importantly, only matai, and the authority of leadership, have so far been able to resolve serious disputes founded in family or village politics.

A different set of implications for the chiefly system has arisen in relation to the first type of tribunal. Now called the Land and Titles Court of Western Samoa, the significance of its 75 years of operation lies in the uniqueness of its jurisdiction, the consistency of its approach, and the readiness of parties generally to comply with its orders (there have been exceptions, of course). The original German concept was taken up by the New Zealand Administration and much of it has been retained to the present day. Although the Samoan Commissioners and Fa'amasisno were entitled to be

---

1 Court notes (personal) 1965-1966. A family fined by the fono must pay again when its member is punished in court. Respect for both systems of justice deteriorates.
2 Ibid.
3 Whether it would be a 'valid defence in law' has not been finally decided (Lemalu, P. v. F. Jessop (1966) 1960-1969 W.S.L.R. 214).
4 When in 1969 a high chief in Leulumoega ordered that the word be circulated that a man-sized umu, oven, had been prepared for a rival, the tense situation was defused by a third chief connected to both sides.
5 Samoa Native Land and Titles Commission Orders 1920 and 1924 (N.Z. Gazette 1920 and 1924, respectively).
6 The principal Ordinance, the Land and Titles Protection Ordinance 1934, No.2, was amended in 1937 to establish the Commission as a Court under the Chief Judge of the High Court and to change the status of Commissioner to that of Fa'amasisno Samoa (Samoan Judge) - Land and Titles Protection Amendment Ordinance 1937, No.2.
heard on all matters and to examine witnesses, they were not given a voice in the decision until 1950\(^1\). Today, the President of the Court, also holding the office of Chief Justice of the Supreme Court, has tended to delegate much of the routine work to the Senior Samoan Judge as his deputy, except in disputes involving high titles, when parties and Samoan Judges alike prefer the Chief Justice to preside\(^2\). Samoan Judges are required to be matai, and are appointed for three years\(^3\).

The Land and Titles Court has exclusive jurisdiction in respect of disputes relating to matai titles (appointment, succession or removal) and customary land (pule and boundaries)\(^4\). Types of cases (title or land) and the increase in the work of the Court are illustrated in Table 1. The decisions of the Court are final and may not be reviewed in any other court\(^5\).

<table>
<thead>
<tr>
<th></th>
<th>Title cases</th>
<th>Land cases</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1903-1931 inclusive</td>
<td>763</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1948</td>
<td>23</td>
<td>27</td>
<td>7</td>
<td>57</td>
</tr>
<tr>
<td>1958</td>
<td>36</td>
<td>73</td>
<td>-</td>
<td>109</td>
</tr>
<tr>
<td>1968</td>
<td>74</td>
<td>86</td>
<td>23</td>
<td>183</td>
</tr>
<tr>
<td>1973</td>
<td>168</td>
<td>263</td>
<td>17</td>
<td>448</td>
</tr>
<tr>
<td>1975</td>
<td>161</td>
<td>165</td>
<td>49</td>
<td>375</td>
</tr>
<tr>
<td>1977</td>
<td>292</td>
<td>110</td>
<td>43</td>
<td>445</td>
</tr>
</tbody>
</table>

Sources:

\(^1\) Samoan Judges Ordinance 1950, No.9. By then, their role had been increased informally over the years, and it was common for the Court to comprise the Chief Judge, one or two Assessors (often part-Samoan officials or business men) and two or three Fa'amasi Samoa.

\(^2\) As yet, the President is a New Zealand lawyer on contract. There are nine or ten Samoan Judges, three or four of whom sit with the President or deputy, and the opinion of the presiding judge is decisive only in the event that the rest of the bench is unable to agree (S.54 of the principal Ordinance).

\(^3\) S.39(2) \textit{ibid}.

\(^4\) S.37 \textit{ibid}.

\(^5\) S.61 \textit{ibid}. The Court may re-hear a matter if application is made within two months (ss. 59 and 60 \textit{ibid}.).
The law applied is Samoan custom and usage and the Court is empowered to make such orders "as may be necessary to preserve or define [Samoan titles] or the rights or obligations attaching thereto". Apart from certain collections of fa'alupega (historical addresses) and gafa (genealogies), and the accumulated wisdom of Court files, principles of that law are not written down. The Court generally gives no written judgment of reasons for its decisions and no body of case law has accumulated in a form which is accessible to the public. Certain broadly-stated propositions of customary law, mainly relating to succession to matai titles, may be elicited, but, when set down, they read as a statement of policies and attitudes rather than as the precise rules which lawyers look for. The level of abstraction of the law which it applies greatly increases the freedom of the Court to intervene as and when it thinks fit.

The Court's approach, in the first instance through its Registrar and staff, is to promote the settlement of disputes. The importance of the Court's record in its first 50 years was that, while the relatively few cases taken to judgment indicated a reluctance on the part of matai to submit disputes to final determination by an alien tribunal whose processes of reasoning could not always be understood or trusted, nevertheless the services of officials were regarded as a valuable means of bringing parties together and encouraging settlement. Furthermore, the Registrar (formerly

1 S.37 ibid.

2 Marsack talks of "a well-established set of principles applying to the large majority of decisions" (1961b: 3) but his monograph is discursive rather than an attempt to define and analyse principles. The writer made such an attempt in his LL.M. thesis and the topic will not be pursued here.

3 In commenting "It is difficult to understand why the natives [who have ample land] are constantly engaged in land disputes" (Mandate Report 1924-1925, A.J.H.R. 1925 A-4), Richardson failed to recognise the essential role of negotiation - and of manoeuvre and re-negotiation - in preserving a broader harmony. As Secretary of Samoan Affairs, McKay was involved after the Mau in resolving a number of disputes arising out of the Administrator's banishment and title orders (McKay 1968: 55-6). "There were often a hundred interviews a month, many out in the field or villages, and all attended by groups of people entitled by kinship to take part" and, in respect of all types of dispute, the Department built up an expertise which contributed to the standing of the Court (ibid.: 65-9).
the Secretary or Resident Commissioner for Savai'i) had power, before proceedings were issued, to make interim orders restraining the possession or use of title or land in any case where trouble seemed likely. Accordingly, it seems that, at a time when British courts in many colonial situations were trying to apply the substantive law of the people through procedures which such law had never known, that conflict was less marked in Samoa. One reason was that a great bulk of customary law was dispensed by the village fono. Also, customary procedures for the resolution of disputes by meeting and discussion, around which traditional forms and rules had developed, could be encouraged by officials with a minimum of sanction. Furthermore, the Land Titles Court had evolved a procedure which was a mixture of Samoan ceremonial and courtesy, German inquisitorial techniques and the British adversary system.

From the point of view of the matai, the important question in relation to the Land and Titles court is to what extent the Court is prepared to substitute its own decisions for those of the 'āiga potopoto or ali'i ma faipule. To a degree, the Court recognises that, in most situations, its intervention is destructive of Samoan attitudes to traditional settlement techniques. For example, in title succession disputes, the Court endeavours to adhere to a three-step procedure -

i. informal discussions arranged by staff before a petition is filed - and again before a hearing; then, if necessary,

ii. a hearing to determine who should constitute the body to decide the issue - and adjournment to encourage agreement within that body; and, if necessary,

---

1 Ss. 63-5 of the principal Ordinance.
2 Although empowered to do so, the Court has prepared no formal rules of procedure, and follows the simple petition procedure laid down in the Ordinance. Parties are still examined by members of the court on the basis of written statements of evidence, submitted before the hearing. Details of gafa are not made available in writing to opposing parties - so as to reduce opportunities for taunting and insult. For the same reason, the right to cross-examine one's opponent was discontinued in the 1940s (McKay 1968: 68).
iii. a hearing to decide who should succeed to the title.

In deciding who has the pule in respect of a title, the Court has occasionally been forced to compromise by recognising the joint sharing or felafo'a'i (alternating) of titles, between branches of the family. The splitting of titles (so that each branch would have sole pule in respect of, for example, one of four titles all called 'Fale') was, however, a matter on which the New Zealand Administration and the Court developed a policy of restraint - which was reasonably successful until after the Second War and which contributed to the wholesale nature of the practice of splitting when it subsequently occurred.

When the Court fixes rank and defines status relationships - between people, and between people and land - and purports to do so for all time - it fails to give adequate recognition to elements of negotiability and re-adjustment which are essential for the proper operation of the status system. A dilemma of Samoan history has been that, while the fono has survived to maintain the traditional balance between fixed rank and flexibility at a village level, there has been no corresponding traditional institution at a higher level. The Land and Titles Court - introduced by Europeans primarily to promote national stability in the resolution of

---

1 For example, two cases decided by the original Commission - Re Title Toleafoa, decision 5 February 1907 and Re Title Tafua, decision 9 February 1907 (GCA XVII A/6).

2 Marsack suggests that the idea of splitting titles was introduced by Secretary of Native Affairs Griffin (who served in the 1920s) and taken up by some families to avoid the necessity of making difficult, and potentially disruptive decisions (Marsack 1961a: 100-1). Early examples of splitting were of the Papali'i title of Sapapali'i into 21, Asiata of Satupa'Itea into 20 and Fuimaono of Salani into 17 (Marsack 1961b: 8). However, by 1927, official policy had turned against splitting (Mandate Report 1926-1927 A.J.H.R. 1927 A-4). Splitting and its consequences are discussed below.

3 In recognition of the element of status inherent in the matai title, and the peculiar relationship between title and land, a principle emphasised under post-German provisions has been the in rem nature of the Court's judgment which "shall bind all Samoans who are interested therein whether parties to the proceedings or not" (S.58 of the principal Ordinance). Adequate service and publication of every petition, notice of hearing and decision have consequently been an essential aspect of the procedure.
disputes over high-ranking titles - has gradually increased the scope of its activities. As a 'neutral' party, it has had the effect of stimulating conflict until today it is an alternative means of redress for any matai and family.

Increasingly, the Court is persuaded to intervene directly to stop appointments and resolve potentially violent disputes. Furthermore, the three-yearly cycle of parliamentary elections in which only matai are involved imposes an artificial time-scale for deciding appointment cases. While continuing to exercise great caution in the conduct of contests over high-ranking titles, the Court is drawn into the routine disposal every year of hundreds of disputes over lesser titles and land boundaries. The 'court alternative' has eroded traditional restraints. The Court is widely criticised for its encroachment on the preserve of family and villages in title matters. For the conservative Samoan, the Court is an unpredictable factor possessing unreasonable power. On the other hand, lawyers and bureaucrats see the Court as unduly reactionary in its role as the upholder of chiefly dignity and preserver of Samoan custom.

To consider disputes in relation to the appointment of matai, in particular, it is true that the long-standing criteria and procedures for determining title succession continue generally to apply. There are three noticeable and related trends, however, which have significance in terms of the authority of those having pule of titles. First the processes of advertisement and discussion bring in participants and objectors from far afield. While appointment decisions are reached more quickly than they used to be - in a manner most regard as unseemly - the net of relationships extends across both Samoa and overseas. The problem of determining precisely who is entitled to constitute the decision-making

---

1 Elections also impose strain on members of the Court whose status in their electorates naturally involves them in all major issues. Discussion of the role of matai as judicial officer and further important questions as to the relationship between a 'customary' Court and the legal system of the State, cannot be encompassed in this study.

2 See Chapter 1 and Marsack 1961b: 10-14.
The body is a growing one. Traditionalists would limit it more often to the filifiliga, core, of the 'āiga potopoto, while the Court tends to be less restrictive. Secondly, although contenders will seek to highlight the significance of blood-links, claims based on personal achievement and service carry increasing weight. A third, and perhaps consequent, trend has been for representatives from the tamafafine line to be regarded as having an equal claim to the appointment of their candidate rather than merely a strong voice in the selection\(^1\). For example, Leumanuvae Eti successfully claimed the high title Tofilau of Iva through the sister of a Tofilau of four generations ago\(^2\). It is apparent today that considerations for title appointment take into account the changed opportunities for status and power. Blood relationships, marriage and adoption are still important with the higher titles, but it is in connection with succession to the thousands of lesser titles that the greatest potential for disruption occurs, and those holding the pule have failed to see or to take account of the danger. Lesser titles will be discussed further in connection with matai numbers. The work of the Land and Titles Court has clarified the terms surrounding chiefship. For Samoa, a chief is one who holds a title, and the title is more than a style of address. It possesses the three attributes described by Goody -

In the first place, titles are designations for restricted role categories; which means they are scarce resources. Secondly, they are individualized role names, like the Duke of Plazatoro, rather than plural role categories like doctor; which means they can be ranked in ordinal series. Thirdly, they are generalized terms of reference or address; which means that the role extends its influence over the social personality of the title-holder\(^3\).

The first attribute, scarcity, means that a title has value, and in legal terms is property - "an incorporeal hereditament\(^4\) in the manner of the

\(^1\) Interviews with judges 1975. Compare Marsack - "They do not normally succeed to the title" (1961b: 11).
\(^2\) The result of the claim was the splitting of the title by agreement. Other Tofilau branches have also split, and there were 11 Tofilau holders in Eti's constituency in 1976 (Electoral Roll).
\(^3\) Goody 1966: 171.
English baronetcy (although the rules of succession differ). The second and third indicate that, when the title is conferred in a ceremony of public recognition, the change of name implies a change of status for the holder.

As will be shown, the Tongan concept of chiefliness varies according to context, because the Tongan word for chief, 'eiki, is also the term for expressing any idea of higher rank. Tongan titles have more in common with the baronetcy, in that they are granted "in sole right of the Crown" and are "descendible in accordance with the grant".

GOVERNMENT - PUBLIC SERVICE.

The response of matai-ship to the challenge of government has been to participate in the offices and processes. As this is only one of a number of new horizons for the chiefly system, a brief review is appropriate, with a discussion of the role of the 'European'.

New horizons

Opportunities for the use of status have greatly expanded in such areas as the public service, business and professions, the churches and other social offices, and Samoan communities overseas. The world of the ordinary matai - if he may be taken as the reasonably energetic holder of a middle-to-upper level village title - is no longer limited to the daily routine of 'aiga and village affairs. On the one hand, there has been a continuing expansion of opportunities for Samoans who have brought education, administrative ability and business acumen to competition for titles. On the other, the composition of matai-ship has changed as part-Samoans not wholly (or even very little) identified with traditional Samoa have seen the advantages of status which the matai system can offer. Some of the forces of change are those which one would expect Western Samoa to share with other small Pacific states - such as diversification of the economy to include tourism and small industry, wider educational prospects

1 Ibid., and Vol. 7, 297.
at home and overseas, growth of the public service and a certain nationalism under Samoan leadership. For Western Samoa, the chiefly system has added another dimension, giving special meaning to the assumption of political power by the Samoan electorate.

Of the areas mentioned, the public service, business and professions and the churches were formerly dominated by Europeans and/or part-Samoans. The full-blooded European has shifted from 'colonial' to 'aid' status. While regarding the village life-style as unacceptable for them, and sometimes inferior, part-Samoans now often feel that the holding of a title outweighs the disadvantages associated with 'aiga obligations. In a reversal of attitudes over the last twenty years, families of the part-Samoan business elite no longer see social stigma attached to periodic participation in village affairs. The significance of part-Samoan impact on the ordinary day-to-day lives of Samoans must be kept in perspective, however, and demands further discussion.

The papalagi element

While there is today literally only a handful of Western Samoan citizens who either themselves or whose spouses possess no Samoan blood, this legacy of foreign involvement continues to be significant in any study of chiefly power. Much of the commercial activity of the country is in the hands of families of Samoan/European and Samoan/Chinese origin, and the homes in which English is normally spoken have produced political leaders with educational and financial advantages. Generations of intermarriage have rendered pointless any precise

---

1 The 'aiga may, of course, be essential to the success of certain enterprises such as hotels and restaurants. Aggie Grey's Hotel and others in Apia, Tuasivi and Asau are dependent on 'aiga for labour and food.

2 The last full-blooded German and Chinese settlers died over five years ago. Government policy still discourages the settlement of non-Samoans (Prime Ministers Mata'afa F.F.M.II and Tupua Tamasese Lealofi IV (personal communications).

3 This is particularly noticeable in the case of part-Samoans who attended Catholic secondary school in the 1940s and 1950s.
classification along racial lines and, for the purposes of this
discussion, the papālagi element refers more to opportunities and choices
for the exercise of power which can be traced to a non-Samoan origin.
Nevertheless, numbers and race cannot be entirely ignored. Provision for
universal suffrage on an individual voters' roll and retention of the
requirement of 'any Samoan blood' in order to possess a matai title or pule
over customary land have been mentioned. Although the individual roll is
small, there remains a nucleus of part-Samoan families and a scattering of
individuals determined to preserve voting rights - and therefore some
influence in Parliament with which to protect their interests. Other part-
Samoans, and it seems now a good majority, perceive that their interests can
be looked after better from within the predominant power system. As had
been intended by the Constitutional Convention of 1960, part-Samoans have been
couraged to move towards integration with Samoan society, particularly in
relation to their political aspirations, which will be referred to later in
the Chapter.

1 Papālagi, strictly 'European', often refers loosely to any person or
thing which is non-Samoan. The mixture was once called 'part-European',
'local-European' or 'part-Samoan', depending on whether association with
European or Samoan communities was preferred (Keesing 1934: 453), but is
now usually 'part-Samoan'. The Samoan terms are 'afakasi (half caste) or
totolua (two bloods).

2 See the percentages shown in Appendix B. Of course, 'mixed race' figures
are more likely to reflect the social significance of either admitting or
denying one's membership of that group, and, in this case, they are useful
primarily for comparison between Western Samoa and Tonga. Political status
is referred to in the following footnote.

3 From the position in 1958 when some 6,000 people (including Chinese) had
legal status as 'Europeans', the individual voters' roll was only 1,382
in 1973 (Report of Electoral Commissioner, 1974) and has since remained
remarkably constant (1,308 in 1979 - Savali 26 March 1979). Individual
voters are entitled to two seats in the 47-member Legislative Assembly,
compared with five prior to independence (in 1957 and 1961). The number
is determined pursuant to a formula which aims at some sort of parity
between the proportion of individual seats to persons notionally
represented and that of territorial (matai) seats to persons represented
(Article 44 and Second Schedule, Constitution 1962). The notional number
of persons represented by individual voters should not be confused with the
number who, in the last four Censuses, have said that they do not live
'under a matai'. This latter figure (which seems to have little value),
must include senior matai, some part-Samoans, a number of Samoans in Apia
who feel remote or alienated from their 'āiga, and expatriates. It has
fluctuated somewhat and, in the 1976 Census, stands at 5,103 or 3.4% of the
population.

4 Aikman 1961: 360-1; and Boyd 1969:256-8.
In the following account, reference is made to 'Samoan' and 'part-Samoan' with the intention of distinguishing between, as 'Samoan', the person who is wholly or mainly Samoan by blood and has always been so in self-estimation, and, as 'part-Samoan', he who, while possessing some Samoan blood, is, or has been, of 'European' status as a voter on the individual roll or as a member of a family which is or has been non-Samoan in name and lifestyle\(^1\). In the case of the part-Samoan, the blood mixture may be European or Chinese, or both, but the actual proportions are seldom regarded as important. Also, while the above definitions help to identify those persons who have moved into Samoan status from outside, they should not obscure the fact that a person will at the same time regard himself, and/or be regarded, as Samoan, part-Samoan, European or Chinese, according to context\(^2\).

**Public service**

Although 'Samoanisation' of the public service has suffered occasional set-backs, there are now\(^3\) only two expatriate departmental heads compared with the situation fifteen years ago when none of the eleven main departments was headed by a Samoan and only two heads were part-Samoans. Initially, the part-Samoans promoted were more interested in public service careers than Samoan status. Until recently, they have felt confident that they could perform their tasks effectively and secure promotion without the

---

1 Name is a clear indicator that a person with a non-Samoan family name has taken a matai title, as the title name (without the 'Mr') always goes first. The non-Samoan sur-name is usually dropped, and the first name Samoanised and retained (e.g. Mr August Cain became Toi Aukuso when he took the title Toi). There are exceptions, such as Mr. Fritz Thomsen, who became Su'a Leitupousa Thomsen.

2 Again, use of name indicates the user's desire to adopt status, and a part-Samoan with business interests in his non-Samoan name will wish to be known by his matai title when that title has particular value, as in politics (Mr Vernon McKenzie, Jnr is Muliagatele Vena in Parliament); in dealing with employees (Mr John Ryan becomes Papali'i Ioane when controlling his waterside labour); or in some sporting contexts (the late Mr Alec Macdonald was known as Tuala Aleki as manager of the 1977 representative football team, but by his European name at the golf club - golf being an individualistic and traditionally part-Samoan-dominated sport, though this dominance is lessening rapidly).

3 February 1979.
addition of a title. Today, four heads of department hold matai titles, but, more significantly, numbers of senior administrators in every department throughout the service have taken titles. As Cabinet has recently acknowledged, a title adds dignity, authority and a certain legitimacy to the official position in dealings with the public and subordinates (some of whom are matai). The Government officer can meet senior matai and visit villages without the embarrassment of taule‘ale‘a status. Embarrassment of a different kind, which the Western observer would think must inevitably flow from conflicts between 'āiga interests and public duty, is seldom mentioned as a consideration except in the case of the judiciary and by certain senior police officers whose training obliges them to see in starker terms the conflicts most public servants feel they can learn to live with. The senior public servant is also aware that,

1 The Commission of Inquiry into the Health Department recommended, with Cabinet approval, that the Director of Health should, as a matter of general policy, be a matai (Samoa Times 16 and 23 June 1978).

2 Police, Agriculture and Fisheries, and Lands and Survey officials, in particular, have found the lack of a title to be a serious handicap. Fifteen years ago, only one Police Officer held a title. Law enforcement outside Apia often required the intervention of the most senior officers. Chiefs of disputing villages would refuse to meet surveyors sent to prepare plans for Court hearings, and subsequently to mark boundaries (personal notes of Court proceedings 1965 and 1966). Today, of the thirteen commissioned officers in the Police force, eleven hold titles and the remaining two propose to do so in 1979. The part-Samoan/Chinese Director of Lands and Survey, Joe Soon, holds the title Lealiʻifano, and most of his staff are matai. The status and effectiveness of the Rural Development Officer, Port Administrator, Chief Fire Officer, Immigration Officer and School Inspectors - as well as that of the chairmen and managers of marketing service commissions and boards - seem to require a matai title.

3 This is a matter of the greatest difficulty for the 10-12 Fa'amasino (Samoan Judges) of the Magistrates Court and the Land and Titles Court, all holders of significant titles, who have been lectured and criticised by successive Chief Justices from New Zealand - and publicly by Scully C.J. (Samoa Times 2 April 1976). Some informants in the Police Force, including a former Chief Inspector and Minister of Police, and Inspector Tuimalealiʻifano Vaʻaletoʻa (a tamaʻāiga), feel that higher titles subject policemen to such pressures as would put their continued service in jeopardy. Another view is that of Superintendent Sitagata Falaniko, orator chief of Lotofaga, who contends that it was legitimate for him to second the nomination of a parliamentary candidate and denies public allegations (Samoa Times 21 May 1976) that he used his position to influence voters.
in public occasions involving him and his titled Minister\(^1\), the status of the career service should not be demeaned in Samoan terms. Cabinet thinking and a certain nationalism were seen again in the requirement that the representative of Western Samoa to the United Nations and the U.S.A. should hold a title\(^2\), and, with the exception of the High Commissioner to New Zealand\(^3\), all overseas posts are at present filled by matai.

**GOVERNMENT AND THE VILLAGES**

The authority of the ali'i ma faipule - symbol of Samoan independence and conservatism - is the yardstick by which the degree of upholding of custom is measured. This is certainly the view of village matai. The fono's authority is in fact under challenge from outside and from within.

It is remarkable how little the activities of fono today have changed. Village fono organisation is still structured in an orderly fashion. The council and its committees meet regularly with their legislative, executive and judicial functions as they did in pre-contact times. All villages have their tulāfono, laws and regulations, some more extensive or more rigorously enforced than others. The fono in plenary session makes and amends tulāfono and deals with all business of importance, except that most villages clearly identify a standing committee of matai to enforce the regulations - which involves acting in clearly defined police and judicial roles. There are usually scales of punishment in terms of the payment of money, food and crops. Such

\(^1\) All of the 1976-1979 Cabinet were matai.

\(^2\) Iulai Toma, who had believed that a title would interfere with his work as Secretary to the Government and with his Apia life-style (personal communication October 1975) attended his saofa'i for the title Maiava on the eve of the announcement of his appointment to New York (Savali 2 September 1977).

\(^3\) Fred Betham, part-Samoan "elder statesman", had pursued an active political career and became widely known as Secretary-General of the South Pacific Commission under his European name (although his predecessor in the latter office had been the late Afoafouvale Misimoa, who exploited both the title and his European name, Harry Moors, to the full in a long business and political career).
tulāfono, scales and details of infringements and penalties imposed are recorded by a secretary. Separate ad hoc committees deal with boundary or other land disputes, supervise village projects such as road-building, maintenance of water supply, and occasionally represent the village on school and hospital boards. The most serious offences, disputes and other threats to village order are referred to the full fono, which, for example, is alone accepted as having the authority to exclude a person from village affairs or to banish him from the village. As is to be expected, some tulāfono exist in name only (some villages have been unable to enforce their views on dress) but, generally speaking, persistent violation soon raises the question whether the law should be amended or abolished. Most village fono are successful in planning and controlling all matters of a ceremonial or diplomatic nature, including relations with Government and other villages, and in imposing the appearance of order. Curfews are an obvious example of the latter, quiet is often imposed, and bells or lali, wooden gongs, are a constant reminder of the time. The travelling public constitute an infringement of village sovereignty, and strict traffic control is exercised during meetings and curfew. At Nofoali'i on the Apia to airport road, in 1976, cars were being stopped at 6 p.m. while the national flag was lowered.

The success of fono in the more difficult areas such as organising labour for plantation, construction and cleaning tasks, fund-raising or healing major rifts between village factions, depends very much on the support of its constituent matai and their families.

Both before and since European contact, the fono has had to deal with outside forces, from other villages, district factions and powerful lineage titles, and then from successive central administrations. Governments have tried to guide, cajole and bully village fono to comply with the policies of the day. The proposals of the 1950 Local Government Commission
were not implemented, however, and in the course of preparations for independence, local government - and the relation between village and centre - had been largely by-passed or ignored. The laissez-faire approach of Prime Minister Mata'afa suited all concerned - and then, in the early 1970s, Apia officials renewed their efforts under the proddings of economic advisers and development programmes. Experience with earlier initiatives in agriculture, fishing and forestry had demonstrated the intransigence of village fono when it came to dealing with land rights and departmentally-directed proposals for the use of land and lagoon. With new economic policies in 1975, Government began a determined effort to build on the roles of matai and village fono in the development of the economy.

An Advisory Council on Local Government and a District Affairs Office were set up, and their 'traditionalist' members were asked by the Prime Minister to negotiate with the ali'i ma faipule for a reduction in number of Pulenu'u from 241 to 172 to conform to earlier village boundaries - with the intention that the Pulenu'u "would provide the link between village and Government, so that government departments would play a complementary role only". Mindful of the experience of earlier

---

1 The Report to Cabinet on Pulenu'u, Agricultural Inspectors and Local Government, April 1971, Prime Minister's Department, which recommended the gradual development of a regional structure only partly incorporating the village fono, was not acted upon.

2 After Cabinet, at the conclusion of two years of negotiations and with the approval of Parliament, had signed an agreement in 1968 with the American timber company, Potlatch Corporation, for the establishment of a sustained-yield forestry industry on Savai'i, village councils could not be persuaded to place land on which the trees had been felled under the jurisdiction of the Department of Forestry for the purpose of re-planting pursuant to the Forests Act 1967, No.12.

3 A Village (later called 'Rural') Development Programme was the key to the expenditure of $4 million over three years - in the promotion of agricultural production (Third Five-Year Development Plan 1975-1979, 1975). See also the address of Head of State in opening Parliament - Samoa Times 16 July 1976. A further proposal, to confer judicial authority on village councils, was prepared in 1977 by the then Minister of Justice, but no steps have been taken to implement it. The proposal (presented to the Commonwealth Law Ministers Conference, Winnipeg, August 1977, in a discussion paper) reveals that many implications have not been considered.

4 Toluona Lama and To'a'ailoa Siaosi.

5 Prime Minister, in the Legislative Assembly - Samoa Times 31 December 1976.
administrations, the Prime Minister used incentives and every opportunity for publicity to try to overcome opposition and wrangling. The new Pulenu'u are participating in schemes for the funding of local projects.

In the light of Western Samoa's experience, this latest use of the Pulenu'u is ambitious, to say the least. Although the programme is alleged to be "built on the fa'a-Sāmoa" and will not be the subject of legislation until it has been in operation for a year, it has in it the same seeds of destruction as earlier programmes. Villages are required to accept the reduced numbers and boundaries of 'Pulenu'u' villages decreed by Government, and many have objected to losing their office-holder, who had been evidence of recognition of the autonomy of village or sub-village. The ali'i ma faipule have again chosen their Pulenu'u, and there is no reason to believe that they have departed from the usual practice of selecting a matai whose rank is not too high to be embarrassing. The functions expected of the Pulenu'u appear onerous, including duties both to village and to Government - some conflicting. Critics believe that the matai system lacks the strength to sustain the programme and that rural development should be built on a departmental structure. Nevertheless, the Prime Minister has staked his reputation on the success of the scheme.

---

1. His Government did not intend to be defeated this time, "unlike earlier plans which were bogged down by jurisdiction and the relationship of the Pulenu'u's authority to that of the chiefs and orators" (ibid.). The Pulenu'u salary was increased from $180 to $600, plus allowances according to population. A series of speeches was made, to show that "Government places high hopes on the initiative of village leadership" (Head of State, Savaii 23 July 1977).

2. 93 schemes had been approved by October 1978 (ibid. 16 October 1978).


4. In 1975, informants considered that Pulenu'u had little prestige. Shore confirms this for Sala'iilua (1977: 106).

5. The Pulenu'u is to call and keep the records of the fono, enforce its regulations and lead village development - while keeping records for Government, receiving complaints about price order breaches, registering births, deaths and guns, and assisting the police and health and education officials.
at home and abroad\textsuperscript{1} - and it is too soon to assess it.

In historical terms, the manipulation of Pulenu'u is a continuation of the struggle between village autonomy and bureaucratic power. If, as evidence suggests, village leaders wish to see further de-centralisation so that they can become full participants in decisions which affect them, then the new Pulenu'u will soon be used to thwart unpalatable Government policies. Once it is seen that the 'economic development' of the planners involves activities and change of a different order from the current minor projects, such as pig fences and extensions to water supply, reaction may set in. In the meantime, the village continues to protect itself. Direct and sometimes violent unilateral action in defence of threatened village interests continues to be employed from time to time. Surveyors pegging out boundaries for public roads or reserves, forestry inspectors and government plumbers have called for police protection and top-level intervention\textsuperscript{2}. The main concern of the ali'\i\ ma faipule, who realise that a struggle with Government may not ultimately be won, is to assert their position until some recognition and concession, however small, is achieved.

Although 'outside' the law in a constitutional and statutory sense, it has been demonstrated that the village fono is affected in the management of its affairs - by Government attempts, through Pulenu'u and other officials, to use the fono as an instrument of economic development - through its responsibility for 'law and order', in connection with which it is often in conflict with administration and the courts - as a result of pressures imposed during election campaigns, when allegiances must be

\textsuperscript{1} To representatives of South Pacific Governments on Independence Day 1978, the Head of State said "We must not forget that the priorities of the village are the priorities of the nation. If we miss this basic point, the rationale for the economic and social development of each country in this region is lost" (Savali 12 June 1978).

\textsuperscript{2} Examples occur frequently. In a publicised case in 1976, the Minister of Works and the Speaker of the House sought to defuse a potentially violent situation when, on the instructions of the ali'\i\ ma faipule of the Speaker's village of Solosolo who were dissatisfied with departmental plans for the area, men cut water pipes supplying adjacent villages and intimidated repair plumbers.
hastily determined—and by decisions of the Land and Titles Court which, while usually showing deference to the wishes of the fono, will interfere, in title, boundary and banishment cases when it thinks fit.

To complete the account of the state of chiefly authority in the modern village, other challenges must be considered, and the most serious threat is from within. Stresses and ambiguities caused by the increase in titles have yet to be mentioned under a separate head. Superficially, the recognisable elements of the structure of the village are there—the fono, the 'aumāga and aualuma, and the council of wives of the matai—but does the real power always lie with the fono? In three main developments, the role of pastor, the expansion of women's committees and the growth of 'autalavou, youth movements, one sees the spreading of decision-making, the sharing of power.

With better-educated clergymen and improved communications, the churches are exerting more influence in villages—through church committees and youth organisations, and from the pulpit. Strict church attendance persists, political sermons are not uncommon, and, like movie theatres, churches exert a pull with which ordinary village affairs find it hard to compete. If the fono attempts to take charge of decisions as to which church village people should attend—and decrees "there is to be only one religion in the village"—the fono is likely to be publicly criticised. Thirteen years earlier, the Land and Titles Court had upheld the right of the fono to preserve a 'single religion' tradition.

Women's committees, once tolerated by the matai, who could break up the women's meetings if they chose, are now organised on a national basis with impressive headquarters, the Maota Tina (Women's House), in

1 The Congregational Church faife'au, pastors, spoke against the alleged Catholic concentration of power in the Tupua Tamasese Cabinet of 1970-1973, and there are less dramatic examples.
2 Samoa Times 28 November 1975.
3 Re Maota of Pouesi in Sapapali'i (1962) L.C. No. 2180 (unreported).
Apia. Such committees meet, travel, engage in village work and further village interests in areas such as public health. They have assumed many of the functions of the councils of matai wives and the aualuma, which were once clearly subordinate to the wishes of the ali'i ma faipule.

Various types of 'autalavou cut across the divisions of the other organisations. Young men and women work together in village and church affairs, and often show leadership.

It is significant that most of the shifts and trends which have been noted are of recent origin. Samoan village organisation may yet adapt to these, and persevere with its earlier remarkable record of resistance to change.

ECONOMIC IMPACT AND FURTHER HORIZONS

Western notions of cash and commerce constitute a particularly insidious challenge, and one which, at the family and village levels, matai find it difficult to cope with.

Tupe, money, is perhaps the greatest threat to pule because it is so hard to supervise and control. It is replacing food, labour and the other personal services that go to make up tautua and monotaga as the lifeblood of the matai system. Samoan relationships are primarily concerned with the imposing and discharging of obligations, in respect of which an essential technique is for one to be able to place the other person in a position where he must, in the future, respond to one's request, as yet unspecified, as to content and time. If service and obligation can be discharged in cash, then the matai becomes the paid servant of his family, and, in turn, the buyer of favours as and when required. Money usurps rank, and is an arbiter of status.

¹ For example, the precisely ordered structure of Sa'anupu village which Freeman recorded in 1948, requires re-examination today, now that the number of matai has increased from 23 (1948: 159) to 128 (Electoral Roll 1976). Compare also Mead 1930; and F.J.H. Grattan 1948.
Whether or not this scenario becomes a reality in the context of the transition from subsistence to market economy will depend on the extent to which money is controlled at family and village level - and in accordance with custom and its accepted modifications. Central government has interfered in a number of ways to upset the local control of wealth. Of growing scope is individual taxation, a revenue-earning technique well understood by villages in their exaction of contributions and fines. Statutory schemes which provide substantial cash payments to individuals regardless of his or her rank or obligations in society are a new experience which has been introduced in recent years. The National Provident Fund to which all employees and employers must contribute (5 per cent of wages each) makes payment of a cash sum or pension at age 55 or earlier death, plus a "special death benefit" of $200. The employee may nominate by memorandum any person or persons to receive "in his or her own right" such amounts payable out of the Fund on death as the employee chooses to nominate - and such nomination may not be revoked by will or any means other than a subsequent nomination. Pursuant to these extraordinary provisions, any employee may avoid all or any fa'a-Sāmoa obligations, and is not even obliged to nominate as recipient of the "special benefit" those relatives who will be responsible for his or her burial. On retirement, the cash sum is at the employee's own disposal.

1 For example, 'ie tōga now have understood cash values. The cost of a saofa'i is often measured in terms of the cash needed to purchase the 'ie tōga and the bulk of the food.

2 Among an adult population of 53,700, there are now some 6,000 individual taxpayers - Annual Report 1977 Inland Revenue Department.

3 National Provident Fund Act 1972, No.1. By defining "employee" in terms of contract, the Act excludes ordinary 'āiga labour. In the case of public servants under the Government Superannuation Act 1972, No.4, the "special benefit" is $500.

4 S.36 ibid.

5 By mid-1976, the Fund had a membership of 26,000 which was increasing at the rate of 4,000 a year. The account of how this Fund was set up as a result of the efforts of a small pressure group determined to find a source of funds for investment in local development has yet to be written.
Compensation for injury in industrial (excluding 'āiga workers) accidents and road accidents, amounting to 60% of gross earnings for weekly payments over four years and up to a maximum of $7,000 for such payments and lump sums on disability or death, is payable to the worker or his estate (but there is no provision for nomination)\(^1\). Nationwide lotteries introduced last year are popular and each draw offers $20,000 in prizes\(^2\). Although customary land is excluded from the operation of statutes relating to wills and succession, personal estate (including anything which in law or according to custom is movable\(^3\)) and freehold land may be left by will, and, on intestacy, the estate vests as to $5,000 plus chattels in the spouse and as to one third of the balance in the spouse and two thirds in the children\(^4\).

The cumulative effect of these provisions over time will be to present individuals with new opportunities for either moving outside the system of chiefly and family obligation or working within it with greater freedom. Pensions will accelerate the breakdown of reciprocal relationships. On the other hand, matai have won the fight to retain control of that tupe which represents income or capital in relation to land - and the substantial cash flow into Western Samoa from Samoans in New Zealand, American Samoa and the USA is generally administered by them.

The commercial world beyond the village was once the domain of European and part-Samoan. As in the case of the new opportunities provided in the public service, there has been a two-way movement in relation to the business sector. Samoans have entered it, and part-Samoan business-men have taken titles. Generally speaking, Samoans who have been

\(^1\) Accidents Compensation Act 1978, No.6.
\(^2\) National Lotteries Act 1978. A second prize of $3,000 won by a schoolboy will be used by his father, an untitled plantation worker, to buy freehold land for his family (Samoa Times 30 June 1978).
\(^3\) In certain cases, buildings on customary land may be regarded as movable - Methodist Church of Australasia v. Vaeau (1960) 1960-1969 W.S.L.R. 10.
\(^4\) Wills Act 1975, No.12, and Administration Act 1975, No.23.
successful in business have had titles for some time, demonstrating the relationship between wealth and status in the Samoan context. Until recently, part-Samoan businessmen whose life-styles were predominantly non-Samoan, would be identified with the fa'a-Sāmoa for political reasons only. Now, in the seven part-Samoan families which control the principal trading firms (other than foreign-owned Burns Philp and Morris Hedstrom), titles are being taken to assist with business connections. Political motivation persists, of course, and while these families are sometimes represented in Parliament on the individual roll, members of some of them have taken seats as matai. If these families represent the least 'Samoan' of Western Samoan citizens, there is a scale on which the bulk of the part-Samoans taking titles will appear about the middle - where the advantages seen by the part-Samoan candidate for the title and by the 'āiga seeking to bestow it are the greatest. Throughout Western Samoa, titles add prestige to stores, clubs and small bus, launch and taxi operators. The professions have seized on the advantages, with five lawyers in private practice holding titles, six doctors, a dentist, a chemist, two journalists, three public

---

1 Pitt noted, from fieldwork done in 1964, that the successful traders and entrepreneurs were those who operated within the fa'a-Sāmoa. Those Samoans who had broken away entirely had failed (1970: 263). This is not to say that, by accumulating some savings, acquiring a small shop or putting extra effort into village agriculture, a Samoan automatically gains a title. In 1965 and 1966, a few were able to speed up the process in this manner (Lockwood 1971: 209). Since 1964, the number of matai has increased by 100 per cent and the population by 25 per cent (see Table No. 2).

2 Men who led the Fono of Faipule in the 1940s have been mentioned in Chapter 3. An earlier example was the leading merchant, O.F. Nelson, who, under the title Taisi, was so influential in the Mau. Some evidence that the title was held for limited purposes is seen in the will of O.F. Nelson, which required not only that the family residence, Tuaefu, "be conducted in the European style", but that his grandson should "acquire European status and assume the surname Nelson" - quoted In re Will of O.F. Nelson (1964) 1960-1969 W.S.L.R. 109 at 127 (Court of Appeal of Western Samoa). (The grandson complied with these conditions, but subsequently took titles, including the famous Taisi, and now, as Prime Minister, is known as Tupuola Efi).

3 Paul, Macdonald, Keil, Annandale, Von Reiche, Retzlaff and McKenzie.

4 E.g. Peter Paul and Sina Annandale.

5 E.g. Lesā Hans Keil and Muliagatele V. McKenzie.
accountants and many school teachers.

Horizons have been further widened in response to challenge and opportunity. For example, leaders in community-interest, sporting and cultural activities see the value of a title and, although most churches will not permit their clergymen to hold titles, senior administrators are often matai. The churches vie for political patronage while holders of the higher Samoan titles and aspiring politicians are conscious of the value of religious affiliation and of the power of church organisation.

A new and controversial development has been the desire of women to obtain the advantages of mataiship. In small but gradually increasing numbers, women in public service and national affairs are appointed to matai titles and, at the same time, titles held by women enable them to exercise authority in areas traditionally preserved for male members of 'āiga and village. The first woman to enter Parliament did so in 1973 with the titles Leaupepe Taulapapa and since then there have been two further matai members and one untitled part-Samoan from the individual roll. Laulu Fetauimalemau, widow of former Prime Minister Mata'afa

Novelist and Cultural Affairs Director, Albert Wendt, is a notable exception.

E.g. the Director of Education, the Dean of Development and the Lands and Property Officer of the Congregational Church.

Mata'afa F.F.M. II, while Prime Minister for eleven years, was Chairman of the Congregational Church. Malietoa Tanumafili II, Head of State, whose family line had Catholic and other connections, has recently bestowed kudos on the Baha'i movement by adopting that faith. Churches at village level have been mentioned.

Although Samoans insist that being female has never been a bar to holding a title (see Chapter 1), women have rarely been selected (Marsack 1961b: 9). Mead was aware of only one in Samoa in 1928 (1971: 167) and Keesing observed "here and there a woman now holds a title in her own name" (1934: 248). By contrast, five titled women (two of them part-Samoan) have recently held the positions of Director of Education, Principal of the Teachers' Training College, Director of Extension Services, University of the South Pacific, Pro-Chancellor of the same University, and Superintendent of Nursing - while other female matai are engaged in nursing and teaching.

The role of women in Western Samoan society today merits special study which the present analysis does not attempt.

I'iga Suafole and Laulu Fetauimalemau.
F.F.M. II, made no use of her title until Mata'afa died in 1975, by which time her services to women's organisations, church and university had earned her wide recognition. Since her husband's death, she has worked strenuously to secure his titles for their overseas-educated daughter Naomi, now 21. She succeeded in the Land and Titles Court in the case of Fiamē, the high title of Lotofaga, which district the Prime Minister had represented in Parliament and which has elected Lauulu to represent it in 1979. Fiamē Naomi, whose principal claim was that she was the only legitimate issue of the previous holder of that title, is evidence of some departure from the attitudes of earlier times when the title would have gone to a male or been left vacant. On the other hand, there is an example today of a high-born woman whose birth and connections in traditional terms are regarded as sufficient indication of her status without the addition of a matai title - namely, the elder sister of the Head of State (and senior tama'āiga), Salamasina Malietoa who, as Western Samoa's most respected woman, is addressed by her tāupou title 'Lau Susuga To'oa Salamasina'. She brings honour to the functions she performs such as that of principal of a traditionally-important church girls' school.

It is apparent that there are two ways in which matai ship, having always been essentially political, has now moved into the power world of administration - whether government, business or church and community affairs. First, the matai has begun to extend his influence and increase

---

1 As wives of high chiefs are shown respect according to the rank of their husbands, the titular address masiofo ('queen' or 'princess' is the nearest translation) is reserved for the wives, former wives and widows of tama'āiga. When a masiofo takes a title in her own right, however, the two are never used together (e.g. the former wife of the Head of State was Masiofo Tiresa Malietoa, but is now commonly addressed by her two titles as Tuala Falenaoti Tiresa).

2 An honorary LL.D. was conferred on her by Victoria University of Wellington in 1976.

3 See Chapter 1 for tāupou and the style of address 'lau susuga'.

his earnings by taking positions and employment formerly alien to his thinking - in order to promote the interests of family, and sometimes village, as well as his own. Secondly, persons in administration who were formerly untitled have obtained matai titles to increase their effectiveness. Pressures on the matai system have come from two sides - from the title holder, or aspirant to title, who recognises personal advantages, and from the 'āiga to which the title belongs. Families and villages which have until now regarded themselves as entirely self-sufficient in their local setting desire the material and status-enhancing benefits of association with the wider world of district and urban activity, and overseas connections. Consequently, there have developed two broad categories of matai. First, and of course still by far the more numerous, are those matai who live and work in the village and with the family to which their title belongs. The second, and growing, category is that of the matai who live and work temporarily - or even reside permanently - elsewhere. This introduces the first of the two major phenomena of the post-independence era.

'APIA MATAI'

In the traditional villages which have been swallowed up by the Apia urban area and comprise the two electoral districts of Vaimauga West Faleata East, some 250 titles are registered\(^1\). The actual number of matai living and working in the area, however, is in the thousands\(^2\), and those whose titles are held from villages\(^3\) outside the area are called 'Apia matai'. Similarly, an unascertained but considerable number of matai are living

---

1 Electoral Rolls for 1976.
2 Internal migration to the urban area grew rapidly during the 1950s, then the rate of increase in proportion of urban population slowed down until, in 1976, the proportion was 21.2 per cent and increasing by 0.1 per cent each year (letter from Government Statistician 4 October 1977 giving preliminary figures from 1976 Census).
3 As a title is incorporated in the fa'alupega of a village, it 'belongs' to that village wherever the holder of the title may go.
overseas, mainly in New Zealand, American Samoa and the USA. Men, women
and children are drawn to Apia and overseas for employment, other
financial advantages and education. Contact with 'āiga and village is
very seldom lost, however, and usually only part of a family will move.
The 'āiga wishes to have a matai representing it in Apia or overseas for
two principal reasons, and one of these is the supervision of such family
members (usually urban workers and school children), the promotion of their
welfare, and the forging of a chain of obligation which will ensure that
the interests of the 'āiga as a whole are not forgotten, particularly
where remittances of cash are concerned. The second function of the 'Apia
matai arises out of the realisation that decisions made in Apia, the seat
of government and centre of commerce, are of increasing importance in the
daily lives of all Samoans. Ideally, the matai will be a person whose
personal qualities, familiarity with the complexities of urban affairs and
contacts with useful people are of value to the 'āiga.

In the selection of 'Apia matai', one sees in operation the
flexibility and the astute perception of how power is organised, which
characterise the Samoan approach to social change. The 'āiga may appoint
as matai a relative long-established in Apia, sometimes a part-Samoan
whose usefulness lies in his business or public service occupation, or
merely in his identification with the urban scene. Such a person may not
even be a relative and may never have lived in a village. Alternatively,
and more often than not, the appointee would be a member of the family
who has become familiar with Apia through success in education, employment

---

1 It is estimated that, in the 1970s, 25 per cent of all persons born in
Western Samoa are living overseas. Communities have also been established,
so that, in 1971, 10,486 of the Western Samoans in New Zealand were born
there - about half of those resident in New Zealand. The total of Western
Samoans resident in New Zealand increased rapidly from 1961 to 1971, then
the rate of growth slowed to produce 27,400 in 1976 (Migration Report
1976).

2 Informants engaged in government, professions and business usually had
no illusions as to the reason for approaches made to them to take titles.
On the other hand, those seeking advancement in national politics
operated under a different set of rules.
or business and has taken up temporary residence in or near Apia. The network of relationships is today such that a person possessing close links with a village along the north coast of Upolu (connected by easy bus travel to Apia) may readily take advantage of them and continue to live in a non-urban manner outside working hours. The selection of such an 'absentee' by a non-urban family reflects recognition that its interests may require conferral of a title on a person who would not have been a matai had he stayed at home or may require that a more senior title be added to the existing one. As one observes throughout a society into which the new ingredients of wealth and governmental authority have been injected, status and power tend to chase each other up or down the scale. In the present context, where the 'Apia matai' has demonstrated his influence, then, if other things were equal (which, of course, they never are), the status of his title would reflect it.

There are also those matai whose success in public service or business enables them to afford to maintain or share a house in Apia while most of their family remains in the village. Such matai may return home in the weekends, and reject the appellation 'Apia matai', but those with parliamentary or other heavy commitments become part of Apia society and straddle two worlds.

The appointment to non-urban titles of persons living and working in Apia or overseas has many consequences for the system. Most significantly, the family and village have lost the direct participation of the title holder in their affairs and, correspondingly, a degree of influence over his actions. If they have not already done so in order to make a title available to the absentee before appointing him, the family will be under pressure to split the title, or to declare a joint holding, so that the title will
continue to be effective locally. In some cases, the title is lost altogether, in effect, when the holder decides to reside permanently overseas. Uncertainty and tension in Samoa usually follow.

**MATAI NUMBERS**

The second major phenomenon of this period is the growth in numbers of matai. Closely related to the first, that of Apia matai, explanations for it are nevertheless to be found in a number of factors. The figures themselves will be examined and then it will be necessary to look at the electoral process before reaching a conclusion.

The registration of matai titles on the Register has been explained. In preparation for parliamentary elections, the Register is closed at the beginning of each third year and the Electoral Rolls are prepared by the Secretary of Justice as Chief Electoral Officer on a constituency basis. A person whose name appears on the Register of Matai and who is 21 years of age or over is entitled to be entered on the Electoral Roll, but if he holds more than one title in the constituency his name will appear only once, and if he holds titles in more than one constituency - a plural title-holder - he must elect in which constituency he proposes to

---

1 The only detailed anthropological study of village organisation in the 1970s, that of Bradd Shore, does not explore this aspect, but notes that, in Sala'iliau on the south-west coast of Savai'i, nineteen (or 20 per cent) of the title-holders of the village reside permanently outside it - overseas, in the Apia urban area, or in another rural village (1977: 97). The number residing temporarily outside the village is not mentioned. A statistical analysis by Graham Harrison demonstrates that families living at a distance from Apia have a greater need for matai. On a constituency basis, as one moves further from Apia, the proportion of titles belonging to the village increases in relation to population (Harrison 1978: 117).

2 The role of matai within overseas communities warrants study for the purpose of throwing further light on the persistence of matai authority and the cohesion of the 'aiga. It appears that such communities differ considerably, for example Hawai'ian and New Zealand Samoans are developing different attitudes and institutions (Pitt and Macpherson 1974: 65-7).
Table 2 indicates a dramatic rise in the proportion of matai from a low point 18 years ago. In the rates of change, there are gross imbalances. The age composition of the population has changed surprisingly little, due largely to recent emigration. Over the 25 years from 1936 to 1961, when population doubled, matai numbers increased by only one third. Over the 40 years from 1921 to 1961 when population trebled, matai numbers increased by only two thirds. Then, when population growth 1961 to 1979 was little more than one third, the number of matai over the 18-year period rose by 150 per cent. Fluctuations within this period, as between 1967, 1970 and 1973, will be explained shortly. It is the recent and continuing increase in matai — at a rate well in excess of that of the population — which is described as 'proliferation'.

Means by which increase achieved

New matai are added to the Register in two ways. Title names which are not already on the Register may be found by resurrecting old ones or inventing new non-traditional names — and when these are registered they increase the number of discrete or distinct title names. The second method is the splitting or sharing of existing title names among two or more people.

The following Table 3 shows that over the period 1961 to 1976, the number of discrete title names (considering each constituency separately) increased from 2,975 to 5,034 — or by 69 per cent. Over the

---

1 The name of a plural title-holder in a constituency in which he does not elect to vote is indicated by line through it with a cross-reference, and it is not counted for voting purposes. The Registrar of Matai is required to give notices and is empowered to carry out checks in villages in order to ensure that information for the Electoral Rolls is accurate (Part III Electoral Act 1963, No.16, as amended in 1964). The totals given in this chapter take no account of the fact that, at any given time, an unknown number of matai are overseas. Some, of course, return to vote.

2 The breakdown of figures is not available for 1979.

3 For example, the title name Sio is counted once for each constituency in which it appears. It was not possible to refine the figures further. Title names used in more than one constituency are a small proportion, and they are usually regarded as discrete title names.
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Population</td>
<td>55,946</td>
<td>68,197</td>
<td>111,900</td>
<td>122,100</td>
<td>131,400</td>
<td>140,500</td>
<td>147,600</td>
<td>150,500</td>
<td>153,100</td>
</tr>
<tr>
<td>Matai</td>
<td>3,100</td>
<td>3,497</td>
<td>4,394</td>
<td>5,472</td>
<td>7,858</td>
<td>8,230</td>
<td>8,028</td>
<td>9,948</td>
<td>11,013</td>
</tr>
<tr>
<td>Matai as % of population</td>
<td>5.5%</td>
<td>5.1%</td>
<td>3.9%</td>
<td>4.5%</td>
<td>6%</td>
<td>5.9%</td>
<td>5.4%</td>
<td>6.6%</td>
<td>7.2%</td>
</tr>
<tr>
<td>Average of untitled persons per matai</td>
<td>17</td>
<td>18</td>
<td>24</td>
<td>21</td>
<td>16</td>
<td>16</td>
<td>17</td>
<td>14</td>
<td>13</td>
</tr>
<tr>
<td>Males 15 years and over and % of population</td>
<td>13,986</td>
<td>17,731</td>
<td>28,069</td>
<td>n.a.</td>
<td>32,619</td>
<td>35,700</td>
<td>n.a.</td>
<td>37,612</td>
<td>38,275</td>
</tr>
<tr>
<td>Matai as % of males 15 years and over</td>
<td>22%</td>
<td>20%</td>
<td>16%</td>
<td>n.a.</td>
<td>24%</td>
<td>23%</td>
<td>n.a.</td>
<td>26%</td>
<td>29%</td>
</tr>
<tr>
<td>Males 20 years and over and % of population</td>
<td>n.a.</td>
<td>n.a.</td>
<td>22,639</td>
<td>n.a.</td>
<td>25,213</td>
<td>26,940</td>
<td>n.a.</td>
<td>28,389</td>
<td>28,660</td>
</tr>
<tr>
<td>Matai as % of males 20 years and over</td>
<td>n.a.</td>
<td>n.a.</td>
<td>19%</td>
<td>n.a.</td>
<td>31%</td>
<td>31%</td>
<td>n.a.</td>
<td>35%</td>
<td>38%</td>
</tr>
</tbody>
</table>

Sources: The 1936 and 1945 figures for matai are from Grattan, F.J.H. 1948: 155. The balance of the Table is prepared from the 'Statistical Summary' of Electoral Rolls for the five elections 1961 to 1973 inclusive prepared by Graham Harrison in 1975 for the Land and Titles Committee; from an analysis of the 1976 Roll prepared by Graham Harrison and myself; and from a letter of 17 March 1979 from the Registrar of Matai. Populations are from Censuses 1961 to 1976 inclusive, with adjustments to produce figures for 1st January in each year, January being the pre-election month when matai registration is frozen.

1 In this Table, numbers of matai and not numbers of titles are given, and no account is taken of the small proportion of the population which alleges that it is not part of the matai system.
same period, when total numbers increased by 136 per cent, titles have been split or shared to account for the balance of the title-holding figures, namely from 1,619 times in 1961 to 5,826 times in 1976, an increase of 260 per cent. The Table illustrates the types of holding proportionately at each three-yearly preparation of the Rolls. While the registration of 'new' names has increased, splitting or sharing has increased at a steadily greater rate.

Variations between constituencies are large - and they fluctuate over time. In terms of total increase of matai, the constituencies which increased the least were Faleata East (part of Apia) 48 per cent, Falelatai and Samatau 63 per cent and Aleipata (-i-lalo) 72 per cent - while those increasing the most were Si'umu 407 per cent, Vaisigano No.1 320 per cent and Alataua West 302 per cent¹. It is apparent that both methods of increase were employed.

<table>
<thead>
<tr>
<th>Table 3. Types of title-holding</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
</tr>
<tr>
<td>1. Total title-holding on constituency basis</td>
</tr>
<tr>
<td>2. Plural/'unusable' titles</td>
</tr>
<tr>
<td>3. Total matai (1. minus 2.)</td>
</tr>
<tr>
<td>4. Discrete title names on constituency basis</td>
</tr>
<tr>
<td>5. Titles obtained by splitting or sharing (1. minus 4.)</td>
</tr>
<tr>
<td>6. Discrete titles as % of total</td>
</tr>
<tr>
<td>7. Splitting or sharing as % of total</td>
</tr>
</tbody>
</table>

Sources: See sources for Table 2.

Before leaving the statistics, it should be noted that the holding of more than one title by a matai - 'plural holding' - increases the number

¹ See sources cited for Table 2.
of title names in use (whether discrete or split). Although this practice
does not increase the number of matai, it may be advantageous (as will be
discussed) and has been popular, as is seen in Table 3 by an increase of
356 per cent in the number of title names held by matai who hold more
than one.

Natural growth

How does it come about that these practices have become so widely
used over a short period? The reasons assist an understanding of matai in
society today\(^1\). Response to population increase is a major factor.

In earlier times when war and natural causes maintained the
population at somewhere between one third and one fifth of what it is today,
natural and man-made re-adjustments catered for the needs of branching
families and the occasional recognition of service and valour by the
creation of a new title. There was little pressure on land resources.
Formal relationships between chiefly titles, families and land were
ordered in such a way as to fill the known 'universe'. Hierarchies of
titles fixed in rank, yet yielding to conquest and re-negotiation,
accommodated prowess and ambition - and, in terms of territory if not
land use, all of Samoa was allocated within the hierarchical systems.
'O Samoa o le atunu'u ua uma ona tofi - Samoa was completely shared out
according to custom. The Land Commission under the Final Act of Berlin
and then the Land and Titles Commission and Court of this century rein-
forced the view that the whole of the body politic - to sum up the chiefly
system, its families and its land - was taken up.

Of course, 'Samoa ua uma' was always the ideology, and a degree
of branching and splitting the reality. When governments and tribunals
deprived the system of much of its flexibility, the imposition of the
ideal became irreconcilable with the needs of rapidly expanding family
groups. In the 1930s and 1940s it was becoming apparent that pressure was

\(^1\) Reasons are essential for the formulation of any Government policy aimed
at remedial measures. No policy has been announced, there has been no
debate in Parliament and members are uncertain whether there should be such a
policy - and, if so, what.
building up. Title-splitting had begun again, and, despite opposition from the Administration, the practice was likely to continue. To stop it would increase the 'scarcity value' of titles and frustrate the aspirations of younger men, while evolution without regulation would lead to a point where titles are levelled out in rank and "every able-bodied older man is a matai". However, a degree of splitting, while detrimentally affecting the status of particular titles, strengthens the matai system - and is "a development sprung from the culture itself".

It should be added that the creation of new titles is sometimes associated with the authority of certain high-ranking titles to appoint subordinate titles to serve them, called matai tautua. For example, Tuimaleali'ifano has recognised authority to appoint any person to one of at least eight titles, and these may be split. There are today 24 matai tautua serving Tuimaleali'ifano. Such authority is open to abuse if the high chief purports to resurrect long-forgotten names. As matai tautua usually have no land appurtenant to them, and do not belong to the families of which they may be the heads, they cannot usefully meet an expanding population's need for titles. One type of 'serving' title, however, called matai pitovao, must be distinguished, as it has rights in respect of family and land, and the degree of tautua involved varies widely according to family and village.

Seeing itself (in the words of former Presidents) as the "protector of Samoan custom" and the "supreme authority" on the subject, the Land and Titles Court set its face against any practice calculated to lessen the dignity and authority of the matai title - qualities which are still spoken of as synonymous with the essence of Samoan culture and the

1 As recently as 1965-1966, Lockwood noted "the overriding ambition of youth to be matai" (1971: 209).
2 Keesing 1934: 250. Much of Keesing's analysis of Samoan society under stress and his pessimistic prognosis as to the future of the matai system could have been written today - 45 years later. Did he underestimate the durability of Samoan institutions, or was he very far-seeing?
3 This was F.J.H. Grattan's view in the 1940s (1948: 154).
4 Spring 1972: 52.
5 Marsack 1961b: 5.
stability of the nation. Although the Court has no jurisdiction unless a dispute is brought before it, its pronouncements had some effect in the 1950s and early 1960s before the practices of creating and splitting titles had become widely accepted. Parties opposed to a particular appointment involving creating or splitting would threaten to petition the Court. Marsack, C.J., President 1949 to 1961, emphasised that "any attempt to create a new title is improper" and that every title should have a family- and land appurtenant to it. The Court was also not disposed to accept an argument based on some name from family or village tradition, and would not approve of appointment to a long vacant title unless it would be shown to have its place in the village fa'alupega. With regard to splitting, the Court was not quite so uncompromising where dividing a title in two was necessary in the interests of peace and harmony within the family, but the Court usually declared that one of the holders would hold for life-time only, the family being obliged to revert to one title. Appointments involving splitting were "deprecated" and regularly set aside.

As time went on, although it was increasingly unrealistic to attempt to 'keep the lid on', "no-one seemed to know just how growth in matai numbers might be regulated". There was some envy of the situation in American Samoa, where, from the turn of the century, the authorities have required all titles to be registered and have rigidly discouraged splitting.

---

1 Such sentiments were often expressed in the Constitutional Convention of 1960 and at Land and Title Committee hearings in 1975.
2 Marsack 1961b: 16.
3 Ibid. 17.
4 E.g. Re Title Mamea in Lefaga (1936) L.C. No. 211.
6 Marsack, interview, 1974.
7 Lutali and Stewart 1974: 398.
In 1969, the Register was closed to prevent additions. The High Court has recently declared that it would be inconsistent with the dignity of the senior Mauga title to allow it to be split. Closer inspection reveals much dissatisfaction in American Samoa, however, and families and villages have for some time been appointing and recognising 'unofficial' matai.

In the newly independent Western Samoa, the importance of the question whether or not to regulate the appointment of matai, and, if so, how, did not appear to be appreciated. Certainly, it had not been on the agenda of the constitutional conventions. New Zealand officials and advisers naturally considered that it was a matter for the Samoans alone to deal with - and if they did not succeed, Keesing's prognosis of the 'levelling out' of titles was not such a bad prospect. What might have been foreseen was the conservative reaction of Samoan leadership and the difficulty it would have in formulating a policy on the issue.

**Frequency of disputes and methods of settlement**

Disputes and settlements conducted within families and villages in the traditional manner reinforced the authority of matai. The growing volume of cases handled by the Land and Titles Court reflects erosion of the authority of the 'āiga potopoto and of matai generally - and contributes to it. A response has been the development of techniques whereby decisions by branches of families will not be challenged by petition to the Court. If a title is to be split on terms suitable to branches and individuals, the Court must be by-passed. A successful settlement between the branches

---

1 S.701 American Samoa Revised Code 1973. In 1972, 735 titles were registered, about 240 of which were vacant (Lutali and Stewart 1974: 399). In a population of some 30,000, the proportion of matai was not more than two per cent, compared with Western Samoa's six per cent (in 1972).

2 Re Title Mauga of Pago Pago (1973) High Court No. LT1336-73.

3 Interviews were conducted in American Samoa in December 1974. Long term and extensive interference by American administrations in Samoan decision-making - and a political structure which has developed quite differently from that of Western Samoa - cause Western Samoans to doubt the value of comparison between the sister countries, particularly where matters of matai titles and custom are concerned.

4 See Table 1.
of a family which has decided to split the title a number of ways is, ironically, a demonstration of the exercise of pule in a cause which is likely ultimately to weaken it.

The Court seems powerless to stem the tide. In a respected family, the Court had approved the joint (shared) holding of the title in 1936 on condition that the title reverted to branch X on the death of holder Y. When Y died, his branch refused to comply and in 1968 appointed six people to the title. Petitioned by branch X to set these aside, the Court did so. The following year the branches re-grouped, and, over the opposition of a minority, persuaded the Court to allow the title to be split - "in the interests of family harmony" - so that neither faction would be able to interfere with the other. Subsequently, the faction from branch X which had sought the additional title-holders proceeded to appoint them and the other faction could not prevent it.\(^1\) In another electorate, Siumu, the Court had set aside ten Tupuola titles from one village in 1971 and nine from another the following year, but, by 1976, agreement between factions had brought to 63 the total of Tupuola title-holders on the Roll.\(^2\) The electoral process will now be considered in detail before the increase in matai numbers is reviewed.

PARLIAMENTARY REPRESENTATION

The political processes introduced to Western Samoa have constituted a challenge which the matai system has not hesitated to take up.

Role of matai in selection of representatives

According to statute, all matai have had the opportunity to participate in the selection of members of the Fono of Faipule or its

---

\(^1\) Re Title Mamea in Lefaga (1936) L.C. No. 211, (1968) L.C. No. 3055 and (1969) L.C. No. 3276. In 1979, Mamea Ropati was successful in gaining the parliamentary seat.

\(^2\) Re Title Tupuola in Sa'aga (1971) L.C. No. 3555 and Re Title Tupuola in Falemusu (1972) L.C. No. 4309; Electoral Roll for 1976. This is not the same Tupuola title as that held by Tupuola Efi in A'ana Alofi No. 2, although they are connected.
successor, the Legislative Assembly, for over forty years. From 1939 to 1963, however, it was always possible for dominant factions to secure for their candidate the signatures of the majority of matai in the constituency thereby depriving opposing factions of the means of testing the strength of a candidate by ballot\(^1\). With the registration of matai and the Electoral Act 1963, the nomination of more than one candidate now requires an election by secret ballot in the conventional parliamentary manner. Initially, traditional wielders of power such as the Tümua and Pule were successful in pursuing well-understood methods whereby agreement was ultimately reached, often on the basis that the dominant village would be represented or that representation would alternate between one village or faction and another\(^2\). Since 1957, however, the number of members returned unopposed without ballot has fallen at each election, as indicated below\(^3\):

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Votes</td>
<td>31</td>
<td>23</td>
<td>16</td>
<td>14</td>
<td>14</td>
<td>12</td>
<td>6</td>
<td>5</td>
</tr>
</tbody>
</table>

The role of the matai as voter is seen against the dramatic increase in the number of matai, and techniques employed in political campaigns. The growth of the territorial (matai) voters roll by 6,619 or 150 per cent from 1961 (by which time nearly all matai had registered) to 1979 is evidence of a flood of new voters\(^4\) - some of them blatantly enrolled as matai solely for that purpose and called matai pālota - which required readjustment of long-standing local power balances and gave encouragement to the political opportunist. As one of the early candidates to take advantage of the situation explained - "Election by secret ballot is a European idea under the Electoral Act which disregards customary ways of deciding important questions. I thought that, if we had to have the ballot, \[1\] See Chapter 3. \[2\] Boyd 1956: 52. \[3\] J.W. Davidson 1967: 336, 404 and 425; Samoa Times and Savali. For the 1957 election see Chapter 3. \[4\] See Table 2.
I would use any means of winning the ballot that was legal under the Act

The last three election campaigns have been characterised by the giving of money, food and promises on a particularly large scale. Candidates have deplored the cost of village campaigning (two alleged that they had spent over $WS10,000 each), observers have referred to the pouring of goods into rural areas as election fever takes hold, and Tupua Tamasese Lealofi IV stated in 1976 that some of his supporters in Parliament (where he lost the prime ministership) had been defeated by "great wealth which had been used to buy votes". Factors contributing to the extent of the practice and to the difficulty of proving electoral offences are the ordinary rules for creating and discharging obligations over time (which, people have been heard to say, "have nothing to do with the election"), and the fact that the matai pālota is responsive more to the activists who arranged for his appointment than to the family which he heads (if, indeed, there is any such family). This is not to say that kinship and family and village

---

1 Interview, February 1975.
2 1973, 1976 and 1979. The writer observed the aftermath of the first and preparations for the second.
3 Samoa Times 13 February 1976. As at July 1979, $WS1 is roughly equivalent to $A1, $NZ1.10 and $US1.15.
5 Samoa Times 19 March 1976.
6 Each election has produced its crop of litigation, including petitions to the Supreme Court as the Electoral Court, prosecutions for electoral offences in Magistrates Court and miscellaneous libel actions. In none of these, in 1973 and 1976, were allegations of bribery, treating or undue influence found proved. Following the 1979 election, the Chief Justice was prepared to draw a line between traditional hospitality and obligation, and a level of giving which constituted corrupt practice under the Electoral Act. He declared elections in four constituencies void, and referred not only to bribery "on a grand scale" but also to the widespread practice whereby matai solicited payments from candidates, indicating that "a very large proportion of the voters of this country has been guilty of bribery" (Savaii 21 May 1979).
7 The strongest argument which could be put forward by Western Samoa and New Zealand in order to overcome United Nations objections to Independence on the basis of anything 'less' than universal suffrage was that the matai system was democratic in the sense that the matai voters were chosen by, and responsive to, the wishes of their families (Boyd 1956: 48).
connections are not still the principal determinants, and that village fono and alliances of fono do not still meet in time-honoured fashion to try to decide on a single candidate. It must be apparent that Samoan political organisation and decision-making techniques are inconsistent with the Western electoral system. Indeed, they are supported by fundamentally different concepts, and both procedures cannot fairly be applied in the same election. As a product of the conflict, campaigning with money and matai pālota has been striking further blows at the ordered system upon which chiefly power is founded.

In terms of function, the matai system has met the challenge by taking charge of the electoral process. The tiny individual roll is losing its active members to the territorial roll and it may not be long before the recommendation made in 1975 for the abolition of the former is carried out. But what is the effect of the 'take over'? Has the matai system clutched a viper to its bosom? Affirmative answers were given, sometimes in more colourful terms, to the Commission of Inquiry into members of Parliament (numbers and constituencies) in 1974, and, in the following year to the Land and Titles Committee appointed by Cabinet to inquire into matters relating to matai, land and the Land and Titles Court. The significance of the evidence lay in the deep and widespread feelings of anxiety and confusion expressed as to the future of matai authority. Some

---

1 See Chapter 1; and F.C. and V.J. Ala'ilima 1966: 240.
2 For example Mr Sam Saili resigned his 'individual' seat in November 1978 to campaign as Fa'aso'ota'ula and re-enter Parliament in 1979 as the member for Gaga'emauga No. 2.
4 Idem.
5 Report on Matai Titles, Customary Land and Land and Titles Court 1975. The Land and Titles Committee, to which the writer was adviser, held extensive public hearings in Apia and in 16 traditional centres throughout Western Samoa, and members visited American Samoa and the Samoan community in New Zealand. Some 520 people gave evidence in Western Samoa, but it was only in Apia and New Zealand that untitled people came forward, and the untitled in Apia did not exceed 20. During 41 days of public hearings in Western Samoa, some 400 pages of evidence were recorded in summary form.
people blamed matai pālota, and others the level of 'giving' at elections, but greatest concern was directed at the electoral process itself. After forty years of persuasion that the ballot box is the sine qua non of stable national government, the overwhelming sentiment of at least the outspoken matai of Western Samoa is that ways should be found of abolishing it. Parliament is still, for many, an alien institution. While there was a period of nationalistic euphoria under the traditional style of leadership of Mata'afa F.F.M. II until his first defeat in 1970, the realisation has grown that the Assembly is a forum for Samoan and part-Samoan self-interested entrepreneurship and opportunism which is not amenable to the rules and considerations binding Samoan politics at village and district levels.

Expression of conservative thinking such as that of the orators of Tūmua and Pule\(^1\) is not surprising, particularly when Government and Parliament themselves demonstrated concern as to the relationship between the matai and electoral systems by setting up these enquiries - and a third one in 1976\(^2\). However, the only alternative to elections proposed by the 'abolitionists' was a return to the 'old ways' of selecting representatives, which were stated either as the right of a reduced number of political districts (some said the eleven of much earlier times) to choose representatives entirely as they thought fit - or as the re-introduction of the 1939 Ordinance\(^3\). Most of these witnesses agreed, nevertheless, that, if Western Samoa was to have a Parliament, its members should be chosen at regular intervals by reasonably quick and effective means and their arguments had not been thought through to produce a practicable solution. The explanation for this became apparent in informal discussions and interviews. It is the power of Parliament, its very

---

1 They were presented by the Land and Titles Committee with a golden opportunity to express their views.

2 The Committee of Inquiry into Electoral Matters. Since much debate followed the Report on Members of Parliament (op.cit.) and the Report on Council of Deputies 1975 (see later in this chapter), Cabinet has cautiously not yet made public the 'Matai Titles' and 'Electoral Matters' Reports.

3 See Chapter 3.
existence, which is felt to be a threat to politics at district and village level - the politics which are the food and drink of most matai. Elections cannot be regarded as even a necessary evil if the abuses they bring are in aid of a cause which the matai do not believe in. The dichotomy between the concerns of local and national government remains apparent. In the meantime, the matai, as voter, is compelled to translate the election contest into terms with which he is familiar and then finds that forces are at work and resources are employed which are not manageable in those terms.

Another large body of Samoan opinion sees the issue as a choice between matai suffrage and a modified form of universal suffrage in which all adult citizens elect matai candidates (with universal candidature as a delayed but inevitable consequence). The question is a highly sensitive one for the politicians of the day, and private opinions often conflict with public statements. The advocates of universal suffrage are those who would not be affected by its introduction, such as Samoans and part-Samoans with a secure economic base in the public service, commerce or agriculture, or, as in the case of certain high title-holders whose political position is secure. For members of Parliament, a shrewd assessment of survival in their constituencies is involved. It is assumed that the proposed reform would be harmful to the matai system, and consequently many untitled people who have status within it by marriage or who propose to seek titles are opposed to change. On the other hand, the type and degree of 'harm' are weighed against the matai pālota abuse which, it is alleged, universal suffrage will 'cure'.

The issue is political, but some assessment of the consequences can be made. If universal suffrage had been introduced in the 1950s, it

---

1 Although the eight members of the Land and Titles Committee engaged in lengthy and frank discussions on the subject and formed a clear majority view, the Committee was prepared to summarise the 'pros' and 'cons' in its Report but not to express that view.
is arguable that the resilience of the matai system would have enabled it to adapt better then than now. What matai lost on the national scene they might have more than made up in the control of district, village and family affairs, and the forced adjustment would have been helpful in strengthening matai-ship at that level. Youth who wished to be different (regarded in all cultures as a radical threat) would leave the system, but could rejoin. By contrast, matai suffrage has meant that these energies have been expended within the system - as the movement of people with political aspirations has been all one-way. The resultant stresses, such as new roles for matai, new types of matai, and the proliferation of titles are perhaps as severe and difficult to accommodate as those which would have followed universal suffrage.

Its introduction now, however, would bring further change while the matai system and Government are dealing with the recent developments. As will be shown, the spreading of titles throughout the community and the increase in numbers are only partly connected with matai-palota, and it may be more important for Government to formulate policies with regard to the holding of titles and land than with regard to voting rights.

To introduce universal suffrage is to say to the matai heads of families that their authority over adult family members will not be effective in so far as what actually happens in the polling booth is concerned. Without elaborating further at this point, the matai's actual authority, as contrasted with his expectations, must be seen in relation to a number of aspects of life today. The matai will strenuously resist all attempts to erode his authority and will oppose universal suffrage on principle. However, it is apparent from the earlier discussion of evidence as to the village view of electoral representation, and from the cynical terms increasingly used to describe national politics, that, after an

1 Due to the foresight of the Constitutional Convention, universal suffrage may be introduced by Act (simple majority) rather than by constitutional amendment (two-thirds majority). Articles 44 and 109 Constitution 1962.
initial period of enthusiasm, the representation question - and therefore the question of who may vote - is becoming less relevant in the local context. In practical terms, village matai are appreciating that it may be a matter of little real significance who goes to the polling booth once every three years - especially when the candidates are often 'Apia matai', and so long as the villages continue to participate in the triennial stimulation and excitement of political contest, and, of course, in the bountiful electioneering campaigns. Furthermore, the proliferation of matai titles has reduced the numbers gap between matai and adult population (universal suffrage) voters. One person in every five (of the age of 21 or over) is a matai.

Role of matai as Members of Parliament and Ministers

The composition of the Legislative Assembly is changing further. Participation by persons of former 'European' status is not new. 1964 brought in nine of them from 45 territorial seats, most of them older men who had opted for 'Samoan' status at Independence. The significance of the individual roll which was represented that year for the first time by only two members was still considerable and both members were experienced Cabinet Ministers. Two thirds of the House comprised men who lived in their constituencies and had had little previous parliamentary experience or involvement with administration or business. Fifteen years later, twelve of the territorial seats are held by part-Samoans who once had 'European' status (three part-Chinese), one of them being the Prime Minister with four others in Cabinet - while two part-Samoans on the individual roll are relatively inexperienced newcomers. The active part-Chinese public accountant, Sam Siali, Minister of Finance 1973-76, who has

1 Calculated from Censuses 1966 and 1971.
2 Fred Betham (see above) and Frank Nelson.
3 As defined earlier in this chapter.
4 Tupuola Efi, elected for a second term.
already been mentioned, resigned his individual seat to re-enter Parliament from a territorial constituency and thereby preserved his political career. More importantly, 25 of the territorial members can be said to be 'Apia matai', and a further seven or eight have houses in Apia as well as in the village. Twelve are former public servants, sixteen businessmen, and six professional men (three doctors, an accountant, a lawyer and a chemist)\(^1\).

Fewer older Samoans with long experience in both local and national politics are now in the House\(^2\). Instead, a body of rather younger members seems to be established who have demonstrated their capacity to stay in office, or to return after an absence, sometimes in a different electorate. Although it is used as an argument for voting out an incumbent, the alternation, or felafoa'i principle, does not operate effectively. By comparison with the elections held 1939 to 1954 which produced an average of 70 per cent of members who had not previously held office\(^3\), the percentage of territorial seat members who had never been in Parliament had dropped to 53 per cent in 1976 - and again to 33 per cent in 1979, when 30 out of 45 had been members before, eight of them after absences of one or more terms. Ability to shift the basis of one's support has often been essential for survival in Samoan politics and several politicians have demonstrated the potential flexibility of the system of registration of matai titles by taking a further title in a different and more advantageous constituency\(^4\).

There is no residential qualification to prevent such a move. Others may consolidate their position within a constituency by taking another title

---

1 This analysis takes no account of the subsequent voiding of elections in four constituencies. By-elections will follow in August 1979.

2 Experience lost includes that of Toluono Lama and the late Mano Togamau. An exception is Taua'anae Tufuga Fatu, a Cabinet Minister at independence, who has returned after a long absence.

3 Boyd 1956: 52.

4 For example, the Prime Minister, Tupuola Efi, used the title Tufuga, Taua'anae Fatu used the title Tufuga, and Salâ Suivai used the title Ulugia - to begin their parliamentary careers in different electorates. These two Tufuga titles are regarded as different titles.
A feature of post-independence electorates is that they have not always supported as their members of Parliament the highest ranking title holders from among the candidates. For example, Tafua Kalolo, the holder of what is described as the 'Ali'i Sili' title of the Aleipata district where he lives, lost his seat for the Aleipata (Itupa-i-Lalo) electorate in 1976 to Letiu Tamatoa, a plumber by training, who lives most of the time in Apia and is married to a papālagi New Zealander. Letiu, whose title is clearly inferior to that of Tafua, defeated a challenge by the latter in 1979. In the electorate of Safata, Muliagatele Vena, who, as Vernon McKenzie Jnr, manages and is heir to a prosperous merchant firm, has beaten the holder of the high title 'Anapu on the last two occasions. When, in 1976, the Tuitolova'a title failed to make any showing at all against the lower ranking Vaovasamanaia in Palauli West, Tuitolova'a Si'imoa decided not to contest the 1979 nomination of Vaovasamanaia Filipo, who has practised law in Apia for 20 years as Reg. Philips. Many examples can be given, and money is often the explanation. It should also be pointed out that the loyalty of matai is first to the high titles of family and village - in that order - and only then to those higher titles held by other families or in other villages in the electorate which rank above their own in district affairs. If the higher district titles can activate loyalties along sufficient family and village linkages, they may resist challenges, but not in situations where the challenger commands the numbers. To refer again to the constituency of Safata as an example, 'Anapu Aiali'i of Sa'anapu village, holding the highest ranking title in Safata, received in 1979 only 93 votes against Pule Lameko of Vaie'e village and Muliagatele Vena of Sataoa village, who received 127 and 128

1 Asi Eikeni, former Government Printer and Apia businessman Aitken Fruean, took the high title Namulau'ulu as his second title in Safotulafai in July 1978 (Samoa Times 7 July 1978).
respectively. Also, one might expect a tama'aiga's name always to go forward as an unopposed nomination, but, without disrespect for the title itself, matai not directly related may stand against the tama'aiga.

To turn to Cabinet Ministers, their selection by the Prime Minister has been mentioned. In 1976 and 1979, no Ministers were selected from the two individual roll members, and part-Samoan interests were already well represented by members on the territorial roll. In the absence of political parties, Cabinet has relied for the passage of its legislation on alliances formed and support arranged by Ministers personally amongst other members. This year, the newly formed Human Rights Protection Party in opposition has announced the most specific party manifesto since the Mau. Nevertheless, its parliamentary members represent diverse groupings, and the only clear bond is a desire to defeat the sitting Prime Minister. The role of the tama'aiga has been discussed and it is not possible to devote further space in this study to the important questions arising out of the Western Samoan adaptation of the Westminster model.

PROLIFERATION OF TITLES

In cases where the splitting and creating of titles has been wholesale, the inevitable conclusion is that the motive is to secure the election of a candidate. In preparation for the 1976 election, for example, Luatuanu'u, A. and 'Aiga Potopoto conferred 26 titles at once in Tufulele, 13 named Sauni, and 13 named Puata. Talauega, L. and 'Aiga Potopoto

---

1 Election results - Savali 12 March 1979.
2 This occurred in 1976 when, in a move which aroused much comment, two matai stood against Tupua Tamasese Lealofi IV. Previously, the late Mata'afa F.F.M. II, had stood as Fiame, so that the Mata'afa title was not challenged. Tupua won, but a precedent has been created.
3 Article 32 Constitution 1962.
4 Samoa Times 1 June 1979.
5 Savali 28 August 1975. Since 1969, every saofa'i is required to be advertised with the name of the conferring authority - usually the 'aiga potopoto and/or named matai.
Potopoto conferred 18 Mauga titles, 18 Maoiautele, 15 Va'aga and 14 Saitaua - a total of 65\(^1\). On the Rolls for the 1976 election were some particularly high numbers of holders of the same name within the same constituency, the three highest being Tupuola 63 in Siumu, Mulipola 55 in Aiga-i-le-Tai, and Namulau'ulu 42 in Fa'asalele'aga No. 2 - but more impressive is the widespread nature of high-level splitting, with 28 titles each split 20 times or more. If one takes those six constituencies in which two or more titles were each split 20 times or more between the 1961 and 1976 elections - shown in the following Table 4 - there is seen to be evidence of a relationship between those titles and the titles held by the candidates listed for the constituencies in the 1976 and 1979 elections. The candidates are in the order of the number of votes they polled. Of course, title names cannot always be linked with a particular candidate because matai from different branches of the same title may stand against each other, or may support candidates with other names.

It is impossible to test statistically the opinions expressed and evidence given to the effect that the desire for votes is the main reason for the proliferation of matai titles. In a situation where the matai system appears likely to be shown in an adverse light - as in the context of an inquiry into the weakening of matai authority\(^2\) - the blame was placed on the obviously imposed concept of elections. The solution was that these should be done away with. Nevertheless, further questioning revealed that causes mentioned earlier in this Chapter were often regarded as equally significant.

An account of Government's intervention is necessary to complete the picture. Although the creating and splitting of titles purely for voting purposes has been tried here and there prior to independence\(^3\), the techniques first achieved notoriety in the 1964 elections and reached

\(^1\) Savali 2 October 1975.
\(^2\) Many people had this impression of the work of the Land and Titles Committee.
\(^3\) Marsack 1961b: 16.
### TABLE 4. HIGH-LEVEL SPLITTING

<table>
<thead>
<tr>
<th>Titles and number of times split 1976</th>
<th>Total matai 1976 and increase over 1961</th>
<th>Candidates 1976</th>
<th>Candidates 1979</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aiga-i-le-Tai</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mulipola</td>
<td>55</td>
<td>351</td>
<td>Leiataua I.</td>
</tr>
<tr>
<td>Auapa'au</td>
<td>37</td>
<td>162%</td>
<td>Leiataua P.</td>
</tr>
<tr>
<td>Leiataua</td>
<td>28</td>
<td></td>
<td>Leiataua I.</td>
</tr>
<tr>
<td>Tapua'ü</td>
<td>23</td>
<td></td>
<td>Auapa'au M.</td>
</tr>
<tr>
<td>Sa'u</td>
<td>21</td>
<td></td>
<td>Taupa'ü T.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Auapa'au T.</td>
</tr>
<tr>
<td>Vaisigano No. 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Masoe</td>
<td>23</td>
<td>328</td>
<td>Va'ai K.</td>
</tr>
<tr>
<td>Tufuga</td>
<td>22</td>
<td>320%</td>
<td>Tufuga F.</td>
</tr>
<tr>
<td>Alo</td>
<td>21</td>
<td></td>
<td>Masoe P.</td>
</tr>
<tr>
<td>Salega</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Leilua</td>
<td>25</td>
<td>367</td>
<td>Tuisalega S.</td>
</tr>
<tr>
<td>Loli</td>
<td>21</td>
<td>211%</td>
<td>Tapua'i E.</td>
</tr>
<tr>
<td>Fepulea'i</td>
<td>20</td>
<td></td>
<td>Faimanu A.</td>
</tr>
<tr>
<td>Palauli (Le Falefa)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tiatia</td>
<td>38</td>
<td>349</td>
<td>Mapuilesua M.</td>
</tr>
<tr>
<td>Fiu</td>
<td>25</td>
<td>198%</td>
<td>Leota P.</td>
</tr>
<tr>
<td>Leota</td>
<td>23</td>
<td></td>
<td>Mapuilesua M.</td>
</tr>
<tr>
<td>Fa'asaleleaga No. 2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Namulau'ulu</td>
<td>42</td>
<td>307</td>
<td>Asi E.</td>
</tr>
<tr>
<td>Papali'i</td>
<td>21</td>
<td>116%</td>
<td>Namulau'ulu M.</td>
</tr>
<tr>
<td>Gagaemauga No. 3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lealaiauloto</td>
<td>25</td>
<td>145</td>
<td>Seuamuli K.</td>
</tr>
<tr>
<td>Seuamuli</td>
<td>21</td>
<td>116%</td>
<td>Seuamuli K.</td>
</tr>
</tbody>
</table>

farcical proportions in one electorate in preparation for the elections of 1967\(^1\). They were becoming widespread\(^2\), and Government decided to take action, so beginning a series of largely ineffective measures. Although his statute required the Registrar to register the "rightful holder" of a title, which was defined as the person appointed "in accordance with the customs and usages of the Samoan people"\(^3\), he alleged that he had insufficient resources to check the incoming saofa'i certificates and, in any event, took no action to test his powers. Amendment in 1969 required him to advertise all certificates twice in the Savali and only to register those titles in respect of which he was "satisfied" that custom and usage had been complied with\(^4\). He was further required to delete titles if "of the opinion" that custom and usage had not been complied with\(^5\). The 1970 election was upon him, however, and it was between then and 1973 that he deleted some 2,000 titles from the Register, thus accounting for the apparently small increase in registered titles between 1970 and 1973 shown in Table 2. As so many of the pseudo matai were random creations with fictitious names, there was little opposition to the Registrar's deletions.

1 Titles were created and conferred on young boys and girls in one electorate in 1964. To prevent voting by minors, the 21 year age qualification for voting was then introduced (Electoral Amendment Act 1964). In 1967, the lengths to which the candidates and their supporters were prepared to go in Vaisigano No. 1 are described in the subsequent Electoral Court proceedings (outsiders were brought in, and young men and women whose only place was in the 'aumaga and aualuma were made matai - Re Election Petition - Vaisigano No. 1 (1967) 1960-1969 W.S.L.R. 179) and by S. Tiffany (497 people were registered by the Pulenu'u of Vaisala during one 30-day period - 1975a: 101). The Electoral Roll for the electorate shot up to 1398, compared with the 1964 figure of 125. The Court declined to interfere, except in the case of six under-age 'matai', on the ground that it was not prepared to go behind the Register of Matai (as opposed to the Electoral Roll) - but the judgment also gives the impression that the Court did not wish to favour either side when both had been guilty (Re Election Petition - ibid.).

2 In A'ana Alofi No.3, the number increased from 195 to 632. Total increases for the electorates are shown in Table 2.

3 Ss. 27, 30 and 31 Land and Titles Protection Ordinance 1934, No.2 (prior to amendment in 1969).

4 S.31 ibid. as substituted by Amendment Act 1969, No.29. A person aggrieved could petition the Land and Titles Court.

5 S.30 ibid. No removal could take effect unless confirmed by the Court, on notice to the title-holder.
By 1976 the total had risen to 9,948 and the 1975 Land and Titles Committee inquiry had revealed that the Registrar again considered himself powerless to stem the tide. Two years later, a new Registrar began reviewing registrations and deleting names. He took the view that, prima facie, it was contrary to custom to split a title more than six times at once. By 13 November 1978, only two months before the 1979 elections, the Court had approved the removal of 133 names and was about to hear petitions set down for that day in respect of a further 1,500 when there was an outcry from those threatened, one of whom was a member of Parliament, and the Head of State called "an emergency meeting" of the Executive Council. The Land and Titles Court was requested to adjourn its proceedings and, on the following day, Parliament rushed through in two hours (and the Head of State signed) an unopposed amendment retrospectively restoring to the Register all titles removed that year and limiting the Registrar's future power of action to review titles registered after 1 January 1977 and then only on his prior petition to the Court. In praising Cabinet's quick action, members described the Registrar as "brave" but "too powerful" in the face of "the most serious issue to affect the country since independence" and of "the awesome sight of hundreds of people at the Land and Titles Court" on the previous day.

The drama of these events illustrates the swift reflex action with which matai, and particularly national politicians, react, and usually over-react, to a perceived threat. Government's confusion over the issue is highlighted by the fact that the Prime Minister's words in introducing

---

1 Land and Titles Committee minutes 1975.
2 Letter from Registrar 27 March 1979.
3 Samoa Times 17 November 1978. "This de-registration caused an uproar in the country. Samoa was in a very tense situation and little was needed to cause an explosion. Everyone felt it coming and the government was no exception, and so were members of Parliament" (editor Savali 27 November 1978).
4 Land and Titles Protection Amendment Act 1978, No.22.
5 Samoa Times 17 November 1978.
the 1978 amendment\(^1\) were the same as those used by the Registrar in explaining his resumption of proceedings for de-registration this year - namely, that care must be taken to preserve the dignity of the matai title\(^2\). It is also significant that, while Cabinet through the Minister of Justice and head of the Justice Department could have issued policy guidelines to its servant the Registrar at any time since independence, the question of which title to accept for registration - or which to de-register - has been too sensitive for any titled politician to become involved with. A matai who does not regard other titles as sacrosanct is not only grossly discourteous but he lays his own credentials open to criticism.

We have seen that powerful forces have been at work. Population pressure and branching; the desire of village families to have matai both at home and in Apia or overseas; personal ambition on the part of Samoans and part-Samoans in politics, employment and business; the settlement of disputes; and the overriding need in a status-oriented society to equate title rank with effective power - all required some expression if the matai system was to survive. Matai pālota lifted the lid and made possible the break-through. Government and courts seemed to be ineffectual. By the mid-1970s, matai pālota were again common, and they were also providing a rationalisation behind which titles could be conferred and acquired with impunity so long as the numbers and methods were not too blatantly directed at obtaining votes. Persisting throughout is the authority of the 'āiga to have such titles as it thinks fit - in the light of its perception of immediate needs rather than of any long-term consideration.

**Consequences of proliferation**

This year, two men in every five are matai. In the absence of detailed village by village study, the following conclusions are based on

\(^1\) Ibid.

\(^2\) Samoa Times 9 March 1979. By March, the Court had re-commenced its work in more cautious fashion and had de-registered 72 titles (ibid.).
evidence given to the Land and Titles Committee and interviews with
village matai conducted before and after Committee hearings. The first
question for the village fono is what degree of recognition, if any, should
be given to titles created and split within the village. With some
exceptions, villages have accepted the right of senior titles and
families to confer and divide titles within the village structure. Once
the fono has approved the saofa'i, the new matai have a status which varies
according to the occasion - and from village to village. Matai pālota who
are generally recognised as such may be regarded as having no place or
function in village affairs except as taule'ale'a. On the other hand, 
many titles conferred with voting rights in mind are described by those
conferring them as legitimate titles. On other occasions, the splitting
of a title into several titles of the same name may suit the parties
differently according to their point of view. If the titles are intended
to provide electoral support for a candidate from the village, the fono
will be pleased. The recipients may be indifferent politically, but glad
to have matai status. The families concerned will have mixed motives, and
the extension of family influence to Apia or from one village to another
may be one. In each case, the question of degree of recognition depends
on the point of view of the informant. Accordingly, the topic is an
extraordinarily sensitive one, and village matai are reluctant to discuss
individual cases for fear of offending.

In general terms, inferior categories of matai have been created.
Some are not permitted to participate in the fono nor even expected to
attend. Others are called matai vāipou because, unlike the matai fa'avae,
foundation matai, they may only sit between and behind the pou, posts, in

1 Such as the fono of Auala in March 1967 which decided to abolish most of
the matai newly created for the previous election (Re Election Petition -

2 This is confirmed in Shore's study of Sala'ilua village in 1973. He did
not become aware of the subordinate ranking of titles (with which he
associates 'political' titles) until late in his fieldwork. Noting the
difficulty of obtaining information, he was unable to analyse the
significance for Sala'ilua of the increase in matai (Shore 1977: 92-97).
the fale fono. Where a village title has been split several times, the fono will usually allow only one holder of the title to participate—unless the rights of separate branches and their titles have held a place in the fa'alupega. A large proportion of the resurrected and newly-created titles are without families or land—a type of matai tautua, serving chief, and their recognition will depend on the influence of the matai who appointed them. It was a feature of the evidence of most informants that they were prepared to say initially that they were certain that every fono knew which category every title fell into. Whatever else might be the consequences of new titles in the village, they said, its ranking system was unaffected. The expertise of orators in this subject is legendary. On further questioning, however, it was agreed that problems would arise in the future when energy and ambition resulted in individuals and families asserting greater legitimacy for their titles. Distinctions would be blurred by time. 'Voting only' chiefs might gradually achieve some recognition, perhaps in the families of wives and relatives, and in other villages. But in the case of the great majority of new matai—those who have some claim to recognition, however small, apart from voting—reasons may be forgotten quite soon and de facto mataiship will become de jure.

Splitting creates complications for the fono and weakens its authority over constituent families when only one of the several co-holders of a title attends its meetings. If the co-holding is of a joint or sharing nature, and it is understood that the representative at the fono has effective pule over the affairs and land of the title in the village, that representative can be expected to see that fono decisions are carried out. Where, as is more common, the splitting subdivides families and lands, a single representative is often responsible to the fono for the

---

1 Another type of serving chief is the matai pitovao who usually has family and land. The term is used by Shore (incorrectly, it seems) to describe the hundreds of new titles he was aware were being "created by senior chiefs with political ambitions" (ibid.: 92). Of course, a chief would be bound to claim the highest pitovao rank possible for his own creations.
implementation of decisions which he finds it difficult to impose on his co-holders.

It follows that what was once the privilege of 'āiga potopoto (and senior title and village, when appropriate) has become a matter of public interest. As has been discussed, if Government should decide to control the proliferation of titles in the interests of matai'ship (and presumably of Samoan society), this would require that every application for registration of a title be examined in the light of criteria determined by Parliament or the Land and Titles Court. It will be difficult for the Court to be effective in this area without statutory guidance. Accordingly, Government may feel obliged to face the problem of defining the customary law applying to succession. On the other hand, application of even the most broadly expressed criteria would have profound consequences for the authority of pule holders.

Apart from the questions of recognition and control, there is the fact that a highly tradition-conscious institution is permitting a process which seems to flaunt that tradition. A degree of splitting to take into account branching families and to enable better supervision of households and land is undoubtedly traditional. Splitting without regard for these purposes, and the creating of new titles, are not. As so many matai and families are indulging in the abuse of the system, it is not fanciful to suggest that perhaps the chiefs of Samoa have reached the point where, subconsciously at least, they have lost the will to maintain standards - and to respond to challenges. However, it will be some considerable time before a realistic assessment can be made.

TITLE AND FUNCTION

Matai are now described by function as well as in traditional

---

1 Until the Land and Titles Protection Ordinance 1934 was amended in 1969, Registrar and Court were not involved in appointment decisions unless there was an objection.
terms. No longer does the rank of a title in village and lineage terms provide the sole determinant of status. It is a fundamental conceptual change which requires one to ask not only - "What is the title and where is it from?", but also - "What does he or she do?" It is still common, of course, for matai to extend and adapt their influence within the traditional framework. Matai with training or expertise can advance the interests of family and village while participating to the full in their affairs. But there are also 'public service matai', 'business matai', 'Apia matai' and 'overseas matai' - and a growing proportion of matai with limited or non-existent rights and obligations of the traditional kind. Matai with commitments elsewhere, such as family, land, employment and business, are beyond the supervision of the fono. Others live a 'double' existence, sometimes amenable to family and village and at other times engaged in their own affairs.

Such functions introduce new opportunities for competition and rules for manipulation. Ways are found of avoiding stigma attached to any classification of matai, and of legitimising that title-holding which was originally suspect. There is a reluctance to force the new phenomena - 'Apia matai' and the increase in titles, in particular - into a formal framework which would subject all concerned to the same rules. Lack of Government policy has its merit, as was seen by some leaders who, when considering a proposal to de-register all matai residing overseas for more than five years, realised that arbitrary provisions of that type could work to the disadvantage of society in the long term. On the other hand, the growth in matai numbers has been entirely haphazard and the advantages accruing to younger men in some villages are not available in others.

The matai system has invaded and taken over the introduced institutions of ballot box, public service and commerce - moving with vigour into the new bases of power - and in the process has itself been

1 Land and Titles Committee Minutes 1975.
transformed. A more gradual change would have been necessary to ensure that the limits of mataiship and the limits of real power would be co-co-extensive. Nevertheless, as those who would have been genuine matai fa'avae in earlier times acquire personal influence and wealth, and as titles are provided to those already possessing such advantages, the system seeks to close gaps between the old and the new types of status - and thereby control both.

TAMA'ĀIGA

For the new Samoan state, no issue was of greater national importance than that of the part to be played by the "four Royal sons of Samoa". The holders of the titles Malietoa, Tupua Tamasese, Tuimaleali'ifano and Mata'afa represented the dignity and honour of Western Samoa and could be a unifying force if they worked together. Modern constitutional government required a single Head of State. The interrelationship between the titles, incorporating, for instance, their respective claims to the ao of Tuia'ana and Tuiatua, was such that the Constitutional Convention felt in 1960 that successive single Heads of State could represent the dignity of all four tama'āiga - at once, and over time. Intermarriage added weight to this point of view. For example, not only does the Mata'afa title have historic connections with the Sā Malietoa, but the marriage of Mata'afa F.F.M. I of Sā Tupuā to the sister of Malietoa Tanumafili I meant that the present Head of State and the late Mata'afa F.F.M. II (the first Prime Minister) were first cousins. The minority view in favour of joint Heads of State had been expressed in terms which typically put matters in

1 Expression used by Li'o Tapu and others in the 1960 Convention (Constitutional Convention Debates 1960 Vol. I: 280).
2 'Anapu, S. presented this explanation (ibid. Vol. I: 261). The idea of alternating holders of the office had been rejected in the 1954 Convention - see above pp. 141-2. Of course, the tama'āiga themselves, who retired from these discussions, did not necessarily agree with either the reasoning or the decisions. In 1945, the Fautua had requested that they be accorded the title and status of 'Ali'i Sili', but the New Zealand Minister of External Affairs declined on the stated ground that neither the New Zealand nor the Samoan Government could confer titles (Memorandum 6 March 1945, IT 88/1). It is significant that the tama'āiga accepted the decisions of the Convention without argument.
perspective (if somewhat in doubt) - "the two royal houses of Samoa, houses of Malietoā and also of Tupuā, should hold the office of Heads of State until the coming of Christ". To provide early stability, the Constitution appointed the two former Fautua, Tupua Tamasese Mea'ole and Malietoa Tanumafili II as joint Heads of State, the survivor of them to remain Head of State for life. Thereafter, Parliament is to elect a Head of State every five years. Tupua Tamasese Mea'ole died in 1963 and Malietoa is still in office. A Council of Deputies was created, members of which, to a maximum of three and in the same manner as the Head of State, may act as Head of State during vacancy, absence or incapacity in that office. Tuimala'ifano Suatipatipa was elected as the only member (there has not yet been more than one member at a time). The remaining tama'aiga at independence, Mata'afa F.F.M. II, chose to use his Fiamē title to become first Prime Minister, which he remained until 1970, when he was beaten by ballot in the Assembly by the successor to the Tupua Tamasese title, formerly Dr Lealofi Tamasese (son of the Tamasese killed in 1929) who had become Tupua Tamasese Lealofi IV. Mata'afa Fiamē regained prime ministership in 1973, and Tupua Tamasese joined his Cabinet.

The deaths of two tama'aiga, Tuimala'ifano in 1974 and Mata'afa the following year, have re-awakened interest in the status and function of the offices of Head of State and Council of Deputies, and in the role of tama'aiga in relation to them. In earlier times when government above village and district level did not exist except for the purpose of adjusting competing claims to the tafa'ifā, the tama'aiga's responsibilities were to the groupings of families which supported him, and, of course, to the

---

1 Luatuanu'u, T. (ibid. Vol. I: 253). 2 Article 17 Constitution 1962. 3 Articles 18 and 19 ibid. The traditional speakers of Tūmua and Pule had made a final attempt at the Convention of 1960 to enhance the dignity of the office of head of state in a motion requiring that the representatives of Tūmua and Pule be added to the Assembly for the purpose of the five-yearly election (Constitutional Convention Debates 1960 Vol. I: 288). Although the motion was lost, Parliament itself remains jealous of its powers in relation to the high offices. 4 Articles 23 and 25 ibid.
immediate 'āiga of which he was the head. Today, too, these primary obligations are understood. Not only is the tama'āiga expected to give priority to the dignity of his own title and to the interests of all those linked with it, but there is no historical reason why a tama'āiga should be obliged to accept a public office involving onerous duties and the alien notion of an obligation to deal with all Samoans alike. The status of any such office, and the extent to which duties may be limited to the merely ceremonial, are therefore important considerations in the minds of Samoans concerned about the role of tama'āiga in modern government. Because of doubts as to how future thinking might evolve, the Constitution does not mention tama'āiga specifically, thereby placing no restriction on their activities and no requirement that they should be available to serve in the highest offices of State - and the Legislative Assembly has not defined what it considers the conditions of eligibility for the offices ought to be.

There is no doubt as to the ceremonial and formal aspects of the office of Head of State, for opinion seems unanimous that residence, salary, style of living and the usual immunities from legal process and taxation should be appropriate and that the office holder should have a wide range of formal duties as titular head of government, in whom "the executive power of Western Samoa" is vested. He has the style, title and address of "His Highness the Head of State", and his wife is "Her Highness the Masiofo" (wife of high chiefs or queen). The title is an honorific ao, the Samoan for 'Head of State' being 'O le Ao o le Mālo'. What concerns some traditionalists is that, while the office of Head of State befits tama'āiga status, there is no provision in the law for a tama'āiga who is not re-elected, other than that he may become a member of the Council of Deputies. Such a fate for a person

1 The Assembly may do this by resolution - Article 18 (2) (b). The recommendation of the 1960 Convention was that eligibility be restricted to tama'āiga - Resolutions by the Constitutional Convention 1960: 5.
2 Head of State Act 1965, No.13.
3 Article 31 Constitution 1962.
4 Article 19 ibid., and see Chapter 1 for the ao.
5 Even the word 'person' or 'tagata' is not appropriate in reference to a tama'āiga, but the reply is that "legal language" is necessary (Leleua, P. and Fiame Mata'afa - Constitutional Convention Debates 1960 Vol. I: 326).
who has been the Ao "is not dignified". Recommendations of a parliamen-
tary committee aimed at upgrading the residence, salary and style of
living of members of the Council of Deputies do not meet the criticism.
If the recommendations of the Land and Titles Committee are implemented,
a Samoan President of the Land and Titles Court may also have an honorary
title associated with that office, but office and title would be his until
retirement age. In Samoan eyes, the matching of title to function is
important, as both are determinants of real status, but the termination of
a holder's function, perhaps in his prime, is a difficult notion to accept.

The function of each tama'aiga has depended very much on personality,
ability and his own perception of his place in the political scene. Of
the generation of tama'aiga who were adults at independence, the late
Tuimaleali'ifano Suatipatipa was unusual in that he declined involvement in
politics. He was respected as a "gentlemanly, unassuming man who embodied
Samoan tradition", exercised authority as tama'aiga and Tuia'ana in a
restrained manner, and fulfilled ceremonial roles such as that of member of
the Council of Deputies without comment. Mata'afa F.F.M. II, on the other
hand, did not hesitate to use his tama'aiga status when, as Fiamē, he found
it necessary to seek political support, whether in the Lotofaga electorate,
in the Legislative Assembly ballot for Prime Minister, or in promoting the
passage of legislation. His personal qualities of leadership drew him
naturally into situations where the important questions in government were
left to him to decide - or at least to point the direction. It was usually
impossible to say to what extent, in the parliamentary/executive context,
his effectiveness was due to tama'aiga status, to the Fiamē title, to the

---
2 Report of Select Committee on the Council of Deputies and Succession to
   the Office of Prime Minister 1975.
4 With the exception of Tuimaleali'ifano Suatipatipa (in respect of whom the
   writer relies on interviews with his son Mokeno and also his successor
   Va'aleto'a), all the holders of tama'aiga status during the period 1974-
   1977 have been interviewed.
5 Editorial, Samoa Times 1 August 1974.
Faumuina title of Lepea (where, on the outskirts of Apia, he lived in an impressive house combining Samoan and European styles), to the prime ministership, or to his personal skills, as in Samoan oratory and negotiation. Backed by his able and energetic wife, Fetauiemalemau (some say occasionally led by her), Mata'afa lent dignity and authority in Samoan eyes to the office of Prime Minister, thereby helping to ensure that imported constitutional conventions surrounding the relationships of executive to Parliament and Cabinet to Head of State would operate, if for reasons not contemplated by those conventions. When he threatened to resign (or to regard a negative vote as an expression of 'no confidence' thereby requiring termination of his appointment or dissolution of the Assembly), as he did on several occasions when legislation he considered important was held up in the House, some members of Parliament, as he was well aware, would go along with the measures rather than be responsible for subjecting the dignity of a tama'āiga to public defeat. In this way, Mata'afa helped to overcome one of the most troublesome aspects of the Western Samoan adaptation of the parliamentary system, namely the absence of political parties and party policies, and the consequent dependence of Cabinet upon the status and energies of its individual members for the success of its legislation in the House. It is perhaps natural that most of the senior public servants interviewed spoke of the value of traditional-style leadership in preserving stability and securing the implementation of long-term policies.

Before discussing the relationship between Prime Minister and Head of State, reference should be made to Malietoa Tanumafili II and his approach to office. A shy man, now in his late sixties, and lacking the commanding presence of many Polynesian leaders, he had often been content to allow the late Tupua Tamasese Mea'ole to take a leading role prior to independence, and has always carried out his formal duties as Head of State in an unassuming

1"The only Pacific leader who moved slowly naturally" - Tupuola Efi, Samoa Times 23 May 1975.
2 Article 33 Constitution 1962.
3 Bureaucracy, as ever, is concerned with its own survival.
manner. The status of the Malietoa title is so awesome in Samoan eyes, however, that power is there for the taking. One has the impression of the retired admiral who, having relinquished control to his successor and the various ships' captains, finds that nevertheless he has an electronic console on which he can, if he wishes, press any of a number of buttons which will have consequences anywhere he pleases. By inclination, he prefers not to interfere with the running of the fleet, and hesitates before activating anything. Malietoa is well-known, however, for his diligence in furthering the interests of his title, its closer family connections and its lands, and this sometimes brings him into politics. Of course, whenever he takes any action (and usually he acts through intermediaries rather than in person), lights flash on consoles all over the fleet, as nothing done by or on behalf of a Malietoa can be kept secret.

The dilemma of the matai who, in conducting his affairs in time-honoured manner, finds himself confronted with the laws and Western-oriented attitudes of twentieth century government is intensified in the case of the tama'āiga, and in no case more clearly demonstrated than in that of Malietoa as Head of State. To begin with, most people are uncertain how much status is attributable to his title and how much to the office. Even senior public servants who should understand the constitutional limitations of the latter are sometimes reluctant to apply the law to him and his closer family. On the other hand, there being little statutory provision in matters relating to titles and customary land where Samoan custom and usage apply\(^1\), the authority of the tama'āiga is paramount in those areas where traditional authority is recognised. With regard to the use of land, the Head of State is exempted from the usual disability - not to engage in any occupation for reward outside the functions of his office - where the disposing of the produce from any land is concerned\(^2\).

\(^1\) By constitutional fiat, as discussed at the beginning of this chapter.  
\(^2\) Article 20 Constitution 1962.
The relationship between Malietoa and Land and Titles Court is, at best, an uneasy one. In cases involving titles or land with which the Malietoa title is involved, the members of the bench cannot avoid knowing where the Malietoa interests lie, and Presidents have on occasions felt obliged to protest.1

The political functions of the Head of State under the Constitution are few. As in the case of the British-style monarch, the principle is that the Head of State has constitutional duties but not powers in respect of the ordinary day-to-day governing of the country.2 His discretionary powers 'in reserve' are significant and, as yet, largely untested. A situation calling for the exercise of emergency powers, in which the Head of State may act in his discretion after consultation with Cabinet,3 has not arisen. In exercising the power to grant pardons and to commute sentences, the present Head of State has adopted the advice of Cabinet, although merely required to consult.4 An unusual provision, however, and one which goes somewhat further than the conventions of the Westminster model, is that which enables the Head of State to apply a 'temporary brake' to the executive business of Government. No decision of Cabinet may take effect for four days unless the Head of State, acting in his discretion, agrees. Within that period, the Head of State may call a meeting of the Executive Council (which consists of himself and Cabinet) and there oppose the decision. He receives the minutes of all Cabinet proceedings within 24 hours. If Cabinet wishes to overrule the opposition of the Head of State in Council it must meet subsequently to do so - when its decision will be final.5 Thus, the Head of State has the power to hinder and embarrass the Cabinet, but his capacity to do so depends on his being supplied promptly.

1 Similar difficulties arise in relation to other high titles, and such issues concerning the Court cannot be taken further in the present study.
2 Except as otherwise provided, he is required to act on the advice of Cabinet, the Prime Minister or appropriate Minister - Article 26 ibid.
3 Part X ibid.
4 Article 110 ibid.
5 Articles 27, 37, 38, 39 and 40 ibid.
with details of Cabinet proceedings\(^1\). Malietoa has rarely used the power to call a meeting of the Executive Council, and then not to oppose Cabinet decisions. On the only occasion on which he has called such a meeting in the last four years, he did so in November 1978 to express his concern that Cabinet should take action over the de-registration of matai by the Registrar of the Land and Titles Court\(^2\).

The reserve power which has caused controversy elsewhere\(^3\) relates to the appointment of a Prime Minister to replace an incumbent who dies or otherwise loses the right to hold office. In Western Samoa, it has now been accepted by a parliamentary committee\(^4\) (and, by default, by the House itself), that it is the prerogative of the Head of State to decide whether, on the death of the Prime Minister, a potential successor "commands the confidence of a majority of Members of Parliament"\(^5\). The Constitution gives no guidance as to how the extent of that confidence should be assessed, and it is a matter of convention rather than constitutional interpretation\(^6\). On the death in office of Mata'afa in May 1975, Malietoa immediately (within four hours) appointed tama'āiga Tupua Tamasese Lealofi IV as Prime Minister, which office he held until the next elections in February 1976. Tupua had been Minister of Justice in Mata'afa's Cabinet, and those who had formed a loose opposition to that Cabinet in the House complained that the Legislative Assembly should have been convened to vote on the successorship. Thinly-veiled criticism was expressed over the appointment of a tama'āiga by a

\(^1\) Immediately prior to independence, it was felt that there was a danger that the Fautua were becoming out of touch with current questions. Prime Minister Mata'afa did not always make opportunities for personal discussion (Aikman 1969: 320-1).

\(^2\) Samoa Times 17 November 1978. This episode has been discussed above.

\(^3\) For example, Australia in 1975 and Fiji in 1976.

\(^4\) Report of Select Committee on the Council of Deputies and Succession to the Office of Prime Minister 1975.

\(^5\) Article 32 (2) (a) Constitution 1962.

\(^6\) The Report of the Select Committee (above) suggested that, if the Assembly is sitting at the time, it may be desirable for a ballot to be conducted (subject to the Head of State's prerogative) and, if not, "there is a convention" that he will consult with members before making an appointment.
tama'āiga to succeed another tama'āiga. Nevertheless, on concluding the latter remarks, Toluono Lama, a skilful orator, moved that the House approve the appointment - which it did unanimously\(^1\). Such approval was constitutionally unnecessary, but Toluono was determined that Parliament should not appear to have been by-passed.

Malietoa has remained aloof from national politics, as much on account of temperament and personal inclination as for any other reason. Mata'afa, on the other hand, participated to the full and played out the leadership role with a feeling for the use of power in the overlapping worlds of Samoan and Western-style politics. There were no clashes between Head of State and Prime Minister on matters of constitutional or governmental importance. An observer of constitutional practice might conclude that the experience of Western Samoa's first fifteen years has demonstrated the wisdom of constitutional conventions and advisers where relationships between the Head of State and the other organs of State are concerned. Such an observation would overlook the contribution made by two personalities almost ideally suited to their constitutional roles and relationship - and the fact that those roles and relationship have yet to meet the tests which the dynamics of Samoan society can produce. It is not idle to speculate how different recent experience would have been had Tupua Tamasese Mea'ole survived as Head of State alone, if a less forceful and less traditional Prime Minister had been elected in the early years of independence and if contests over succession to Malietoa, Mata'afa and Tuimaleali'ifano titles had occurred during that period. Also, without the visible evidence provided by the present incumbent that the aspirations of Sā Malietoa are recognised, turbulence arising out of interaction between the major 'Houses' could well have spilled over into Parliament and interfered with the delicate constitutional balances. For the future, the fact that the Heads of State who succeed Malietoa will be elected by

\(^1\) Samoa Times 27 June 1975.
members of Parliament every five years\(^1\) will introduce fresh considerations.

The function of tama'āiga as member of the Council of Deputies is best examined in the light of the attitude to that office of Tupua Tamasese Lealofi IV and the views of others expressed following the death of Tuimalealiifano in August 1974. Tupua Lealofi, now in his mid-fifties and a softly spoken medical practitioner of serious demeanour, often gave the appearance of being the reluctant politician. In fact, after his term as Prime Minister from 1970 to 1973, he strongly resisted the notion that he should 'retire' to the Council of Deputies. His role has been a difficult one because, as a tama'āiga appointed in 1964, he bridges the gap between the 'old style' of tama'āiga (of which Malietoa is the remaining example) and younger men who are succeeding to the titles. Tupua was Minister of Justice in Mata'afa's Cabinet when Tuimalealifano's death left the Council of Deputies vacant. Immediately afterwards, as acting Prime Minister (during Mata'afa's absence), he was obliged to deal with angry argument in the House as to the proper place for the tama'āiga in government. His request that Cabinet be allowed to look into the matter was rejected by speaker after speaker who supported a motion that a select committee of the House should undertake the task. It was argued that the executive "now had the head, the middle and the tail while Parliament had nothing" - meaning that the remaining three tama'āiga were members of the Executive Council\(^2\). Despite the real constitutional difficulty that on the absence, illness or death of the Head of State there was now only the Chief Justice to act\(^3\) (and he was

\(^{1}\) Articles 18 and 19 Constitution 1962.

\(^{2}\) Leaupepe Faima'ala was adapting a simile used by elder politician Leilua Pilia'e Iuliano when, during the 1970 election campaign between Tupua and Mata'afa, he had discounted the idea that it was a contest between tama'āiga by saying that, as Head of State and Council of Deputies were then occupied by tama'āiga, they had "the head and the middle and were not likely to be fighting over the tail" - Samoa Times 29 August 1974.

\(^{3}\) Article 25 (1) Constitution 1962.
on short contract and sometimes out of the country), Mata'afa stalled
the issue - and it was unresolved when he died. Tupua took the
initiative as Prime Minister and moved the appointment of a House Select
Committee to examine eligibility and conditions of service of members of
the Council of Deputies - but when, in November 1975, the Committee
recommended that the proper place for him after his term expired in
February 1976 was on the Council of Deputies\(^1\), Tupua expressed surprise
and publicly rejected the suggestion stating that he had a further
contribution to make as member of Parliament\(^2\). The subsequent debate
revealed allegations that members of the Committee (which had been chaired
by Toluono Lama) and others wished to remove the *tama'āiga* from Parliament
for their own political reasons. Toluono denied the charges, saying that
*tama'āiga* should not be barred from the House, but he added also that the
presence of a *tama'āiga* was not necessary, for, "with or without a
*tama'āiga* in the House, Parliament has been given the responsibility for
the country's future\(^3\).

Since the death of Mata'afa, Tupua Tamasese Lealofi had felt
strongly that Western Samoa was not yet ready to have a non-*tama'āiga* as
Prime Minister - and regarded membership of the Council of Deputies as a
sinecure. He contested the 1976 elections but lost the prime ministership
to Tupuola Efi, who became the first non-*tama'āiga* to lead the Government.
Commenting on his defeat, Tupua observed, "the rule of the *tama'āiga* is
ended", adding remarks (which have been referred to) about the use of
wealth in the election campaign\(^4\). When the House convened, Tupuola moved
that Tupua be a member of the Council of Deputies. Lest it appear
presumptuous of a non-*tama'āiga* to do so, Tupuola explained that he had
\(^1\) Report of Select Committee on the Council of Deputies and Succession to
Office of Prime Minister 1975.
\(^2\) Samoa Times 19 December 1975.  \(^3\) Ibid. 26 December 1975.
\(^4\) Ibid. 19 March 1976.
been asked by the Head of State to secure membership for Tupua. The latter replied that he would have preferred to contribute as a parliamentarian. He was going "like a sheep being led" - where would he be "pushed" after that? Tupua resigned from the House and was sworn in as member of the Council, but not before it was agreed that the official order of precedence of the State would be altered to place the Council of Deputies immediately after the Head of State and ahead of the Prime Minister.

Previously, Mata'afa and Tupua as Prime Ministers had ranked ahead of the Council, its only member than being Tuimalealiifano. The change in rank was proceeded with by Cabinet despite the refusal of Parliament a week earlier to accept a motion that only tama'āiga be eligible to be members of the Council of Deputies. Tupua has remained in the Council.

In the eyes of those who support the tama'āiga and gain from their pre-eminence, the Constitution presents a dilemma. Head of State and Deputy should be tama'āiga, but so also should tama'āiga fulfill leadership roles in Parliament. As incumbents die, and the experience of newcomers is untested, four tama'āiga are not enough to go round. On the other hand, the presence of a tama'āiga in Parliament places a damper on proceedings and the holders of other high-ranking titles feel inhibited. They are unable to take full advantage of their own prestige. Holders of lesser titles suffer in a different way, in that if their loyalty to a tama'āiga can be activated through even the most distant connections, they may feel obliged to support him - or face subsequent embarrassment. It is this type of reasoning which caused many members of Parliament to regret the regular broadcasting by government radio of all the proceedings of the full House. The conflict between traditional thinking and expression in

1 Ibid. 26 March 1976.
2 Order of Precedence - published Samoa Times 9 April 1976.
3 Ibid. 26 March 1976.
4 For over two years, until Tuimalealiifano Va'aleto'a was appointed in July 1977, there were only two tama'āiga, and a new Mata'afa, Fa'asuamaleaui Pu'elā, was not appointed until June 1978.
5 Of the five ranking title-holder politicians interviewed, however, only two would publicly support a move to barr tama'āiga from politics.
relation to the respected tama'āiga titles and rules of parliamentary procedure is just too great.

An impressive example of the 'closing of the ranks' of Sā Tupuā behind Sā Malietoa in sombre reverence for tama'āiga status was the funeral of Mata'afa F.F.M. II in May 1975¹. The church service, parliamentary service, processions and burial in the large Mata'afa tomb at Malae Tiafau, the 'royal' burial site on Mulinu'u peninsula, were opportunities for the display of public respect and fine oratory. The vehicle carrying the casket was surrounded during the processions by the Tuiatua guard dressed traditionally as warriors. A fitting and typically Samoan tribute were the speeches in the Maota Fono, the huge round Parliament House, where members and guests assembled around inside the building in fono style, with the casket lying in the centre². At the Malua headquarters of the Congregational Church, of which Mata'afa had been national chairman, representatives from Tutuila and Manu'a in American Samoa referred to the tama'āiga titles and to the Tui Manu'a, and exhorted the people of Western Samoa to support their remaining tama'āiga Malietoa and Tupua Tamasese, and whoever would be the new Mata'afa. Although Tupua Tamasese Lealofi IV later spoke quietly on behalf of Government only, the total effect of church, Fono and Malae Tiafau was an unforgettable reminder to the public, who attended throughout in thousands, of the relationship between the three elements - God, tama'āiga and Mālō. After the casket had been buried and all speeches concluded, the widow Fetauimalo made a remarkable short statement from the steps of the tomb in which she spoke of how Mata'afa had served Malietoa, and how Tupua Tamasese in turn shared Mata'afa's qualities.

To complete the picture, one returns to the view of Samoan leadership as seen by the eldest statesman. By the end of 1975, Malietoa felt

¹ Which the writer attended.
² By contrast with Tongan royal funerals, the funeral was accompanied by relatively little traditional ceremony.
that it was time for Tupua Tamasese to leave the House. It had been agreed between them before independence that the tama'āiga "would have to go down and lead the country in Parliament", and that Mata'afa should do this. Now Tupua had done his share, but the country was ready to carry on without a tama'āiga in Parliament. The people should always feel that the tama'āiga were there to help them, and for the time being, the place for tama'āiga was as Head of State and in the Council of Deputies.

The present Prime Minister Tupuola Efi laid claim to tama'āiga status when he sought the Tupua Tamasese title held by his father Mea'ole. Conferral of the title on Lealofi was upheld by the Land and Titles Court, and Lealofi was also successful in receiving the Tuiatua. Nevertheless, Efi, at the age of 27, entered Parliament in 1965 (at a by-election) as Tufuga, and subsequently increased his support by changing electorate to take the title Tupuola. As the holder of this orator title of the traditional centre of Leulumoega, he re-entered the House and won election in 1976, and again in 1979, as the first Prime Minister to represent the orators of Tūmua. In political terms he has not been held back by his failure to secure a further title, the Tuia'ana, which the Tūmua purported to confer on him after the death of Tuimaleali'ifano but which the Court disallowed on the representations of the 'aiga Taua'ana of Tuimaleali'ifano.

The traditional leadership of the tama'āiga introduced stability, and not a little tension, into the new style of government of Western Samoa. As the 'old men' of post-independence politics, who could activate decisive traditional support, disappear from the scene and men and women with new bases for political advancement assume positions of leadership, it is apparent that the effectiveness of both tama'āiga, and Tūmua and Pule, will not be resurrected. In political terms, chiefly authority at the highest levels has declined. Furthermore, the thousands of 'petty' or 'pseudo' chiefs which have come into existence seem barely to warrant mention on a scale of political effectiveness. The strength of the matai
system remains, where it always was, with the senior village chief, whose horizons for the exercise of power have been extended.
CHAPTER 5. IMPACT, ADAPTATION AND REFORM

The timing of the impact of Western ideas and the importance of adaptation and change have been introduced in Chapter 1 and the opening pages of Chapter 2. As in the latter, this chapter will provide a brief account of the 19th century, but with particular reference to the forces which, towards the end of the century, established a period of temporary equilibrium or compromise between introduced and Tongan cultures — and thus the basis for a form of chiefly government which came to be accepted as Tongan. The constitutional foundation of that government, which has changed little down to the present time, will also be examined, with particular reference to its implications for the chiefly system.

UNIFICATION

The 18th and early 19th century wars over hauship had ravaged the entire group, driving people into rival camps to support leaders operating from fortified positions\(^1\). In 1820, the situation was that, following the death that year of the Tu'i Kanokupolu Tupouto'a, who had succeeded in controlling Vava'u and Ha'apai but not Tongatapu, Vava'u passed to Finau 'Ulukālala III and Ha'apai to Tupouto'a's son Tāufa'āhau, then aged 23\(^2\). The Tu'i Ha'atakalaua, Mulikiha'amea had been killed in 1799 and, there being no immediate successor, the other protagonists ensured that the office, as such, ceased to exist\(^3\). The status of the Tu'i Tonga had been under attack (there had been no office-holder since 1810\(^4\)) but the heir, Laufilitonga, was a contender for power, as were the chiefs of Ha'a Havea and Ha'a Ngatamotu'a\(^5\), who traditionally constituted the 'electoral

---

\(^1\) See Chapter 1. In addition to Mariner's account (Martin 1827) there have been recent reconstructions of the period; for example, Ve'ehala and Fanua 1977; Cummins 1977c.; and Gunson 1977 and 1979.


\(^3\) Gifford 1929: 83.

\(^4\) Gifford 1929: 50.

college' for the Tu'i Kanokupolu. Tongatapu, as the island where the Tu'i Tonga and Tu'i Ha'atakalaua families had their ancient ceremonial meeting place near Mu'a, and where the Ha'a Havea dominated, was the most unsettled area. The Ha'a Havea used their position to prevent the appointment of a successor as Tu'i Kanokupolu, until 1827 when Aleamotu'a, elderly brother of an earlier holder of the title, was chosen. Lätükefu has recounted how Tāufa'āhau, by force of personal qualities of leadership and tactical skill and by taking advantage of the divided allegiances and confused political situation (to which the arrival of Wesleyan missionaries in 1826 and their search for support contributed) gradually manoeuvred himself into supremacy\(^1\). He disposed of the rivalry of Laufilitonga and the Tu'i Tonga supporters by defeating them in battle in 1826, and thus, having established his ascendancy, he was unconcerned when Laufilitonga was installed as Tu'i Tonga the following year. A vital consideration for the contender was somehow to deal with those ha'a chiefs who controlled appointment to the hau. Many of the Ha'a Havea chiefs were opposed to Christianity and angry that Aleamotu'a had been baptised shortly after appointment to Tu'i Kanokupolu in 1827\(^2\). Strife on Tongatapu reached the point ten years later when Tāufa'āhau (himself baptised in 1831) supported Aleamotu'a in bloody fighting against the Ha'a Havea chiefs. In a series of battles, in which Christians fought 'heathens', and culminating in a massacre of the latter at Hule, the Ha'a Havea were defeated - for the time being. Tāufa'āhau had by this time consolidated his position on Vava'u as well as Ha'apai. His claim to be Tu'i Kanokupolu was further strengthened, and he was appointed Aleamotu'a's successor 1845\(^3\). By this time, Tāufa'āhau had been thinking of methods

\(^1\) Lätükefu 1974: 60-7 and 80-95.  
\(^2\) Ibid.: 61.  
\(^3\) He was son and grandson of men who had been Tu'i Kanokupolu and his mother's father was head of the Ha'a Havea. At the ceremony of appointment, some of the 'heathen' chiefs were present but "all parties appeared to approve heartily" (West 1865: 58). Once appointed, Tāufa'āhau sent another contender, Henele Ma'afu, son of the previous holder, Aleamotu'a, to Fiji to look after the interests of the Tongans there.
whereby a unified Tonga might be held together under government and laws, and, assisted by missionaries, codes were promulgated, as will be described in greater detail. There was still the threat, however, of an alliance between some of the Ha'a Havea leaders and the Tu'i Tonga, who became a Catholic in 1848. So it was not until the opposition had been drawn out in open revolt and soundly defeated in 1852 that Tāufa'āhau could feel that Tonga had been unified under the Tu'i Kanokupolu. When Laufilitonga died without immediate heir in 1865, Tāufa'āhau ensured that no attempt was made to fill the office of Tu'i Tonga.

If the rising chief's tactics seemed to rely on confrontation and crushing victory, it was not surprising in the light of his commitment to unification. His future kingdom would be ungovernable unless the widespread islands were loyal, not only to himself as Tu'i Kanokupolu but also to the concept of administration from the centre. The new religion played its part.

MISSIONS AND OTHER WESTERN INFLUENCES

After two 'false starts', and some initial progress by Tahitian L.M.S. teachers, missionary enterprise established a permanent place in Tonga in 1826 with the arrival of Wesleyans Thomas and Hutchinson. They gradually won support on Tongatapu and, with reinforcements, expanded their activities to Ha'apai and Vava'u. By the end of 1831, the three effective rulers at the time - the Tu'i Kanokupolu Aleamotu'a, on Tongatapu, Tāufa'āfau on Ha'apai and Finau 'Ulukālala on Vava'u - had been converted and, although the Tu'i Tonga Laufilitonga resisted, the highest

---

1 In 1797, ten L.M.S. missionaries landed in Tonga, but after failure to establish either their teaching or a secure position for themselves in the turbulence of civil war, their mission ended three years later (Lātūkefu 1974: 25-7). In 1822, the Wesleyan Lawry led a small party to Tongatapu and left 14 months later with little achieved (ibid.: 27-8).
2 Tahitian L.M.S. converts were active in Tonga from 1822 to 1828 (Wood 1975: 26-9).
3 Over the next 22 years, a further 24 Wesleyan missionaries came to Tonga (Wood 1975: 242).
5 Until baptised a Roman Catholic in 1851 - see below.
ranking personage, the Tamahā, was converted in 1834. From the departure of the L.M.S. teachers in 1828 until a Roman Catholic mission was established in 1842, Tonga was, for that crucially formative period, a Wesleyan monopoly.

Enthusiasm for Christianity in Tonga was, if anything, more immediate than in Samoa, and many of the same factors such as material benefits and medical assistance played their part. Chiefly influence was particularly decisive in Tonga where the Wesleyans used and supported chiefs as a means of achieving mass conversions. Furthermore, some Tongan chiefs recognised that the missionaries and their teaching offered political advantages. The pre-existing blend of politics and religion offered little real resistance. As West put it, religious elements depended so much on "the countenance of the civil powers" that "no sooner was their protection withdrawn than the whole fabric of heathenism collapsed and crumbled into ruin." In the case of Tonga, there was a more dramatic scenario because it is likely that Tāufa'āhau saw the adoption of Christianity as part of a bid for supremacy which involved assuming a position superior to that of the Tu'i Tonga - and so he attacked the traditional religion which surrounded the latter.

To what extent were the differences which developed between Samoa and Tonga in the relationship of church and chief due to missionary policies and attitudes? From Gilson and Lātūkefu one might conclude that the principal

1 Farmer 1976: 232. It was "a strong blow to idolatry" (Koskinen 1953: 43).
2 Lātūkefu 1974: 133.
3 In Tonga (population 20,000) by 1835 there were said to be 12,000 people attached to the church in one way or another (Cummins 1977a: 131) and everyone in the Ha'apai group was said to have been baptised (Wood 1975: 52).
5 Chiefs who saw the value of enhancing their prestige by joining the lotu were the first to be converted. The mutual dependence which developed between missionaries and chiefs was a "marriage of convenience" (Lātūkefu 1974: 61).
6 Ibid.: 23.
7 1865: 259.
8 Tāufa'āhau physically destroyed 'idols' and 'god-houses' (Wood 1975: 47).
distinction between missionaries of the two Societies was that, while those of the L.M.S. were "undenominational" and generally opposed to "establishment" and "hereditary political power", Wesleyan missionaries were governed by strict rules of church and mission organisation and their political views were characterised by conservatism - by "loyalty to monarchy, country and constitution". On the other hand, John Williams of the L.M.S. began by cultivating high chief support and, as elsewhere in the Pacific, the L.M.S. were by no means averse to promoting centralised government based on chiefly authority. As far as Wesleyans were concerned, they were described as often paternalistic and domineering, but so were most Protestant missionaries. Despite instructions not to interfere in local politics, both missions advocated the building up of the "ostensible authority of the islanders" with the idea of limiting the influence of all non-Protestant Europeans and non-British governments. Internal stability was persistently sought in order to provide the context in which human souls could be won and protected. As matters developed in the mid 19th century, it is likely that missionary thinking in relation to island politics was a pragmatic response to the working of Tongan and Samoan chiefly systems - and to the realities of the distribution of power - rather than a conviction based on doctrine or political philosophy. It is sufficient to say that such 'royalist' and 'law and order' feelings as the Wesleyans possessed fitted well with the ambitions of Tāufa' āhau for central power and his passion for government, and that when Samoan villagers and local teachers successfully resisted the imposition of rules by both church and secular administrations - and took the churches as their own - some L.M.S. sympathy went with them.

---

3 See Chapter 2.
4 E.g. Rarotonga (Gilson 1970: 141).
5 The L.M.S. supported Malietoa Laupepa's claim to supremacy 1868-9, but such a policy was not suited to Samoan conditions.
6 Wood 1975: x.
7 Koskinen 1953: 35.
9 Gilson 1970: 140.
Whatever their views on chiefship, as such, the teaching of the missionaries emphasised equality in the sight of God and a common road to salvation. Naturally, chiefs came to appreciate that such teaching would progressively undermine their authority and, from time to time, individuals resisted. The dilemma of the more senior chief was that the same high rank which made it desirable that he should take a prominent role in church affairs, required him, as traditional leader, to contract successive political marriages and to protect his people's interests by warfare or other 'un-Christian' means.

The missionaries set themselves implacably against beliefs and practices which they considered inconsistent with a Christian way of life. The Wesleyan attack in Tonga was wholesale, beginning with a determination to abolish the tapu system and to replace it with observance of the Sabbath. Church attendance was made compulsory and the Sabbath "became the pivot around which the activities of a converted community revolved." Dancing, drinking liquor, smoking, gambling and even sport and kava drinking were strongly condemned. Presentations of mats and gifts (tukufo) at funerals were opposed as offerings to the dead and as a means by which chiefs accumulated wealth but the practice was important as an

2 The determined opposition of the high-ranking Ata slowed down progress in Tonga for some years. Not only was he deeply loyal to the ways and beliefs of his ancestors (Latukefu 1974: 29 and 59), but he objected to the new status and arrogance of the missionaries (ibid.: 33) and to interference with the ranking system caused by the education of commoners (Cummins 1977a: 159-160).
3 As in Samoa, principal targets were 'heathen' worship and rituals associated with it, the area of sexual relationships - real or imagined - and the allegedly lax attitude of people to notions of property and work.
4 They were assisted in this by Tāufa'āhau (Latukefu: 64-5).
5 Wood 1975: x. The total prohibition on work which surrounded the 'inasi ceremony (Martin 1827 II: 169) prepared Tonga for strict rules for the Sabbath.
7 Latukefu 1974: 43.
8 Cummins 1977a: 205. But chiefs, often recruited as head teachers, refused to give it up and Tongan stubbornness won the day later in the century (ibid.: 206).
expression of community solidarity and, in the face of royal resistance to the missionaries\(^1\), the prohibition was eventually removed. The L.M.S. presented the Samoan people with the same extensive list of specific prohibitions\(^2\), but the greater success of the Wesleyans in Tonga in ultimately securing legal enforcement of many of them was due, again, rather to differences in chiefly system and their response to it than to greater persistence on their part.

All the missionaries were tireless teachers, of adults and children alike, and they took full advantage of the initial belief that reading and writing were magic skills\(^3\) worth striving for. Schools were established throughout Tonga\(^4\) and the printing locally, and in the vernacular, of huge numbers of bibles, religious texts and educational material greatly assisted the spread of literacy and the desire for further learning\(^5\).

In Tonga, church affairs, education, and indeed the daily life of all those associated with the mission, were strictly regulated in accordance with the Rules of the Wesleyan Missionary Society\(^6\) and sets of school rules. Where church and school formed a nucleus, new settlements grew up under missionary control\(^7\). Organisation was thorough, and local teachers closely supervised\(^8\). Fund-raising was intensive to the point

\(^1\)Wood 1975: 124. An argument over disciplinary action taken to expel preachers, including chiefs, for participating in tukufofo led to the King temporarily resigning his church positions in annoyance (Lätükefu 1974: 170 and 180).


\(^3\)Martin 1827 I: 72.

\(^4\)In 1866, Tupou College was founded to provide a broad academic education for the Tongan "choice young men who would ultimately fill important positions both in Church and State" (Lätükefu 1974: 76, quoting M. Dyson).

\(^5\)The press set up in Tonga as early as 1831 (Lätükefu 1974: 57) produced in Tongan in 1834 50,000 books, 15,000 alphabets and 10,000 catechisms (Cummins 1977a: 112), for a population of 20,000.

10,545 copies had been printed by 1836 (Cummins 1977a: 140).

\(^6\)Missionaries claimed they "created" the present capital of Nuku'alofa - originally only a village of 100 persons (Lätükefu 1974: 81).

\(^7\)By 1858 there were 654 teachers (Wood 1975: 126).
where the Tongan church became financially self-sufficient by 1866. The capacity of the people to work for and give food, other material things, and then money, for purposes beyond their immediate lives was a factor contributing to the success of church administration and, later, to that of central government. In the 1870s, Tāufa'āhau, then King, with the support of the missionary/politician Shirley Baker, sought self government for the Tongan Church. Full independence from Sydney was achieved in 1885 when the Free Wesleyan Church of Tonga seceded from the Australasian Conference. The battle for Tongan autonomy in religious matters was so closely related to the King's determination to secure political independence that the secession of 1885 further cemented the relationship between Church and State which has influenced Tongan attitudes to religion and politics down to the present time.

The political involvement of the Catholic mission was more significant than in Samoa. The Tu'i Tonga, Laufilitonga, was converted in 1851 and the Marists identified themselves with some of the Ha'a Havea opponents of Tāufa'āhau. The confrontations, and the civil war of 1852 in which Tāufa'āhau finally overcame the opposition, were both religious and political, and aggravated by threats that French naval vessels would intervene. Guarantees of religious freedom have been honoured by subsequent governments, however, and, in both Tonga and Samoa, as a liberal

2 At the annual missionary meeting, or faka misinale, techniques were developed for exploiting the people's susceptibility to rivalry and for using the German firm of Goddeffroy and Son to provide cash advances against future copra sales (Wood 1975: 153-4). Writers have referred critically to the large sums collected by the church (£7,000 in 1872 - Rutherford 1971: 35), some to be sent to Sydney (£1,000 from 4,000 people in Ha'apai as early as 1858 - Wood 1975: 153), but the demonstration of Tongan financial independence gave support to the King's insistence on political autonomy.
7 Although no such vessels arrived at the crucial time, Tāufa'āhau was subsequently virtually forced to sign a treaty with France in 1855 in which 'freedom of worship' was guaranteed (see Appendix C) and, over the next five years, French captains extracted further promises (Wood: 110-12).
non-British counterpart to strict lower middle class Protestantism, the Roman Catholic presence has broadened the impact of European thought and attitudes on the people.

In conclusion, Koskinen's thesis that autonomous theocracy, as the "culmination of the missionaries' political influence", was "made possible solely by the fact that other foreign factors at a certain period had so little effect on the development of island communities" takes insufficient account of local leadership and political structures. The typical place of the church in the lives of the people of Tonga and Samoa respectively, was established out of compromise between missions and chiefs before world powers and other foreign elements came to have their main impact. Subsequent developments merely reinforced the theocratic characteristics of the Tongan church-state relationship and the fundamentally congregational hold on the Samoan church.

Commerce and foreign power

Early trade in Tonga has been mentioned and, by the 1870s, 14 firms were trading. From the outset, the Tongan chiefs refused to sell land with the result that, until Samoa began imposing terms later in the century, the latter group was favoured for the owning and managing of large plantations. While Apia became an early European enclave, no such foothold was obtained in Nuku'alofa, where churches and traders depended on leases and were subject to government control when Tāufa'āhau decided to make the missionary town his capital after he became Tu'i Kanokupolu in 1845. Nevertheless, the 'unholy' alliance between missionaries and traders in relation to fund-raising has been mentioned, and the large firms chose every opportunity, including the granting of credit, to

---

1 Koskinen 1953: 236-7.  
2 Chapter 2.  
3 Trood 1912: 75.  
encourage copra production and to organise the purchase of the commodity through government and church. Taufa'ahau and Baker were well aware that both institutions required finance, and that commercial activity would provide it.

The impact of trade and the policies of foreign powers have been discussed in general terms. In the second half of the century, the increasing authority of Taufa'ahau, supported by missionaries and codes of law, encouraged the powers to do business with him and to accept his opposition to intervention. On the other hand, the French concern to protect Catholic missionaries, the growing German, United States and British interest in Tonga as a coaling station, and the determination of New Zealand to keep the islands 'British' meant that the new kingdom was constantly under pressure of one sort or another. France, Germany and the United States concluded treaties which recognised Taufa'ahau and his government. Britain had decided to establish the Western Pacific High Commission as an alternative to annexation in the area and, in the case of Tonga, secured the jurisdiction of the Commission by means of Imperial Acts and a treaty. Consistently with this attitude towards Tonga, Britain would not officially support the involvement of British subjects in local politics - particularly the Rev. Shirley Baker who was premier 1880-1890. By the end of the 1880s, however, increased German pressure in the Pacific was such that Britain was prepared to take stronger measures to

1 Rutherford 1971: 68, 69 and 80.
2 In the 1880s, Tonga produced more copra than Samoa (Gilson 1970: 379).
3 Chapter 2. 
4 Ellison 1938: 44-6.
5 France 1855, Germany 1876 and the United States 1886 - see Appendix C for references to texts.
6 Pacific Islanders Protection Act 1875, Foreign Jurisdiction Acts 1843-75 and Western Pacific Order in Council 1877.
7 Treaty 1879 - see Appendix C.
8 Rutherford 1971: passim.
ensure stability and her own influence in a Tonga governed by an aging monarch and a controversial premier. The High Commission intervened to remove Baker. The appointment of the British official, Thomson, as administrator in 1890\(^1\) began a period of British involvement which belongs to the next chapter.

CODES AND CONSTITUTION

The Codes

Chapter 2 has described the introduction of codes and constitutions to Samoa, and how reliance on written law and records, and the paraphernalia of administration, came about most gradually. From the time Tāufa'āhau consulted a missionary about laws for the regulation of his servants in 1831\(^2\), and in 1836 saw copies of port regulations of the type taken to Samoa the following year\(^3\), interest grew in Tonga in the notion of formally drawn up codes as an instrument of government. Later in the century, reliance on statutes and officials accelerated, to further contrast the two groups.

The interest was initially that of Tāufa'āhau and individual missionaries, whose mutual concern is documented\(^4\). A recent study of the printed material and teachings of the missionaries demonstrates that, once schools were established\(^5\), the population was exposed to a massive educational programme, which associated biblical doctrine and stories on Jehovah and Saul, kingship and authority, and commandments and laws, with the role of Tāufa'āhau and Tongan leadership, and the sanctity of his edicts\(^6\). Also, the Missionary Society's system of government into districts, circuits and societies was taught together with the British

---

1 Thomson 1894: 26-7 and 70-1.  
2 Lātūkefu 1974: 121.  
3 They were brought by naval captains (the captain who introduced the first Samoan regulations visited Tonga at this time - West 1865: 148) and, after consultation with Tāufa'āhau, were printed on the Wesleyan Mission Press (Cummins 1977a: 145) - but, as yet, no text has been found.  
4 Lātūkefu 1974: 118-121.  
5 7,241 scholars were attending in 1834 (West 1865: 279).  
6 Cummins 1977a: passim.
constitutional system of monarch, a two-house parliament and public service\textsuperscript{1}. In other words, not only is it likely that the early Tongan codes were profoundly influenced by missionary views on moral questions\textsuperscript{2} and by the printed precedents, but also the people to whom the codes were promulgated would have recognised similarities between the word of God and that of their earthly ruler - and perhaps it was intended that they should do so\textsuperscript{3}.

Täufa'āhau appears to have been deeply affected by what he was taught and had the vision to see its implications for his political career. He was interested in the British system of monarchy and parliament\textsuperscript{4}. It is not surprising, then, that the first code, the Code of Vava'u, established Täufa'āhau as "the King", who introduced "the Laws of this our Land" as follows -

\begin{center}
\textit{... I, George, make known this my mind to the chiefs... also to all my people}.
\end{center}

The Code was adopted in Vava'u at a fakatahā, council of chiefs, presided over by Täufa'āhau in 1838 and officially proclaimed the following year\textsuperscript{5}. He was then acknowledged as ruler in Vava'u and Ha'apai, and laws (probably the same) were announced in the latter group at about the same time.

\textsuperscript{1} Ibid.: 57 and 152. \textsuperscript{2} Lätūkefu 1974: 122-6. \textsuperscript{3} The inevitable conclusion from Cummins' work is that the association of ideas was intended. As far as laws themselves were concerned, publications such as the first 'school book' (1828 - printed in Tongan in Sydney and containing rules of social conduct, it was Tonga's first 'code' - Cummins 1977a: 136-7 and 147), readers and catechisms (1834 - printed in Tonga), the Bible and Rules of the Society (both referred to earlier in this chapter) emphasised rules, commandments and laws, and were enforced by missionaries and teachers (ibid.: 139-142).

\textsuperscript{4} Lätūkefu 1974: 121. He chose the name 'George' in 1831, and afterwards his wife took 'Salote', after the late King of England and his consort Queen Charlotte (Wood 1975: 49-50). However, his real knowledge of British parliamentary institutions was probably not gained until the 1850s when he received specific advice on the subject, and visited Australia.

\textsuperscript{5} Code of Vava'u (see Appendix C). Täufa'āhau did not at this stage describe himself as King of Tonga, although the missionaries liked to think that he was.

\textsuperscript{6} Lätūkefu 1974: 121-2.
time. The Code made characteristic provision for offences, delegated the power of enforcement of the laws to the chiefs as well as to a governor, chief justice and judges, and required that all aliens be subject to the laws of the islands. As an indication of the stand Tāufa'āhau was to take later with regard to the status of chiefs, and partly in response to missionary concern over their arbitrary powers, the Code purported to limit those powers by exhorting the chiefs, firstly, to allow their people time to work "for themselves", and, secondly, not to exercise the traditional right to claim certain crops and articles. It was also unlawful to "give away or enslave any person".

Implementing the Code required the help of the missionaries who had promoted many of its provisions. It was enforced against Tongans and Europeans alike but, in the absence of specific penalties, the judges, who were sometimes advised by missionaries, awarded beating and hard labour for offences the people were only beginning to understand. Without a police force, convictions depended on confessions obtained in religious meetings, and, after a time, there were reactions and some reprisals against missionaries. As to the abolition of slavery, it seems that this referred to captives and displaced persons, but Tāufa'āhau was later to broaden his attack on servitude.

1 Ibid.: 126-7. A text has not been found.
2 See Chapter 2.
3 Preamble and ss 7 and 8. Code of Vava'u.
4 Ibid.: s.6.
5 Lātūkefu loc. cit.
6 S.4 Code of Vava'u.
7 S.8 ibid.
9 Idem.
10 Following the 1833 declaration of emancipation in British colonies, Tāufa'āhau had been persuaded to set free his own "serfs" in 1835 (Wood 1975: 94).
While the 1839 Code reflected Tāufa'ahau's own immediate concerns in an unsophisticated manner, the next Code, of 1850\(^1\), was prepared after much outside advice had been obtained\(^2\) and provided for some of the machinery of government and rules of justice which Tonga might hope to utilise\(^3\). The Code greatly expanded the wording of its predecessor (to 43 detailed clauses) to emphasise the various offences and the application of the law to foreigners - and to provide specific penalties. Special provisions controlling funerals and exhortations to "work and persevere", and to "clothe", further reflected missionary thinking\(^4\). It seemed quite clear that all pleasures were to be sinful and illegal. By now, Tāufa'ahau was Tu'i Kanokupolu and by virtue of rank and conquest he felt able to say that he was "the root of all government"\(^5\) in the entire Tongan archipelago. It was his prerogative "to command the assemblage of his Chiefs" so that they might "consult with him"\(^6\). If he thought fit, he could impose taxes\(^7\). As for the chiefs, their status appeared to be that they held their authority from the King and under the law\(^8\). On the other hand Tāufa'ahau was not prepared to push the chiefs too far and it was made clear that they retained their traditional authority "to harangue and govern their people" and to receive tribute from the labour of every family\(^9\). Again, however, there was the qualification that "taking anything

---

1 Code of 1850 (see Appendix C).
2 Tāufa'ahau officially asked the missionaries for their help and the advice from a New Zealand legal authority was that the Huahine Code (see Chapter 2 and Appendix C) was a suitable precedent (West 1865: 211-12). It is likely that Tāufa'ahau received that Code, as translated by the missionaries (idem.), for at least ten clauses of the 1850 Code are very similar to the precedent. There was much consultation between missionaries, King and "native advisers" - but the missionaries were not entirely pleased with the result (ibid.: 212-13).
3 Judges and governors were to be appointed, and the former were to be remunerated by the labour of convicted persons (Clauses 3 and 43).
4 Clauses 32, 34-37 and 41.
5 Clause 1(1).
6 Clause 1(2).
7 Clause 2.
8 Clauses 1(3) and 5(1).
9 Clauses 5(2) and (4) and 36 (and to claim customary first share in turtles and certain fish - Clause 42).
forcibly, or on the score of relationship, is strictly forbidden"\(^1\).

Finally, the Code contained a provision of lasting consequence for Tonga - no person, including any chief, was to sell land to foreigners, on pain of severe punishment\(^2\).

Although ridiculed later in the century as the forerunner of laws inappropriate for the Tongan situation\(^3\), the 1850 Code was not a missionary draft presented to, and accepted by, local leaders\(^4\). It reflected the ambitions of Tāufa'āhau, under the influence of both missionary teaching and his political relationship with the chiefs. As to the latter, Tāufa'āhau was faced with resistance and the need to resort to force again before further attention could be paid to the building up of his administration. The missionaries continued to advocate constitutional development, but they advised caution and their main objective during the 1850s was to inform the King of overseas experience (they arranged for him to visit Sydney in 1853) and to contain Catholic and French influence\(^5\). Missionary influence with Tāufa'āhau suffered a decline during a period of disenchantment\(^6\) but Thomas West continued to assist the King\(^7\) and in 1860 Shirley Baker arrived and began to give advice\(^8\). Other Europeans, such as naval captains, consuls and traders had opportunities to confer with the King; he corresponded with Sir George Grey in New Zealand\(^9\); and he received two lengthy letters of advice from the Sydney journalist

\(^1\) Clause 13.
\(^2\) Clause 29. Tongan fears that they would lose their land to foreigners is recorded by Mariner (Martin 1827 I: 72-74). By 1850, Tāufa'āhau had already visited Samoa twice (Wood 1975: 284 and 286), where European activity was considerably more advanced.
\(^3\) Thomson 1894: 220-2.
\(^4\) As the Huahine Code had been in the Society Islands.
\(^5\) Lätükefu 1974, Ch.8 and pp. 161-8. While helping to recognise the independence of Tonga internationally (West 1865: 391), the Treaty with France of 1855 established no French jurisdiction in respect of French subjects (unlike subsequent treaties with other powers) and was of no consequence in the development of internal laws.
\(^6\) Lätükefu 1974: 160 and 170.
\(^7\) West 1865: 392-3.
\(^8\) Rutherford 1971: 6 and 18.
St. Julian\(^1\) - to whose earlier exploratory letter the King had replied with polite appreciation, saying -

... My kingdom is established in these days. It has its laws, and its people obey them. Chiefs are chiefs; gentlemen (matapule) are gentlemen; people are people. And I greatly desire in these days to raise my people and my land; that they may become civilised like the various kingdoms in the world.\(^2\)

As an exposition of the British constitution and parliamentary and judicial practice, St Julian's letters would have provided reference material but little help as to just how relationships between 'chiefs', 'gentlemen' and 'people' were to be organised in Tonga. However, St Julian also sent copies of documents relating to the constitutional government of Hawai'i\(^3\) and, although Tāufa'āhau thought some of the ideas "inopportune" at that stage\(^4\), it is clear from a comparison of the Hawai'ian Constitutions of 1840 and 1852\(^5\) with subsequent Tongan law-drafting that Hawai'ian precedents greatly influenced Tongan work.

The Code of 1862\(^6\) drew substantially on its predecessor. It appears to have been discussed at meetings of chiefs called by the King (now the hau of Tonga) in each of the three groups of islands between 1859 and 1861\(^7\). The main issue of contention was the proposal which gave the Code its name, the 'Emancipation Edict', the principal statement of which is -

... 2. all chiefs and people are to all intents and purposes set at liberty from servitude, and all vasselage, from the institution of this law; and it shall not be lawful for any chief or person to seize, or take by force, or beg authoritatively, in Tongan fashion, any thing from anyone.

3. Every one has the entire control over everything that is his.

\(^1\) He was Hawai'ian Commissioner to Polynesia (referred to in Chapter 2). The two principal letters of 26 June and 15 October 1855 are in St Julian 1857: 66-69.

\(^2\) Tupou to St Julian, 24 November 1854 (ibid.: 66).

\(^3\) These were translated into Tongan for the King by West in 1855 (West 1865: 392-3).

\(^4\) Ibid.: 393.

\(^5\) Ibid.: 393.

\(^6\) Idem.

\(^7\) See Appendix C.

4. ... no people will provision canoes or support voyagers gratis ... all national works will be paid for by the State.

Furthermore, it appeared that the rights of ordinary people to land were to be conditionally secured -

...6. And the chiefs shall allot portions of land to the people as they may need, which shall be their farm, and as long as the people pay their tribute, and their rent to the chief, it shall not be lawful for any chief to dispossess them, or any other person.

In return for allotments granted, the chiefs were to receive as rent the annual sum of two shillings per person. The government, on the other hand, was to receive "tribute (or taxes)", from every male person (including chiefs) of sixteen years and upwards, in the sum of three dollars per annum. After agreement to the Code was achieved, it was hailed by some missionaries as a "grand advance of Christian principle and social order" and inaugurated at a huge festival of 3-4,000 people where thousands of yams, pigs and other foodstuffs were consumed and great quantities of presents were collected. It is perhaps ironic that this great celebration depended for its success on the very customs which the Code proposed to outlaw - nevertheless it was decreed that a festival should be held every year to commemorate the day "civil liberty came to Tonga".

Emancipation Day - 'Aho Tau'ataina - is still a public holiday and as, unlike the situation in Samoa, this and certain other reforms of last century are remembered today, often with little understanding of them, it is important to view them in their context. West began his discussion of Clause 34 (by which, in his view, "the former feudal system was abolished") by praising the ruler for the institution in 1862

---

1 Clause 34. The Hawaiian Constitution's Declaration of Rights of 1840 had secured to every man "the earnings of his hands and the production of his mind" (Jarves 1843: 316).
2 Code of 1862, Clause 34.
3 Idem.
4 Idem.
5 West 1865: 434-6.
6 Code of 1862, Clause 35.
of "regular sources of revenue" with which to pay salaries\(^1\). Little
mention is made in other commentaries on the Code, of the fact that, if
Tonga was to have a government, a widely-based system of taxation was
essential. How was this to be a satisfactory source of revenue while
chiefs and families could in customary manner, prevent the taxpayer from
accumulating the wherewithal to pay? This was the very problem which
faced reformers in Huahine, and Ellis had observed in 1831 that Clause 26
of the Huahine Code, which provided for graded taxation in foodstuffs,
"would procure for the king and chiefs a revenue more ample than the
system of extortion and plunder had ever furnished, and at the same time
secure inviolate to the people the right of private property"\(^2\). In
Tonga, missionaries who had praised the philanthropy of the new law were
alarmed when it appeared that taxation seriously reduced the financial
support which people could give to the church\(^3\). The introduction by
Tāufa'āhau of the 'Emancipation' provisions is open to the interpretation
that his principal concern was to create a financial basis for government\(^4\),
that he was aware of taxation overseas (and of the Huahine 'solution')
and that he had observed missionary success in the collection of revenue
(and believed his government should share in it). Also important for him
was to win the debate with the chiefs and to establish his supremacy by
securing their agreement to a measure which, on the face of it, would
render it more difficult to build up armies and provisions for warfare
against him. Up to this point, law-making had coincided with warfare, and
Tāufa'āhau had himself been dependent on chiefs for military support. The
more successful he became, the less reliant he was on consultation with
chiefs until, in 1862, he was able to impose the provisions which would
eventually weaken their power. Also, he chose to present his 'Edict' in

---

\(^1\) West 1865: 431-3.

\(^2\) Ellis 1831 III: 201-2.


\(^4\) As St Julian had urged in his second letter (1857: 68).
forthright terms for all to see - not least the overseas observers\(^1\).

Christian philanthropy was unnecessary as a motive and one would also reject the cynical view of Thomson that, as the dupe of the missionaries, "King George, as he hoped to be saved, must 'liberate the serfs'"\(^2\). At the same time, however, just as there is some truth in Thomson's other allegations concerning the inappropriateness and inapplicability of much of the pre-1891 law\(^3\), so it is likely that the King was aware that the 'Emancipation' provisions (as opposed to those relating to taxation) could not readily be enforced\(^4\). At the most, the King could only have seen that particular part of his plans for Tonga as the first step on a very long path, the end of which was out of sight. Tāufa'āhau's enthusiasm for committing law to writing indicates that he appreciated that 'paper codes' had some merit in the building up of a symbolic basis for unity. If the agreement of chiefs could be secured to a piece of paper, then, without the need to look too closely at the inscriptions on it, the document represented consent to a common objective. That consent, and therefore the document itself, might be more important than the objective\(^5\).

\textbf{Constitution}

The goal of independence, for both state and church, was shared so enthusiastically by Tupou\(^6\) and Baker that it is often impossible to

\(^1\) Chiefly government was a matter of contemporary interest. The declaration of rights in the Hawai'ian Constitution of 1840 had at that time been "justly termed the Hawai'ian Magna Carta" (Kuykendall and Day 1948: 54).

\(^2\) Thomson 1894: 223.

\(^3\) Ibid.: 222-3 and 365. Thomson began drafting in 1891.

\(^4\) In the 1860s, Tonga enjoyed prosperity, and the government an income (Rutherford 1971: 20-1) but how much was due to the provisions of the 1862 Code, and how much to peace and stability, it is hard to say.

\(^5\) The fourth monarch in Tāufa'āhau's line, the King of Tonga today, appreciated the symbolism in 1975 of celebrating the centenary of Tāufa'āhau's greatest achievement, the Constitution which follows - without suggesting that it was necessary to examine the provisions of the document.

\(^6\) It is convenient to refer to Tāufa'āhau by the family name 'Tupou' under which he became known as the King of Tonga.
determine which of the two was the initiator of the various ideas and programmes. During his initial stay 1860-66, Baker became associate and adviser to the King, assisted in drafting the 1862 Code and drafted some municipal laws. He came to Tonga again in 1869 as Chairman of the Wesleyan District of Tonga and later when visiting Sydney in 1873, Baker presented to the Methodist Conference a letter from the King requesting an independent church and at the same time obtained constitutional precedents and advice from the Premier of New South Wales and the Hawaiian Consul-General as to the form and content of a constitution for the state. Baker worked on the draft of a constitution and was spurred on by the British annexation of Fiji in 1874. He wished to encourage the concept of independence and sovereignty by means of a comprehensive constitution, and the draft was submitted to the fakataaha

1 Baker's controversial role in Tongan affairs is difficult to assess because of the intense feelings he generated at the time, particularly the antagonism of his Wesleyan brethren and, later, of British officials (Rutherford 1971: x-xii).

2 Ibid.: 23. No text has been found. The King's secretary 1864-72, an Englishman, was of no assistance to his employer in constitutional matters (Lätükefu 1974: 192 and 200-1).

3 His fund-raising techniques produced startlingly high figures. These and other church activities, and his increasing involvement in politics, set in train events which helped to bring about, first, his recall to Australia in 1879 and then, while he was Prime Minister 1880-90, the final break-away of the Free Church. The intention here is merely to examine the laws and their administration during a period when Christian doctrine was well established and the political dominance of Tupou permitted growth of central government.

4 Lätükefu 1974: 198 and 202. About this time, Baker was also responsible for arranging for the King a crown and a royal standard, and for Tonga a Great Seal and a melody for the national anthem (Rutherford 1971: 51-2).

5 In his newspaper in the Tongan language, Ko e Bo'obo'oi, he began reporting and commenting on church quarterly meetings, court hearings and district fono. The theme was often to keep Europeans out of Tongan affairs (e.g. Vol.II, No.1, 1 March 1875: 2-6 and No.5 July and August 1875: 35 and 38). In a supplement (Vol.II No.6, September 1875) he set out the "proposed constitution", the publication of which he says the King ordered for the information of the public and consideration of the chiefs. In his editorials (e.g. Vol.II No.1, 1 March 1875: 2 and 3, and No.6 September and October 1875: 43) Baker urged a "book of freedom" and "suitable persons" for government - "If Tonga can establish a Church, could she not also establish a Government?"
of chiefs in September 1875. In opening the parliament Tupou stressed
the value of the constitution as a "palladium of freedom to all Tongans
forever", and the need to solve the question of succession to the throne
and to prohibit the sale of "any part of Tonga". Of great significance
to the hou'eiki chiefs, were his statements that -

a. Although "the whole of the soil of Tonga" belonged to him, he had
provided that the tofi'a, estates, of certain named chiefs would
belong to them and their descendants forever, and they would receive
rent from leases;

b. "the estate shall go with the title" and succession would be from
father to son by blood relationship and marriage - "from today no
adopted children shall succeed";

and

c. any dispute would be tried in court "in accordance with the usages of
civilized governments".

The proposals were accepted and on 4 November 1875 parliament
enacted the Constitution which, subject to amendment, is in force today.

In closing parliament, the King announced the names of twenty hou'eiki
nopele, nobles, and explained that, while trying to choose a noble from
"every tribe" he had had to ensure that "the heads of the tribes with the
most people be appointed". By deferring the allocation of land to titles,
he left open the way for further appointments. He also named "chiefs
with government posts”, including the Speaker of the Legislative Assembly, Chief Judge, and two assistant Judges, Governors for the two northern groups and the two outliers, and Ministers of Finances, Leases and Police, and summarised public service positions

The Constitution was amended four times by the end of 1888. When commissioned to revise and publish the laws of Tonga in 1888, Baker employed a high degree of 'drafter's licence' to change and add provisions, sometimes without apparent authority. Problems for the legal historian were compounded in 1891 when the British-appointed deputy-premier, Basil Thomson, produced his "new translation" which became the definitive version, passed into the 20th century and was adopted in the 1903 Code. Parts of the 1891 version contained important modifications or extensions of the 1875 original, and the manner in which these were introduced raises questions as to the extent to which the King, and the chiefs and people in Parliament, were aware of their significance.

The Constitution and its effect will be considered under six heads.

1. **The royal lineage**

As a matter of priority, Tupou settled the question of succession to

---

1. Ko e Bo'obo'oi, supra. Public officials included 7 magistrates (each with a scribe), 6 senior clerks, 5 land scribes, 6 police and 6 gaol positions and 9 road and frontage inspectors.
2. In 1880, 1882, 1885 and 1888 (see Appendix D).
6. A summary of those constitutional and related legislative changes of the period 1875 to 1891 which concerned government and land is contained in Appendix D, from which it will be seen that reliance on the published 1875 document as evidence of the pre-1891 position is generally misleading.
7. Henceforth in this chapter, the Constitution, or its gazetted revision, will be indicated by the year of enactment or revision, underlined, and and the clause or article by number only.
his throne by providing that it should go to his only son (David 'Uga) and to that son's son (Wellington 'Ngu), and from then on by rules which favoured male children according to age and failing them, female children in the same manner. If the line should become extinct, the throne would pass to Henele Ma'afu or his heirs. Tupou thus dispensed with the traditional method of selection of the Tu'i Kanokupolu by a 'college' of chiefs, and laid the foundation for a dynasty - one which could include queens. In fact it was vital to his plans for a stable Tonga that succession to all titles should be decided. He also recognised the threat from descendants of the Tu'i Tonga and Tu'i Ha'atakalaua lineages and the leading Ha'a Ngatatupu line (the Fínau 'Ulukālala's of preceding generations) by giving them special mention in his closing address and conferring titles which would place them on the same footing as all other titled nobles.

2. Noble titles

The Constitution created the concept of a noble title after the fashion of the English barony - that is to say, although it was an honour or dignity held from the monarch, it was inalienable (except for treason), hereditary and was permanently associated with estates. The principle

1 1875: 35. Ma'afu was the son of Tupou's predecessor who had been despatched to Fiji.
2 Succession remained a live issue, however, because Tupou survived both son and grandson and also Ma'afu. The name of 'Uliame Tungi was substituted for Ma'afu (1888: 35), but it was Tupou's great grandson who succeeded him in 1893.
3 For the Tu'i Tonga, the title Kalaniuvalu was conferred (extant today). For the Tu'i Ha'atakalaua, the title Tungi was conferred (held by the present King). For the Ha'a Ngatatupu, the title went to Tupoutoutai, then to Siaosi Fínau (and is today called by the old name of 'Ulukālala, but is vacant).
4 1875: 48.
5 Ibid.
6 1875: 125.
7 1882: 109. The Tongan concept was undoubtedly influenced by the Hawaiian nobility over which their King retained control. The Hawaiian Constitution of 1840 provided for fourteen hereditary nobles and the 1852 Constitution increased the number to a maximum of thirty (Chambers 1896: 15 and 16).
of succession primarily in the male line was consistent with traditional thinking in relation to ha'a leadership, but to confine the principle in a constitutional straitjacket was not\(^1\). Thereafter, the usual adjustments of segmentation and re-alignment were to be impossible. Rules requiring marriage and legitimacy were in keeping with the new Christian morality, but the exclusion of adoption was not necessarily so, and it eliminated the accepted practice of inheritance by an adopted son for his lifetime\(^2\).

Tupou named another ten nobles in 1882 and at the same time created an intermediate category of six matapule who would have hereditary estates but not the political privileges of nobles\(^3\). If the three further noble titles created in later years are added\(^4\), the total of 33 noble titles which exist today may be explained in terms of their ha'a affiliations by reference to Figure 1\(^5\). The selection of nobles and estate-holding matapule from the chiefly families of Tonga\(^6\) was an exercise, vital for the future stability of his kingdom, which demanded all Tupou's political skill. Processes of fission and the withering away of early ha'a meant that some ha'a possessed only one or two powerful

---

\(^1\) Succession was the same as for the monarchy with two important exceptions - (a) in the absence of children and heirs, brothers and heirs, and failing them, sisters and heirs, could succeed; and (b) should a female be next in succession, the title would pass not to her but to the next male in succession, and if that male was not her heir and she subsequently had a male heir, then, on the death of the former, succession would go to the latter. The female heir had limited rights as to land, but could not inherit the noble title (1875: 125).

\(^2\) Idem. Succession rules remain in force. Questions of adoption and legitimacy created problems in the next century.

\(^3\) T.G. Gazette Vol. II No. 12, 25 October 1882. Political and other functions will be discussed below.

\(^4\) Lasike in 1894, Veikune in 1903 and Tupouto'a in 1924.

\(^5\) See Chapter 1.

\(^6\) Gifford lists some 40 chiefly titles which were not elevated by the King, but he found that a large proportion of them had lapsed or were vacant by the time of his study (1929: 132-140).
chiefs, and others several\(^1\).

By choosing those who had most support (his stated ground) and those other men whose inclusion was dictated by political considerations, the King gave due recognition to some, elevated the status of others, and devastatingly demoted a great many more. The effect of this remarkable reform was not only to create a nobility at law, but also to exclude many chiefs from any legal status other than that of Tongan citizen. It was some time, of course, before their traditional status was affected.

3. Land

The ancient spiritual relationship of the Tu'i Tonga to the land and its fruits is brought to mind by Tupou's assumption that "the kingdom is his"\(^2\). However, the King exceeded traditional authority by taking the power, to be exercised "should he so please", to grant to the nobles and matāpule, "such to whom he may wish", areas of land to become their "hereditary inheritances" or tofi'a\(^3\). Certainly, the tofi'a were, together with the noble titles, inalienable except for treason (and they would revert to the Government in the absence of legitimate heirs\(^4\)) but, in the same way as the titles had been, the tofi'a were deprived of any prospect of adjustment or of being used to accommodate changes in lineage structure.

Again, the King assumed the task of deciding what land should be allocated to each title, and the recognition of six matāpule as tofi'a-holders without noble status gave him some flexibility. It was necessary, of course, that all land in Tonga be distributed among the various title-

---

1 Reference to Figure 1 (Chapter 1) indicates, for example, that one title represented the Tu'i Tonga line as such; one the Fale Ua; one the Sina'e; six the Fale Fisi; and so on. The monarchy, or Tu'i Kanokupolu line, was descended direct from Ngata, while the chiefs of Ha'a Ngatamotu'a and Ha'a Havea were well represented. The six matāpule who were to hold estates also had ha'a affiliations.

2 1875: 47. Although land was not mentioned in this context in 1875, no doubt was left by the insertion in 1882: 109 of "To the King belongs all the land, soil, inheritances and premises".


4 1875: 127. This was soon changed to require reversion to the King (1882: 118).
holders (including the sovereign by virtue of his title) and the government, as Crown land. Tofia were described by name\(^1\) and, as many of the islands were divided among several tofia, without survey, disputes as to areas and boundaries have been endemic down to the present time. It is estimated that Tupou allocated nearly two thirds of the land area of Tonga, retaining the balance as royal and government land\(^2\). The fragmentation of tofia throughout the archipelago is most striking, as Figures 2 and 3 show for Tongatapu and Vava'u\(^3\). While chiefs laid claim to the villages constructed on their lands, and, in the main, these were recognised, one has the impression from the pattern of diffusion of interests in non-residential land that the King had tried as far as possible to prevent the acquisition by powerful chiefs of large contiguous holdings of land. A number of large blocks exist, but, of the 39 estate-holders, 28 have two or more non-contiguous blocks and nine have four or more\(^4\). Fourteen holders have blocks in two or more distinct groups of the archipelago. The ha'a are also fragmented, although certain areas of Tongatapu contain a preponderance of the members of one ha'a or another. For example, the western tip of Tongatapu is mainly Ha'a Ngatamotu'a, the mid-west and part of the centre is Ha'a Havea, and Ha'a Vaea is to be found mainly in the centre, south and mid-east of the island. If the 12 ha'a groupings shown in Figure 1\(^5\) are considered in terms of the three main island groups, namely

---

\(^1\) A list was published with title-holders in T.G. Gazette Vol. II No.12 25 October 1882.

\(^2\) Precise figures are not available. The classification of land today will be described in the next chapter.

\(^3\) These maps were compiled by Maude (1965) and are reproduced with his permission. Because of boundary changes, some not yet finalised, the maps are for visual effect rather than accuracy. Some small blocks are not shown. Ha'apai, for which there is no map, is fragmented by numerous small islands.

\(^4\) Lasike has nine blocks, Veikune 12, and the royal interests total 47 (Land Act Ch.63 The Law of Tonga 1967). See next chapter and also Table 6.

\(^5\) For this exercise, the first three titles on the left of Figure 1 are separate ha'a.
Compiled by Alaric Maude (1965) from maps of Lands Department and Cadastral Survey.
VAVA’U ESTATES

FIGURE 3

Compiled by Alaric Maude (1965) from maps of Lands Department and Cadastral Survey.
(1) Tongatapu and 'Eua, 
(2) Ha'apai, and (3) Vava'u and the two remote Niuas, then it appears 
that six ha'a hold land in all three groups and three hold land in two 
groups. The spread of royal interests is evident when the three islands, 
'Eua and the Niuas, are regarded as separate units to make a total of six 
groups or islands, for those interests are represented in all six.\footnote{Ha'a Ngatamotu'a has tofi'a in five of the six. The spread of ha'a 
interests is also seen in the fact that, leaving aside government land, 
Tongatapu and Vava'u are each divided among 10 of the 12 ha'a, and 
Ha'apai group is divided among seven.}

The Constitution affected the rights of tofi'a holders further 
through the control exercised by Cabinet over all leases to white 
residents\footnote{1875: 114, 118, 120, 121 and 130.}, and by the declaration that all foreshores belonged to the 
State\footnote{1875: 119. The Constitution had also required that all town sites 
(principal villages) be held by Government, but opposition was such that 
the provisions were repealed, leaving tofi'a-holders in control (King's 
speech, July 1880, T.G. Gazette Vol.II No.6 10 November 1880).}. More immediately ominous was the well-known intention of the King 
to find some means of securing an interest in land for every man. Despite 
indications in two of the earlier Codes, the 1875 Constitution made no such 
provision\footnote{It would have meant pushing the chiefs too far at a crucial time. In 
fact, the Constitution at first provided that it was lawful for chiefs 
to lease land to Tongans, and that people on the land who declined to 
take leases could be required to pay rent anyway (1875: 128).}. None was made in the 1880 session of parliament either, 
although taxes were fixed by statute at $8 for every male of 16 years or 
over, regardless of land rights\footnote{1875: 27, and T.G. Gazette Vol.II No.5 27 October 1880.}. Then two years later, in the same 
session as the announcement of the allocation of tofi'a to titles, 
parliament passed the Hereditary Lands Act, a statute of lasting 
significance in the history of Tonga.

This Act was the culmination of a period of over thirty years during 
which Tupou had developed his thinking with regard to checking the power 
of chiefs and extending the productive capacity of the people. As to the 
origin of the concept of distribution of equal allotments to every male 
citizen on an hereditary leasehold basis, it seems that Tupou's 1853 visit
to Sydney was a significant factor\(^1\).

The Hereditary Lands Act 1882\(^2\) succinctly states the fundamentals of the new land tenure system - and one can understand the optimism of outside observers for it appeared that Tonga had devised a fair and practical system which was most progressive by world standards. After reciting the background of ownership by the King and grant of tofi'a to nobles and the chosen matapule, the Act provided that -

\begin{enumerate}
\item out of each tofi'a an area could be set apart for the tofi'a holder, and areas for matapule of the holder\(^3\);
\item the size of the "tax allotments of the people" was fixed\(^4\);
\item allotments were hereditary in the male line except that a widow had a life interest subject to marrying or committing adultery;
\item rent of two shillings was payable yearly to the tofi'a holder;
\item a taxpayer was entitled to only one tax allotment but could also have a "town allotment";
\item both allotments would be "protected by the Government";
\item when youths left school and paid tax, Government could "request" the tofi'a holder where they resided to apportion allotments to them; and
\item if there was land remaining "after the tax lands of his people had been apportioned", the tofi'a holder could lease it to others.
\end{enumerate}

The King congratulated the chiefs in parliament "on your being willing to grant the request made by the Premier [Baker] to allow the tax lands

\(^1\) Lätukefu 1974: 162. According to Consul Neill, it was the leasehold system of tenure which impressed Tupou in Sydney. He studied it, realised how land could be granted without alienation of freehold, and "resolved to adopt the Leasehold system in Tonga" (1955: 93). Of course, precedents from Huahine and Hawai'i were also before him.


\(^3\) As this and many other of these original provisions have been subsequently changed, the law relating to land tenure will be discussed later in relation to the 20th century.

\(^4\) 100 x 100 fathoms (8\(\frac{1}{2}\) acres), except in some more crowded areas where, for a period, the size was 50 x 50 fathoms.
of the people to be hereditary". It was significant for the future of
the system that no machinery was provided whereby a tofi'a holder could be
required to grant an allotment to a particular taxpayer. Indeed, in the
light of the subsequent difficulties over implementation of the scheme,
it is apparent that tofi'a holders were most reluctant to regard themselves
as having such an obligation to individuals on their lands. Reform
progressed slowly, but the King did not waiver from his policy.

Immediate opposition to the new law came, of course, from those
chiefs who had been disinherited by exclusion from the list of 36, but land
was only one of a number of grievances aired at Mu'a on Tongatapu between
1881 and 1883. Minor chiefs met in a "Mu'a Parliament" to object to many
laws introduced by Baker. When Tungi, Tupou's most dangerous rival, gave
the chiefs support, the King reacted in typically firm fashion with
warriors from Ha'apai and Vava'u and some Mu'a leaders were arrested. The
land distribution question was not settled, however, and in 1891 the King
felt obliged to urge parliament "My own wish is that every Tongan shall have
an hereditary plot of tax land", which would be forefeited on neglect to
pay". As it transpired, the 1891 Code approved by parliament provided
the first effective recognition of an entitlement vested in "every Tongan
male subject" to both types of allotment, and the Minister of Lands was to
make the grant and record it. A tofi'a holder could not refuse an

2 No leases were issued under 1875: 128 (Rutherford 1971: 99).
3 Rutherford 1971: 110-121.
4 On hearing of the death of Ma'afu in 1881, Tungi's hopes for himself and
his son Tuku'aho rose. Old enmities were revived, involving Ha'a Havea
as well as Ha'atakakau allegiances.
5 The Law of Tonga, 1891 (revision by Thomson) - see Appendices C and D.
6 Ibid. s. 454.
7 Ibid. s. 460.
allotment to a person lawfully residing on his land and it was his duty to report to the Minister all cases of persons holding more than one tax allotment. In spite of these measures, which were statutory and not in the Constitution, there were no proper surveys and little distribution was carried out. Provision in the Constitution remained ambiguous until 1928.

4. **Structure of government**

The Constitution was framed to recognise the three divisions - (1) King, Privy Council and Cabinet, (2) Legislative Assembly, and (3) Judiciary. Although the Chief Justice had security of tenure and was subsequently given the power to suspend until the following Assembly session any law passed "contrary to the spirit of this Constitution", human resources were so limited (as one would expect in such a small state) that the Chief Justice sat in the Privy Council, it was made possible for Judges to sit in the Assembly, and in 1882 the words "these three [divisions of government] shall always be distinct" were deleted. Ministerial portfolios were established. The Premier and Ministers who constituted Cabinet were entitled to seats "as nobles" in the Assembly. The Privy Council, which comprised the King sitting with Cabinet, the Chief Justice and the Governors of Ha'apai, Vava'u and the Niuas, was the effective decision-making body, with power to make ordinances (having force until the next Assembly session) and was also the highest court in civil

---

1. Ibid. ss 458 and 459.
2. Surveyors arriving in Tonga in 1906 observed of the taxpayer's entitlement "... patronage and sycophancy [have] long since rendered the law a dead letter " (Mouat and Davis 1913: 62).
3. See Appendix D for further details of the development of the land legislation.
4. 1875: 33.
5. 1875: 88.
6. 1880: 85.
7. 1875: 54.
10. 1875: 55.
matters (including land). The Legislative Assembly by 1882 comprised the 30 nobles (appointed by the King), an equal number of people's representatives (elected by the people) and the King's Ministers (most of whom would already be in the Assembly as nobles). It was, in theory, a total break with tradition, not so much because noble and 'commoner' sat together (most of the people's representatives were matapule and other chiefs) but because the rules of parliamentary debate and decisions by voting opened up new possibilities for political activity. Although the Assembly did not initiate legislation it had control over the Government's fiscal measures. In one important respect, the unicameral appearance of the parliamentary system was a sham. The interests of the royal lineage and of the titled and landed gentry were not to be determined by the Assembly but by the nobles alone, and ultimately by the King himself.

The nobles of Tonga were accorded privileges, and received an annual stipend from the Treasury. Nevertheless, the King had appointed as nobles the men of prestige and power, and they were expected to fulfil a leadership role - in short, they were to govern the country under the guidance of the monarch.

5. "A constitutional government under His Majesty"

In view of the evident transformation of hau into sovereign and the preservation in its essentials, of the 1875 structure to the present day, the King's status and functions require further examination. The

---

1 1875: 54, 55, 58 and 123.
2 1882: 63. The Hawai'ian legislature of 1852 was bicameral with a Nobles' house of 30 and Representatives' House of 40, but the two sat together for some purposes (Chambers 1896: 15 and 16).
3 1875: 60.
4 1875: 19 and 81.
5 All laws relating to the King, the Royal Family or the titles and inheritances of the nobles could become law only after the nobles in the Assembly had passed them three times and the King had approved (1875: 70). In 1914, the present provision was added that only nobles may discuss such laws (Act 1914 No.1 - and see 1967: 67).
6 T.G. Gazette Vol.II No.6 10 November 1880. It was $100 Tongan, or £20, p.a.
7 1875: 34.
constitutional pre-eminence of the sovereign arises first from the fact that the source of authority which gave the Constitution has secured perpetual succession\(^1\), and is immune from impeachment, under a charter which cannot be changed without his consent\(^2\). Secondly, the King may act unilaterally and is not bound by convention to act on the advice of Ministers in respect of the following powers:

a. to appoint and dismiss Ministers including the Premier\(^3\);

b. to summon and dissolve the Assembly at any time\(^4\) (although, if he did not intervene, it would sit at regular intervals) and to appoint its Speaker\(^5\);

c. to refuse to assent to any law\(^6\);

d. to appoint nobles and grant tofi'a\(^7\);

e. to suspend habeas corpus\(^8\), proclaim martial law\(^9\), make treaties\(^10\) and command the forces (short of declaring war)\(^11\); and

f. to control marriages of the royal family\(^12\).

While, in practice, Cabinet is concerned with the day-to-day government of the country, the King may dominate the Privy Council and may delegate to his Premier and Ministers what he chooses. These are the laws in conformity with which the sovereign, on coronation, swears to govern\(^13\). Of course, he may decide to allow the institutions of parliamentary and cabinet government to operate in the Westminster manner. However, the

---

\(^1\) Like the British monarchy, it is a corporation sole in perpetuity.

\(^2\) 1875: 44, 70 and 82 (unlike the British monarchy), (1967: 41, 67 and 79). In the case of each of these provisions, the modern equivalent, appearing in the latest, 1967, revision of the law, is given in brackets.

\(^3\) 1875 and 1882: 55 (1967: 51).

\(^4\) 1875: 41, 62 and 80 (1967: 38, 58 and 77).


\(^6\) If he refuses to assent to a law, the Assembly may not debate the matter further until the following session (1875: 71, 1882: 71 and 1967: 68).


\(^8\) 1888:9 (1967: 9).

\(^9\) 1875: 50 (1967: 46).


\(^12\) 1875: 36 (1967: 33).

\(^13\) 1875: 37 (1967: 34).
expression "He governs the land, but his Ministers are responsible"\(^1\) renders his Ministers responsible to him rather than to parliament. Although the Assembly may impeach Ministers for cause\(^2\), the King may dismiss without reason.

Given the inevitable introduction of Christianity and European political ideas, the Constitution of 1875 was a doubly remarkable document. On the one hand, Tupou, having unified the group by traditional means, was able to establish and secure himself and his lineage in a manner and to an extent which, measured in the light of the constitutional restraints envisaged by those ideas, was extraordinarily successful. In the guise of a "constitutional monarchy", an expression used by historians and commentators to describe his achievement\(^3\), he had created a constitution under a monarchy\(^4\). On the other hand, Tupou realised that the ultimate guarantee of supremacy was his traditional status, maintained through association with chiefs, people and land. His use of the Constitution to deprive some chiefs of their power, to constrain others, and to bring a wider group of people into contact with government, relied on that status for its effectiveness - and ultimately enhanced the monarch. Monarchy and Constitution were to be the foundation of a stable Tonga.

6. Chiefs and people

The Declaration of Rights carried forward much of the Western philosophy which missionaries and other advisers had been seeking to


\(^4\) Having regard to both Tupou's non-constitutional traditional authority and the extent of his powers as expressed in the Constitution, it is incorrect to apply to his reforms the term "constitutional monarchy" - which is today the usual description of the monarchies of the United Kingdom and other British Commonwealth countries, Scandinavia, the 'Low Countries', and modern Japan (see Huntington 1968: 150).
promote in Tonga\(^1\). However, the various 'freedoms' and 'rights' were accompanied by no means of enforcement and, in respect of the 'equality' clause, the Constitution in which the clause appeared was itself a recognition of traditional inequality\(^2\). In fact there were to be three levels of privilege 'under the law' - (1) the King, (2) nobles and (3) tofi'a-holding matapule, and their respective immediate families.

As has been shown, their interests were not identical, but it was likely that they would become more so, particularly as the importance of local support diminished in a society at peace, and as the privileged met together on national business. In constitutional terms, the position of the chosen chiefs was entrenched in the three areas of land tenure, executive action and parliamentary process\(^3\). In so far as their position was also founded in tradition, particularly in relation to land and executive-type authority, the new law served to entrench the old.

A separate category of former chiefs who were able to find some benefits under the new scheme were those matapule who held their titles from high chiefs now elevated to nobility. So long as the distribution of tofi'a lands as allotments to commoners was not enforced, nobles would be able to look after the interests of loyal matapule\(^4\).

Finally, the advantages conferred by the Constitution on the 'commoner' were substantial. If he was not a 'disinherited chief', he

---

\(^1\) 1875: 1-32. The Hawaiian Constitution of 1852 which the Tongan drafters had before them contained a Declaration of Rights of 21 articles (Chambers 1896: 17).

\(^2\) "There shall be but one law in Tonga, for the Chiefs, and commoners, and Europeans and Tongese. No laws shall be enacted for any special class to the detriment of another class; but one law equally the same for all persons residing in this land" (1875: 4 - changed slightly 1891: 4 - see Appendix D - to become 1967: 4).

\(^3\) Entrenchment was affected not only by 1875: 70 restricting voting (and, later, 'discussion' - see p. 262 note 5 above), but also by the apparent prohibition on any amendment of the Constitution affecting "the laws of liberty, the laws with reference to foreigners, succession to the throne, and the inheritances and titles of the Nobles and Chiefs of the land" (1875: 82 - reference to "foreigners" omitted 1891: 82 and see today 1967: 79). See Appendix D for further examination of amendment provisions.

\(^4\) Legal authority to reserve land for the matapule of the holder was repealed in 1891 - see Appendix D.
had gained potential benefits, under a land distribution system (which looked good on paper), the opportunity to be represented in parliament and a governmental framework which could prevent the worst abuses of warfare and upheaval. In 1875, the price for the 'commoner' did not seem high. Indeed, he had a degree of political recognition which no Samoan would have understood.

**Government and independence**

The Constitution, as a symbol of unity under government, had achieved its immediate object in that none of the powers (Great Britain, Germany and the United States), was prepared to annex Tonga during the latter part of the century when most of the Pacific groups were being apportioned between them\(^1\). Also Tupou's perseverance with the prohibition of land sales had prevented the intrusion of European landowners. However, the totality of the new structures and processes introduced was rather too radical in concept to be applied in the manner intended. Emphasis was inevitably on the forms and trappings of institutions and there was much criticism that the Constitution and laws could not be understood by the people\(^2\). The process was bound to be slow and controversial.

Immediately the Constitution was promulgated, the drive to appoint officials and set up machinery was vigorous. District and town officers throughout Tonga were required to call fono and read out a detailed summary of all the laws\(^3\) as to families, worship, schooling, curfew, tax,

---

\(^1\) Events had demonstrated the value of the advice given by St Julian - "the only way for your Majesty to secure the permanent nationality of your country is by the establishment of a government upon such principles as are recognised as just and equitable by the great nations of the earth" (1857: 66). These treaties attempted to assert jurisdiction over foreign nationals but the only effective foreign court was that of the British High Commissioner late in the century.

\(^2\) For example, the British vice-consul commented "The Government is on the latest 'civilized' (?) principles, and there is a long Constitution Act, which the native authorities neither read nor understand" (Maudslay 1930: 220).

\(^3\) This was supplied to them (printed in Ko e Bo'obo'oi Supplement to Vol.II No.8 October 1876).
rent and general manners, dress, behaviour and offences. Magistrates' courts in Vava'u and Ha'apai and at three towns on Tongatapu and 'Eua were active, and the collection of tax was enforced\(^1\). Extensive municipal laws for every town (principal village) were passed\(^2\). For a short period, Baker waged a campaign against those who continued to pay traditional respect to chiefs (other than nobles)\(^3\) and stressed the application of laws to white residents\(^4\).

During the establishment of government and a separate Tongan church, there were a number of occasions on which repressive measures were used - some of which interfered with the application and understanding of the Constitution. Trouble was caused by legislation introduced by Baker in his massive programme - much of the latter being short-lived. The tax on every male Tongan was a burden - as was the multitude of offences enforced in a heavy-handed manner. Four examples will illustrate the importance of traditional power in the immediate post-Constitution period. First, the opposition of chiefs wishing to retain faka-Tonga rights has been mentioned. The Mu'a leaders, having been arrested and acquitted in 1881, were then arrested after the confrontation with Tupou's warriors and again the Magistrate could find no offence. The King ordered them to be executed, but was dissuaded. Twelve of the men were finally tried and sentenced to hard labour\(^5\). Secondly, much public antagonism, particularly European and pro-Mu'a, having been voiced in a newspaper NiuVakai

\(^{1}\) Notices in T.G. Gazette and cases reported in Ko e Bo'obo'oi, 1875-77.
\(^{2}\) T.G. Gazette Vol.II No.7 24 November 1880.
\(^{3}\) By appointing them to office and by rendering fatongia (Supplement to Ko e Bo'obo'oi Vol.II No.8 and Vol.II No.12 October 1877).
\(^{4}\) Notices in T.G. Gazette Vol.I No.2 5 February 1876 and No.4 1 April 1876. It was the King's idea that people be encouraged to dress in European fashion by a law which prohibited the manufacture and wearing of traditional bark cloth (Rutherford 1971: 60). The prohibition had been lifted by 1881 (ibid.: 107).
\(^{5}\) Rutherford 1971: 116 and 119.
established in 1881, Baker proposed legislation (which, with the King's support, was enacted and enforced) requiring newspapers to put up bonds against blasphemy and libels on King and Government - in a manner derisory of the new constitutional guarantee of "freedom of speech and newspapers". Thirdly, when the Free Church declared its independence in 1885, those who failed to join suffered two years of persecution, including "floggings, deprivation of office, damage to property, heavy fines, long terms of imprisonment and banishment". Tupou forced his will on the people by issuing time limits and threats, backed up, in the case of recalcitrants in Tongatapu, by 1,880 of his men in 60 canoes from the north. The Legislative Assembly passed a statute aimed at preventing small groups of loyal Wesleyans from holding services. The full weight of government through fono and martial law was employed. Finally, after an attempt to assassinate Baker in 1887, six men were executed, there was further persecution and a group of Wesleyans were forced to emigrate to Fiji.

These disruptions, and the rising campaign against Baker relating to church affairs and government finance matters, marked the beginning of substantial British intervention in the affairs of Tonga. In March 1887, the King was subjected to the indignity of cross-examination by High Commissioner Mitchell and agreed to repeal the repressive laws and grant an amnesty. Then, in 1890, High Commissioner Thurston ordered Baker's

---

1 Barney 1974: 354.
5 Within seven months, there were thirty separate prosecutions of church ministers under this law (Rutherford 1971: 138).
6 Abrogation of religious freedoms in this manner had been foreseen by St Julian in his Report to his Government 30 years before when he warned against the then obvious close association between missionary and chief in Tonga (1857: 14).
7 Freedom of worship "according to his conscience" was eventually proclaimed 11 July 1890 (T.G. Gazette Vol.III No.44 15 July 1890).
deportation from Tonga and persuaded Tupou to require his resignation as Premier¹. Tungi's son, Tuku'aho, was appointed to replace him. When Thomson arrived shortly afterwards with seemingly wide powers, Britain made it clear that Tonga's independence was virtually at an end. Baker was often blamed for the situation but, whatever the truth of the matter, he had introduced written law to an extent - and had developed his own career in Tonga in a manner - "that made such Samoan characters as Steinberger and Brandeis look silly and inadequate indeed"². Of course, the comparison is unfair, and much of the credit is not his, because it was the political climate - created by the determination of Tongan leadership to unify the group and by a people ready to live peacefully after decades of war - which made Baker's achievements possible.

The net long-term effect of the constitutional reforms of Tupou and Baker (as distinct from the ordinary legislation) was gradual. A number of the chiefs who had not been recognised in the Constitution accommodated themselves to the new situation by seeking to preserve their authority through public service positions and relationships with the new noble class. This class, and those in employment, came to expect payment from government. By the end of the century, as courts, town officers and other officials carried out their duties, new forms of authority began to compete with that of chief and kāinga. Overall, the new scheme of government under a monarch was accepted by Tongans as part of their technique of adapting those European concepts best suited to their needs.

In the case of Tonga to a degree not found elsewhere, there had been a political climate, as influenced by mission teaching, which was particularly conducive to the acquisition of code upon code, and, by the

¹ Rutherford 1971: 167-8. Although the High Commissioner had jurisdiction over Baker as a British subject, the former's dealings with the King on the premiership question amounted to gross interference with the King's constitutional prerogative.
end of the 1880s, of a comprehensive collection of laws. From the 1850 Code onwards, Tupou had embarked on a policy of containing chiefly authority. It was this Code, also, which laid the foundation for modern government. Then, in the appointments made 1875 to 1880, he effectively froze rights to thirty-six honours and landed estates and radically transformed the traditional structure. By the turn of the century, an edifice had been constructed which would eventually free the hau of dependency on chiefly support.
CHAPTER 6. HUMILIATION AND GROWTH

In Tonga in 1891, as in Western Samoa in 1900, there began periods of foreign control which increased the input of European culture within the framework of the spreading compromise in areas of thought and behaviour which was being established. At times, the vigour, thoroughness or insensitivity with which control was exercised provoked determined resistance - the provocation and resistance being on a larger scale in Western Samoa under German and New Zealand administrations than in Tonga under British guidance. Discussion of Tongan chiefship in the 20th century will be approached with the same considerations in mind as those which were applicable to Western Samoa - namely, the challenges of Western ideas as manifested in key areas of concern for chiefs and chiefly government. However, the history of developments, including the timing and sequence of events, has been so different that the next two chapters on Tonga will not follow the same pattern as Chapters 3 and 4. For example, the Tongan constitutional framework has already been outlined. Tonga entered the century during a period of internal consolidation and under a constitution which had by then imposed a resolution of many of the issues surrounding the relationship of chiefs and government - and which continues to do so. The relative absence of constitutional and legislative change over the last 50 years means that the challenges to Tongan chiefship in this area can only be considered in an historical perspective.

As if exhausted by the constitutional activity of the nineteenth century, Tongan leaders turned to the implementation and entrenchment of the law. For chiefship, as this Chapter will show, British interference and control was immediately significant in its impact on the authority of the monarchy and its appointees and in reinforcing the Western aspects of monarchy and nobility. The Chapter will go on to deal with the growth of central administration which brought the power of government, at the
expense of the traditional power of chiefs, to every Tongan in the group.

Another long-term consequence of Constitution and legislation will
be considered, under the heading of the tenure and distribution of land.
Then Chapter 7 will be concerned more specifically with the two 'branches'
of modern Tongan chiefship - monarchy and nobility.

**British intervention and control**

High Commissioner Thurston, having persuaded the ageing King Tupou
to obtain Baker's resignation in 1890, also secured a temporary place for
the young Britisher Thomson as Assistant Premier and a seat for him in the
Privy Council. Thomson proceeded to overhaul the government's finances
and legislation with little reverence for the "hybrid institutions" which
had developed and he produced an indexed code of laws for all to use.
In his determination to transform the land tenure and taxation schemes into
a workable system, and one which would be profitable for government,
Thomson produced legislation which was the foundation of the land law
machinery as it is today. He left Tonga after eleven months' intensive
activity.

---

1 See Chapter 5.
2 The King grudgingly accepted another papalangi, foreigner, saying "I
thought that the Council was to be for ourselves" (Thomson 1894: 68).
Thomson was not regarded as a Cabinet Minister but was called 'koe
tangata fakahinohino', adviser, which he translated as 'expounder of
the dark ways of civilised man' (ibid.: 71).
3 Ibid.: viii. In refusing "to treat seriously the fatal experiment of
engrafting Western customs upon their [the Tongans'] own ancient and
admirable polity" (ibid.: vii) Thomson set the tone for subsequent
British attitudes to the Constitution. In his account of his eleven
months in Tonga (published in 1894 and widely read - Rutherford 1971:
x-xi), Thomson purported to excuse his satirical view of the Tongan
scene by alleging that the "best" of the Tongans were also inspired with
a "sense of the grotesqueness" of their institutions (Thomson 1894: viii).
4 The Law of Tonga 1891 - see Appendix C. According to Thomson's later
account, the code could be bought "for less than a dollar" and was
widely used (Thomson 1902: 178-9).
5 Ch.18, The Law of Tonga 1891. These, and other, changes by Thomson are
elaborated in Appendix D. His contribution in these respects has
received little recognition (e.g. Neill 1955, Ch.13).
The removal of Baker and the imposition of Thomson had been violations of the King's prerogative rather than of the Constitution itself. In Tongan terms, a more severe test arose over the question of succession to King Tupou who died in 1893. Tuku'aho, who the British were supporting as Premier, as well as his father Tungi, and Fatafahi, a grandson of Tupou through a secondary wife, were in a strong position to contest the claim of Tupou's great grandson, Tāufa'āhau, to succeed. Strict interpretation of the new law of succession favoured Tāufa'āhau, as did the fact that he traced his descent from Tupou through two of the latter's wives. Tāufa'āhau's parents were kitetama, married first half-cousins, in a manner well recognised by tradition as a chiefly prerogative. The old King had prepared the way for Tāufa'āhau, and he was crowned Tupou II and installed as Tu'i Kanokupolu in 1893, at the age of nineteen. After dismissing Tuku'aho, the new King consolidated his position by appointing as Premier Sāteki Tonga, an administrator of lesser chiefly rank who, because he owed his improved position entirely to the King, was a loyal supporter during the difficult period which followed.

The first twelve years of Tupou II's reign were characterised by divisive disputes and financial bungling. An early crisis for the King in terms of his relationship with the nobles, who were already slighted over the appointment of Sāteki, was their concerted opposition in 1899 to his proposed marriage. His parents had chosen a different woman who was

1 Constitution 1875: 35.
3 When laws prescribing prohibited degrees of consanguinity were introduced (incest - ss.297-8 The Law of Tonga 1891 - and marriage - s.523 (ibid.), cousins were not referred to, although they were later, as will be mentioned.
related to Tungi, and such a marriage would have had a unifying effect.\(^1\)

Tupou II lacked his grandfather's commitment to the principles of the Constitution and his personality was such that he did not find it easy to command obedience among his Ministers. The Premier set about raising taxes\(^2\), but it soon became apparent that the Government was unable to meet its debts and was borrowing from 'undesirable' sources. Sāteki's financial dealings with the German firm D.P.H.G. and the merchants, the anti-British Hutter brothers, caused concern among Tongan leaders as well as British representatives. The King was directly involved, particularly with the merchants\(^3\).

Events were to show that the greatest threat to 'Constitution under monarchy' was from Great Britain. Following the agreement of 1899 with Germany over spheres of interest in the Pacific in which Samoa was relinquished and Tonga secured, Britain shifted her grip. Willingness to interfere in the affairs of Tonga whenever it appeared necessary in the interests of internal stability was matched only by the apparent determination of the British Foreign Office not to annex the group\(^4\).

Dissatisfaction with Tongan administration led to a compromise course. In 1900, Thomson was sent back to Tonga with a treaty the main thrust of which was that the King would have no dealings affecting land or

---

\(^1\) While the British were acutely aware that, under the Constitution, such a degree of opposition to the young King (17 out of the 21 nobles active in Parliament) could result in Parliament refusing to vote money for his government (Vice Consul to Tupou II, 24 May 1899, Royal Correspondence, Palace Office), the nobles were not prepared to take such a stand against the monarch - and have never done so. The King married his choice, but much of the opposition remained.

\(^2\) In May 1894, 1045 prosecutions for failure to pay taxes were brought in the Nuku'alofa courts alone (Fusitu'a and Rutherford 1977: 178).

\(^3\) Ibid.: 180-4.

\(^4\) Scarr points out that the British Colonial Office would have handed Tonga over to New Zealand to placate Seddon for the loss of Samoa - which he had sought (1967: 110). This meant that the opponents of annexation in the Western Pacific High Commission wanted as much control of the Tongan Government as was required in order to prevent the need for annexation.
sovereignty with any other power and that the British Agent and Consul would "be ready to advise" the King and Government on any matter, and would exercise jurisdiction in respect of civil and criminal proceedings involving British subjects and foreigners. Wishing to preserve his sovereignty, the King refused to sign that part of the Treaty relating to dealings with other powers and Thomson endeavoured to render the signature unnecessary by reading a Proclamation at the town meeting place, which declared - "a Protectorate has been established".

From 1900 onwards, the attitude of the British Government to the Constitution was rather two-faced. Officials had little respect for the document which policy required them not to abrogate, but they seemed to appreciate its symbolic value. As will appear, it was in the interests of British policy that those provisions of the Constitution which related to such politically sensitive issues as the holding of noble titles and tofi'a should be interpreted so as to place some restraint on the sovereign and that, in the shoes of Thomson, those responsible for making necessary changes to the Constitution should do so with a minimum of fuss. The policy required, therefore, that there should be British-appointed Europeans in key positions in the Cabinet and public service.

1 Hereafter referred to as the Consul.
2 Treaty, 18 May 1900, Article I - see Appendix C.
3 Proclamation, 19 May 1900, at Nuku'alofa - see Appendix C. Dispute between the parties as to what the King had agreed to ended when the Treaty was ratified on 16 February 1901 (see Treaty).
4 While there was general agreement with the view of Consul Campbell that Western civilisation had been introduced "before the very necessary foundations were laid on which to build a solid structure" (Report on Tonga Protectorate for 1909, British Colonial Office), he was removed from office when he too loudly made such contentions as "Conceit and Constitution are the two principal stumbling blocks" (Report on Tonga Protectorate for 1912, ibid.).
5 For example, the next revision of the Constitution carried out by Horne C.J. in 1929 involved at least six significant changes (usually to bring it into line with statute) in respect of which the prescribed procedure for constitutional amendment was disregarded. The 1891 (same as 1903) text, may be compared with the text in Laws of Tonga (revised 1929) - see Appendix C.
and as Chief Justice as well as Treasurer and Auditor.

Further deterioration in Tonga's finances, and allegations of corruption which implicated the King and his Ministers, prompted High Commissioner im Thurn to use force. In December 1904 he arrived in Tonga with authority to deport anyone, including the King. After giving King and Cabinet a 'dressing down', he humiliated them further by going behind them to seek the opinion of opposition leaders, by taking charge of the Treasury with marines, and then by deporting Sāteki and his son, who was Minister of Finance. Tupou was required to appoint Ministers chosen by the British, including Mateialona as Premier and Europeans as Assistant Treasurer and Chief Justice. Finally, after being directly threatened with his own deportation, the King signed a twelve-point 'Supplementary Agreement' which required him to see to the re-organisation and enforcement of certain laws, to make official appointments only in consultation with the British Consul, to pursue the distribution of lands and not to interfere with rights of succession and inheritance. Most intimidating for King and Government was the baldly-stated stipulation that the Consul was "to be consulted and his advice taken".

The interpretation and operation of the Supplementary Agreement were of crucial significance for the fate of government in Tonga, and particularly for the powers of King and nobles. The Agreement abrogated Article II of the Treaty which said that the Consul would not interfere in Tonga's internal affairs except where the interests of British subjects were concerned. Read together, the Treaty and Agreement had now supplanted the Constitution as supreme law and the British Government

2 Note of Points Accepted by the King, 18 January 1905. The text of this 'Supplementary Agreement' is set out in Appendix E.  
3 Ibid., Point No. 2 (see Appendix E).  
4 The Chief Justice observed "... under an agreement between the King and the High Commissioner in January 1905, we are ruled by the Treaty and that agreement which override the Law and the Constitution", In re Tonga ma'a Tonga Kautaha (1910) I T.L.R. 5, at 6. A commentator at the time predicted "Tonga will henceforth be practically a dependancy" (Alexander 1905: 32).
which could provide the ultimate sanction, was beyond the jurisdiction of Tongan courts. As far as Britain wished to, she could lawfully - if indirectly - rule Tonga. Treaty and Agreement remained part of the law of Tonga until revoked in 1958. Initially, it was the view of the High Commissioner that the Tongan Government was bound to seek and follow the advice of the Consul on all executive matters of any importance, but, by the time Queen Sālote had begun to establish her authority, British officials were not prepared to push "clarification" of the 1905 Agreement to the test.

An early issue, quickly settled by the High Commissioner, concerned revenue from government land. Since 1875, Tupou I had allowed government to use and receive rent from large areas of his land in and around Nuku'alofa. Seriously in need of personal funds, Tupou II persuaded the Privy Council to order that rent go to his own account. Much local opposition and Point No.6 of the Agreement were employed before the new Premier was able to announce revocation of the earlier decision. The Agreement was also used to urge the survey of tofi'a and allotments.

1 Article V, Treaty 18 May 1900.
2 That the King had lawful authority to sign the Treaty and Agreement, being provisions which were grossly inconsistent with the Constitution, was naturally never questioned by the British. For most Tongans, the sovereign who could give could also take away, but by 1920, those leaders who openly complained about European influence were alleging that the 1905 Agreement was unconstitutional (Consul to High Commissioner 6 December 1920, WPHC 1920 MP 3116).
3 Treaty 26 August 1958 - see Appendix C.
4 Im Thurn addressed Cabinet to that effect (4 May 1907, T.G. Gazette XXI No.7, 20 May 1907). At the same meeting, Skeen, Chief Justice, confirmed that "the advice must be taken" (ibid).
5 High Commissioner to Secretary of State 14 August 1925 and reply 18 November 1925, WPHC 1925 MP 1079.
6 Notice of decision of 1 December 1903, T.G. Gazette XVIII No.2, 26 February 1904.
7 Notice of Premier of 31 January 1905, T.G. Gazette XIX No.4, 8 February 1905. See Appendix E for Point No.6.
8 Point No.5 (Appendix E) "... the most important work the Government has to deal with" (Im Thurn to Cabinet, 4 May 1907, loc. cit.).
but progress was slow and the King unwilling to agree to the dispossessing of occupiers of long-standing regardless of the size of their holdings\(^1\). More fundamental to Tongan stability, and of the greatest concern to Ministers and chiefs, was the extent of Tupou's authority in relation to ministerial appointments, the creation of additional noble titles and tofi'a, and noble succession generally. While the subject will be elaborated later, it is noted here that the British were not prepared to permit Tupou II to exercise the constitutional prerogatives established by his predecessor. After Tupou II had appointed Sāteki as Premier and, in 1903, had created and conferred on him the noble title Veikune, the 1905 Agreement was used to deny the King his repeated requests for approval for further titles\(^2\). He wished to confer noble and matāpule titles on certain chiefs whom he considered had traditional rights. Although they in fact occupied areas in excess of the statutory 8½ acres - "some very large" -, they had not been recognised by Tupou I\(^3\). When it appeared that Premier Mateialona was being harshly treated over the outcome of the Tonga ma'a Tonga Kautaha affair\(^4\), the British took the view that his was a just case for a title\(^5\) and, for the remainder of Tupou's reign, there was a continuing dispute between Consul and King over the latter's refusal to appoint Mateialona unless he could also create some titles of his own.

Queen Sālote inherited the issue after the King's death in 1918, and, in

\(^1\) Notes of interview High Commissioner May with Tupou II, 15 September 1911, BCT 1/43/69.

\(^2\) Having advised the Legislative Assembly in 1909 that he "was about to appoint some new nobles and chiefs, with inheritances" (T.G. Gazette No. 5, 6 July 1909), Tupou II was informed by the British the following year that approval for the creation of eight new nobles, with tofi'a from "Crown land", was declined (Tupou II to Consul, 23 May 1910, and Consul to High Commissioner, 20 June 1910, WPHC 1910 M P 814).

\(^3\) Notes of interview High Commissioner May with Tupou II, 15 September 1911, BCT 1/43/49.

\(^4\) Threatened with impeachment (for which the Assembly had voted) he resigned in 1912 (Lātūkefu 1975: 76).

\(^5\) As a condition of Mateialona's resignation, the King had agreed to make him a noble (Consul to King 27 May 1912 and King to Consul 5 November 1912, BCT 1/43/69), but later changed his mind (King to Consul 11 September 1913, ibid.). As the grandson (if illegitimate) of Tupou I, Mateialona possessed impeccable sino'i 'eiki status.
1924, by which time she had sufficient support to do so, she broke the stalemate by conferring the promised title, while at the same time making it clear that she would not be prepared to create further titles. Thus Mateailona became Tuputo'a, the last title to be created, but not before the British High Commissioner had made plain his view that "the ennoblement of a Tongan is a comparatively rare act ... done as an act of State and not of the caprice of the Sovereign who would be expected, if not actually bound, to take the advice of the Privy Council and of the Agent and Consul".

Throughout his reign, Tupou II stubbornly chaffed at British intervention, which was a threat not only to his own throne but also to the independence for which his predecessor had striven. He deeply resented the 'Supplementary Agreement' of 1905, and tried avenues such as appeals to King Edward VII of Great Britain, Richard Seddon in New Zealand and even the Basil Thomson who had imposed the 1900 Treaty on him, but he achieved only further threats from the High Commissioner. Tupou II lacked some of the qualities of Tupou I, but he fought for his chiefly and sovereign prerogatives against an interventionist Britain during a period when, to his misfortune, the world powers had abandoned their more cautious approach to the Pacific of the previous century.

The Tonga ma'a Tonga Kautaha, a short-lived co-operative venture, is mentioned in order to put it in perspective. In 1909 a village co-operative was established to the far north in Niuafo'ou for the purpose of obtaining higher copra prices for producers. Organisation spread under the management of a European, Cameron, who alleged that Europeans were growing fat on profits made at the expense of Tongans, and the cause was

---

1 High Commissioner to Consul, 20 December 1922, WPHC 1922 MP 2821.
3 Idem.
4 'Association of Tonga for the Tongans'.
5 Lätükefu 1975: 75.
6 T.G. Gazette 3 March 1911, No.8.
taken up with some fervour throughout the group. In the first year, some 4,000 joined and by 1910 "the bulk of the taxpayers" were members.

What followed was an example of the influence of the British Consul, Campbell, who instigated an investigation of the Kautaha's accounts and persuaded the Premier to put the organisation into liquidation in February 1911. There ensued a series of court cases involving the Government, its officials and Kautaha members and their officials - all of which illustrated the conflicts of law and jurisdiction inherent in the extra-territorial rights of the British and the inconsistent functions of the European Chief Justice in Tonga.

Cameron was ultimately exonerated, but by then the Kautaha had been destroyed with a speed and a severity which seem to have been unjustified. Evidence as to the scope of the enterprise indicates that, without interference, it might have been viable for a period. However, in the absence of political motivation on the part of its membership, the authority structure of government under the goading of the British Consul was able to put it down. The movement had much in common in purely economic terms with the 'Oloa of German Samoa of 1904-5, from which, despite lack of evidence of a direct link, it is likely that the Kautaha obtained some inspiration. In both cases there was resentment that European traders were able to control prices. While the Tongan movement

---

1 A schooner was purchased, stores opened and overseas agents appointed (Fusitu'a and Rutherford 1977: 188).
2 Skeen, C.J. in In re Tonga ma'a Tonga Kautaha (1910) I T.L.R. 5.
3 Ibid.: 6. Skeen complained that no jury could be drawn which could provide the disputants with a fair trial.
4 T.G. Gazette 3 March 1911, No.8.
5 Although unwilling to try the matter on this ground, Skeen was later prepared to suspend two Privy Council Ordinances which sought to control the Kautaha (In re an application (1911) I T.L.R. 9). The judicial Commissioner of the High Commissioner's Court refused relief to the Kautaha against the Government officials on the ground that theirs was an act of state (Appendix to T.G. Gazette 1911, No.8).
6 T.G. Gazettes 1911, No.9 and 1914, No.4.
7 Niuafo'ou's proximity to Western Samoa on the sailing route renders it particularly susceptible to influence from that direction.
must have had the support of some chiefs, no Samoan activity of any magnitude could have existed unless it was a chiefly enterprise. The Kautaha has no parallel in subsequent Tongan history.

In constitutional terms, the ultimate in British interference was the attempt in 1910 to have the Chief Justice removed from Cabinet and replaced by the Consul\(^1\). Although a subsequent High Commissioner accepted the protestations of the King (and no doubt realised that such a position of power would make the British responsible for everything that went wrong in Tonga\(^2\)), the function of Consul remained that of both adviser and supervisor, with substantial impact during the reign of Queen Sālote\(^3\).

The role of the Chief Justice was particularly controversial, due partly to personalities but mainly to the wide powers exercised in a number of functions. Under Queen Sālote, in addition to being a Privy Councillor, Member of Cabinet, Member of the Legislative Assembly, Legal Adviser to the Queen, Law Draftsman and Chief Police Magistrate, the Chief Justice could issue prerogative writs and make orders against the Executive in the Supreme Court\(^4\), could preside over impeachment proceedings in the

\(^{1}\) The plan (Acting High Commissioner to Mahaffy, 15 November 1910, WPHC 1910 MP 426) might well have succeeded if the Consul at the time had been less arrogant and aggressive. During the few months Consul Campbell was in Cabinet, Tupou II complained that he threatened the King "if you say No, I will cut the halliards of your flag staff" (Notes of interview 15 September 1911, BCT 1/43/69).

\(^{2}\) High Commissioner May felt the idea was a "mistake" (Notes of interview, 15 September 1911, BCT 1/43/69).

\(^{3}\) Reports by successive Consuls reveal that the British representative brought his influence to bear directly on the Queen and Premier. McOwan (1917-1927) and Neill (1927-1937) had a close relationship and also maintained careful scrutiny of revenue and expenditure under a system established by McOwan in 1918 (Reports - McOwan 20 October 1917 and 15 June 1925, and Neill 22 February 1928 and 22 April 1930, Correspondence relating to Tongan Protectorate, WPHC No.3, Colonial Office). Any extra-budget expenditure was referred to the Consul (Neill 1955: 26).

\(^{4}\) Stronge, C.J. ordered "the President of the Privy Council" - i.e. the Queen - through her Clerk to produce certain documents (Watkin and others v. Manu and others (1924) I T.L.R. 30).
Legislative Assembly\(^1\), could suspend laws at variance with the Constitution\(^2\), and (unless a separate Land Court Judge was in office) could give decisions in the Land Court affecting titles and *tofi'a*. Under the Constitution, the Chief Justice was the most powerful person next to the Queen. The British insisted that the choice of Chief Justice was theirs\(^3\) until, after experiencing the opposition of Chief Justice Stronge over her authority to appoint Ministers and other matters\(^4\), the Queen began to assert her position. She took the opportunity of Chief Justice Stuart's recall in 1940 to recommend the removal of the office of Chief Justice from the Privy Council (except for civil appeals) and from Cabinet\(^5\) and then its further removal to Fiji\(^6\). Tonga had only a resident Judge until Roberts was appointed Chief Justice in 1973\(^7\). He had been puisne Judge for nine years before King Tupou IV made the appointment.

During periods when there is no Chief Justice residing in Tonga, a Judge of the Supreme Court of Appeal of Fiji is appointed to the office, and is brought to Tonga to hear those cases which require his attendance. The political effectiveness of the European Chief Justice

\(^1\) S.90 Constitution 1875 (s.75 Constitution 1967). (Constitutional references will continue to be indicated by the underlining of the year of the published revision. As to statutes, the date of the enactment will be given where that is important, otherwise reference will be to the year of the published revision, by underlining. See Appendix C for details of publications).

\(^2\) Skeen, C.J., suspended two Ordinances at the height of the controversy over the Tonga ma'a Tonga Kautaha (*In re an Application* (1911) I T.L.R. 9).

\(^3\) In 1916, Tupou II and his Premier and Cabinet, supported by a petition signed by nine nobles, were unsuccessful in securing the appointment of their choice - which was decided in London (Petition 7 April 1916, letters Premier to King 22 June 1916, King to High Commissioner 5 July 1916 and Consul to King 9 May 1917, BCT 1/43/92).

\(^4\) These are mentioned later in connection with the scope of the monarch's authority.

\(^5\) The dictatorial manner of both Stronge and Stuart had in the case of each of them been noted by the Consul.

\(^6\) Supreme Court Amendment Act 1950, no.6.

\(^7\) T.G. Gazette 31 January 1974.
is thus nullified, and citizens wishing to ask the Chief Justice to exercise powers which may not be exercised by a puisne Judge (such as suspension of Ordinances and impeachment of Ministers), must wait until he is made available\(^1\).

Perhaps the most serious consequence of British intervention for the authority of the Tongan monarchy and its supporters was the divisive effect of the European presence in both Cabinet and the Assembly on Tongans who owed their appointments to the British. Although it may not be said of any Premier after Mateialona that he could not have managed without British support, loyalties were divided, and those who opposed Europeans and the Tongans who associated with them were resentful\(^2\). The proportion of Europeans in Cabinet was four out of nine for most of the time until the Second World War\(^3\), following which only Tongan subjects were made Ministers\(^4\).

Despite the divisive effects of the British presence, the total impact of British policy and its implementation was to foster Western ideas of government and administration. Then, by the time Queen Sālote had demonstrated a capacity for leadership which her predecessor had lacked, Britain in the 1920s was much less inclined to interfere in the Pacific and the Queen was generally supported by the Consul. Indeed, as a

\(^1\) When Chief Justice Roberts retired in 1976, an English barrister was appointed puisne Judge in Tonga, and the Chief Justice is once again in Fiji. It should be noted that there is no Court of Appeal as such in Tonga. Constitutional provisions relating to a Court of Appeal were printed in The Law of Tonga (1967) before it was known that the Privy Council had decided not to bring the 1966 legislation into effect. The 1967 revision is misleading, and the pre-1966 law applies.

\(^2\) Consul to High Commissioner 6 December 1920, WPHC 1920 MP 3116; and reports of Consul Neill, 1928 and 1930, Correspondence, WPHC No. 3, Colonial Office.

\(^3\) They were Chief Justice, Auditor General, Minister of Works and Treasurer (for example, Consul's report 15 June 1925, WPHC 1925 MP 1079). There were also many Europeans in key public service positions (for example in 1925 there were two Europeans at the head of the Prime Minister's Office, two in similar positions in Education, four in Health, three in Printing, one in Agriculture, and six in Telephone and Communications - Annual Report of Premier for 1925, PO MP 1926 Box 9/Misc. 55).

\(^4\) This had been recommended by H.E. Maude in his Report on Reorganisation of the Public Service of Tonga 1942, Government Press, Suva.
powerful Queen friendly to Britain was the best guarantee of limited
British interests, British officials were inclined to allow her to
'go rather further than' Westminster practice would permit and to exercise
decisive influence in the Privy Council (and in the executive and
legislative areas generally). As far as the noble chiefs were concerned,
Tupou I had demonstrated that his interests and those of the nobility were
distinct, and, under Queen Sālote, the British were accomplices in her
gradual assumption of greater power at the expense of the nobles - a
theme which will be developed further in the next chapter. Down to the
present time, Britain appears to have encouraged the role of governing
monarch. By the time the 1958 Treaty revoked previous treaties and
agreements, the 1905 Agreement was already a dead letter and Britain's
only concerns were defence and the exercise of jurisdiction over
nationals. To complete the picture, Tonga ceased to be a protected
state and became independent within the British Commonwealth on 4 June
1970.

Central government and
impact of legislation

Baker and Thomson had been energetic draftsmen, and the Code of
1903 built on their work to reinforce and extend government activity. In
fact, much of the law regulating the collection of finance and local
government which is in force today, was introduced in 1891 and revised

1 Tonga's status had changed to that of 'protected state' (Roberts-Wray 1966: 49 and 110).
2 Tonga Act 1970, Ch.22, United Kingdom.
3 The latter accused the former of "legislatitis" (Thomson 1894: 224). For Thomson's 1891 Code, see Appendix D.
4 See Appendix C.
in 1903. Such provisions included poll and land taxes, fees payable on all forms of registration and licensing, and village rates. It was not the rate (which has not been increased this century and is no longer a significant proportion of recurrent revenue) but the vigorous collection of it which, in the first 20 years of this century, repeatedly brought every taxpayer, that is to say, every male Tongan of 16 years and over, into a direct relationship with his government. Laws requiring the repair of roads and the cleaning of cemeteries and common village areas were enforced. Work on school buildings could be made compulsory, as was attendance at school. Public health and cleanliness, the

1 Chapters XVIII and XIX, Codes 1891 and 1903, provided for a total of $9 per annum per male of sixteen years and over, $1 of which was in respect of his land allotment. In 1929, poll tax was £1-16s and land tax (really rent) was 8s. (Consul to High Commissioner 7 November 1929, Correspondence relating to Tongan Protectorate, WPHC No.3, Colonial Office). By Poll Tax Act 1945, No.12 and Land Act 1927, No.19, the amounts of £1-12s and 8s respectively were fixed and remain the same today (Chapters 63 and 89, 1967). By 1905, the early Tongan $ (which originated in Peru) converted to £ at $1 = 4s. When the British £ was decimalised, the new Tongan $, called pa'anga, was issued at T$1 - 10s or 50 new p. Today, the pa'anga is closely related to the Australian $, and is about equivalent.

2 $10 per horse and 1s per dog in 1891 and 1903 (now Chapters 72 and 74, 1967).

3 For example, licences for all types of trade and business, marriage and other contracts (Chapters XXI-XXIV 1891 and 1903).

4 $1 per taxpayer payable to the Mayor was repealed by Act, 1945, No.12.


6 Convictions for failure to pay poll, land, horse and town taxes in one year, 1923, totalled 5,060, or one in every 4.8 of the population. The average number of convictions per annum 1922-1931 was one in 10.3. However, due to the change in age composition of the population the convictions in proportion to taxpayers have remained fairly constant at one in 2.8 taxpayers in 1926 and one in 2.7 in 1966 (Annual Reports of Chief Justices for the years 1922 to 1971, Supreme Court, Nuku'alofa and Report of the 1966 Census, Nuku'alofa).

7 Ss 612, 634-5, 1903 (Ch.37 1967. 1922-1925 convictions under these sections averaged 856 per annum (Annual Reports of Chief Justices, op. cit.).

8 Provisions of 1891 were adopted in Ch.XXXII 1903 under which children over twelve who failed to attend school were liable to fourteen days' imprisonment in default of a fine of $5. Failure to attend examinations merited one month in default of $10 fine - ss 592-3 (Ch.58, 1967).
control of liquor and postal services and the administration of estates of deceased persons all involved much governmental activity.

Although reliable statistics are not available for last century, enforcement of the law was a major concern of missionaries, and Tongan officials operated an early hierarchy of courts with enthusiasm. By 1914, the informal system whereby persons with experience in the courts would appear as 'lawyers' for a fee was regularised and Tonga has since then had a body of registered advocates who have acted in cases of all types and have been instrumental in further increasing the force of written law as a means of modifying attitudes and behaviour. They have encouraged the idea of the authority of the law as the ultimate sanction, and its machinery as the forum for dispute settlement and the manipulation of interests. There has been no such development in Western Samoa, although an orator matai sometimes represents parties with whom he is connected. In Tonga, at a time when courts and the administration of justice generally were regarded in Western Samoa with considerable suspicion, and avoided

1 The provisions of 1891 and 1903 are still in force (Chapters 17, 37, 48, 51, 107 and 123, 1967). An annual average of 98 grants of probate or administration 1921-1926 compares with 96 per annum 1952-1957 (Annual Reports of Chief Justices, op. cit.).

2 Thomson observed "Following the general policy of complicating the administrative machinery of the tiny State, the law established a vast number of unnecessary law courts .... There were three appeals against a decision of the police court, and ... even in criminal cases the unfortunate defendant was mulcted in fees which had to be worked off in the form of additions to his term of imprisonment" (1894: 228). Promotion in the police force was said, in 1890, to depend on the number of prosecutions instituted and, as it was a matter of quantity rather than quality, convictions for easily detectable petty offences multiplied (ibid.: 112-115). Seven Magistrates (T.G. Gazette Vol. I No. 4, 1 April 1876) sat continuously throughout the group. The jury system was well established by 1891 when trial by jury was made compulsory in the Supreme Court (ss 112, 1891 and 173, 1903).

3 Representation in Courts Ordinance 1914, No.5 - which is unchanged today in Ch.8, 1967. Chief Justices occasionally provided training, fixed fees and exercised some disciplinary control (Annual Reports of Chief Justices, op. cit.). Since 1921, the number licensed to practise each year has been in the 20s or 30s - until 1973 and in subsequent years when the low 40s have been reached (ibid.).
wherever possible, court proceedings and lawyers were almost part of ordinary Tongan life. This was particularly so in Nuku'alofa where lawyers were active in politics and chiefly disputes - as they are today.

The law was disseminated and enforced by district and town officers (earlier called 'mayors') under the Governor of each of the groups of Vava'u and Ha'apai, and under the Senior Magistrates responsible for 'Eua and the Niuas. An officer under the Premier was responsible for Tongatapu. These officials represented the Government in all its aspects and the Governors were required (and still are) to make annual reports. Governors were usually persons of high chiefly standing - for example, the present Governor of the Ha'apai is the noble Ve'ehala - and have always been members of the Privy Council. The Governor was, and still is, responsible for calling the officers together monthly, for promulgating the law and the Premier's instructions and for inspecting his district. Town officers, and, later, district officers were empowered to make regulations "for the governing of the village". Their duty was "to exhort the people to pay their taxes and to attend to all matters relating to the laws of the Kingdom". The devising of techniques and rules for local government was a pre-occupation of administrators and draftsmen in Nuku'alofa - judging from the frequency of new legislation and amendments on the subject since 1875. In addition to behaviour, health and financial matters, local government powers were used to require the planting of various crops.

---

1 Ch.3, 1967.
2 Ibid.
3 S. 118, 1903. Specific duties and 'exhortations' were set out in great detail in Regulations relating to Mayors made under Ordinance 11 of 1913 and based on the Town Laws of 1885 (T.G. Gazette 1888, Vol. II, No. 86 - see now Schedules II and III to District and Town Officers Act 1930, in Ch. 36, 1967). Until 1957 (Act No. 9 of 1957), mayors and other officers were appointed by the Premier. They are now elected every three years by compulsory vote in three towns and twenty-two districts (Ch. 36, 1967 as amended by 1972, No. 3).
4 For example, in 1880, every male was to plant 100 coffee and 200 cotton plants within six months - Municipal Laws 1880 (T.G. Gazette 1880 Vol. II No. 7); and, 1957-1959, regulations of district officers required a wide range of crops on every allotment in 34 villages - Village Regulations published Vol. III, Law of Tonga 1967.
Nobles and tofi'a-holding matapule may make regulations "for the people who reside on the estate", but none such have been gazetted\(^1\). The means of dissemination of law was the fono, which "took the place of written law"\(^2\). Compulsory since 1884\(^3\), fono were of two classes - "great fono" called in any town or district by Premier, Minister, Governor or government representatives\(^4\), and "mayor's fono"\(^5\). In 1903, an intermediate class of fono (now called "noble's fono") was introduced to empower tofi'a-holders to order people residing on their land to attend\(^6\). Rules for calling fono and defining those who shall attend and who may seek exemption have been on the statute book since 1924\(^7\). Fono law was enforced\(^8\).

The sheer volume of court activity in the small kingdom leads to the conclusion that police and other government officials intruded into the lives of all adult Tongans and left a deep impression of the power of central government. The early level of prosecution (and persecution in the case of Wesleyans after church secession in 1885) has been mentioned, and Thomson, while giving many examples, commented "Just as the best of Christians does not pass a single day without committing some sin, so must

\(^1\) S. 26, Ch. 3, 1967.
\(^2\) Thomson 1894: 86. Acts and Ordinances read as fono were deemed to be in force (s. 428, 1891) and are now thereby deemed to be "properly communicated to the people" (s. 12, Ch. 38, 1967).
\(^3\) S. 9 Town Regulations Act 1888, printed as s. 428, 1891, a marginal note to which defines a fono as "a meeting at which the chiefs give orders or admonitions to their people but at which no discussion takes place".
\(^4\) The penalty for non-attendance has fallen from $5 fine in 1888 (ibid.) to $2 today (Ch. 38, 1967).
\(^5\) This was called every Monday morning in every village (Thomson 1894: 86). It is now called on the first Monday of every month and the penalty is still $1 (Ch. 38, 1967).
\(^6\) S. 527, 1903 and Ch. 38, 1967. There was an 'intermediate' penalty for non-attendance of $2 (ibid.) and $1-20 (S. 7, Ch. 38, 1967).
\(^7\) Fonos Act 1924, No. 6.
\(^8\) For the ten years in respect of which separate records of convictions for non-attendance were kept (1917-1925 and 1944), the annual average was 232 (Annual Reports of Chief Justices, op. cit.).
a Tongan be morbidly law-abiding who can lie down at night without having been entangled in the meshes of Mr Baker's code by sins of omission or commission\(^1\). Some dramatic statistics were achieved in the first 30 years this century, and surprisingly early in the century having regard to the short history of government. In 1914, when the population was 23,120, the number of criminal cases actually tried was 14,200\(^2\) (about one for every adult). In 1924, a total of 14,058 criminal and civil summonses was issued out of the five Magistrates' Courts (again, about one for every adult) and the annual average for such summonses over the eight years 1922-1929 was little less\(^3\). It is unfortunate that comparison cannot be made with Western Samoa over the same period, but the Mau had disrupted the judicial process. Comparison with a metropolitan state would not be helpful. The proportion of all summonses issued to adult population has fallen today, but still seems high\(^4\).

Also high were the conviction rate\(^5\) and the numbers of civil actions, including claims for rent\(^6\). Although it was commented in 1927 that "the police unduly harass the population with regard to some breaches while not enforcing others"\(^7\), the high conviction and low appeal rates\(^8\) indicate

\(^{1}\) 1894: 112-113.
\(^{3}\) The annual average for 1922-1929 was 11,466 while average population was 25,750 (Annual Reports of Chief Justices, op. cit., which also provide annual vital statistics).
\(^{4}\) The annual average for 1969-1976 was 19,342 when the average population was 85,650. By then only 40 per cent were adults, so that the proportion of all summonses to adults was one to 1.8. The adult population (21 years and over) has been used for comparative purposes. Closer analysis would require separate figures for male and female, and for taxpayers (males 16 years and over).
\(^{5}\) 1922-29 the annual average rate of conviction to criminal summonses issued (including tax for which prosecution was issued) was 79 per cent (calculated from Annual Reports of Chief Justices, op. cit.).
\(^{6}\) Civil actions for 1922-1929 averaged 2,494 (ibid.).
\(^{8}\) The annual average of criminal and civil appeals from the Magistrates' Courts for 1922-1929 was 40 (Annual Reports, op. cit.).
that it was the direct and energetic implementation of an extraordinarily comprehensive and penetrating system of laws which produced the statistics. Certainly, such implementation was a burden for a large proportion of the population, who were imprisoned for failure to pay fines
and could lose their allotments for failure to pay rent (and, until 1923, for failure to pay poll tax as well). Punishment by whipping played its part. On the other hand, the potential number of court cases was reduced by the fact that both the criminal and the civil consequences of a 'wrongful' act were often dealt with at the same time under long-standing provisions aimed at permitting the court to compensate the 'victim'.

By and large, the criminal law made no allowance for Tongan custom. As a result of the failure of missionaries to accept the fact that Tongan society had well-understood rules as to the use and consumption of chattels and foodstuffs, criminal laws which were introduced to deal with 'theft', 'damage' and 'trespass' reflected an obsession with Western notions of ownership and the protection of property - and fahu rights based on kinship

1 "It is appalling to think that 1,178 people were sent to prison last year for non-payment of finds. I believe Magistrates impose fines without regard for the ability of people to pay" (Annual Report of Horne, C.J., 1927). "The country is spending as much on police and prisons as it does on education" (Annual Report of Horne, C.J., 1926).

2 Poll and Town Tax Act, 1923, No.3.

3 The annual average of sentences of whipping (with the cat-of-nine-tails and up to twenty-five lashes per day) was 45, 1922-1929 (Annual Reports of Chief Justices, op. cit.). The average increased until the second World War but since then whipping has been limited mainly to the birching of juveniles.

4 For example, s. 5, 1839 Code; ss 4, 5, 8, 13 and 18-22 1850 Code; and similar sections in the 1862 Code. Similar provisions remain.

5 Although the Chief Justices sometimes imported British common law principles, they doubted that they had constitutional authority to apply any law other than that which was in writing (Annual Reports of the Chief Justices for 1955 and 1957, op. cit.). By the Civil Law Act 1966 (Ch.14, 1967), British common law could be relied on to 'fill the gaps', but "only so far as the circumstances of the Kingdom and of its inhabitants permit and subject to such qualifications as local circumstances render necessary" (s. 4, ibid.). However, in criminal matters, there were few 'gaps', as the rules for fair trial, and natural justice generally, were set out in comprehensive legislation (Chapters IV to VI 1891 and 1903, and Chapters 8 to 10, and 13, 1967).
were outlawed\(^1\), convictions for trespass were common and the customary rights of travellers to sustain themselves from the land were circumscribed\(^2\).

On the other hand, the criminal law re-inforced custom with regard to the showing of respect, and made it unlawful to pass the King's fence on horseback\(^3\), to pass any noble on horseback, or "without stopping until the noble has passed and saluting by raising the hand"\(^4\), and to wear a turban or to be navu - hair dressed with lime - or without a ta'ovala - dress mat worn around the waist - "if in native dress in the presence of any noble"\(^5\).

The law relating to marriage, divorce, adultery and fornication, incest and adoption reflected long-standing Christian teaching\(^6\). Of relevance for the present study are the peculiarly Tongan provisions which recognise certain chiefly marriage relationships (all marriage between

\(^1\) It was, and still is, an offence to take anything belonging to one's relation without the permission of its owner "according to the native custom" (which originated in 1862 with "taking on the score of relationship" Clause 13 1862 Code - and see s. 316, 1891: s. 405, 1903; and s. 136, Ch. 15 1967). This "crushing blow" to the custom of fahu (Neill 1955: 19-20) appears to be accepted as another example of how 'law and bible' have inevitably established double standards of behaviour - public and personal (from interviews with Tongan Magistrates, 1974). The 'taking' aspect of fahu is still not uncommon.

\(^2\) S. 437, 1891; s. 537, 1903; and s. 12, Ch. 37, 1967.

\(^3\) S. 429(1), 1891 and s. 528(1), 1903 - repealed 1906 (T.G. Gazette Vol. XX, No. 7).

\(^4\) S. 429(2), 1891 and s. 528(2), 1903 as amended by adding the words in quotation marks in 1906 (T.G. Gazette, op. cit.). The salute was substituted for squatting and performing the formal obeisance (see Chapter 1), but to remain in an elevated position could not be excused (Thomson 1894: 232).

\(^5\) S. 429(3), 1891 and s. 528(3), 1903. Thomson added - "To traverse Nuku'alofa without a girdle [ta'ovala] would be a greater solecism than to walk the length of Piccadilly hatless and in one's shirt-sleeves" (1894: ibid.). The two provisions requiring respect for nobles are in force today, although the rules as to dress do not apply to youths under tax-paying age (S. 13, Ch. 37, 1967).

\(^6\) Divorce and adultery frequently came before the courts. Under ss. 529-538, 1891 and ss 650-660, 1903, the only grounds were adultery and bigamy. Nevertheless, 1920-1930, an annual average of 43 divorce decrees were granted - at a time when marriage registrations were running at 254 per annum - a 17 per cent divorce rate. For comparison, 1969-1976, when the grounds were wider, there were 73 decrees and 603 marriages per annum - a 12 per cent rate. In 1923, divorce fees produced 90 per cent of the Court's revenue (Annual Reports of Chief Justices, op. cit.).
first-cousins is prohibited except that a man may marry his mother's brother's daughter) but do not recognise any permanent form of adoption (other than that of a child by its father or near relative, with the mother's consent). In short, the Tongan complementary concepts of authority and acceptance adapted themselves with vigour to "the judicial system of the British pattern, exactly organised with its laws, regulations and courts". However, in exclaiming "it is astonishing how all social classes of the Tongan population accept this judicial system without reservation and obey its laws" and observing that the "once dreaded power of the tapu" had been replaced by the "notion of holiness", Koch failed to examine the similarity between the negative tapu of earlier times and the countless prohibitions imposed by the agencies of government. As Gifford commented in 1924 (when the courts were particularly busy), the tapu idea had been transferred to another set of concepts and "the ancient heathen variety has a ready ally in Christianity". Of course, the strict enforcement of ordinances revealed "intolerant attitudes and even persecution", and the police had been introduced - "a new factor in Tongan society".

Land tenure

Tupou I had sought to contain chiefly authority and to make limited rights of tenure available to the people. This involved the perpetuation of a new class of chiefs with responsibilities in relation to government and land. The gradual change in role of the nobility and matapule with estates, from powerful chiefs to landed gentry with diminishing influence, is demonstrated in relation to the implementation of land policy.

---

1 See the following Chapter.
3 Idem.
4 Ibid.: 353.
5 Gifford 1924: 284.
6 Ibid.: 286.
The control and management of land in Tonga is set against the background of tenure as defined by Constitution and statute. If Chapter 5 is read as an introduction to the topic, it is now possible to describe tenure in terms of the Land Act 1927, which embodied the original concepts and is in force, with minor amendments, today\(^1\). At the outset, all land is vested in the Crown\(^2\). In order to distinguish the interests of the sovereign and his lineage from the Crown as Government, Royal Estates are "set aside" for the use of the sovereign for the time being, as is the Royal Family Estate, out of which the sovereign may grant a life interest to a member of his family\(^3\). Tofi'a, hereditary estates as defined by name and locality, are held from the Crown subject to the Act\(^4\). Allotments (tax, of up to 8½ acres, and town, up to 1 rood 24 perches) are held from the tofi'a-holder, or, if on Crown Land, from the Crown, subject to the Act\(^5\). Tax and town allotments may be granted together, but no person may validly hold more than one of the same kind. Alternatively, since 1927, a person has been able to take a 'bush' allotment of 12-3/8 acres\(^6\). Finally, Crown land not set aside or held as above may be granted to tofi'a-holders, leased by the Minister of Lands, or used for public purposes\(^7\).

\(^1\) The Land Act 1927, No. 19, was drafted by Horne, C.J. in consultation with a Privy Council-appointed committee (Horne to Premier, 28 June 1927, P0 MP 1927 Box 4/J18). See now Ch. 63, 1967.

\(^2\) S.3, Ch. 63, 1967.

\(^3\) Schedules II and III, respectively, ibid. (as amended by Acts 1972, No.4, and 1973, No.14). The royal family also controls three of the following tofi'a - see Chapter 7.

\(^4\) Schedule I, ibid. (as amended by Act 1973, No.14). The distribution of tofi'a has been described in the previous chapter - and see Figures 2 and 3. Table 6 gives details of the holdings of each tofi'a-holder and ha'a.

\(^5\) S.8 and Part IV, ibid.

\(^6\) Ibid. Hopes that the bush allotment would "induce people to return to the land" (Consul Neill to High Commissioner, 5 September 1927, WPHC 1927 MP 2628) were not realised, as people had grown used to community life (Neill 1955: 148-9).

\(^7\) Part III, Constitution 1967 and Parts II and VIII, Ch.63, 1967. Special provisions govern charitable and religious bodies, and foreigners.
A category of 'customary' tenure which is not recognised by statute is that of the resident on a tofi'a who pays rent or tribute to the holder and claims rights based on the latter's informal allocation of land - which may be of long standing. Such tenure by allocation has been recognised in traditional terms and by surveyors who have observed customary boundaries. However, customary holding is not, on its own, sufficient to establish rights under the Land Act and, by the nature of those rights - dependent as they are on the particular relationship between resident and tofi'a-holder - there is no third party or forum to which the claimant may appeal. Traditionally, a superior chief would not interfere and there is no precedent for the sovereign to do so today.

Tofi'a and allotments share certain features in relation to succession and disposal, except that the rules of succession in relation to tofi'a (and noble title) are designed to keep tofi'a and title under the control of the males in line of succession. Such chiefly custom was

---

1 The Land Court requires evidence of a purported grant by the Minister (which could be verbal in the case of a town allotment prior to 1927 - Tekiteki v. Minister of Lands (1973) III T.L.R. 34 - approving earlier decisions), or, in a case where the tofi'a holder objects to a grant proposed by the Minister, evidence of a prior equitably enforceable promise to consent to the grant (Ha'afo'ou v. Fotu (1948) II T.L.R. 60 and personal communication from Roberts, C.J., October 1974), before it has jurisdiction under the Act. Of course, as between competing unregistered claimants, one or other of whom has taken some steps under the Act, the Court will consider long occupation as evidence of prior claim (described as the application of "Tongan custom" in Moala v. Tu'iafitu (1956) II T.L.R. 104 and 153, where occupation of the land in dispute had originated before 1900).

2 In purporting to recognise this category of holding by allocation, by including it in his Annual Reports since 1974 under the description of land "allocated but not registered", the Minister of Lands has run the risk of misleading the public into thinking that it is not still legally part of the tofi'a or Crown land, as the case may be. See below, and Table 5.

3 The interest of the holder is a life interest, succession is hereditary (primarily in the male line), sale or devise by will is void, and (by recent amendment) mortgaging and leasing are possible subject to controls (Divisions I and II, Part i, Ch.63, 1967, as amended by the Land Amendment Act 1976, No. 18, and the Constitution Amendment Act 1976, No.3). Previously, tofi'a only could be leased.

4 See Chapter 5.
regarded as inappropriate and unnecessary in the case of allotments, in which widows and unmarried daughters may have life interests. The principal difference between the tenure of a tofi'a and that of an allotment is that the former is relatively secure in relation to reversion to the Crown, while an allotment may revert to the tofi'a-holder (or, if on Crown land, to the Crown) for any one of a number of reasons, including the failure of an heir to succeed or to lodge his claim to the allotment within twelve months of the death of the last holder, and other grounds of which tofi'a-holders and those seeking allotments may readily take advantage. Furthermore, unlike the case of the tofi'a, which goes to the noble's successor on the holder's conviction for felony, the allotment reverts to the tofi'a-holder in all the above situations (except that of the widow's or daughter's adultery) even if there is a son (or widow or daughter as the case may be) to succeed the allotment holder.

Thus, tofi'a and allotment provide fundamentally different legal 'environments'. The chiefly tofi'a-holder may provide for his extended

---

1 Reversion may occur only in the event that there is no heir to succeed in accordance with Division II, Part V, Ch. 63, 1967, which comes into operation on the death, insanity or conviction for felony of the holder. Any court action to assert a right must be brought within ten years (s. 148, ibid.).

2 According to the rules as to succession which were strictly enforced in Ma'afu v. Minister of Lands (1959) II T.L.R. 119.

3 S.81, Ch.63, 1967, which was enforced in Tonga v. Minister of Lands (1956) II T.L.R. 96.

4 These include "adultery or fornication" on the part of a widow or unmarried daughter, where there is no son to succeed (ss 74-6, Ch.63, 1967, which will be enforced if the claim is bona fide - Fa'okula v. Kalamatoni (1968) III T.L.R. 20); abandonment for two years or removal to another district (s.44(2) and Division IV, Ch.63, 1967); and ejectment by the Court for failure to pay rent, for more than two convictions for failing to plant and tend coconut trees, or for failure to maintain the allotment "in the average state of cultivation for tax allotments in the district" (ss 61 and 68, ibid., which, in view of the low rent, seldom bring about ejectment in rent cases).
family and, so long as he does not permit extensive sub-division and distribution (to be discussed shortly), he may ensure that relatives and *matapule* and their families have permanent homes and land. Subject to heirs being found within the extended family, tenure is group-oriented and secure, and land is a basis of chiefly power. On the other hand, tax and town allotments appear to have been designed primarily for the benefit of the individual, and his nuclear family. If the distribution scheme were to operate as intended, all male children but the eldest would seek their own allotments, and other male relatives would also have their own land. Family groups would be divided, and allegiance would focus on the *tofi'a*-holding chief as local leader. In fact, families have retained a remarkable degree of cohesion and have learnt to manage dispersal and movement to their advantage, with members strategically placed in villages and towns. The manner in which chiefs and people, for different reasons, have preserved traditional relationships by delaying and circumventing the operation of the statutory distribution scheme must be examined.

**The distribution scheme**

The contributions of Tupou I, Baker and Thomson, respectively, have been described. The ideas expressed in the Codes were spelt out for the chiefs in the 1882 Act, and were provided with legal machinery in the 1891 Act. The principle was that, on reaching 16 years of age, every male was entitled to the 8½ acre tax allotment and also, if he wished, to the smaller town allotment. Today, approaching the centenary of the first Act, only 45 per cent of the land area of Tonga is held by the people under registered tax and town allotments as intended by the scheme, and thousands of taxpayers have no land rights. With five per cent on long-term leases, the balance is registered 30 per cent as hereditary *tofi'a* and 20 per cent

---

1 The 'Apia *matai*' phenomenon in Western Samoa may be compared.
as government land\textsuperscript{1}. Why is this so? The history of land distribution in Tonga must be abbreviated for present purposes and attention paid to the role of chiefs in relation to the scheme.

The land distribution scheme has been praised\textsuperscript{2}, but the more cautious official British view, that the scheme "was grafted upon the polity of a native people - a creature of law rather than of custom"\textsuperscript{3}, raised the question of the extent to which the holding of land by individuals was traditional, and therefore an acceptable concept\textsuperscript{4}. Maude's view that the scheme "has significantly moved towards a more individualistic system"\textsuperscript{5} is to be preferred in the light of the pre-contact group-based relationships referred to in Chapter 1.

Whatever the basis of tenure may have been, Tonga failed to respond to, and often resisted, a concept requiring the compulsory and progressive determination, survey and registration of boundaries and tenure. During the first 50 years, while there was no real pressure of population on land, there was little motivation\textsuperscript{6}, and, although the bare legal machinery was there, administration was inadequate. The first requirement was that the boundaries of tofi'a be agreed upon and surveyed, and it was also soon apparent that the registration of tax allotments\textsuperscript{7} would not protect holders

\begin{itemize}
\item \textsuperscript{1} See Table 5. The figures for 1976 are the latest available, but the percentages will not have changed by more than one or two since then.
\item \textsuperscript{2} Critics have seen different attributes which have appealed to them (see Henley 1930: 35; E. and P. Beaglehole 1941; 20-21; Liversage 1945: 127; and Meek 1968: 215).
\item \textsuperscript{3} Report on Tonga Protectorate for 1927, British Colonial Office.
\item \textsuperscript{4} E. and P. Beaglehole (loc. cit.) and Nayacakalou (1959: 97) seemed to think so.
\item \textsuperscript{5} Maude 1965: 121.
\item \textsuperscript{6} Motivation remained lacking generally in land development and agriculture (Walsh 1967a: 120).
\item \textsuperscript{7} The following discussion will refer mainly to tax allotments, as town allotments were of less concern, but the same considerations applied to both types.
\end{itemize}
unless they also were surveyed. Survey was the key, but customary holdings and boundary disputes jammed up the lock. Tupou II argued with High Commissioner May that it was appropriate that the surveyors should only be surveying the then existing boundaries because "they cannot take away the inheritance of any native and, before the surveyors arrival, all the men had their land and every man knew his boundary." The failure of tofi'a-holders to agree on boundaries and permit survey was a serious obstacle to the implementation of the scheme. The British applied pressure to government, and particularly to the Minister of Lands, who had quite adequate statutory authority to grant allotments. Nevertheless, in 1915, tofi'a-holders secured the right to be "consulted" before the Minister made any such grant. As a matter of departmental practice, the Minister appeared to interpret the new right as a means by which the tofi'a-holder's

1 One of the conditions imposed by Tonga on the 1906-1910 survey team from New Zealand was "to disturb existing boundaries as little as possible" (Mouat and Davis 1913: 63).

2 Notes of interview, 15 September 1911, BCT 1/43/69. The King was not impressed with the suggestion of a land commission of the Fijian type to settle tofi'a boundaries and contended that "the chiefs in the Privy Council understand and are acquainted with the land" (ibid.).

3 This was an obvious method whereby distribution to taxpayers could be delayed. There was also the common expectation that while boundaries remained unsurveyed, they could be re-negotiated or simply "shifted" - a practice noted by Gifford (1929: 176). For the extent and complexity of tofi'a boundaries, see Chapter 5 and Figures 2 and 3. A report in 1951 details tofi'a boundaries in nearly every part of the group which were unsurveyed. Because the large tofi'a of Tungi (6,940 acres) and Kalaniuvalu (6,460 acres) were not settled, much land in Tongatapu cannot be surveyed (Report on land utilization by Agricultural Inspector, 23 September 1951, PO MP 1950 File 1123).

4 S.460, 1891 and s.563, 1903.

5 Act 1915, No.3 - amending s.561, 1903, which, like s.485, 1891, before it, had provided that the noble had "no power to refuse a tax allotment to any person lawfully residing upon his land" - unless he belonged "properly to another place" or held tax lands elsewhere. The new right was possibly part of a quid pro quo in favour of those nobles who lost their seats in Parliament in 1915 when the number was reduced to seven elected representatives (see Chapter 7).
consent became a pre-condition to the processing of the application. British officials, particularly the Judges, indicted the slow implementation of the scheme and its abuses by tofi'a-holders and taxpayers alike. Indeed, progress was slow, and, by 1914, only 2,145 tax allotments had been surveyed. Criticism led to the codification of statutes and regulations in the Land Act 1927 which has been mentioned. There was some progress, but difficulties continued and, by 1957, at which point only 2,564 lots had been surveyed over the previous 30 years, only 7,502 taxpayers - less than 50 per cent - had allotments. Government had begun to take a firmer stance 1950-1954, and in 1958 commissioned a Tonga-wide cadastral survey to produce a thorough definition of boundaries and to endeavour to satisfy demand. In theory, all allotments, registered and unregistered, were to be surveyed and excess areas subdivided. Achievements in this direction required that land tenure data and terminology be

1 The applicant was required to obtain the tofi'a-holder's signature to a form declaring that there was no impediment to the grant (Ch.63, Title XIII, Vol.III, 1967). Although the Minister could overrule the tofi'a-holder's objection (subject to the latter's right of appeal to the Land Court - s.34, Ch.63, Vol.I, 1967), an applicant who was not prepared to run the risk of court proceedings was dependent on the goodwill of the holder as well as that of the Minister (usually in the person of the local town or district officer).

2 For example, Skeen, C.J. in 1906 (Report to High Commissioner, 19 July 1906, BCT 1/43/48) and Scott, J. in 1925, who referred to "the lax method adopted of granting tax apis [allotments]" and added "Many taxpayers hold apis in excess of statutory size - some over 100 acres. The Lands Department condones this situation by registering these interests from father to son. Registers are not kept in some areas. Often there is no description to identify the api or its area. I have seen no title deeds. Some api holders are being turned out for failure to pay rent (without prior demand and in spite of payment in goods and services) or failure to attend the church of the noble's denomination" (Report of Land Court, 1925, PO MP 1926 3/01).

3 Reports on Tonga Protectorate for 1912/13 and 1913/14, British Colonial Office.

4 'Description of cadastral survey' by D.L. Leach, June 1959, PO, Official Papers, Group E, Box 12.

5 Annual Report of Minister of Lands for 1957.

6 The Reports for these years criticise the nobles for "lack of cooperation" and "reluctance to settle outstanding disputed boundaries: "Annual Reports of the Minister of Lands for 1950-1954)."

7 'Description of cadastral survey', op. cit.
revised\textsuperscript{1}, but gross inequalities in distribution remained\textsuperscript{2}. Although the number of registered allotments has doubled 1957 to 1976 to reach 15,554\textsuperscript{3}, the number of taxpayers (males 16 years and over) at 1976 is estimated at 25,000\textsuperscript{4}. Continuing pressure\textsuperscript{5} and criticism of the inequality of the system in 1974\textsuperscript{6} caused the Lands Department to produce its annual figures so as to show the total area which tofi'a-holders and Government state is in fact allocated to people, but not registered. The following Table 5 reveals the magnitude of this area, 47,216 acres or 29 per cent of total in 1976, and indicates how, by this means, the previously high figures for land held by tofi'a-holders and Government, 52 per cent in 1971, can be reduced artificially to 21 per cent for 1974. The new figures substantiate the criticism that too many people are living on allotments which can and ought to be registered\textsuperscript{7}, and they do not explain whether the tofi'a-holders and

\begin{itemize}
\item Inconsistencies between departmental Annual Reports over the years, and changes in the bases of calculation, indicate that the official statistics should be used with the greatest caution. The Minister in 1949 claimed that 76,711 acres were distributed and held as tax allotments (Annual Report for 1949), whereas, in 1969, after the cadastral survey, the area was said to be 66,906 acres (Annual Report for 1969). Because the latest Census on which a report is available - that of 1966 - failed to specify whether the tax allotment which was the subject of the question was registered or not, the information produced, that 8,305 taxpayers 'held' tax allotments and that 11,553 did not, was of little value (Census Report 1966, Nuku'alofa). For comparison, the Minister's Report for 1966 gives 12,517 allotment-holders.
\item These were noted by Maude (1965) and soon rendered his valuable study out of date. His calculation, based on the principles of the cadastral survey, that the total arable land of Tonga could not provide more than 14,467 tax allotments (1965: 167) has been superseded by the present registered total of 15,554 (Annual Report for 1976) and many 'allocated' allotments may yet be registered.
\item \textsuperscript{1} Ibid.
\item \textsuperscript{2} Ibid.
\item \textsuperscript{3} The total number of taxpayers is no longer published, and information from the 1976 Census is not yet available.
\item \textsuperscript{4} For example, Queen Salote's address to the legislative Assembly, T.G. Gazette, 21 September 1959.
\item \textsuperscript{5} Letters to the Tonga Chronicle by S. Taliai, published 22 August and 5 September 1974.
\item \textsuperscript{6} Ibid. From Table 5, about 27\% of Tonga is tofi'a in this category and 8\% is Government land.
\end{itemize}
### TABLE 5

**Land Distribution 1954-1976**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Area</strong></td>
<td><strong>Total</strong></td>
<td><strong>Total</strong></td>
<td><strong>Total</strong></td>
<td><strong>Total</strong></td>
<td><strong>Total</strong></td>
</tr>
<tr>
<td>Registered tax and town allotments</td>
<td>59,774</td>
<td>66,906</td>
<td>70,573</td>
<td>72,740</td>
<td>74,379</td>
</tr>
<tr>
<td>(Included in government land and hereditary estates)</td>
<td>n.s.</td>
<td>n.s.</td>
<td>n.s.</td>
<td>n.s.</td>
<td>n.s.</td>
</tr>
<tr>
<td>Allotments allocated but not registered</td>
<td>49,013</td>
<td>47,216</td>
<td>47,216</td>
<td>47,216</td>
<td>47,216</td>
</tr>
<tr>
<td>Government land</td>
<td>not stated</td>
<td>34,380</td>
<td>34,084</td>
<td>21,019</td>
<td>21,019</td>
</tr>
<tr>
<td>Hereditary nobles' estates</td>
<td>n.s.</td>
<td>52,176</td>
<td>51,448</td>
<td>12,824</td>
<td>12,824</td>
</tr>
<tr>
<td>Leases to:</td>
<td>n.s.</td>
<td>n.s.</td>
<td>n.s.</td>
<td>n.s.</td>
<td>n.s.</td>
</tr>
<tr>
<td>Government</td>
<td>664</td>
<td>n.s.</td>
<td>n.s.</td>
<td>1,536</td>
<td>1,581</td>
</tr>
<tr>
<td>Tongan nationals</td>
<td>1,375</td>
<td>1,159</td>
<td>2,771</td>
<td>1,065</td>
<td>1,079</td>
</tr>
<tr>
<td>Commodity boards</td>
<td>n.s.</td>
<td>n.s.</td>
<td>n.s.</td>
<td>195</td>
<td>0.1</td>
</tr>
<tr>
<td>Foreigners</td>
<td>4,925</td>
<td>2,088</td>
<td>2,222</td>
<td>2,463</td>
<td>2,463</td>
</tr>
<tr>
<td>Churches</td>
<td>1,475</td>
<td>3,721</td>
<td>4,104</td>
<td>4,403</td>
<td>4,480</td>
</tr>
<tr>
<td><strong>Total land area</strong></td>
<td>164,718</td>
<td>161,430</td>
<td>165,202</td>
<td>165,258</td>
<td>165,258</td>
</tr>
</tbody>
</table>

1 Including uninhabited islands and forest reserves.

2 The totals are those stated in each Annual Report, except that 'lakes and internal waters' and the Minerva Reef 'islands' have been deducted from those totals (since 1971) in which they were included. The remaining differences between the totals are unexplained.

**Source:** Annual Reports of Minister for Lands 1954-1976.
and Government propose to make more land available from their remaining 21 per cent (8 per cent tofia-holders and 13 per cent Government)\(^1\). In short, tofia-holders and Government have, to the present time, retained legal control of at least 50 per cent of the land of Tonga.

There are obviously weighty reasons why more land has not been surveyed and registered. They will be examined briefly.

1. In theory, the adult male's right to obtain allotments is a constitutional one\(^2\) which ought to be enforceable against the Minister of Lands as the granting authority. Furthermore, the tofia-holder is obliged to admit into possession any person to whom an allotment has been granted\(^3\) — provided that he can always refuse initially to allow a person to take up residence on his tofia who "belongs to another locality ... even though the wife of that person belongs to a village" on the tofia.\(^4\) However, the Minister and his Department control the machinery. Before an allotment is granted, they must consult the tofia-holder who may not sign the form (as mentioned above) and who generally allocates allotments in such a way as to respect occupation of long-standing. Statutory rules require that the applicant be "lawfully resident" on the tofia or Crown land in respect of which the application is made, and that, in the case of a tofia, if there is no land "available", the allotment shall be taken out of the tofia of another noble who is "willing" to provide it. If no noble is willing, the applicant "may" have an allotment from such portion of Crown land as the Minister decides\(^5\). Although the Land Court has occasionally examined the

---

1 The Act contemplates that a regulation will be made determining the area which a tofia-holder may reserve for the sole use of self and successors (S.34(2), Ch.63, 1967) but no such regulation has been made.
2 "Every Taxpayer shall have the right to hold ..." - s.113 Constitution, 1967.
3 S.34(1), Ch.63, 1967. The tofia-holder himself has no legal authority to grant allotments, or subdivide them once granted (Tu'iono v. Talua (1937) II T.L.R. 36 and Taufeulunaki v. Panuve (1948) II T.L.R. 70).
4 S.35, ibid.
5 S.50, ibid.
Minister's action, it will not interfere unless his Department applies the wrong principle in granting an allotment\(^1\). The complexity of the system, and the countless ways in which privilege and bureaucracy can delay and defeat claims, have so far successfully discouraged any applicant from taking action against the Minister to test the existence of a constitutional right, per se, to an allotment\(^2\). Furthermore, as an applicant who declines, without reasonable cause, to accept an allotment granted by the Minister is thereafter barred from making another application\(^3\), the 'right' to receive whatever allotment the Minister and tofi'a-holder may choose to grant is unlikely to be regarded as worth pursuing in Court. Consequently, applications and court actions are in respect of specific named lots, failure in respect of one of which does not amount to a denial of the constitutional provision.

2. The reluctance of people to seek registration of 'api allocated to them - or of such other unregistered land as they may be using - has been due primarily to their preference for the inequalities and laxities which administration of the scheme has permitted\(^4\). Variations in the size of allotments due to registration before cadastral survey and to the acceptance of earlier 'api dimensions\(^5\) have allowed the scheme to make some progress, but the threat of further survey and re-adjustments always existed. Studies reveal a wide range of land distribution

---

1 To'ofohe v. Minister of Lands (1958) II T.L.R. 157. All the reported decisions on this topic involve competing claims for the same allotment. In the case of otherwise equally qualified applicants, the principles of 'first come first served' (Hafo'ou v. Fotu (1948) II T.L.R. at 62) and 'toss you for it' (decision by throwing dice - Veikuso v. Tu'ipulotu (1957) II T.L.R. 151) have both been approved by the Privy Council on appeal.

2 Personal communication from Roberts, C.J. October 1974.

3 S.44(1), Ch.63, 1967.

4 It is true, as Simkin pointed out, that some men preferred to wait for their fathers' holdings or to seek employment elsewhere (1945: 105) but there were more widespread reasons.

5 Neill quoted "numerous instances" of oversize allotments, in some cases exceeding 300 acres (Neill to High Commissioner, 5 September 1927, WPHC 1927 MP 2628), and customary holdings "a good deal larger than eight acres" still exist (Maude 1965: 116).
patterns¹. Now that there is severe population pressure on land in some areas, much land is shared by households². Distribution of land rights (customary and registered) within villages is grossly uneven³. Some households have several members with rights to allotments, some look after allotments for absent holders and some rely on kinship and other relationships in order to survive. However, while a 1959 study reported that, in the area reviewed, inequalities were marked and contributed to the continued - or even increased - dependence of people on their chiefly tofi'a-holder⁴, generalisations cannot be made today in the face of widely differing situations as between tofi'a and Crown land, and between different tofi'a⁵.

Such a state of affairs encourages those with some land (or prospects) to work 'within the system' - that is to say, on non-registered land - rather than draw attention to the fact that they may already have more land than the law provides. Knowing that the offer of an allotment cannot be refused and that registration is final, people defer application, hoping for something better. There are those who will avoid registration because it exposes the holder to the rigour of the statutory provisions, including reversion to the tofi'a-holder⁶. Cost is another factor⁷. Also, if there is no available 'api nearby, some are reluctant to move away from supportive relatives. While the opportunity to be free appeals to some, it disturbs others. Again, people who have workable land-sharing arrangements

² The household - comprising elementary family and only some relatives - is the persistent unit associated with the use of land (Nayacakalou 1959: 101).
⁴ Nayacakalou 1959: 102-3 and 113.
⁶ The views expressed here are those of people occupying tofi'a and Government land who were interviewed on 'Eua and Tongatapu, of people who spoke on their behalf at the Seminar on Land and Migration, September 1975, at Nuku'alofa.
⁷ Although rent is negligible (still $T0.80 per annum), on registration a survey fee of $T28 and registration fee of $T6 must be paid by the applicant.
have no incentive, under present economic conditions, to seek land for
themselves.

3. The unwillingness of people to activate the registration processes
strengthens the position of tofi'a holder or government representative.
Some holders exploit the situation. "It is difficult to come to terms with
tofi'a-holders over the matter of registration". There are those people
who, over the years, have not satisfied their chief with "proper tribute in
the traditional manner". There are others who are reluctant to indulge too
far the practice of presenting food and/or cash in 'consideration' for the
grant of land - or who have unsuccessfully "sacrificed and lost a lot in the
process of trying to persuade nobles" and are unsure how much more is
required. Ignorance of legal rights in relation to tofi'a-holders prevents
people from applying to the Minister of Lands. Similarly, young men are
unwilling to subject themselves to the selection systems imposed by the
overseers of tofi'a and by town and district officers on behalf of govern-
ment. The procedure is for these dignitaries to keep lists of eligible tax-
payers without land and of those occupying unregistered land - and to report
to their superiors on such matters as co-operation in the village, provision
of tribute when called on (in the case of tofi'a) and general behaviour and
demeanour. Such reports are considered by tofi'a-holders and the Minister
when registration is sought.

4. From the tofi'a-holder's point of view, the existing inequalities and

---

1 L. Fifita (Tonga Council of Churches 1975: 38).
2 Ibid.: 35.
3 Many examples have been recorded, including payments of up to $T1,000 for
allotments. In 1975, one noble let it be known that he would make
allotments available to all those who could produce $T1,000 in cash.
4 L. Fifita, op. cit.: 39.
5 Details of this system were examined in 1974 in respect of 'Eua, where the
resident Magistrate, as the most senior official, was asked to collect
such reports and make recommendations to the Minister and in respect of the
Tungi tofi'a on Tongatapui. Reports from officials were often blatantly
biased for or against an applicant (interview, Director of Lands, August
1975).
flexibilities offer advantages. He retains control of land until it is
registered, and those views which have been recorded\(^1\) are a clear state­
ment that such control is believed to be necessary for the preservation of
the traditional relationship of the chief and people which "is the essence
of our culture\(^2\). Furthermore, some holders allege that they use income
from the larger leased areas in order to discharge their duties to the
people on their land. Critics of tofi'\(a\)-holders do not accept that such
altruism exists and point to the lucrative returns from long-term leases
(and, in the case of tofi'\(a\) near expanding towns, the prospect of subdivision
into more valuable town allotments) - the best exploitation of which
requires the holder to retain a substantial area unregistered. Flexibility
is desirable, as a holder may not lease more than five per cent of his
total tofi'\(a\) at any one time\(^3\). As to the relationship between holder and
Minister, tofi'\(a\)-holders will not concede that the latter is in the best
position to consider the interests of tofi'\(a\)-holders and people alike. In
their view, he already has too much power\(^4\).

To summarise, the land distribution scheme has been implemented
gradually under a code of universal application which, on the face of it,
should leave little room for traditional concepts and practices. On the one
hand, those concepts and practices have succeeded in subverting the scheme to
a large degree, so that people who wish to do so can retain the local group
basis for living, and the chiefly tofi'\(a\)-holder is able to preserve relation­
ships with 'his people' which would otherwise have disappeared. In respect
of the 30 per cent of Tonga still directly under the control of tofi'\(a\)-
holders (22 per cent 'allocated but not registered' and 8 per cent retained\(^5\))

\(^1\) Three noble tofi'\(a\)-holders were interviewed on the subject of land, and the
views of a further seven were recorded at the Seminar, 1975 (op. cit.).
\(^2\) Hon. Ma'afu (Tonga Council of Churches 1975: 2).
\(^3\) S.33(2), Ch.63, 1967.
\(^4\) Hons. Malupo, Niukapu and Tu'iha'ateiho
\(^5\) See Table 5.
and a further 30-35 per cent (estimated) where tofi'a-holders have residual rights in respect of registered allotments, the tofi'a-holder has a function under the land tenure and distribution schemes which he may combine with his chiefly role. On the other hand, the allotment scheme has secured a degree of individual tenure for those who wish it, and the population as a whole has been educated in the concept of personal land rights. The fact that complex rules for registration and succession, and chiefly opposition, have interfered with the implementation does not detract from the significance of a concept which is now regarded as Tongan. Furthermore, not only is a large proportion of the population living on Government land, but, as will be discussed, there is resistance on tofi'a to the idea that the tofi'a-holder may exploit his position. Generally speaking, opportunity has been provided for a considerable degree of individual freedom on the land.
CHAPTER 7. LEADERSHIP AND LAW

The Tongan chiefship of pre-contact times has been transformed under the pressure of forces set in motion by Western influences. In an assessment concerned with authority and power, it is necessary to take account of the three types of chief which emerge today from that process. First, the Tupou dynasty has achieved such an ascendancy that it constitutes a category of chiefship of its own. Then, the nobles and matapule with tofi'a are together a second type, enjoying degrees of constitutional and legislative recognition and exercising functions within the legal framework of the state. The third type of chief requires some explanation in the light of conditions today. Such a chief is one whose status originates from pre-contact times and is sustained by factors other than those incorporated in the law of the state. Such factors include appointment by the monarch ¹ or noble, usually as a matapule, or as an overseer or caretaker of part of a tofi'a; the prestige of holding a traditionally respected title ²; and, in general terms (and this applies to both men and women), the honour of close blood connection with one or more of the high-ranking lineages, particularly that of the present royal family ³. As in earlier times, chiefly status, or 'eikiness, is purely relative, and a person possessing the appropriate credentials by way of appointment or blood connection will be accorded respect by all those less 'eiki in the particular context. This third type of chiefship, however, has today lost political significance, except in so far as it is employed as an extension of the authority of chiefs of the first two types, or is in other ways directly dependent upon it. While such chiefly persons of the third type are usually regarded as 'eiki in Tonga - and sometimes have

¹ For example, Hafoka on 'Eua is appointed by the Tu'i Kanokupolu (now Tupou).
² Ahio, at Kolovai on Tongatapu, is a respected title of Ha'a Ngatamotu'a.
³ The manner in which the Tupou lineage has eclipsed all others is explained below.
important social and ceremonial functions as well as administrative
duties - those same developments which have resulted in the identification
of certain chiefs as constituting have removed the others from the scope of the
present study.1

Chiefs of the first two types, the constitutional chiefs, may function
at a number of levels - such as land-holders, administrators, politicians,
or kāinga heads, depending on the inclination and capability of the
individual - but there are two broad areas in which chiefs may be examined.
First, they are chiefs in relation to people, and, in this respect,
authority and leadership may be assessed. They are also a chiefly class
which has its own rules for protection and perpetuation, and its own
'internal' dynamics, which are seen most clearly in relation to government
and the monarchy. This will be the second area to be considered in this
chapter.

CHIEFS IN SOCIETY

Nobles and matapule with tofi'a constitute a small group for study
purposes, and, in terms of current active membership, Table 6 (at the
end of this Chapter) shows that the number is well below 'establishment'.
Of the total of 39 titles (33 nobles and six matapule), eight are vacant.
Where the vacancy has been long-standing (as in the case of Mā'atu 50 years,
Ata/'Ulukālala 20 years, Lavaka and Tungi), the King, who is responsible
for appointment of successor or trustee, has supervised the affairs of the
title. Of the 31 titles currently held, two individuals hold two each, and
of the 29 title-holding individuals, 24 are nobles and five matapule.4

1 Similarly, the prestigious tāupou titles of Samoa, and the respect paid
to close relatives of the tama'aiga, involve notions of chiefliness in
certain contexts. Only matai (in all their numbers) possess political
status in Western Samoa.

2 Generalisations about them must be made with caution, as the outstanding
characteristics of certain members of the group may be either norm or
deviation.

3 The respective roles of sovereign and court in relation to succession are
discussed in the second part of the chapter.

4 12 title-holders were interviewed, together with relatives and associates
of others.
The titles are ranked, as they always were, in accordance with criteria such as descent from the earlier branches of the Tu'i Tonga lineage (see Figure 1) and blood connection with the present Tupou lineage (which today combines the rank of the earlier lines). Some titles, such as Tu'ipelehake, Tupouto'a, Tungi and Kalaniuvalu, claim highest status next to that of the monarch - throughout Tonga - while the rank of most titles depends on place and context. Other titles, which claim no aristocratic connections, fit somewhat uneasily in the same classification of hou'eiki as those of highest rank. Certainly, Tongans make the distinctions at all times. Personal 'eiki status acquired by blood connection provides the means whereby the holder of a low-ranking title may nevertheless attain high status.

Against this background, the forces eroding privilege may be examined. First, the chief appears to be trapped in the vice of the constitutional and legal framework which is partly responsible for his status. For example, he has been assured formal political power (as will be discussed later), but has long since been deprived of his role in the maintenance of order and the settlement of disputes, except those of a minor and domestic nature. Then, other sections of society have grown at his expense, particularly the public service and the church, and generally the expanding middle-class based on commerce and the public service. Such challenges are seen in relation to the chief (monarch, noble and matapule) on the land, in the village and in society generally.

Chiefs on the land

Titles and tofi'a go together, and both, by virtue of Constitution and statute, belong to the holder rather than, as in Samoa, to a contemporary group. Chiefs as land-holders have been discussed in terms of the law. As explained, the land tenure system places chiefs in one sort of relationship or another with regard to people living on nearly two-thirds of Tonga, although the nature of the relationships varies widely. Some people living
on registered allotments regard themselves as totally independent of the tofi'a-holder, while others are conscious of his residual rights. So also, there is a wide range of practice and behaviour in the manner in which chiefs carry out their functions. At one extreme, the matāpule Fotu manages the tofi'a on which he lives at Leimatu'a in Vava'u, while nobles and matāpule with full-time Cabinet responsibilities clearly have little opportunity to visit their tofi'a. Table 6 shows the location and number of tofi'a blocks in respect of each tofi'a-holder (which are fixed by statute) and the state of the title - vacant or jointly held - and the occupation and usual residence of the holder (which information is changing and may become quickly out of date). Choices as to occupation and residence are linked. Further, the fragmentation of tofi'a demonstrated in the previous chapter means that a holder whose tofi'a are dispersed cannot give his full attention to all of them. When residence is considered in relation to all 39 titles (including vacant titles administered by the King or others), there are some 28 in respect of which substantial tofi'a do not provide the usual place of residence of the holder. Dispersal of blocks between island groups, and within them, is combined with the preference of many holders to live in the capital town, whether they have occupations which keep them there or not. Two title-holders live most of the time in the United States.

Having regard to the changing habits of individuals and the arguable interpretation of 'usual residence', there is nevertheless a high level of 'absenteeism' in relation to tofi'a. Managers (or matu'a tauhi fonua, overseers), are appointed, some of whom have considerable freedom of action.

1 The Prime Minister, Prince Tu'ipelehake, the Minister of Lands, Hon. Tuita, and the Minister of Police, Hon. 'Akau'ola, are seldom able to see their tofi'a in Vava'u and elsewhere. Holders of noble titles are addressed as 'Honourable' and sign their names with the name of the title only, without other identification.


3 A number of holders maintain two or more residences, with a preference for one or the other.
Thus, only a small proportion of chiefs personally function as such in direct relationship with people on the land, and the extent to which managers establish 'chiefship by proxy' varies widely from case to case. In economic terms, although some tofi'a-holders are active in promoting production, chiefs have long-since lost control of what is produced on land which has been allocated by them. What remains is the traditional right to call for contributions of foodstuffs and to insist on a degree of fatongia, service, usually for ceremonial occasions involving feasting and important visitors. Such demands may be made to individual residents with whom the chief has dealings or through the village, which will be mentioned shortly. A particular type of demand which continues to be made, despite growing opposition, is that associated with applications by taxpayers for the registration of their allotments (described in the previous chapter). It is common practice for both tofi'a-holder and Government to require the applicant to work the land for a 'probationary' period of two years or more, during which his conduct may be assessed (often, it is alleged, in arbitrary fashion). In the case of the taxpayer on a tofi'a (which, of course, includes tofi'a controlled by the royal family) 'conduct' includes the rendering of such fatongia as the tofi'a-holder deems fit\(^1\). In other situations, also, there is the understanding that a chief cannot be expected to assist, or act on behalf of, a resident until the proper payment has been made. While the present study did not purport to examine attitudes widely, there was marked agreement among those rendering fatongia that it was not justified merely by virtue of the chief's status and his position as tofi'a-holder. Only an important occasion, involving kinship responsibilities or the honour of the district, was cause for a more than grudging response. However, the role of chief was appreciated (and a double standard seemed to apply) when a family distantly related to a chief would

\(^1\) Many examples are recorded (see also Maude 1965: 105 and Tupouniuia 1970: 73) and public protest was voiced at the Tonga Council of Churches Seminar referred to in the previous chapter.
seek his participation in funeral ceremonies in order that links with
the past would be honoured.

The independence of people residing on tofi'a derives from the
historic disruption of ties attributable to the 18th century wars and now
the land tenure and distribution schemes. Dispersed families find new
avenues for advancement. The fact that people on government tofi'a are
relatively free of fatonga, except for state occasions, has had a levelling
effect.

Village chiefs

When villages were formed, the chief on whose land a village was
situated was relied upon for leadership in defence, the representation of
village interests and the provision of public facilities. Today, the
facilities are taken for granted and leadership and representation are
rare. The town officer, well established as the agent of Government and
now elected by the people, is the link with the services provided by
Departments and is more concerned to maintain popularity with the people
than with the chief. The authority of town officers enables them to
preserve village harmony, although police support and the sanction of the
courts are never far from the minds of those who would disturb the peace.
The challenge posed by town officer to chief varies from village to
village. The few villages on government land have no tofi'a-holding
chiefs. In other cases, chief and town officer may reach an accommodation.

---

1 See Chapter 6, Figures 2 and 3, and Table 6.
2 "The town officers in these islands [Ha'apai and Vava'u] are the sole
keepers of the peace" - P. Tapueluelu, Member of Parliament (Tonga
3 If police force (including prisons personnel) is compared with population -
and using 1973 figures as the latest available in respect of all three
countries, Tonga had one official for every 294 people, while Fiji had
one for 456 and Western Samoa one for 618 (Annual Reports of Police
Departments, Fiji and Western Samoa; Civil Service List, Tonga; and
4 Non-constitutional chiefs (the third type) may be prominent - for example,
Where the chief has retained effective local power, the officer may decide to carry out his wishes. On the island of 'Eua (33 square miles) in 1975, the network of district and town officers endeavoured to ensure that the island complied with requests made by the principal tofi'a-holders, the King and Hon. Ve'ehala (non-resident). The district officer of a district which comprises nearly half of 'Eua, spoke of the similarity between the old 'inasi ceremony and the compulsory work required on royal plantations, together with the contributions of food expected from ordinary people which were collected in the village and passed up through the district and across to Nuku'alofa for ceremonies and festivals of royal and national importance. Such occasions seemed frequent and included weddings and birthdays involving the royal family as well as celebrations on public holidays and for visiting dignitaries. In speaking in similar terms of the requests made of his district of nine villages, the officer of the other large 'Eua district referred to a letter asking for contributions for re-planting on the King's tofi'a elsewhere. In preparation for the forthcoming annual visit of the King, each man in the district was being asked to contribute $1 for the purchase of pigs and other food.

With regard to those taxpayers wishing to register their allotments, the tofi'a-holder and town officer frequently collaborate in assessing the 'probationary' period, but, again, practice varies as to whose opinion is decisive. Such matters are often referred to the Minister of Lands through the Governors, and, in the case of 'Eua, where the resident

---

1 As in the village of 'Uiha on Ha'apai, in the tofi'a of Hon. Malupō (Marcus 1975a: 34 and 43).  
2 The King was represented by three of his matapule. Hon. Ve'ehala had one, as also did Hon. Kalaniuvalu, whose interest arose from the fact that people had been evacuated to 'Eua from his tofi'a on Niuafo'ou, due to volcanic activity in the 1940s.  
3 Important occasions in 1975 were the centenary of the Constitution, the installation of the Crown Prince as Tupouto'a, and the Tonga Council of Churches Land and Migration Seminar - all of which involved many days of feasting. Each succeeding year has had its demanding festivities, as will be mentioned further.  
4 The Prime Minister (the King's brother) had written seeking ten large yams from each village.
Magistrate is government representative, it is his responsibility to approve and forward assessments on individual applicants.

Despite such pressures, district organisation has been developed along more egalitarian lines than would have been possible under direct chiefly rule. While the village *fono* remains the means whereby daily village concerns are controlled, and while the district *fono* is summoned for the passing of special instructions, regular *fakataha*, meetings, are held at district level, and are attended by village officers, local public servants (such as officials in agriculture, health, public works, education and police) and sometimes church leaders. Also attending, to represent the interests of *tofi'ala*-holders, are *matapule*, overseers and managers. While such a pattern is by no means universal, those districts holding *fakataha* use it as the vehicle for the upward transmission of ideas and responses. Educated community leaders may exercise influence downwards to the villages and up through government channels. Sub-committees, in which women are prominent, are concerned with water supply, roads, cleaning and other tasks. Except in the few cases where the chief maintains direct influence, local government machinery has by-passed him, and undermined his authority.

The remaining significance of the local chief is his historical association with land and village - a means by which people now identify with place and tradition, and, in the case of higher ranking nobles, by which they may relate to the royal family. There is little evidence of the *kāinga* or the *ha'a*, as they existed in pre-contact Tonga, in the present village. The *kāinga* is often the 'universe of kinsmen'\(^1\) (or, more often, those who respond to and support each other\(^2\)), which, since population growth and the dispersal of members of the descent group, may be widely spread and is not necessarily headed by a chief of any type. At the village,

---

1 Marcus 1975: 51.
2 Rogers 1975: 250.
those members of the kāinga domiciled there interact in relatively
egalitarian fashion, bound to each other and to the local constitutional
chief by virtue of long association, and also, in the case of the chief,
by physical proximity to his tofi'a and an ideology surrounding chiefship
which has little functional content. Throughout Tonga, the most
consistent involvement of chiefs in village affairs is at the funerals of
village members¹. The ha'a, which in traditional times organised Tonga
into large societal groups, no longer has meaning for the villagers
interviewed². In short, village life operates largely outside the
context of traditional descent groups, and the chief-commoner dichotomy
is not often relieved by kinship ties.

Chiefship on the defensive

In the administration of Tonga and the daily lives of its people,
chiefly authority has been supplanted by the processes and bureaucratic
machinery of government. The functions of the Minister of Lands in
relation to the registration of land rights and of local government
organisation have been mentioned. While certain chiefs dominate the
highest policy-making and executive positions (which will be elaborated),
the great majority of chiefs have allowed government to proceed without
their participation - or, if they have wished to take part, they have
found that they lack the personal qualifications to do so. Of the 29
title-holders, and apart from the five who are members of Cabinet, six are
elected members of the Assembly and have no other function, one is member
of the Commodities Board³, and only six others have public service posts.
Of these six, the Crown Prince⁴ and Kalaniuvalu are associated with the
executive by virtue of their rank, and only two have senior positions,

¹ See, for example, Kaeppler 1978: 196.
² See also Aoyagi 1966: 150; E. and P. Beaglehole 1941: 12; Marcus 1975: 43;
and Rogers 1975: 242-5.
³ Hon. Fulivai is also member of the Assembly.
⁴ Since this Chapter was written, Prince Tupouto'a was appointed to
Cabinet as Minister of Defence and Foreign Affairs (Tonga Chronicle
'Ahome'e as a chief inspector of police and Tu'i'afitu as airport control officer. Of the remaining eleven, two or three have occasionally entered Parliament. Thus, chiefly power is concentrated at the top.

The relationship between Church and State which had proved to be a "marriage of convenience" last century has not assisted the maintenance of chiefly power other than that of the monarch. As a dominant influence in the daily lives of Tongans, the church and its ministers have conceded only so much authority to chiefs as the situation demanded. Realising its potential as a unifying force, Queen Salote determined to bring an end to the schism between the Free Church which had declared its independence in 1885, and the Wesleyan minority. The negotiations, adoption of a unified constitution in 1924 and subsequent legal battles over church property aroused intense interest in Tonga at the time but are of little concern here except for the outcome which was that some 4,000 people under former Free Church President Watkin finally refused to belong to the Free Wesleyan Church of Tonga and established the 'continuing' Free Church of Tonga. Within two years this church lost some of its support when a group, mainly in Ha'apai, broke away under the noble 'Ulukālala to form the Church of Tonga - often called "the Church of the Chiefs" because of its leadership. In fact, on Watkin's death in 1925, the Free Church of Tonga also had a Tongan President and conservative Tongan administrations have been a feature of both the breakaway Churches. Conservatism has included retention of the practices of early missionaries, such as the wearing of white shirts, trousers and black coats by the men and hats by the women - as are still common today. The three 'Methodist' Churches are doctrinally the same but the united Free Wesleyan Church of Tonga is distinguished by

1 See Table 6.
3 Wood 1975: 225 and 227. The Free Wesleyan Church has had a Tongan President since Dr. 'Amanaki Havea was appointed in 1970.
its size\(^1\) and by its close relationship with the Sovereign.

Today, the Free Wesleyan Church claims the allegiance of all but seven of the 29 chiefs, which fact, together with its royal patronage, gives it some confidence in its relationships with individual chiefs. Few of them are active within the Church, where the ministers assert their authority. Nevertheless, the Free Wesleyan Church supports the nobility in principle\(^2\). Two chiefs are members of the Free Church of Tonga, but the Church of Tonga is, at present, without chiefly allegiance. Historically associated with the Tu'i Tonga, and with opposition to the Tu'i Kanokupolu, the Roman Catholic Church is still seen by some as a challenge to the Wesleyan establishment, and the Tu'i Tonga style of kava ceremony is served to the Bishop and leading clergy. No chiefs are associated with such challenge. The most significant recent development for the status of chiefs has been the formation of the Tonga Council of Churches which has brought together young overseas-trained ministers who would challenge the privileged class, and its already outspoken critic, the Roman Catholic Bishop\(^3\).

Across Tongan society, the dispersal of families and the distribution of land have promoted a degree of individual entrepreneurship and the growth

---

1 Its following constitutes 47 per cent of the population, while the proportions of the other principal churches are Roman Catholic 16 per cent, Free Church of Tonga 14 per cent, Mormon 9 per cent and Church of Tonga 9 per cent (Preliminary 1976 Census figures - Tonga Chronicle 3 February 1978).

2 In discussing (in a sermon to commemorate the Constitution) the achievements of Tupou I which should be established today, former President, Dr. Havea, included the nobles, who should be the King's "right and left hands" (Tonga Chronicle 7 November 1975).

3 Under Bishop Patelisio Fīnau's guidance, a widespread adult education programme encourages public discussion of important issues, including politics. The first major exercise of the Council of Churches was the Seminar on Land and Migration referred to, which, in 1975, was attended by eight chiefs and a large number of politicians, public servants and others. The frank expression of views (in which the chiefs defended their position) was remarkable. Government has taken no action with regard to the Seminar's recommendations.
of a substantial middle class, which, through the public service, the professions and commerce, has established a power base alternative to that of chiefship. In the absence of permanent European residents, part-Tongan business families have added stimulus to commercial activity. Again, chiefs have held back, regarding commerce and public service as occupations inappropriate for a chiefly heir. By default, they have been left with land as their one tangible asset.

As this resource becomes more scarce, there is evidence of an increasingly defensive stance - approaching paranoia - which has been demonstrated in a number of ways. Of course, most concern has been expressed privately, but one view which can be mentioned is that the 'divorce' between land and money should no longer be maintained. Chiefs would, for a time, become by far the wealthiest of Tongans if their land were permitted to acquire free market values - and some consider that this is their due. More publicly, as chiefs are mocked for their lack of authority, they react by appearing more remote and unapproachable, and with the occasional outburst in Parliament and elsewhere.

Nevertheless, the public service and commercial sectors, which have developed their own bargaining power in society, do not deliberately threaten the survival of chiefship. As people acquire stakes in the continued stability of Tonga, they see value in supporting a chiefly structure which does not make a practice of interfering with them and which, under the leadership of the King, stands as a symbol of order.

---

1 Some are of long standing, such as that of C.F.A. Sanft who arrived in 1855. Joined by other Sanfts, and by Wolfgramms, operations throughout the group are now incorporated as O.G. Sanft and Sons. It is one of a number of similarly successful families.

2 An expression used by a prominent clergyman engaged in the training of ministers for the church.

3 During the controversy over land distribution sparked by letters from a church minister, and when the Council of Churches Seminar was proposed, chiefs in Parliament attacked the churches for interfering in matters beyond their province.
Leaders of the middle class join with chiefs and the aristocracy in constituting an 'establishment'.

In concluding this examination of the challenges to chiefship in modern society, one is thus drawn back to the positive values for which it is appreciated. Some of those who mock lack of authority also insist that chiefs would leave a serious vacuum if removed. They believe that the strength of the Tongan people lies in their identification with kin and place, and with the past. Chiefs help to fulfill an ideological need, and as they say themselves, they represent the traditions of the people.

CHIEFS AND THE STATE

The account of the Tupou dynasty must be brought up to date. Queen Sālote, daughter and only heir of Tupou II, direct descendant of the Tu'i Kanokupolu (Tupou I) through her father and of the Tu'i Tonga (Laufilitonga) through her mother, was crowned in 1918 at the age of eighteen. Her husband, William Tungi (grandson of the first Tungi and direct descendant of the Tu'i Ha'atakalaua) became known as Prince Tungi and was appointed Premier by the Queen in 1923, which position he held until his death in 1941. The eldest son of the marriage Tupouto'a-Tungi, born in the year the Queen was crowned, obtained degrees in Arts and Law at the University of Sydney, joined Cabinet in 1943, and was appointed Premier in 1949, when he was known, as his father had been, as Prince Tungi. The second surviving son, John Tu'ipelehake, was also educated in Australia, and appointed to Cabinet.

At a double wedding in 1947, Tungi married Mata'aho, daughter of the noble, 'Ahome'e, and Tu'ipelehake married Melenaite (like himself, a direct descendant of Laufilitonga). Queen Sālote died in 1965. Tungi was crowned King Tāufa'āhau Tupou IV in 1967 and his brother was appointed Premier (now

---

1 For example, the opening address of Hon. Ma'afu, Speaker of the Legislative Assembly, to the Seminar stressed that, in addition to oversight of land, "the main function of the nobles is to hold together the strands of the traditions and culture that we value in this country" (Tonga Council of Churches 1975: 2).

2 The following summary is from Wood and Wood Ellem 1977: 190-209.

3 A third son died in 1936.
called Prime Minister). Relationships and functions involving the royal family will be discussed later.

Combining, as he does, the roles of paramount chief and ruling monarch, the King of Tonga is set apart from other chiefs. The capacity of each of the two types of chief at the same time to support and erode the status and authority of the other sets up tensions within the elite class which contribute to the introspection of that class and its concern for its survival. It is necessary to look first at the relationships as they existed under Queen Sālote, whose policies and personality had the most profound effect on Tongan chiefship, and its place in society. Questions of jurisdiction and succession in respect of noble titles will be considered, followed by nobility and monarch in relation to the institutions of the executive, legislature and the Crown.

**Jurisdiction over chiefly titles and tofi'a**

Tupou I may have appreciated that the nobility and land-holding class which he created would have to be controlled by Western as well as Tongan techniques. During his successor's reign, the use of armed Tu'i Kanokupolu warriors was unacceptable, in terms both of the character and inclination of Tupou II, and of his British 'advisers'. What Tupou I would not have foreseen was the cumbersome legal structure which was to inhibit the monarchy in its supervision of chiefs and tofi'a. On the question of the creation of new titles, Queen Sālote was prepared to settle the issue by declaring that, after the conferral on Mateialona of the title Tupouto'a (with tofi'a in all three groups)¹, no further titles would be created. As to compliance with the legal requirements for holding chiefly titles², Constitution and statute suggest that the Sovereign is responsible for

¹ See the previous chapter. This alienation of Crown land (and of the revenue therefrom) subsequently worked to the benefit of the royal family as, after Mateialona died without heirs, title and land were declared by statute to belong to successive 'heirs apparent' to the throne - in other words, to the Crown Prince (Royal Estates Act 1927, No.15).

² This discussion refers to noble titles and the six matāpule titles, except where use of 'noble' excludes the matāpule.
supervising the conduct of chiefs. Queen Sālote was obliged in 1926 to declare that the holder of the Ve'ehala title was no longer qualified because of a conviction for theft, and that a trustee would administer the tofi'a for the next heir.

The Sovereign's role in relation to disputed succession was another matter. Although battle lines had been drawn under Tupou II, the issue came to a head after a decision of the Land Court in 1924 in relation to the Fulivai title and after the insistence of Queen Sālote that the decision as to who should succeed to the title was the Sovereign's prerogative - or at least that it was certainly not to be left to the Land Court under a European judge. A defect of earlier laws had been that no provision existed specifically for deciding such succession disputes. Disputes as to noble title came to be regarded by the courts as being of the same order as disputes as to tofi'a and other land, and the Chief Justice strenuously argued for the continued jurisdiction of the Land Court. Queen Sālote obtained support from the Consul and independent legal opinions from Suva, while making it plain that she would not accept the advice of Crown law officers in London. However, after a final attempt to persuade the Privy

---

1 Personal communication from Elizabeth Wood Ellem (who is studying the reign of Queen Sālote) January 1978. Unless pardoned, no person convicted of a criminal offence punishable by more than two years' imprisonment may hold any office of emolument or honour (s.23 Constitution 1967).

2 Uulilakepa v. Fulivai (1924) II T.L.R. 10.

3 The emphasis had been on boundary questions.

4 Land Act 1921, No.3, had conferred jurisdiction "to determine all disputes, claims and questions of title affecting any land or any interest in land" (s. 10).

5 McOwan prepared detailed submissions for her to present to the Privy Council (Consul to Queen Sālote 14 April 1926, with accompanying documentation, BCT 1/6/1926). It is not clear from BCT 1/6/1926, nor from WPHC 1925 MP 2581, whether the Queen presented these particular submissions to the Council.

6 Crompton's opinions (9 December 1925 and 25 March 1926, WPHC 1925 MP 2581) also supported her.

7 Queen Sālote to High Commissioner 6 March 1926, ibid.
council (of which the Chief Justice was a member)\(^1\), the young Queen appears to have accepted the notion of determination by the Land Court with appeal to the Privy Council because she gave her consent to the Land Act 1927 which contained provisions to that effect\(^2\). An apparent concession to her was the requirement in the Court rules that, if the succession dispute related to a noble or matāpule with tofi'a, the Court should, "in lieu of deciding the question", forward a copy of the evidence together with its findings and recommendations to the Sovereign\(^3\). However, there is no indication in any subsequent reported decision of the Land Court that the Court has refrained from entering judgment before sending a report to the Palace, and the rule is not observed today. Instead, much use is made of the right of appeal to the Privy Council, where the present King contributes his legal training and the Chief Justice (from Fiji) is invited to advise.

The constitutional significance of the Fulivai case is that although the Queen had issued a letter of appointment and 'Iki had been sworn in as Fulivai in 1919, the Judge was prepared to say five years later that "it is not right for Her Majesty to confer titles on nobles without thorough research" and to declare the plaintiff, Uluilakepa, to be the Fulivai\(^4\). There were other court challenges to sovereign acts in this area\(^5\). The application of legal reasoning to facts determined according to evidentiary

---

1 Queen Salote to Privy Council 5 June 1926, BCT 1/6/1926. She questioned the constitutionality of the 1921 Act on the ground that the nobles had not voted alone (see s.67 Constitution 1967), thereby rendering fashionable an argument which was subsequently raised and defeated in the Land Court and Privy Council at least three times ((1939) II T.L.R. 143, 1958)\(^{ibid.}\) 116 and 161, and (1961)\(^{ibid.}\) 128 and 178).

2 S.127, Ch.63, 1967. In the same year, the Privy Council also rejected an appeal from the Fulivai decision, of which the Queen strongly disapproved.


4 Fulivai case, op. cit., 10-12.

5 For example, appointments by Tupou II (Namoava Vaha'i (1926) II T.L.R. 22, Finau v. Tu'ivakano (1925) II T.L.R. 13, and Akaveka v. Nuku (1949) II T.L.R. 78) and grants by him (Motu'apuaka v. Vaha'i (1923) II T.L.R. 6 and Tuita v. Minister of Lands (1926) II T.L.R. 18) were held invalid.
rules came to take precedence over all other arguments. The law and not the Sovereign would determine succession. So far as the chiefs were concerned, the legal straitjacket had been tightened, but they were, in theory, given some protection from the Sovereign's absolute authority. The present King's expertise, and his acknowledged jurisdiction in all title and tofi'a matters, are such, however, that disputes rarely reach the Court.

The Sovereign's authority in the case of the minority of an heir to chiefly title (or failure to succeed) should also be noted. He is responsible for appointing a trustee and examining six-monthly accounts. Where titles to tofi'a are vacant for any length of time, the Sovereign is involved in administration with the assistance of the Minister of Lands. Currently, seven out of the 39 chiefly titles are vacant, and, as indicated in Table 6, some have been administered for many years. Also vacant is the Tungi title, which, since Queen Sālote's marriage, has belonged to the royal line, and may be disposed of as the Sovereign pleases. The Sovereign's authority extends to the Tupouto'a title and, although, according to statute, it is held by the Heir Apparent by virtue of that office, neither the title nor the tofi'a belong, strictly speaking, to the Crown Prince until the installation ceremony has taken place. Such a ceremony, involving the Sovereign's attendance at a taumafakava, is still customary in the case of the higher titles, but some title-holders are merely sworn in.

---

1 An act of appointment as to succession is unnecessary (Finau v. Tu'ivakanō, op. cit.). The Sovereign is required to cause the name of the "lawful successor to the title" to be published in the Gazette, and to summon the successor to take an oath of allegiance to the Sovereign (S.38 and Schedule VII, Act of 1927, and Ch.63, 1967).

2 In the only contested title case since the King took office, the plaintiff failed for lack of evidence (Tuita v. Tu'ilakepa (1975) Land Case No. 47/74, unreported).

3 S.40, Ch.63, 1967.

4 By special statutory dispensation secured in 1927, this title may be granted by the Sovereign to any person other than the Heir Apparent, by will, deed or otherwise (S.2, Act of 1927, No.15 - now Ch.6, 1967). No grant has been made by the present King, who was himself formerly Tungi.

5 S.4, ibid. The present Crown Prince was installed at an elaborate function in conjunction with the celebration of the centenary of the Constitution, in November 1975.
The third title associated with the royal family, Tu'ipelehake, will now pass to the present holder's son, 'Uluvalu, in the ordinary way.\(^1\)

**Succession according to tradition or law**

In addition to the constitutional point involved, the legal significance of the Fulivai case in 1924 was that it began a line of court decisions in which European judges clung firmly to the notion that the rules of succession contained in the Constitution must be calculated strictly from the holder of the title appointed by Tupou I - regardless of whether, in terms of traditional thinking, the first appointee had the capacity himself to transmit the title to the chiefdom which existed before the Constitution of 1875. According to custom, a chiefly title might be required to revert to a previous line, and so to a person who would not be recognised as "lawful successor" under the Constitution. Queen Sālote was aware that the court's doctrine could cause difficulty with the titles Ma'afu, Tu'ivakanō and Luani, as well as Fulivai.\(^2\) Some such appointments by Tupou I were regarded as "temporary" in traditional terms in the sense that, on the death of the holder, and but for the Constitution, the title would pass, not to the holder's son, but to another person descended from an earlier holder - on one of the following grounds, which will be mentioned briefly.

1. **Adoption.** In the case of the titles Ma'afu, Fulivai and Motu'apuaka, the holder at the time of appointment by Tupou I was an adopted son who would not be permitted by custom to transmit the title to his own son.\(^3\) In each case, on the death of his appointee and despite the constitutional rules, the King followed custom to appoint a successor from the blood line - which has been accepted in the case of Ma'afu but was contested with regard

---

1 S.3, ibid.
2 Papers prepared for her to present to Privy Council contain family trees illustrating the problem (BCT 1/6/1926).
3 This was the basis of ohi referred to in Chapter 1.
to the other two. The Court held in the Fulivai case that the line which was descended from the adopted son must succeed

2. Brother to brother succession. The title Malupō was conferred in 1875 on the younger brother of the previous holder instead of his son - a practice not uncommon in earlier days as a type of trusteeship, but one which usually resulted in the title ultimately reverting to the eldest son of the eldest son. The Court in 1948 acknowledged the custom but held that the Constitution "crystallised the position" to prevent reversion. Only the heir in the younger brother's line would be recognised

3. Illegitimacy. Queen Sālote had been concerned over the titles Tu'ivakanō and Luani because she believed that the first Tu'vakanō appointed under the Constitution was illegitimate and that the first Luani was descended from an 'illegitimate' holder. However, the plaintiff who sought the Tu'ivakanō in 1925 failed to prove illegitimacy to the Court's satisfaction, and a claim in respect of Luani also failed.

Refusal by the Court to consider facts which preceded the Constitution became apparent in relation to the Niukapu title and the ten year time-limitation barred actions which sought to raise the issue. As far as the adoption ground was concerned, the Privy Council was eventually persuaded to intervene, and the law of succession was amended in 1953 with

1 II T.L.R. 10. Twenty-five years later, the Court was prepared to recognise Tupou I's second appointment to the Motu'apuaka title, which returned it to the blood line - the only recorded decision until 1961 which departed from the Court's established principle (Pafua v. Motu'apuaka (1949) II T.L.R. 83).

2 'Ahokava v. Malupō (948) II T.L.R. 74 and 150.


4 Referred to in Ngahe v. Luani (1960) II T.L.R. 171.

5 Tu'ipuolutu v. Kavaonuku (1938 II T.L.R. 143).

6 For example, Halafihi v. Kalaniuvalu (1945) II T.L.R. 55 and 149. (See S.148, Ch.63, 1967).
the intention of permitting the Court to examine this ground. On the death of the then holder of the Fulivai title, the Queen used the new law to appoint a representative of the original blood line, as opposed to the adopted line ordered in 1924. At first, however, legal opinion was against according the amendment any efficacy. Then, in 1961, the Privy Council applied it to sweep aside previous decisions and to declare that the Court would now examine the antecedents of a person appointed at the granting of the Constitution to determine whether he was an adopted child - and that, as the "original holder" of the title may have lived "in the far distant past", a successful claimant under the blood line must be able to trace his descent from that time. On the other hand, the 1953 amendment has not incorporated custom into the modern law of Tonga except in the most retrospective sense because, since the Constitution of 1875, no adopted child has been able to inherit, and the references in the amendment to an adopted child must be to a child adopted before the Constitution was granted. The Tongan 'establishment' is said to be opposed to the giving of legal effect to the adoption of legitimate children. That is certainly the effect of the statutory provisions now in force for over 70 years.

1 S.III of the Constitution was amended by Act 1953, No.15, which added "Whereas by Tongan custom provision has always been made that an adopted child might succeed to the estates and titles of his adoptive father, now therefore it is decreed that upon the death of the holder of an estate or title who has inherited such estate or title by virtue of his blood descent from such adopted child the estate and title shall revert to the descendant by blood of the original holder of the estate and title in accordance with the provisions of this clause...".


4 See Privy Council judgment ibid. at 184. In suggesting that the amendment has restored custom for "high ranking Tongans and ohi transactions", Urbanowicz has misunderstood its significance (1973: 118-119).

5 Lawyer, T. Finau, interview.

6 The only adoption recognised by law is that of a child by its father or near relative, with its mother's consent. Even then, unless the parents subsequently marry, the child adopts the father's name and nationality, but no other status or rights (Law of Adoption 1906, No.10 - now Chapters 19 and 62, 1967). The reason E. and P. Beaglehole found ohi "relatively rare" in 1939 was that it had never had any legal effect under the laws. An adopted son could not and cannot, inherit a tofi'a or an allotment - nor any property on intestacy (1940: 70-71). Temporary adoption, tauhi was common then (ibid.) and is today (Koch 1955: 82).
Marcus considers that the modern view as to what were customary adoption practices is post facto and became crystallised through litigation. While litigation undoubtedly had such an effect, he does not appear to attach sufficient significance to the ideology (as opposed to the practice) of the maintenance of blood-line descent. Above all else, Tupou I wished to achieve certainty in matters of title succession - and what better way than to appeal to that ideology. Techniques whereby the title could be retained in the group by means of temporary holding by an older relative or adopted son until a blood-line heir was ready, were common in pre-contact Tonga, but they gave rise to disputes which Tupou I did not wish to see perpetuated.

Until 1961, then, the effect of the Land Court's jurisdiction with regard to chiefly title disputes was to permit little which would upset the status quo - and to establish the proposition, which originated during a period of British intervention, that such disputes should be determined, not by Sovereign, but subject to the rules of a judicial tribunal and largely without regard for custom. Fears that the Fulivai decision in 1961 might open the gates to a flood of litigation have not been realised. The evidentiary difficulties involved in re-examining pre-Constitution genealogies are appreciated, and the King is in a strong position to comment on the likely outcome of disputes.

1 Marcus 1977a: 237.
2 Futa Helu and Hon. Ve'ehala: interviews.
3 He was subsequently persuaded to depart from the Constitution in respect of the cases mentioned, but only in relation to its initial application.
4 The Tu'ilakepa case (1975) No.47/74, unreported, referred to above is a deterrent.
The executive

To review the position since British intervention ceased, the executive has consisted of the Privy Council (comprising the Sovereign, the two Governors and Cabinet), and Cabinet (comprising the Prime Minister, the Ministers of Lands and Police and such other Ministers as the Sovereign appoints). As to the meaning of the Sovereign's "prerogative to appoint the Ministers", Queen Sālote won a trial of strength with British Cabinet members in 1925 over her appointment of the noble Ata as Minister of Lands, and established that her prerogative was unfettered by the need for Privy Council approval. Today, ministerial appointments are made by the King, after discussion with his advisers. The double structure of Privy Council and Cabinet appears cumbersome, and there is no absolute rule as to a division of powers. Because the Ministers are also the permanent heads of their respective departments, Cabinet tends to operate as a meeting of departmental heads, and policy matters of any importance are referred to the Privy Council.

In the mid 1960s there was a break with tradition when commoners were appointed as Ministers. The Privy Council today includes the Prime Minister, Prince Tu'ipelehake, seven other Ministers (one of whom, Hon. Ve'ehala, is also Governor of Ha'apai) and the Governor of Vava'u. Of the eight Ministers, four are nobles and one (Minister of Police, Hon.

1 Ss 50 and 61, Constitution 1967.
2 S.51, ibid.
3 Thomson had 'interpreted' the Constitution in accordance with Westminster conventions and had written into the 1891 revision of statutes a requirement that the Sovereign obtain Privy Council consent (S.8 The Law of Tonga 1891, and see Appendix D). The Queen addressed the Assembly on the subject (T.G. Gazette 1926, No.14) and the offending Section was amended (Government Amendment Act 1926, No.10).
4 King Tāufa'āhau: interview.
5 The three appointed were well educated (one, Dr Sione Kavaliku, being the first Tongan Ph.D.) and had high rank through the 'eiki connections of their respective wives (one was the Queen's sister, one the Queen's first cousin and the third was the daughter of a noble).
6 They are Prince Tu'ipelehake and the Hons. Tuita, Ve'ehala and Baron Vaea.
Akau'ola) is a matāpule with tofi'a. The three commoner Ministers are those originally appointed.

The Privy Council was, and remains, the principal institution of government. It is appointed "to assist the King in the discharge of his important functions". It is given potential supremacy through its law-making function. The Privy Council may make ordinances (and regulations, rules and orders) on any subject which remain in force until confirmed or rescinded by the annual session of the Legislative Assembly. In 1912, the conferral of interim powers on the Treasurer to increase fees and taxes pending the Assembly session ensured that the Privy Council had full, if temporary, legislative powers. While such powers were used extensively before the Second War, the scope of modern legislation has rendered desirable the wider participation of Parliament in the legislative process, with the result that bills approved by the Privy Council do not now normally become law until introduced into and passed by the Legislative Assembly.

While the governing of a nation of 90,000 people does not require an elaborate structure, the conventional departmental bodies are established and it is significant for the present study that close supervision and control are exercised from the top. The Ministers as administrators, govern Tonga, subject to the approval of the King. There is little

---

1 While Minister of Finance, Mahe Tupouniua, has been seconded on an overseas posting, Dr. Sione Tapa has acted.
2 S.50 Constitution 1967.
3 Ss 7 and 9, Ch.3, 1967. The subject matter of ordinances is not limited by the list of the types of ordinances (the Supreme Court so interpreted S.20, 1903, in Bennett v. Maekafa (1915) I T.L.R. 22) which list includes ordinances proposed by the King and "enforcing the prerogative of the King" (S.7, Ch.3, 1967).
4 S.50 Constitution, 1967 (in the light of which S.8, Ch.3, 1967) which provides simply that ordinances shall remain in force until rescinded - that is to say, without the necessity for confirmation - appears inconsistent with the Constitution.
5 Act of 1912, No.35 amended S.19 of the Constitution.
6 Over the twenty years 1907-1926, an average of seven ordinances became law each year (Chronological Table, Law of Tonga 1967).
delegation of authority. For example, until 1976, Cabinet controlled all public service appointments. They are now made by a Staff Board, subject to appeal to the Privy Council.

The legislature

The Tongan Parliament has been sitting since at least 1859\(^1\). Required since 1875 to comprise all the nobles and an equal number of representatives of the people\(^2\), it was considered unwieldy with thirty-two nobles, thirty-two representatives and six ministers\(^3\). Tupou II willingly supported reform\(^4\) and in 1914 the Constitution was amended to provide for the separate election, by the nobles and by the people, of seven representatives each. The Assembly was also to include the Privy Councillors, who would "sit as nobles"\(^5\). In addressing the Assembly on the subject, the King seems to have misled his audience by giving the example of Great Britain's Parliament of "over 600 nobles and 600 representatives of the people" as grounds for "re-apportioning the number of members" in Tonga\(^6\). In fact, the reform of 1914 (which remains unchanged today) reduced opportunities for untitled people and those without influence and connections. The seven elected commoners would require both these attributes\(^7\), and they, in turn, would be sitting with

\(^1\) The first parliament of Tonga of that year is said to have decided to meet annually in each of the three parts of the group in turn (Blanc 1934: 43).
\(^2\) S.63, Constitution 1875 (amended 1880 - see Appendix D).
\(^3\) Consul Grant to Tupou II, 19 April 1913, BCT 1/43/69.
\(^4\) Having been told that he could not appoint more nobles because the Assembly was too large (ibid.), the King saw the reduction in size as a solution and renewed his demands (Tupou II to Consul 19 October 1914, ibid.).
\(^5\) Act of 1914, No.1.
\(^6\) Opening speech, 17 December 1914, T.G. Gazette 1915 No.2. Of course, His Majesty may have been genuinely unaware that in Britain the Commoners' House alone was the effective legislative body.
\(^7\) A study of the backgrounds of peoples' representatives in Parliament 1915-1941 showed that they were closely allied to the nobles (personal communication from Elizabeth Wood Ellem).
seven of the more politically motivated nobles and at least an equal number of Privy Councillors. Furthermore, a new provision was introduced at the same time whereby the existing privilege of nobles which reserved to them alone the right to vote on "laws relating to the King or the Royal Family or the titles and inheritances of the nobles" was extended to become the exclusive right to "discuss" such topics. In practice, the enlarged privilege does not appear to have been an issue in the Assembly, as the nobles did not claim it in respect of general Acts which affected all citizens, such as the Land Act 1927. Where the interests were clearly limited - and concerned the affairs of the Sovereign - as in the case of the Royal Estates Act 1927, one would expect customary courtesy to have forbidden any discussion in the Assembly at all. On the other hand, in noble title dispute cases, lawyers did not hesitate to raise the constitutional objection that legislation which was within the reserved area and was passed by the whole Assembly was invalid. When, in 1944, this complaint was taken to the Privy Council in connection with the Court's decision under the Land Act in relation to the Niukapu title, Prince Tupouto'a gave it as his opinion that unless the nobles asked them to leave the Assembly, peoples' representatives could be present and added -

The presence and speeches, if any, made by the latter would be analogous to noises which unauthorised persons would make in the Chamber.

As in the case of the ceremonial surrounding the Sovereign and the

---

1 S.70 Constitution, 1875, as amended by Act 1914, No.1 to become S.67 Constitution, 1967.
2 For example, in Tu'ipulotu v. Kavaonuku (for Niukapu) (1939) II T.L.R. 143 and 'Etu v. Nuku (1958) II T.L.R. 161, where the Privy Council rejected the argument on the ground that the noble representatives could tacitly waive the privilege. A petition by the noble Tu'ilakepa alleging that it was inconsistent with the privilege of nobles as secured by S.67 of the Constitution that the Assembly should authorise the 'commoner' Land Court to decide noble title disputes was presented to the Privy Council but produced no change in the law (PO MP 1947 File 139).
3 The Prince had not long returned from the University of Sydney.
4 PO MP 1944 File 79.
Throne, the Assembly has adopted much of the British pomp - including state robes and crown of Western pattern, a procession, Royal Guard and gun salute - and British procedure - with a Speaker, Sergeant-at-Arms, 'Hansard', and rules of debate along Westminster lines.

Seating in the Assembly reflects its composition, with the Ministers sitting across one end opposite the Speaker, and the remaining six nobles' representatives down one side and the seven peoples' representatives down the other. No political parties have developed.

The nobles are elected three-yearly by the nobles of Tonga in three electorates, and there is little political interest in the process. Elections are similarly conducted in respect of the peoples' representatives but there has recently been considerable competition for seats, and widespread electioneering. Every adult Tongan, male or female, who can read and write is eligible to vote and be elected. The peoples' representatives are still generally of the 'middle class', that is to say, they are successful business men and lawyers, or members of prominent families. The first woman to enter Parliament was Princess Siu'ilikitapu, daughter of Prince Tu'ipelehake and wife of Hon. Kalaniuvalu-Fotofili.

---

1 See Rules for Proceedings of Legislative Assembly, 1974, Nuku'alofa; and Neill 1955: 117-118 for procedure under Queen Salote.
2 If all eight Ministers and the Governor of Vava'u are present, together with the seven nobles (one of whom, currently Hon. Ma'afu, is appointed by the King) and the seven peoples' representatives, there is a House of 23.
3 Three from Tongatapu, 'Eua and the Niuas, and two from each of Ha'apai and Vava'u.
4 Over the three parliamentary terms 1972-1981, four nobles (including Hon. Ma'afu as speaker) have sat in all three parliaments, and three have sat in two parliaments. As one would expect within an electorate of 29 votes, there is no public sign of electioneering.
6 Queen Salote secured the rights for women in 1951 (Act of 1951, No.15 - see s.64, Constitution 1967) There is also the disqualification for conviction of an offence punishable by more than two years' imprisonment (s.23, ibid.).
as a peoples' representative for Tongatapu in 1975, and she was succeeded in 1978 by Papiloa Foliaki from the same electorate.

Divisions in the House are seldom predictable. Often the elected representatives, both noble and commoner, are critical of the Minister. It was Neill's experience that, in the 1920s and 1930s, one of the peoples' representatives would lead the criticism¹. Today, there are certain outspoken representatives for the people, such as Vava'u lawyer, Masao Paasi, but there have been very few occasions on which a division on ministerial action has been forced, and the Government has never been defeated in the Assembly². The Sovereign is never criticised, but his Ministers, particularly those without titles, are open to attack³.

Part of the explanation for the lack of vital political contest in the House is found in the procedure for initiating measures. The Assembly is dependent on Ministers to introduce bills approved by the Privy Council⁴. The Assembly's initiative is limited to resolutions, motions, petitions and questions. Petitions presented by members on behalf of citizens have been a common means whereby special needs or opinions could be discussed and, if the Assembly agreed, referred to the Privy Council for its consideration⁵. Members have increasingly used the motion procedure for their own purposes⁶. While quite radical-sounding

¹ Neill 1955: 120. In the early days of Queen Sālote's reign, there was also noble opposition lead by Ma'atu and Kaho, brother of the Premier, Tu'ivakano (Consul to High Commissioner 6 December 1920, WPHC 1920 MP 3116).
² A refusal to pass the estimates in June 1974 on the issue of salaries for the public service and members of the Assembly was short-lived after the Privy Council made some concessions, and, on the second debate, eight nobles voted against six peoples representatives to defeat further protest.
³ In 1976, Masao Paasi asked the House to impeach Dr. Sione Tapa, acting Minister of Finance, for allegedly authorising a payment without statutory power, but the motion was lost.
⁴ Rule 88, Rules for Proceedings of Legislative Assembly, 1974, Nuku'alofa. Westminster practice would permit members to introduce any bills but financial ones.
⁵ Neill 1955: 119.
⁶ For the five years 1950-1954, there were averages of 16 bills, 16 petitions and 154 motions presented to the Assembly each year (PO Box X File 139).
petitions and motions were sometimes presented, a study of their fate shows that they were invariably either 'refused for discussion' or 'rejected' by the Assembly or, if they reached the Privy Council, were there endorsed 'no comment'.

The relationship of Assembly to Cabinet provides another explanation. The Assembly can make no political demands on Ministers as they are not responsible to it for their status and portfolios. Ministers, like Governors and Judges, have always been liable to impeachment by the Assembly for "maladministration", but since the days of Tupou II at least, no impeachment proceedings have succeeded - probably because the Assembly must first vote to institute them. As servants of the Crown, Ministers have been required to seek the approval of the Assembly for legislation and financial estimates. In the case of legislation, as the Sovereign is also part of the legislative process, the Sovereign can refuse to allow a bill to become law. In the case of the estimates, if they were not passed by the Assembly, the Sovereign can appoint sufficient Ministers to secure their approval. In practice, neither Queen Sālote nor King Tā'ufa'āhau have been obliged to use direct means to control the House. As her stature grew through the 1920s, Queen Sālote increasingly dominated the political scene, often without seeming to do so. She decided when the Assembly

1 Ibid. Examples of motions which did not pass the Assembly in 1950 were those which sought election of the Premier by the people and abrogation of the 'Supplementary Agreement of 1905'. In the following year, motions marked 'no comment' by the Privy Council were those which sought limitation of the noble's portion of his tofi'a to 5 per cent of total, funding for enrolment of all heirs to noble titles at 'matriculation school', legal aid for all people in the courts, restoration of Her Majesty's prerogative in respect of noble title claims, and an increase in number of peoples' representatives (ibid.).

2 S.77 Constitution 1875 and s.75 Constitution 1967. See 1976 motion referred to above.

3 A member seeking impeachment must first move and carry a motion to that effect (legal opinion of Judge Richardson, 7 July 1949, PO MP 1944 File 748).

4 See summary of Sovereign's powers in Chapter 5.

5 Early in her reign, the Queen did refuse to sign a measure which had been passed as the Representation in Courts 'Act' 1924, No.9, and it was never proceeded with (Premier to Consul 16 January 1926, PO MP 1926/2/J2).
would sit and she used her right to deliver opening and closing addresses\(^1\) as opportunities of making her wishes plain. As early as 1927, "a Royal Message [was] a decisive factor in influencing the votes on a question of importance"\(^2\). Queen Salote gave leadership and support to government policy but, as her chief administrators were her husband and sons, as well as loyal nobles, it was not necessary for her to take the reigns of government into her own hands. The Queen could rule without appearing dictatorial.

King Tupou IV also opens and closes every session with a detailed survey of legislation and proposals for development - speeches which are widely publicised. Because of his involvement at the policy level, the speeches are regarded as expressions of his own views and are responded to by the Speaker in the most polite terms. There is no debate, as such, over government policy.

As has been shown, Parliament is a 'safety valve' through which one can express protest and indulge in criticism - without interfering with the workings of Government. In this respect, the Tongan Assembly has much in common with parliaments all over the world, the principal difference being that, in the absence of an organised opposition with procedural powers, the Assembly is merely a valve, and cannot build up pressure. From the point of view of the nobles, Parliament sometimes provides opportunities to speak out in defence of Tongan tradition, and of their place in it. There have been several recent examples of dramatic speeches in which certain speakers, not all of them nobles, have reacted to criticism of the nobility, in two of which the Minister of Police was called on to

\(^1\) Ch.4 1967.

\(^2\) Report of Consul Neill 22 February 1928, Correspondence relating to Tongan Protectorate WPHC No.3, Colonial Office.
investigate "foreign elements" and "indications of communism". On the other hand, other chiefs have pointed out that it is better for such critical sentiments to be expressed in the House, even if it is "a new thing for the House to hear such strong arguments" against the nobility.

In fact, concern over communism is widespread among the Tongan establishment, as is evidenced by its determination to resist the introduction of trade unions and to avoid dealings with communist countries.

Tonga has made the Assembly its own. Inclined to take a romantic view of Tongan society, Neill commented of Queen Salote's reign -

It is remarkable how Tonga has adopted a system of political institutions which have no roots in her past and are now regarded as part of her national life.

Rather, the process has been one of adaptation, and the following assessment is truer -

This Assembly is both too oligarchical in its composition and too limited in its powers to be described as democratic.

On the other hand, the point is not to make any claim for the value of 'democracy' in a Tongan setting, but to demonstrate the gulf between the parliamentary forms which one sees on the surface and the power structure which lies behind it.

1 A speech by a high-school girl in an oratory contest, in which she referred to Tonga, its government and land system, as undemocratic, provoked one such comment by the Hon. Vaha'i in 1973, and the Tonga Chronicle was criticised for printing the speech, by a leading businessman, who usually supports the Government (Pacific Islands Monthly October 1973, p.5). In 1975, when a peoples' representative in Parliament questioned "the worth of the rank of the nobility" in the course of a debate on a motion that the emolument of nobles should be increased (to $T60 per month), the Speaker spoke strongly of communism, slander and treason. The motion was carried, nine to seven (Tonga Chronicle 4 September 1975).

2 For example, Hon. 'Akau'ola (ibid.). As mentioned, Parliament's first reaction to the Council of Churches Seminar was that land was no business of the churches, but, when the King gave the Seminar his approval, nobles and others were keen to participate and hear what was said.

3 Speech by Prince Tupouto'a to Pacific Forum, July 1975. Unlike Western Samoa, which, while not encouraging unionism, has a more relaxed attitude and has established diplomatic relations with mainland China, Tonga has diplomatic ties with Taiwan (and a resident Taiwanese diplomat).

4 Neill 1955: 120.

5 Simkin 1945: 106.
The monarch as ruler and chief

The monarchy is today a traditional Tongan institution representing a past of which people are proud and a source of leadership and authority on which many are glad to rely for the present. If Tupou I was the architect, Queen Sālote modified the structure to suit the first half of the 20th century. Queen Sālote is widely credited with having stimulated a renewed interest in Tongan culture—in music, song, dance and handcrafts, and in the manners and language of respect. Of fine stature herself, and a gifted orator and poet\(^1\), she inspired belief in the worth of being Tongan in an insecure and sinful world. At the same time, the promotion of Tongan values meant recognition that every person had his or her place in society—and that due respect should always be paid to those of higher place.

It would be difficult to underestimate the significance for the chiefly system of modern Tonga of the forty-seven years under Queen Sālote. After the uncertainty and humiliation of Tupou II's reign, Queen Sālote restored the Sovereign to the traditional status of Tu'i Kanokupolu—and more. As with her great, great grandfather, Tupou I, Queen Sālote possessed the qualities of personal dignity, intelligence and determination which were necessary to transform lineage head into national leader. If she did not have the vision to see the problems that would be created by her conservatism, she was not the first. The 'benefits' of civilisation were not, in the 20th century, what they had appeared to be when Tupou I visited Sydney in 1853. The institution of monarchy added its own aura. For Tongans aware of the importance of kings and queens overseas and in history, the inevitable Edwardian-cum-Tongan pomp and ceremony helped to create the 'story-book' image of the blue-blooded European and Asian thrones. Tongans were impressed that theirs was a Queen who was on terms of exchanging visits with the Queen of England\(^2\). When the evidence of Sālote's reign is

---

\(^1\) Lātūkefu 1967: 160.

\(^2\) Queen Sālote attended the coronation of Queen Elizabeth in 1953, who returned the visit shortly afterwards.
researched and analysed, it may substantiate the reservations some Tongans today express as to the benevolence of the Queen's rule. Although people do not talk in terms of the mysticism of the ancient role of the Tu'i Tonga, there was something in the absoluteness of Queen Sālote's power which could turn affection into respect and respect into fear. Embodying the ultimate authority of all that was traditional - in the manner of Tu'i Tonga rather than Tu'i Kanokupolu - and clothed with the secular supremacy of the Constitution, Queen Sālote could afford to allow government to function from day-to-day, with guidance and a minimum of interference. It was significant that her husband, and later her son, were Premiers. The result was that Tonga entered the second half of the twentieth century with a political system which had the appearance of constitutional monarchy and responsible government but which in reality represented a consolidation of the crude fusion of traditional power and Western administrative techniques which had begun one hundred years before. Hers was a legacy of 'splendid isolation' which other Pacific groups such as Samoa had never enjoyed, and the awakening from which might prove more traumatic than their troubled experiences.

King Tāufa'āhau had established his intellectual leadership while an energetic Prime Minister, and this, combined with his knowledge of Tonga's administration, meant that it was natural for him to continue to be in charge, and difficult for his brother to assume control. Of milder and more approachable disposition, Prince Tu'ipelehake has not asserted himself, and members of Cabinet appear content that the King should exercise close supervision.

The constitutional powers of the monarch were described in Chapter 5. The Government is his. Yet it has been a feature of the very

1 Older informants in official positions were not prepared to be critical, but some, either retired or much younger, discussed their impressions of Queen Sālote in franker terms.
2 A senior public servant described members of Cabinet as always looking over their shoulders - in awe of the King.
3 For example, the only significant power conferred on the King in respect of which he is bound to take advice is that of the appointment of Governors (S.54).
considerable publicity which the King has given to the Constitution since his coronation that the institutions of Tongan Government (and, by implication, the Sovereign) are bound by a law which operates equally for the benefit of all. Well aware of the plain meaning of the document, the King appears concerned publicly to adopt the role of constitutional monarch in relation to Government (while his role in society is another matter, and will be elaborated). Conventions such as those which would require him to act only on the advice of Ministers cannot be put into effect when the Ministers more often seek the advice of the Sovereign, but discussions take place and the conventions may appear to be observed\(^1\). Of course, the place, if any, of conventions under a written constitution is in doubt\(^2\), and it does not appear to have been expounded in Tonga since British concerns were expressed 50 years ago in relation to the appointment of nobles and Ministers.

The position of nobles under the Constitution and the Sovereign's powers in relation to them have been discussed. However, just as Parliament and Government are aware that their King is Tu'i Kanokupolu, so his relationship with the chiefs of Tonga is still vital, and often tense. Tupou I having created the nobility, Tupou IV is, in a sense, bound to protect it. Certainly, while making claims for the Tongan Constitution as the basis for emancipation and equality\(^3\), the King always honours the

---

\(^1\) Under the doctrine of ministerial responsibility, "the most important development in modern British constitutional history" (Hood Phillips 1973: 230), the only areas in which the Sovereign may act against the advice of Ministers are in relation to deadlocks or crises involving the choice of Prime Minister, the dismissal of a Ministry, or the dissolution of Parliament.

\(^2\) The plain wording of the Western Nigerian Constitution was held, in Adegbenro v. Akintola [1963] A.C. 614 (appeal from the Federal Supreme Court of Nigeria to the Privy Council in London), not to permit the operation of conventions allegedly inherited from British experience.

\(^3\) For example, speeches made at the 1975 Centenary celebrations, in Auckland in February 1976; and at the Wesleyan 150 years commemorative service in July 1976. In presenting his credentials to the President of the United States, the Tongan ambassador observed that each country has a written constitution which has stood the test of time "as a guarantor of liberty and the rights of the individual" (Tonga Chronicle 12 April 1979).
nobles in all public addresses and scrupulously recognises their rank. There has never been any suggestion from him that noble over-representation and privilege in Parliament might be investigated. In closing Parliament in 1975, he referred to the forthcoming Centenary celebrations, saying -

I firmly believe that the people of this country should be proud of the age of the Constitution, as it seems that this Constitution was made with the objective of ensuring that the King, the Chiefs and the people work together harmoniously in developing the country and following those courses that will benefit the country as a whole. Unlike other Constitutions where only a few of a certain party hold the power, this Constitution was set up to associate at all times the Honorable Ministers who assist the King in dealing with official matters together with the Honorable Nobles and Representatives of the people a kind of administration when adopted in overseas Nations which is generally known as a 'National Government'. The objective then is to create a Government in which all classes of Society are represented.

There is no acknowledgement of the influences at work in Tongan society which are eroding the traditional acceptance of chiefly privilege. Nobles involved in politics seem to be aware of a changing climate of opinion, and some are determined that chiefly leadership can meet the challenge. There is also some awareness that, to the extent that the King could take advantage of those erosive influences and sweep away the privilege, the Sovereign poses the greatest potential threat to nobility today.

Nevertheless, in traditional terms, the Tupou dynasty is dependent on at least some of the chiefly lines for the preservation of royal blood, and generally on other chiefs for assistance in the maintenance of those chiefly notions which are needed to sustain chiefship.

For their part, the chiefs still look to connections with the royal family as an important foundation of their 'eiki rank. The Tupou lineage has replaced that of the Tu'i Tonga as the basis for sino'i'eiki status. Marriage arrangements within the elite group are of great significance, and the King, like his predecessor, supervises them. The determination of the chiefly class to preserve opportunities for such marriages has been

1 T.G. Gazette 1975, No.1, p.12. In public addresses, the King brings in references to nobility overseas - such as the Barons of England and the Teutonic Knights of Germany (e.g. sermon, Tonga Chronicle 15 July 1976).
2 All of those interviewed are in that category.
responsible for what would otherwise be an anomaly in the law relating to marriage and incest. First-cousin marriage had been prohibited\(^1\), but, in 1935, an exception was made of one cross-cousin relationship to permit a man to marry his mother's brother's daughter\(^2\). The parents of Tupou II had been kitetama and such marriages were regarded as the prerogative of chiefly families. Although it is said that no advantage was taken of the 1935 amendment\(^3\), it remains in force\(^4\).

The most prominent men in Tonga are closely related through earlier generations, and currently through marriage. For example, the deputy Prime Minister, Hon. Tuita, whose ha'a title is not an aristocratic one, is nevertheless personally of high chiefly rank by virtue of his connections. His mother's line is the same as that of Hon. Kalaniuvalu and the mother of Prince Tu'ipelehake's wife; three of his father's sisters married holders of the Vaha'i, Ve'ehala and Nuku titles, respectively; his wife is the sister of Baron Vaea and grand-daughter of Tupou II; and his son Ma'ulupekotofa, has married the King's only daughter, Princess Pilolevu. In addition to his relationship with Hon. Tuita, the Hon. Vaha'i's nephew is the Hon. Fakafanua (who is married to the Queen's sister), and his son has married a daughter of Prince Tu'ipelehake. Hon. 'Ahome'e, the Queen's brother, is married to Hon. Kalaniuvalu's sister. These examples must suffice. As the Crown Prince Tupouto'a, aged 31, is unmarried, as are his two younger brothers, a son of Prince Tu'ipelehake, and a number of nobles and matapule (and the heirs and daughters of others), the King's role in marriage matters will be mentioned. Until 1971, the Constitution required the King's consent to the marriage of any member of the royal family likely to succeed to the Crown\(^5\). In 1969, the King's authority was

---

\(^1\) Act of 1926, no.16. \(^2\) Acts of 1935, nos.10 and 15. 
\(^3\) It permitted a certain member of the royal family to marry a cross-cousin, but the marriage did not eventuate. 
\(^4\) Ss 122 and 123, Ch.15 and ss 6 and 7, Ch.61, 1967. 
\(^5\) S.33, Constitution 1967.
tested when his niece, Prince Tu'ipeleheke's daughter, whose marriage to a noble had been arranged, married instead a Tongan commoner in Auckland. The King proclaimed his refusal\(^1\) but, to be certain, the Assembly was asked to pass an Act to annul the Auckland marriage\(^2\). Subsequently, the King arranged to widen his powers to require his consent to the marriage of all persons "related by descent either lineally or collaterally to the King, but not more than 20 times removed"\(^3\). In Tongan eyes, such supervision of chiefly marriages is to be expected, and for some noble families, these matters appear to be a pre-occupation. The concern over 'eiki connections places the relationship between King and chiefs under much strain.

The Sovereign's relationship with the people of Tonga has many facets. As the head of the Free Wesleyan Church of Tonga\(^4\), the Sovereign must approve the Church President elected by the Tongan Conference each year, and appoints the President as the Royal Chaplain\(^5\). Following in the footsteps of Tupou I, Queen Sālotē's involvement was such that the Church was sometimes called "the Church of Tupou"\(^6\). The two minority Wesleyan churches who had resisted union demonstrate the existence of old family rivalries rather than disloyalty. When Tupou IV came to the Throne, it was inseparably linked with the Church in the minds of most Tongans. The King's behaviour is more remote than that of his predecessor, which, in Church for

\(^1\) T.G. Gazette Extraordinary, 1 December 1969.
\(^2\) Act of 1970, No.4. The Princess accepted the situation and married the noble.
\(^3\) Act of 1971, No.3. However, the amendment was not wide enough to catch the marriage to a commoner in 1974 of the daughter of a prominent noble, who, having been betrothed to a chief she did not wish to marry, decided to follow the Princess's example.
\(^4\) See previous chapter. \(^5\) Wood 1975: 232.
\(^6\) Ibid.: 226. Wood also describes it as "the chiefly church", and says that the Queen's annual advice as to the appointment of ministers was always accepted (ibid.: 226 and 238-9).
example, where he invariably wears dark glasses, accentuates his distance from all attenders¹. The position of the King as 'spiritual' leader appears not to be entirely a Church matter. He inherits some of the ideology surrounding the Tu'i Tonga - and the awesomeness of the Tu'i Kanokupolu - which seems to go somewhat beyond Christianity.

A striking feature of the present Sovereign's reign has been his participation in the annual agricultural shows. Since 1967, he has made the occasion a grand tour of all the festivities in each group and the outlying islands. At each festival there is a massive presentation of food, kava, mats, cloth and other gifts, in preparation for which landholders throughout Tonga are urged to build up stocks months in advance. The chiefs of each island participate in ceremonial fashion, but it is significant that the occasion is not theirs, but the King's, and the local government officials referred to in the previous chapter are the main organisers. In effect, the similarity between agricultural show and Tu'i Tonga inasi is clear for all to see - and the cost is substantial². Such tours, which enable the presence of the monarchy to be felt throughout Tonga, are the means whereby the people are encouraged to feel closer to the centre - and part of a nation.

The King is presented to the people as monarch and leader on numerous occasions every year. The monarchy having received an emotional demonstration of loyalty on the death of Queen Sālote, further important events since the King's coronation have been the centenary of the Constitution and the installation of Prince Tupouto'a in 1975, the 150 year

¹ His attendance at the large Centenary Church, using separate seating at the side to the front beside the minister, with whom his relationship in Church is formal, is dignified. He and the royal family arrive last and leave first by separate entrance, and he does not participate, except for sermons on special occasions.

² A study made in 1974 of the annual boat trip to 'Eua, the two main groups to the north of Tongatapu and the two Niuals, estimated that some 30,000 people presented food and kava to a value of $T7,600 (approximately the same in $A), plus mats and other gifts, and the cost of feeding an entourage of 70 people for 10 days (Bataille 1976: 77-9).
commemoration of the Church and the wedding of Princess Pilolevu\(^1\) in 1976, the visit of Queen Elizabeth in 1977 (her third), and the 60th birthday of the King in 1978\(^2\). The King also gives prominence to activities of members of the extended royal family, in Tonga and overseas\(^3\), and himself frequently makes overseas trips which are highlighted in Tonga, by radio and in the press\(^4\). His personal association with British royalty is evident, and his list of British and Commonwealth honours is formidable\(^5\).

The deference with which the King is treated\(^6\) isolates him from public opinion and all but a limited circle of advisers. With members of the royal family and close chiefly associates acting in key positions, including government administration, foreign affairs and the Tonga Defence Services\(^7\), the King appears to have lost the more direct association with the people which Queen Sālote had cultivated.

As in Samoa, the kava ceremony in Tonga symbolises the ranking system. For Tonga, however, Parliament and the formal institutions of Government do likewise. As demonstrations of ritual inequality\(^8\), the

---

\(^1\) With 2,000 invited guests, the three-day wedding was the biggest event in Tonga since the coronation (Tonga Chronicle 22 July 1976).

\(^2\) Four days of celebration highlighted the uniting in the King of the three ancient lineages, and commemorative coins and stamps were used.

\(^3\) The first birthday of the daughter of Princess Pilolevu and Tofa Tuita involved a "sumptuous royal feast" and royal ball (Tonga Chronicle 21 April 1978); Prince Tupouto'a was awarded a high Chinese order in 1976 by the President in Taiwan; Princesses Pilolevu and Siu'ilikitapu have attended conferences as representing women's interests in Tonga; and Prince 'Uluvalu, son of Prince Tu'ipelehake and A.D.C. to the King, was given an official reception in Queensland this year (Tonga Chronicle 6 April 1979).

\(^4\) In 1976, for example, he paid state visits to India and Western Samoa, and was awarded an honorary LL.D. at the University of Delhi.

\(^5\) CBE, KBE, KCMG, GCVO and GCMG (Tonga Chronicle 30 June 1978).

\(^6\) In a manner not uncommon for ruling Heads of State overseas, but somewhat incongruous in view of Tonga's vehicle population, the King always moves with large police and traffic escort.

\(^7\) Tonga's army is led by overseas-trained officers, and most of the princes have had military educations. The Privy Council constitutes the Tonga Defence Board (Act of 1972, No.17, and see Ch.28, 1967).

\(^8\) As to Kava ceremony, see Collocott 1927; Newell 1947; and Bott and Leach 1972.
taumafakava and the opening and closing of Parliament both reinforce the function of chiefly rank. They make it clear to all that the Tongan people are, at the one time, united, and differentiated in status terms.
<table>
<thead>
<tr>
<th>Title</th>
<th>Ha'a and Location and Holder and usual residence</th>
<th>Year of first appointment</th>
<th>Location and number of tofi'a blocks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nobles</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ata</td>
<td></td>
<td>1875</td>
<td>T.2 Vacant since 1960; last holder held 'Ulukālala jointly and resided in NK; King administers</td>
</tr>
<tr>
<td>'Ahome'e</td>
<td></td>
<td>1880</td>
<td>T.1 Chief inspector of police; resides in NK when not stationed elsewhere</td>
</tr>
<tr>
<td>Fakafanua</td>
<td></td>
<td>1875</td>
<td>T.1 Surveyor; resides in NK on his tofi'a at Ma'ufaga</td>
</tr>
<tr>
<td>Fakatulolo</td>
<td></td>
<td>1880</td>
<td>V.1 Member of Assembly 1972-'75; resides on tofi'a in V. with house in NK</td>
</tr>
<tr>
<td>Fielakepa</td>
<td></td>
<td>1880</td>
<td>T.1 Clerk in Palace Office; resides in NK</td>
</tr>
<tr>
<td>Fohe</td>
<td></td>
<td>1880</td>
<td>T.1 Vacant since 1976; last holder resided on tofi'a</td>
</tr>
<tr>
<td>Fotofili</td>
<td></td>
<td>1880</td>
<td>NF.5 Jointly held with Kalaniuvalu title - see.</td>
</tr>
<tr>
<td>Fulivai</td>
<td></td>
<td>1880</td>
<td>V.3 Member of Assembly 1972-'75 and 1978-'81, and of Commodities Board; resides in V (not on tofi'a) and NK</td>
</tr>
<tr>
<td>Fusitu'a</td>
<td></td>
<td>1880</td>
<td>NF.3 Vacant since 1973; last holder lived on tofi'a; widow administers</td>
</tr>
</tbody>
</table>

(See Key at end of Table)
<table>
<thead>
<tr>
<th>Title</th>
<th>Ha'a and year of first appointment</th>
<th>Location and number of tofi'a blocks</th>
<th>Holder and usual residence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kalaniuvalu</td>
<td>Kanhala'uta 1875</td>
<td>T.3</td>
<td>Jointly held with Fotofili; government protocol and liaison officer; resides in NK</td>
</tr>
<tr>
<td>Lasike</td>
<td>Havea 1894</td>
<td>T.5 H.1 E.1 V.2</td>
<td>Jointly held with Tu'uhetoka matapule title; resides overseas in U.S.A.</td>
</tr>
<tr>
<td>Lavaka</td>
<td>Havea 1875</td>
<td>T.2</td>
<td>Vacant for ten years; Last holder resided on tofi'a; King administers</td>
</tr>
<tr>
<td>Luani</td>
<td>Vaea 1875</td>
<td>T.3 V.1</td>
<td>Member of Assembly 1975-'81; resides in NK</td>
</tr>
<tr>
<td>Ma'afu</td>
<td>Havea 1875</td>
<td>T.2</td>
<td>Speaker of Assembly 1972-'81; resides in NK</td>
</tr>
<tr>
<td>Mā'atu</td>
<td>Fale Fisi 1875</td>
<td>NT.2</td>
<td>Vacant since 1930; King administers</td>
</tr>
<tr>
<td>Malupō</td>
<td>Fale Fisi 1875</td>
<td>H.1 V.2</td>
<td>Member of Assembly 1972-'81; usually resides with relatives in NK or on Ha'apai tofi'a</td>
</tr>
<tr>
<td>Niukapu</td>
<td>Lātūhifo 1875</td>
<td>H.1</td>
<td>Resides in V</td>
</tr>
<tr>
<td>Nuku</td>
<td>Lātūhifo</td>
<td>T.3</td>
<td>Resides on tofi'a</td>
</tr>
<tr>
<td>Tangipā</td>
<td>Ngatamotu'a 1880</td>
<td>NT.1</td>
<td>Resides in NK, H and NT</td>
</tr>
<tr>
<td>Tu'i'āfitu</td>
<td>Fale Fisi 1875</td>
<td>H.2 V.1</td>
<td>Airport control officer; resides mainly in T</td>
</tr>
</tbody>
</table>

(See Key at end of Table)
<table>
<thead>
<tr>
<th>Title</th>
<th>Ha'a and year of first appointment</th>
<th>Location and number of tofi'a blocks</th>
<th>Holder and usual residence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tu'iha'angana</td>
<td>Fale Fisi 1875</td>
<td>H.3</td>
<td>Member of Assembly 1975-'78; resides in NK</td>
</tr>
<tr>
<td>Tu'iha'ateiho</td>
<td>Fale Fisi 1875</td>
<td>T.2 V.1 H.4</td>
<td>Member of Assembly 1978-'81; resides on T. tofi'a only</td>
</tr>
<tr>
<td>Tu'ilakepa</td>
<td>Fale Fisi 1880</td>
<td>V.4</td>
<td>Vacant since 1977; last holder lived in V</td>
</tr>
<tr>
<td>Tu'ipelehake</td>
<td>Fale Ua 1875</td>
<td>T.1 H.1 V.1</td>
<td>Prime Minister; resides in NK</td>
</tr>
<tr>
<td>Tuita</td>
<td>Fokololo/Toutai 1880</td>
<td>V.2 NF.1</td>
<td>Minister of Lands; resides in NK</td>
</tr>
<tr>
<td>Tu'ivakano</td>
<td>Havea 1875</td>
<td>T.4</td>
<td>Member of Assembly 1972-'81; resides in NK</td>
</tr>
<tr>
<td>Tungi</td>
<td>Vaea 1875</td>
<td>T.6</td>
<td>Vacant since 1967; title held at disposal of King under Royal Estates Act</td>
</tr>
<tr>
<td>Tupouto'a</td>
<td>Ma'afu 1924</td>
<td>T.1 H.4 V.1</td>
<td>Crown Prince as 'Heir Apparent' under Act; resides in NK</td>
</tr>
<tr>
<td>'Ulukālala</td>
<td>Ngatatupu 1875</td>
<td>V.1</td>
<td>Vacant since 1960; last holder jointly held Ata title and resided in NK; King administers</td>
</tr>
<tr>
<td>Vaea</td>
<td>Havea 1875</td>
<td>T.1</td>
<td>Minister of Labour and Commerce; resides in NK</td>
</tr>
<tr>
<td>Vaha'i</td>
<td>Ngatamotu'a 1880</td>
<td>T.1 V.1</td>
<td>Member of Assembly 1972-'81; resides in T on tofi'a</td>
</tr>
</tbody>
</table>

(See Key at end of Table)
<table>
<thead>
<tr>
<th>Title</th>
<th>Ha'a and year of first appointment</th>
<th>Location and number of tofi'a blocks</th>
<th>Holder and usual residence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ve'ehala</td>
<td>Ngatamotu'a 1875</td>
<td>T.1 E.1</td>
<td>Minister of Cabinet, Governor of Ha'apai; resides in NK</td>
</tr>
<tr>
<td>Veikune</td>
<td>Sina'e'ki Mu'a 1903</td>
<td>T.4 V.8</td>
<td>Member of Assembly 1975-'78; resides in NK</td>
</tr>
</tbody>
</table>

**MATĀPULE**

<table>
<thead>
<tr>
<th>Name</th>
<th>Year</th>
<th>Location</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afu</td>
<td>1880</td>
<td>V.1</td>
<td>Resides in NK and V</td>
</tr>
<tr>
<td>'Akau'ola</td>
<td>1880</td>
<td>V.1</td>
<td>Minister of Police; resides in NK</td>
</tr>
<tr>
<td>Fotu</td>
<td>1880</td>
<td>V.1</td>
<td>Resides on tofi'a</td>
</tr>
<tr>
<td>Lauaki</td>
<td>1880</td>
<td>T.1 V.1</td>
<td>Resides on one tofi'a</td>
</tr>
<tr>
<td>Motu'apuaka</td>
<td>1880</td>
<td>T.2</td>
<td>Resides in NK and Hawai'i</td>
</tr>
<tr>
<td>Tu'uhetoka</td>
<td>1880</td>
<td>H.1</td>
<td>Jointly held with Lasike - see Lasike</td>
</tr>
</tbody>
</table>

**SOVEREIGN**

<table>
<thead>
<tr>
<th>Name</th>
<th>Year</th>
<th>Location</th>
<th>Royal Estates</th>
<th>Tāufa'āhau</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tu'i Kanokupolu</td>
<td>1875</td>
<td>T.4 V.13</td>
<td>E.1 NT.1</td>
<td>Tupou IV</td>
<td>as sovereign</td>
</tr>
<tr>
<td>Tupou</td>
<td></td>
<td></td>
<td>H.5 NF.1</td>
<td></td>
<td>King; resides in NK or Kauvai (on T)</td>
</tr>
</tbody>
</table>

**Key:**

- E: 'Eua
- H: Ha'apai
- NF: Niuafou'ou
- NK: Nuku'alofa
- NT: Niuatoputapu
- T: Tongatapu
- V: Vava'u
CONCLUSION

CHAPTER 8. IMPLICATIONS OF CHIEFSHIP

CHIEFLY POWER

Divergence

From a common ancestry, the peoples of Samoa and Tonga developed distinctive systems. Over centuries, the same threads of kinship rules, chiefly authority and island environment were woven into two increasingly dissimilar fabrics, each on its own loom. Common terms for social institutions came to have different meanings - for example sā/ha'a and fono/fono - and, at the time of Western contact, the two societies presented different appearances. The evidence suggests that both were characterised by the process of breakdown of once-great lineages whose branches were connected by increasingly tenuous links. The process was a dynamic one, of constant shifting and stress, and did not imply an overall lessening of chiefly influence. As titles disappeared, others were created. The extent of such breakdown and the nature of developments which we would see today in Tonga and Samoa if outside forces had not intervened are largely matters of conjecture, but the point in the history of each group at which Western influence made its initial great impact, with the arrival of the missionaries, was significant in determining the course of subsequent events. Interpreted on the loom, the point of impact is indicated by a broad band of new material woven across the fabric and through which the existing threads construct a pattern. The precise colour and texture of these threads helped to determine the appearance of that pattern and of its subsequent growth. In other words, the structure of each society and the forces at work in it at the 'point of impact' were the principal variables responsible for the manner in which missionary teaching was perceived and adapted, and for progressive divergences between the two societies under the influences of church, commerce and the
administration of government.

In the case of Samoa, integrated and often isolated villages were autonomous in so far as their own affairs were concerned but strong lineage and family ties criss-crossed the group so that many chiefly titles retained degrees of high status at supra-village levels. It is likely that these ties had been stronger in earlier times, when the holders of certain titles wielded considerably more power. This is not to say that Samoa would ultimately have become a collection of village mini-states had Western influence not intervened. The ideology of status through chiefly rank would have continued to impel men to seek titles at the expense of such equilibrium as co-existing villages were able to achieve. As it was, the early appreciation by Samoan church ministers and village councils that Christianity was a matter for them not only neutralised foreign church influence but also gave each village a universally acceptable reason for refusing to become involved in further warfare.

The large-scale conflicts evident in Tonga during the eighteenth century disrupted local kin loyalties and left the group well organised for military rule. An outstanding representative of the hau might have expected to have been able to hold Tonga together for a period, but the longer peace was imposed by might the greater the opportunity for rival claims to chiefly title to become consolidated in one or other of the three parts of the archipelago - each part separated by at least 60 miles of ocean from the principal islands of its nearest neighbour. It is likely that the fortified villages, recently formed for defence, would eventually have developed a sound social structure within which new kin groupings were second in importance only to allegiances to the local chief. For Tāufaʻāhau Tupou I, the 'point of impact' could not have been better timed. The alliance of church and hau enabled the concept of kingship to be built onto the fading image of the Tu'i Kanokupolu title - sealing the fate of Tu'i Tonga ideology and relegating all other titles to a markedly
subordinate status. Once power was centralised, the alliance never released its grip. Competing for the allegiance of village people were government officials, ministers of the churches, nobles and matapule. As a political unit, the village remained insignificant.

Turning to the nature of the foreign influences to which Western Polynesia was subjected, the motivations and methods of the three main sources of European activity (church, commerce and government, in order of first appearance) which were directed towards one island group were remarkably similar to those directed towards the other. Despite the differences in organisation referred to in this study, Wesleyan Mission and London Missionary Society sought to introduce the same ethics and, after initial conflict, the teaching of the Catholic minorities was broadly similar in social and political terms. As has been shown, it was the difference between Tongan and Samoan chiefly organisation, and the consequent differences both in the Tongan and Samoan perceptions of the churches and in the latters' perceptions of how best to deal with the chiefs, which produced the contrasts in church role and structure which soon became evident between the two groups - and which remain today. Likewise, planters and traders sought the same opportunities in both groups. There was, of course, considerably more unused land in Samoa but it was the fragmentation of chiefly power there, and the controlled opposition to land alienation in Tonga, which accounted for the absence of a significant European foothold in the latter group.

Religion and commerce interacted with each other, as well as with the Polynesian people, by initiation and response. The third major influence, the foreign governments and the administrations for which they were responsible, also operated in this context. It is true that the islands of the Pacific were pawns on an international chessboard and that considerations extraneous to the area occasionally decided the fate of Tonga and Samoa for the time being. Nevertheless, both groups possessed fine harbours for coaling stations on trade routes, yielded copra and other desirable
products and had Christian populations. The reasons why a major power would have distinguished between Tonga and Samoa in the formulation of its policy lay in its understanding of local political factors. The prospects of playing off Samoan chiefly factions, one against the other, kept interest in that group alive until the end of last century, by which time there were European interests to be protected and the order of Samoan political organisation appeared to Germany and the United States to be of manageable proportions. The achievements of Tupou I and his advisers in establishing and maintaining a new political structure in Tonga, however, introduced an element of local determination which distant foreign capitals were not prepared to meddle with - until Britain proclaimed a 'protectorate'. The appearance of weaknesses in administration and leadership, and hints of outside interference, prompted Britain to intervene further. Again, the institutions of government and law which Samoans and Tongans were asked to accept were basically the same. The interpretations of these notions which ultimately proved acceptable in each case depended on the composition of the soil in which the seeds were sown.

This study has described the local factors which worked with foreign perceptions and responses to accentuate divergence between the two political systems. Periods of consolidation occurred from time to time within each group, when elements of indigenous and imported cultures fused to produce compromises, some of which have endured to the present. This has been more marked in Tonga where such long-term adaptations as the monarchy and the land tenure system are today regarded as traditional. In Western Samoa, the role of village pastor is similarly regarded.

Areas of power

Consciousness of rank still permeates all levels of Tongan and Samoan societies. Types of status based on rank may be described for Tonga and Samoa in similar terms, provided English is used to overcome divergence in meaning between Tongan and Samoan terms which look alike. Broadly
speaking, there are three areas of status: family, village, and society. Every person is capable of possessing these three. Every individual may also claim membership of three corresponding groups or classes. The degree of effective chiefly power may be summarised in each area.

1. Family.

The kinship group has local and dispersed elements. Neither 'āiga nor käinga have clear meaning out of context but they are both more frequently used today to refer to all relations by blood or marriage and 'adopted' strangers - wherever residing - who participate in the affairs of the group, and respond to requests for assistance. The Samoan chief has acknowledged, if diminishing, authority in respect of the land and affairs of his immediate family, and his title is ranked against the others of the wider 'āiga.

The Tongan family, both local and dispersed, is little concerned as a family with chiefship as defined above. Rank is determined according to kinship rules which are brought into play mainly during occasions of crisis and ceremonial significance. The head of the immediate family or other person having control over the land on which the family depends, or producing income for the family, is the person exercising effective day-to-day authority. Only those relatively few Tongans closely related to a chief will be concerned with chiefly authority in the family context, and, even then, kinship rules will be paramount.

2. Village

Samoan and Tongan villages have been contrasted. Rank in the Samoan village is determined by the precedence of one's chief. Subject to the erosion of its powers which has been mentioned, the council of chiefs is the supreme authority and every chief, as its delegate, is obeyed. Membership of the village is determined by the right to reside on the land of a constituent family. While very real in a demographic or administrative sense, the Tongan village, as such, is not necessarily the context for the
operation of rank in chiefly terms. If the village lies in a tofi'a, or if a chief resides there, rank will be recognised ceremonially, but the relative power of chief and elected town officer varies greatly from one village to another. The authority exercised by a 'constitutional' chief as land holder may or may not give him influence in village affairs. He may be able to claim support in terms of food and goods for ceremonial occasions, and he may secure 'payment' and other advantages in relation to the land distribution scheme. Except where members of chiefly families are directly involved, and then only on ceremonial occasions, status in a Tongan village is determined largely by factors other than chiefly rank. By and large, and subject to occasional demands referred to, the Tongan villager and his family are at liberty to conduct their day-to-day affairs free of chiefly influence.


The Samoan lineage, or sä, has fewer of the characteristics of the family as it grows in size, dispersal and generational depth. Ultimately, in the case of the few great 'houses' which still claim allegiances throughout Western Samoa, the sä has the appearance rather of a society-wide division than a kinship-based group. Nevertheless, membership is expressed in terms of ties through kin or title with rank depending on distance from the head of the sä, and the authority of the head may be considerable. Ranking of the heads of the great sä is not fixed, and depends on place and occasion.

The Tongan ha'a of history has transformed further almost to the point where it is no longer recognisable. Its modern counterpart, while representing symbolic or ideological groupings, has little basis in kinship. A great many people, perhaps the majority of Tongans, do not acknowledge membership of a ha'a, and the effective authority of the head is limited to his extended family and those who are dependent on him. The second feature distinguishing the ha'a from the sä is that the heads of the former
are themselves ranked according to the relationship of the originating ancestor to the descent line of the Tu'i Tonga. In the case of both ha'a and sa, further evidence of the decline in importance of the original concept is seen in the growing use of the terms to describe extended families possessing respected names.

Another dimension of societal ranking is that which distinguishes chiefs from commoners. Both the Constitutions also make the distinction, but the present paragraph is concerned with the significance of the traditional society-wide recognition of chiefly status. The distinction is less one of class in Western Samoa, because the ranking emphasis is within each of a number of related hierarchical systems, and rank as between chiefs of different systems, although it can be established in any given context, may be of little or no significance in terms of power. Although chiefly status is accompanied by commonly recognised ritual and indicators of office, chiefs are entitled to courtesy but no authority outside the limits accorded to the title in question. Since the death of last tafa'ifā, there has been no ideological basis, other than the Constitution, for the exercise of power throughout Western Samoa. In Tonga, the ranked hierarchy is more unified and is complicated by a century of 'constitutional' chiefship which has tended to relegate the status of all other chiefs to the ceremonial. Nevertheless, just as the present monarch and his immediate family can claim universal supremacy through descent from the three major lineages, so any person acquires societal chiefly status, and thereby influence, in direct proportion to the closeness with which he can establish links with the royal family. As in the case of family ranking, such status may be transmitted through female as well as male. The exercise of such chiefly power is subject, of course, to the authority of the monarch.

A further aspect of society-wide status is its constitutional position. By refraining from defining 'chief', the Western Samoan Constitution has adopted and re-inforced traditional status, particularly
in relation to family and village affairs, and the control of land. The Constitution also acknowledges that, until further action is taken by the Legislative Assembly, the distinction between chief and commoner will be relevant for the purposes of voting for and membership of the Legislative Assembly (other than the Individual Roll), ministerial posts, the offices of Head of State and Council of Deputies, and certain judicial appointments.

The Tongan Constitution created a new chiefly status and the subcategories of monarch, noble and tofi'a-holding matapaule. The number is fixed and eligibility carefully defined. Apart from the extensive powers of the monarch, chiefly power under the Constitution is concerned mainly with land and, in the case of nobles alone, with the legislative process.

Reciprocity

The reciprocal basis of chiefly power is the key to its survival. Samoan chiefship has drawn strength from the close interdependence of family, chief and village. Rights and obligations flow in both directions between them, whichever two of the three units are considered. In Tonga, rights and obligations often move along a more complicated 'chain', and are not necessarily reciprocal. The most common instance of direct reciprocity is economic and non-kinship based at the village level. Outside the legislature, the support which sustains such effective noble power as remains lies in two areas - the need which people have for rights and privileges in relation to land, and their desire to recognise a symbol of the honour and tradition of which they are proud. It is in these two respects that the noble most closely resembles the matai.

The significance of rank and ritual, from the mana of ancient chiefs to the kava ceremonies of today, has been described. It is the fono, however, which exemplifies the present distinction between Samoan and Tongan chiefly power. Despite a history of assaults by central authorities on its independence, the village fono of Western Samoa remains essentially a voluntary meeting of the chiefly heads of the families which constitute the village. While in some villages there is a high-ranking chief whose wishes
cannot normally be denied, and while differences in rank are always observed at meetings, the principal chiefs of a village are entitled to be consulted and to participate in the organisation of village affairs and in the representation of village views to district or capital. The extent of the council's authority and its power to enforce decisions depend on the support which it enjoys, and this will in turn reflect the degree to which constituent families, through their chiefs, are able to express their views and protect their interests.

Of great portent for Western Samoa is the excessive proliferation of titles. In so far as the number of titles held by a family exceeds its needs in terms of the traditional control of resources and family affairs, and in terms of representation at the fono, the consequences are divisive for the family. For the fono, they are perhaps more serious, and act to diffuse and break down the essential bonds between family and village.

In Tonga, a voluntary meeting of people with common interests is a fakataha which has no formal authority. The Tongan village fono is a compulsory meeting to which all taxpayers are summoned to hear the instructions and advice of the resident noble, town officer or government official, as the case may be.

Traditionally, there is no provision for the upward passage of local opinion and it is only where the town officer conducts fono in such a way as to permit expression of village concerns that support based on direct reciprocity can exist. Recently introduced fakataha at a district level have encouraged wider participation. The land-holding noble or matapule may be said to provide amenities and other assistance to the village in return for the supply of food and goods for ceremonial occasions - but the connection is not clear.
The peoples of Tonga and Western Samoa today inherit politico-legal systems which are the products of recent combinations and adaptations of local and imported institutions. While every such system around the globe may be said to undergo continuous processes of change, the impact of Western forms and attitudes on the relatively small island groups of Western Polynesia was particularly rapid and penetrating. Situated on cross-Pacific shipping routes and in villages readily accessible from the sea, island people were able to observe white visitors and adapt new ideas - aided by the homogeneity and authoritarian nature of their own - in a manner not possible in the larger land masses and more diverse and egalitarian social systems in Melanesia to the north-west. In terms of the development of Tongan and Samoan systems, the impact has also been very recent. By comparison, most of the peoples of the world now living under European systems of law and government have experienced gradual change over centuries, and adaptations of local and European systems began in Africa and Asia two or three hundred years before the islands of the South Pacific were confronted with foreign ideas.

The speed with which Tonga and Western Samoa took on Christianity and Western forms of government and legal system helps to account for their recognition as independent island states before any others in the South Pacific. The present study has shown, however, that the process of 'taking on' was often superficial, or characterised by adaptations ranging from subtle to dramatic.

Tonga established an early reputation for stability under a system of government which paid lip-service to British notions of executive, parliament and judiciary, but under a written constitution which was un-British in that the expressed powers of the monarch were not modified by provisions requiring the supremacy of parliament and the responsibility of the executive to it. Ironically, it was this very characteristic which
enabled Britain gradually to withdraw from Tonga with a clear conscience—in the knowledge that the real power rested not with an un-representative legislature but with benevolent monarchs.

The experience of first Samoa then Western Samoa could scarcely have been more different. The constitutions of last century designed to organise chiefly opinion in a workable manner were disrupted by a combination of Samoan factionalism and European intrigue. The German administration made little pretence at constitution-building but reinforced the idea of government through chiefs. Subsequently, the deep-rooted nature of chiefship and the entrenched interests of local Europeans meant that any charter for an independent Western Samoa which protected Samoan and European alike would require a degree of constitutional sophistication unheard of in colonial experience until after the second World War. As it eventuated, the dispersed character of chiefly power among the chiefs and villages which had rendered earlier constitutions unworkable was the justification for vesting sovereignty in the state of Western Samoa without a legislature directly representative of the adult population. Indeed, the unified and rank-ordered political structure of Tonga which was so gratifying to the British High Commission at the turn of the century would have horrified the Trusteeship Council of the United Nations sixty or seventy years later. Nevertheless, both the extant Constitutions of Tonga and Western Samoa can be said to have reflected the aspirations of their leaders and a substantial proportion of their populations at certain points in time. Whether they do so now is another matter.

Efficacy of introduced law

The recent histories of Tonga and Western Samoa are illustrative of the normative effect of written law. It has been shown how Tongan mission material, a series of codes and an early constitution helped to provide a population, literate in the vernacular, with an understanding of the workings of government and to prepare it for the application and
observance of numerous statutes and regulations. The Constitution has been repeatedly brought to the attention of the people on public occasions and the centenary celebrations in its honour in 1975 were the occasion for expressions of loyalty to it. By contrast, the early Samoan constitutions (from 1873) are practically unknown in Western Samoa, and documents emanating from Apia have usually been regarded with distrust in the villages. Nevertheless, the persistence of constitution-drafters and successive administrations with the principle of a central government which would be representative of the chiefs of Western Samoa finally resulted in general acceptance of the need for such an institution and its laws, even if there are still conflicts over the application of the principle.

Because successive constitutional and statutory provisions have incorporated combinations of indigenous and imported concepts, a simple dichotomy between the respective effects of written and unwritten law is inappropriate. Also, as indicated in the Preface, it may be necessary to distinguish between politico-legal systems at different levels. The Western Samoan village possesses one such system which has absorbed many Western values and procedures but it remains 'home-grown' and familiar - understood and operated by the people. The wider system of the state differentiates legislative, executive and judicial functions, some of which are regarded by villagers as more remote and 'external' than others. For example, serious conflicts and misunderstandings occur between the village *fono* and the civil and criminal courts. Also, the work of the Land and Titles Court is more 'external' than 'home-grown'. Under the guise of doing what is familiar, with traditional trappings, it has introduced standard criteria and judicial objectivity to decisions which were once matters of negotiation and the subjective balancing of interests. On the other hand, Western Samoans are relatively at ease with a system of legislative decision-making by chiefly representatives meeting in a large *fono*-style Assembly. Members have overcome the strangeness of
parliamentary procedures and have entered with enthusiasm into the politics inherent in the relationship between legislature and executive. It is with the process of selection of such representatives that Western Samoa is experiencing the greatest difficulty. Similarly, Tongan land legislation originating nearly one hundred years ago which was intended to provide for the interests of all parties has failed to resolve conflict between the two levels of systems. For example with regard to distribution, the traditional and understood relationships between land-holding chief and persons seeking land rights have been interfered with by the 'external' system involving the Minister of Lands and the Land Court.

In both Tonga and Western Samoa, therefore, 'external' and centralised systems have been introduced which may remain 'external', despite the fact that they incorporate aspects of traditional institutions. Indeed, Tonga had experienced centralisation before Western contact. Furthermore, although commoners were affected by the rules governing the Tonga-wide organisation of chiefly power, that system was not shared by them after the breakdown of the lineage basis of the ha'a, and it was 'external' to them in a way that did not apply to the Samoan villagers and the deliberations of their chiefs in fono. Subsequently, as for example in the case of application by the commoners to themselves of the rules relating to fahu, the privileges of the sister's son, Tongans adopted some aspects of the chiefly system.

Bearing in mind, then, the importance of the manner and level of the introduction of law, the evidence presented here as to the efficacy of introduced law in two strongly traditional societies may be reviewed. Further cautions are necessary. What law is intended to do, what it says and what it does are by no means the same. To test the efficacy of legal drafting one would compare the first two, and to test the efficacy of law, the second two. Reference here to introduced law is to what it says, unless the context requires otherwise. Also, references to 'traditional' status,
authority or power are to what was regarded as traditional at the time of the introduction of the law in question. Three examples of types of interaction may be given. First, the introduced law may oppose or take away a particular traditional power. Conversely, the law may support or rely on such a power. Thirdly, the law may have more general consequences.

a. Merely to oppose a traditional power with a non-traditional one, or to interfere with its operation, has generally had little effect. Samoan institutions such as contests for the tafa'ifā, the orator functions of Tümua and Pule and the village fono survived European intervention last century. The Mau movement was subsequently successful in defeating New Zealand innovations. However, when the introduced law expressly removed traditional power and was itself sufficiently supported in alternative terms, erosion could be significant. The most dramatic examples of the latter were the constitutional assault by the Tu'i Kanokupolu on the authority of Tongan chiefs; his imposition of the system of land tenure and distribution; and the requirement that succession to designated chiefly titles be determined by the Land Court in accordance with the 1875 Constitution. Later, the appointment of Samoan tama'āiga as official advisers and then to positions of status under the 1962 Constitution effectively opposed a joint alternative to the tafa'ifā and helped to neutralise the orators of Tümua and Pule.

b. Where introduced law has tolerated or ignored a traditional power, the latter may nevertheless have flourished - as in the case of Samoan village organisation since the end of the Mau, prior to which attempts at intervention had, if anything, stimulated and strengthened its resistance. Measures by introduced law to adopt, support or rely on a traditional power draw attention to the distinction between the institution which possesses the power and the conditions of its exercise. In no case has written law conferred on a traditional institution the unlimited discretion to exercise its powers in the traditional manner. Of course, the wider the
discretion, the greater the power, as is exemplified by the Tongan monarch on whom the constitutional limitations are few. Although circumscribed by the countless requirements of a bureaucratic state, the Samoan chief holds his title and authority over land pursuant to a simple constitutional declaration that custom and usage shall apply. The only legal (in the sense of introduced law) review of his authority with regard to title and land occurs in the Land and Titles Court where an issue is transformed immediately the Court is seized of it. Furthermore, as there is no constitutional limitation on the extent of statutory provisions which may 'relate to' the holding of a chiefly title, the Samoan chief (for whom the distinction between substantive and procedural law is by no means clear) is required to comply with certain procedures if his title is to be recognised under the law of the Constitution.

Introduced law may rely to some extent on traditional power for its effectiveness, as does the Western Samoan legislature comprised of chiefs, and as does the Prime Minister and Cabinet dependent on chiefly status and loyalties rather than party allegiance. On the other hand, the clothing of traditional status with the power of introduced law may be the 'kiss of death'. Secure in their constitutional supremacy with regard to land and legislature, Tongan nobles have not been obliged to keep alive their traditional power, which has atrophied. The same fate might eventually befall the Samoan tama'āiga if their status were to be permanently provided for in the Constitution. The village fono of Western Samoa sense this threat, and although they seek statutory recognition, no formula has yet been acceptable to them.

c. The greatest impact of introduced law has been its generally erosive effect on traditional values, particularly in so far as the notions - enshrined in the Constitutions - of the individual's direct relationship with the state and of equality before the law are concerned. Whatever traditional institutions have so far been preserved and whatever institutions
have been devised to protect chiefly status and group interests (examples of the latter institutions being the Tongan legislature and the Land and Titles Court of Western Samoa), the inexorable process of the individualisation of culture continues.

The chiefly mould

The ideology of chiefly status is expressed in ritual and the indicia of rank, which correspond to the procedures and forms of Western government and its legal system. They are the mortar with which the bricks of authority structures, whether traditional or bureaucratic, are cemented. This study has demonstrated that the more centralised the authority structure of traditional society, the greater the ease with which new forms and procedures are adopted. It has also been shown that the dominance of the 'policy' element in the exercise of chiefly power means that the latter has more in common with the power of elected political office in a Western-style government than with the more specialised types of power usually described therein as 'administrative' and 'judicial' and exercised by persons not selected through elective process. Chiefs are natural politicians, and, as such, the greatest threat to their survival has, in the past, stemmed from bureaucracy and the courts. Today, however, the latter are reluctant to test constitutional questions in sensitive areas, while the public service has a stake in the status quo.

In Tonga, as Simkin prophesied, the declining power of chiefs has "led to the passive acceptance of a bureaucratic state rather than to the emergence of popular government". Nevertheless, such decline has had its compensations, for the Tongan and his family enjoy a degree of personal freedom on the land and in their daily lives which nobody living under the Samoan chiefly system could hope for - provided the long arm of the Tongan public servant can be avoided. The land distribution scheme has contributed to the weakening of the extended family and, as in the case of the 'Apia matai' syndrome in Western Samoa, the dispersal of members of the family has loosened ties while providing opportunities for mobility and individual advancement. A Tongan middle-class has developed, relatively free of
territorial links but using kinship ties to assist it. It differs from its Western Samoan counterpart in that chiefly, commercial and governmental interests within it are largely dependent for their prosperity on the maintenance of the chiefly and land tenure systems. Unlike the Samoan village which comprises the residential 'cores' of extended families, firmly ranked by village precedent, the Tongan village operates in a more egalitarian manner as a collection of small family units whose residence in the village is not necessarily of significance in the extended family context. Paradoxically, however, the central authority of Tongan government and the century-old Constitution under which it functions - which have undoubtedly curbed chiefly authority - are also the means by which effective political power is retained in the hands of a few.

Western Samoa is similarly trapped in the irony of political development in which the freedoms of yesterday become the bonds of tomorrow. Determined to preserve the independence of family and village structure under a chiefly system which was symbolic of the best in Samoan culture, the Constitutional Convention secured approval for a political charter which gave that system further impetus to encompass all aspects of Samoan life. Like Tonga, Western Samoa became an independent state under a constitution on the premise that, with self-determination, it would be capable of adapting its political development to suit its needs. In their commitment to stable government, colonial administrations had relieved local leaders of the responsibility for unpalatable decisions. Independence has shifted that responsibility to the new leaders.

As chiefly authority is 'locked in' under both Constitutions, the question of what order of change would be necessary should the people wish to break the lock cannot be avoided. Western Samoa has the advantage of continually shifting political power. As have been described, concepts of controlled opposition, or feagaiga, were worked out in the relationships between chiefs and orators, kinship groups, villages and the centre, and as
mālō and vaivai at the national level. These exist today, but without the availability of physical force or resistance as a last resort. On the other hand, if the electoral system, for example, is to be changed, policies of reform will be necessary, together with organised political support to implement them. Although the base of the chiefly system continues to widen, constitutional change through proposals submitted to referenda of the chiefly electorate has little immediate prospect. Meanwhile, the traditional concept of political leadership and opposition based on personal status and alliances, while sufficient to lead or defeat a government, bears only superficial resemblance to the conventional policy-bound party of the Westminster model. The future of reform lies in development in this area.

The risks associated with change in Tonga are the greater because of a potentially totalitarian constitutional structure, backed by armed forces, which could be used repressively by an apprehensive or unscrupulous leader. As in the case of Western Samoa, however, the hope for peaceful constitutional change in Tonga lies ultimately within the chiefly system - in this case with the supreme chief, the monarch. Tupou I gave Tonga a constitution which he could change - and perhaps could have taken away - with loyal chiefs behind him. If Tupou IV can expect little support for change from the chiefs, nevertheless, due largely to the efforts of his predecessor and the royal family, the policy of fostering the image of the paternalistic monarch at the head of an extended Tonga-wide family ensures that the population at large is receptive to his leadership. So long as this is so, the King has the opportunity to establish less aristocratic governmental institutions within the monarchical framework. Queen Sālote and the present King appear voluntarily to have restricted the area of royal prerogative exercised, and to have relied on more traditional means, 'behind the scenes', of exercising control. The ruling monarch faces the dilemma common to
institutions threatened with change. At the apex of the power structure, his problem is accentuated. Confronted with pressure to transfer more political power to the people, it is apparent that a rate of change slow enough to ensure a continuing role for the monarch under a gradual transfer of sovereignty, yet sufficiently rapid to meet political and economic pressures for change, is almost impossible to achieve. A further contradiction of the monarch's position lies in the fact that the more power he exercises autocratically now in this direction, the more surely the monarchy will be forced to accept strict constitutional limitations under a reformed parliamentary system. Vested interests oppose any transfer of sovereignty to the people which would seal the fate of the traditional monarch, and theirs.

Finally, Western Samoans and Tongans are now reliant on their own political resources. The innate conservatism and capacity for gradual adaptation demonstrated in this study may be obliged to yield before new pressures for more drastic reform. The chiefly systems have succeeded in utilising Western law and political organisation to reinforce their positions. Ironically, past successes have produced societies bound firmly in moulds from which escape will be difficult.
Tongan 'ng' corresponds to Samoan 'g', both of which are pronounced 'ng' as in English 'singing'.

'Glottal stop in both languages is a break in the voice similar to the Cockney pronunciation of medial 't' so that 'butter' sounds 'bu'er'.

Where 'k' is used in Tongan, the ' stop often appears in Samoan, e.g. käinga and 'äiga.

Where 'h' is used in Tongan, 's' often appears in Samoan, e.g. ha'a and sā, and Tongan for Samoa is Ha'amoa.

Macron marks long vowels in both languages.

The plural of Tongan and Samoan words cannot be indicated by the addition of 's'.
For the sake of consistency, the Samoan and English order of alphabet is used rather than the Tongan.

Words which are not underlined and begin with a capital letter are the names of offices or institutions.

**SAMOAN**

'āiga
- family; kin; descent group

'āiga potopoto
- collective name of those members of 'āiga who have the right to take part in selection of matai

ali'i
- chief

alataua
- family or group of orators possessing political authority

ali'i ma faipule
- chiefs and orators of the village

ao
- one of certain honorific titles respected throughout Samoa

auluma
- village organisation of unmarried women

'aumāga
- village organisation of untitled men

'aualavou
- youth organisation

fa'a-Sāmoa
- Samoan custom; the Samoan way

fa'alupega
- ceremonial address which lists the chiefly titles and lineage connections of a village

Fa'amasino
- Samoan judge or magistrate (without formal legal training)

faife'au
- pastor of Congregational (formerly L.M.S.) or Methodist church

faipule
- person exercising authority

Faipule
- member of national assembly

fale
- house

Fautua
- official adviser

feagaiga
- agreement; contract; special relationship between two parties or groups involving both dependence and opposition
<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>felafoa'i</td>
<td>principle of alternation between groups</td>
</tr>
<tr>
<td>filililiga</td>
<td>core of 'āiga potopoto empowered to determine succession to title</td>
</tr>
<tr>
<td>fono</td>
<td>assembly; meeting</td>
</tr>
<tr>
<td>Fono of Faipule</td>
<td>national assembly</td>
</tr>
<tr>
<td>gafa</td>
<td>descent line; genealogy</td>
</tr>
<tr>
<td>'ie tōga</td>
<td>finely-woven ceremonial mats</td>
</tr>
<tr>
<td>ifoga</td>
<td>ceremonial apology</td>
</tr>
<tr>
<td>lau susuga</td>
<td>style of address (lau afioga for al'i'i and lau tōfā for tulāfale)</td>
</tr>
<tr>
<td>lotu</td>
<td>religion; church</td>
</tr>
<tr>
<td>malaga</td>
<td>journey; party of travellers</td>
</tr>
<tr>
<td>mālō</td>
<td>prevailing party</td>
</tr>
<tr>
<td>Mālō</td>
<td>Government; State</td>
</tr>
<tr>
<td>mamalu</td>
<td>dignity; honour; prestige</td>
</tr>
<tr>
<td>mana</td>
<td>supernatural power; (figuratively) prestige and efficacy</td>
</tr>
<tr>
<td>matai</td>
<td>general term for chief, al'i'i or tulāfale, usually when spoken of as the head of the 'āiga</td>
</tr>
<tr>
<td>matai fa'avae</td>
<td>genuine, or 'foundation' matai</td>
</tr>
<tr>
<td>matai pitovao</td>
<td>junior chief who sits at rear of fono (pitovao - edge of the bush)</td>
</tr>
<tr>
<td>matai tautua</td>
<td>junior chief appointed only to serve another</td>
</tr>
<tr>
<td>matai váipou</td>
<td>junior chief who has no post in fono (váipou - between the posts)</td>
</tr>
<tr>
<td>monotaga</td>
<td>contribution and service of heads of families to the village</td>
</tr>
<tr>
<td>nu'u</td>
<td>village</td>
</tr>
<tr>
<td>pālota</td>
<td>elections</td>
</tr>
<tr>
<td>pāpā</td>
<td>high titles and dignities (no longer in use)</td>
</tr>
<tr>
<td>pule</td>
<td>authority; power; right of control or disposal; decision</td>
</tr>
<tr>
<td>Pule</td>
<td>honorific title held collectively by the orator chiefs of certain important traditional centres in Savai'i - see Tūmua</td>
</tr>
</tbody>
</table>
Pulefa'ato'aga  agricultural inspector
Pulenu'u  mayor of village, appointed or confirmed by government
sā  forbidden; collective name of lineage and kinship group
saofa'i  ceremonial installation of a matai
suafa  name
suli moni  true heir
Ta'imua  leaders chosen by Tūmua and Pule to sit in 'upper house'
Ta'ita'i'itū  district governor
tama'aiga (or tama-a-'āiga)  son of one of the 'royal' families; holder of one of the four highest titles today
tama fafine  children of the sister; the female 'side'
tama tāne  children of the man; the male 'side'
tafalifā  holder of the four pāpā which conferred titular supremacy
taule'ale'a  untitled person (plural taulele'a)
tāupou  holder of village 'maiden' title
tautua  service; serving
tulāfale  orator chief
tulāfono  laws; statutes and regulations
Tūmua  honorific title held collectively by the orator chiefs of certain important traditional centres in Upolu - see Pule
tupe  money
tupu  (now) sovereign; king
vāivai  weaker party
<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>'api</td>
<td>immediate household; allotment of ground</td>
</tr>
<tr>
<td>'eiki</td>
<td>chief; person of higher rank; (plural hou'eiki)</td>
</tr>
<tr>
<td>fa'ahinga</td>
<td>extended family</td>
</tr>
<tr>
<td>fahu</td>
<td>ritually superior</td>
</tr>
<tr>
<td>faka misinale</td>
<td>annual religious meeting called by missionaries</td>
</tr>
<tr>
<td>faka'apa'apa</td>
<td>close relationship embodying respect and deference</td>
</tr>
<tr>
<td>fakataha</td>
<td>consultative meeting</td>
</tr>
<tr>
<td>faka-Tonga</td>
<td>Tongan custom; the Tongan way</td>
</tr>
<tr>
<td>Fale Alea</td>
<td>parliament</td>
</tr>
<tr>
<td>fatongia</td>
<td>duty; obligation</td>
</tr>
<tr>
<td>fono</td>
<td>meeting called by a superior</td>
</tr>
<tr>
<td>fonua</td>
<td>land; country</td>
</tr>
<tr>
<td>ha'a</td>
<td>descent group</td>
</tr>
<tr>
<td>hau</td>
<td>secular ruler</td>
</tr>
<tr>
<td>hou'eiki</td>
<td>chiefs (plural of 'eiki)</td>
</tr>
<tr>
<td>'ilamutu</td>
<td>sister's children</td>
</tr>
<tr>
<td>'inasi</td>
<td>tribute of 'first fruits' to Tu'i Tonga</td>
</tr>
<tr>
<td>kāinga</td>
<td>large descent group</td>
</tr>
<tr>
<td>kitetama</td>
<td>marriage between cousins</td>
</tr>
<tr>
<td>kolo</td>
<td>village; fortress</td>
</tr>
<tr>
<td>liongi</td>
<td>ceremonially inferior at a funeral</td>
</tr>
<tr>
<td>lotu</td>
<td>religion; church</td>
</tr>
<tr>
<td>mana</td>
<td>supernatural power</td>
</tr>
<tr>
<td>matapule</td>
<td>attendant or administrator chief</td>
</tr>
<tr>
<td>matapule ma'u tofi'a</td>
<td>matapule holding tofi'a</td>
</tr>
<tr>
<td>mehekitanga</td>
<td>father's sister</td>
</tr>
<tr>
<td>mu'a</td>
<td>petty chief attendant on a high chief</td>
</tr>
<tr>
<td>Nopele</td>
<td>noble</td>
</tr>
<tr>
<td>Ofisa Kolo</td>
<td>town officer</td>
</tr>
</tbody>
</table>
ohi  to adopt
pule  control; authority
sino 'i 'eiki  of high blood
Tamahā  daughter of the Tu'i Tonga Fefine
ta'ovala  woven mat worn around the waist
tapu  taboo; interdict; forbidden
taumafakava  royal kava ceremony
tofi'a  inheritance of land
tu'a  commoner; person of lower rank
Tu'i Tonga Fefine  elder sister of Tu'i Tonga
'tulumotua  head of family
tukuolo  presentations at a funeral
APPENDIX B

STATISTICS

1. Land and Population

<table>
<thead>
<tr>
<th>Year</th>
<th>Tonga</th>
<th>Western Samoa</th>
<th>Tonga as percentage of Western Samoa</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Land 258 sq.m.</td>
<td>1090 sq.m.</td>
<td>24</td>
</tr>
<tr>
<td>Population</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1845-55</td>
<td>20,000</td>
<td>30,000</td>
<td>66</td>
</tr>
<tr>
<td>1900*</td>
<td>20,000</td>
<td>34,400</td>
<td>58</td>
</tr>
<tr>
<td>1921*</td>
<td>23,800</td>
<td>36,300</td>
<td>65</td>
</tr>
<tr>
<td>1960</td>
<td>66,000</td>
<td>111,900</td>
<td>59</td>
</tr>
<tr>
<td>1976</td>
<td>90,128</td>
<td>151,515</td>
<td>59</td>
</tr>
</tbody>
</table>

*Epidemics killed 1,000 in Tonga in 1893 and 7,500 in Western Samoa in 1918.

2. 'Purported' racial composition - percentage

<table>
<thead>
<tr>
<th></th>
<th>Tonga</th>
<th>Western Samoa</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1938</td>
<td>1966</td>
</tr>
<tr>
<td>Local Polynesian</td>
<td>96.1</td>
<td>98.4</td>
</tr>
<tr>
<td>Mixed part-local Polynesian</td>
<td>1.4</td>
<td>0.7</td>
</tr>
<tr>
<td>From other Islands</td>
<td>1.3</td>
<td>0.4</td>
</tr>
<tr>
<td>European</td>
<td>1.2</td>
<td>0.5</td>
</tr>
</tbody>
</table>

*including Chinese who, in 1938, comprised 0.6% of the population.

Sources


Since 1900 - Census Reports and preliminary statements of 1976 Censuses.

Race: 1938 figures - Keesing 1945, Table III 1966 figures - Census Reports
APPENDIX C

CODES, CONSTITUTIONS, LAWS AND TREATIES

-in chronological order by island group, and indicating the present sources of texts of the documents.

Huahine (Society Islands)

The Laws of Huahine - approved by chiefs at national assembly, May 1822
Text - Ellis 1831 III: 177-192

Harbour Regulations for Huahine - given for Cmdr Laws of 'Satellite' on 17 March 1829
Text - Ellis 1831 III: 209-211

Hawai'i

The Constitution of Hawai'i - agreed by the King and chiefs at Honolulu 8 October 1840
Text - Jarves 1843: 316-323

The Constitution of 1852 - ratified by the Legislature and promulgated June 1852
Summary of text - Chambers 1896: 17-19

Samoa

Port Regulations for the Samoan Islands - agreed by chiefs of Tutuila and Capt Bethune of 'Conway' in Pago Pago on 27 December 1837
Text - 12 clauses in B C Tahiti. Misc./1

-as above - with 2 clauses added - agreed by chiefs of Upolu in Apia on 5 January 1838
Text - B C Tahiti. Misc./1

Commercial Regulations of the Samoan Group - made by the principal chiefs at Apia on 5 November 1839 and witnessed by Cmdr Wilkes of 'Vincennes' and U.S. and British Consuls
Text - St Julian 1857: 18-19

'Mission-chief' Code for Tutuila adopted in 1850
No text found - refer to Chapter 2

Regional Codes for Vaimauga (adopted 1860) and for A'ana and part of Tuamasaga (1861-1862)
No texts found - refer to Chapter 2

District Laws for A'ana and elsewhere in western islands adopted 1865-7
No texts found - refer to Chapter 2
Constitution adopted by Tūmu'a and Pule at Mulinu'u on 21 August 1873
  Texts - (E.W. Gurr translation) Westbrook, MS.
  - (shorter version) FOCP 2849: 66-7
  - (copy in longhand) WPHC I/IV/2

Laws passed 1873 (to come into force 1 November)
  Text - FOCP 2849: 68-70.

Rules for Judges, Policemen and Clerks, made 19 February 1874
  Text - FOCP 2849: 67-8

Constitution proposed (and possibly adopted) in January 1875
  Text - (E.W. Gurr translation) Westbrook, MS.

Addenda to Constitution (no date - same form as previous proposed
  Constitution but with significant differences in detail)
  Text - FOCP 2849: 71-3

Constitution adopted by Ta'imua at Mulinu'u on 18 May 1875
  Text - FOCP 2849: 62-66

Treaty with the United States signed at Washington 17 January 1878,
  ratified 11 February 1878
  Text - BSP 69: 76

Treaty with Germany signed at Apia 24 January 1879
  Text - BSP 70: 241

Treaty with Great Britain signed at Apia 28 August 1879 ratified
  27 August 1880
  Text - BSP 70: 133

Convention for Apia municipality signed at Apia 2 September 1879
  Text - BSP 70: 294

Laws of the Samoan Government 1880 signed by Malietoa Laupepa
  and Mata'afa Iosefo
  Text - WPHC I/II/18-20

Laws concerning debts, giving credit and sale of land -
  by Ta'imua and Faipule on 25 January 1883
  Text - E.W. Gurr, MS., 14

Constitution (Tamasese - Brandeis) 1887
  Description, but no text - Brandeis Papers 1887-8

Laws concerning register of real property by Tui A'ana Tamasese
  on 19 October 1887
  Text - WPHC I/II/19

Notice taking over Municipality 18 January 1888
  Text - WPHC I/II/19

Final Act of the Conference on Samoan Affairs by the three Powers at
  Berlin on 14 June 1889
  Texts - FOCP 5 No. 51:208-16
  - BSP 81:1058-1072

Laws concerning marriage and divorce 10 February 1890
  Text - Samoa Royal Gazette 6 April 1895
Laws dealing with the work of native judges, 14 June 1890  
Text - Samoa Royal Gazette 14 November 1896

Laws respecting the registration of births and deaths, 30th November 1891  
Text - Samoa Royal Gazette 16 November 1896

Laws respecting the control of district matters, 30 November 1891  
Text - Samoa Royal Gazette 16 November 1896

Laws regarding judges and courts, 30 November 1891  
Text - Samoa Royal Gazette 16 November 1896

Laws regulating native courts, 30 November 1891  
Text - Samoa Royal Gazette 1896

The Criminal Laws of 1892  
Texts - (translation by President Schmidt)  
BCTonga 1/43/103 WPHC  
- (translation) BMO 2/26 N.Z. N.A.  
- (printed original in Samoan) Gilson Papers  
No. 96, ANU

Supreme Court Rules for registration of land titles  
19 January 1894  
Text - Samoa Royal Gazette 24 January 1894

Ordinance - prohibiting head cutting, 23 January 1894  
Text - Samoa Royal Gazette 24 January 1894

Proclamations by the three High Commissioners  
Text - Samoan Government Gazette 19 September 1899

Convention between Germany and Great Britain relating to  
Samoa and Tonga at London 14 November 1899  
Texts - FOCP 7358: 102  
- BSP 91: 70

Convention between the three Powers for the adjustment of questions  
relating to Samoa at Washington, 2 December 1899  
Text - United Kingdom Treaty Series No. 8/1900

Tonga

Port Regulations introduced by Capt Crozier 1836  
No text found - refer to Chapter 5

Code of Vava'u dated 16 May 1838  
promulgated by Taufa'ahau 20 November 1839  
Texts - (Tongan and English) Palace Records Office, Nuku'alofa  
- (English translations) Wesleyan Missionary Society  
1840: 129 and Latukefu 1974: 221

Ha'apai Code promulgated December 1838  
No text found (probably same as Code of Vava'u) -  
refer to Chapter 5

Code of 1850 promulgated July 1850  
Texts - (printed in Tongan at Neiafu 1851)  
National Library, Canberra  
- (English translation) St. Julian 1857: 70-71  
- (English translation - some clauses missing)  
Latukefu 1974: 226
Treaty with France signed at Tongatapu 9 January 1855
Texts - (English and French) West 1865: 388-390
- (English) St Julian 1857: 12-13

Code of 1862 instituted 4 June 1862
Texts - (printed in Tongan 1864) National Library, Canberra
- (English translation - fewer clauses) Lätukefu 1974: 238

Constitution adopted 4 November 1875
Texts - (original parchment in Tongan) Palace Records Office
- (printed in Tongan 1876 with laws of 1875) National Library, Canberra
- (printed in English Rawson, Nuku'alofa 1877) Mitchell Library, Sydney
- (printed in Tongan 1879 as part of Code of Laws 1875-1878) National Library, Canberra

Laws passed by Legislative Assembly in 1875
Text - Tonga Government Gazette

Treaty with Germany signed 1 November 1876 ratified 30 October 1877
Text - The Law of Tonga 1891 (see 1891 below)

Treaty with Great Britain signed 29 November 1879 ratified 8 September 1881
Text - Laws of Tonga (revised 1948) Government Printer, Wellington, 1951

Laws and amendments to Constitution passed in 1880
Text - T.G. Gazette

Laws and amendments passed in 1882
Text - T.G. Gazette (including consolidation of Constitution - Vol. II No. 22, 16 April 1883)

Laws of Tonga 1883
Text - (laws and constitution in Tongan) National Library, Canberra

Laws and amendments passed in 1885
Text - T.G. Gazette

Treaty with the U.S.A. signed 2 October 1886 ratified 1 August 1888
Text - The Law of Tonga 1891 (see below)

Laws and amendments passed in 1888
Text - T.G. Gazette (including consolidation of Constitution - Vol III No. 30, 31 December 1889)

Statutes and Laws of Tonga 1888 (including Constitution) prepared in English by Baker as Commissioner
Text - (printed for the Government by Wilson & Horton, Auckland, 1889) Fiji National Archives

Laws of Tonga 1891 (including Constitution)
Text - (printed in Tongan) National Library, Canberra
The Law of Tonga 1891 (including Constitution)  
prepared in English by Thomson as Commissioner  
Text - (printed for the Government by H. Brett, Auckland, 1891)  
National and Mitchell Libraries

Agreement with Great Britain dated 2 June 1891 - amending 1876 Treaty  
Text - Laws of Tonga (revised 1948)  
Government Printer, Wellington, 1951

Treaty with Great Britain dated 18 May 1900 ratified 16 February 1901  
Text - Laws of Tonga (revised 1948) - see below

Proclamation of Protection made 19 May 1900 by Basil Thomson  
Text - Free Wesleyan Church Archives  
(copy Cummins 1972: 531)

The Law of the Government of Tonga 1903  
(as at 1903 with Constitution as at 1891)  
Text - (printed for the Government by Brett, Auckland, 1907) Mitchell Library, Fiji National Archives and Supreme Court, Nuku'alofa

Note of Points Accepted by the King - Supplementary Agreement  
signed by Tupou II 18 January 1905  
Text - Laws of Tonga (revised 1948) - see below

Agreement between Great Britain and Tonga dated 7 November 1928  
Text - Laws of Tonga (revised 1948) - see below

Laws of Tonga (revised 1929)  
prepared by W.K. Horne, C.J. as Commissioner  
Text - Government Printer, Nuku'alofa, 1929

Laws of Tonga (revised 1948)  
prepared by J.B. Thomson, C.J. as Commissioner  
Text - Government Printer, Wellington, 1951

Treaty of Friendship with Great Britain  
dated 26 August 1958  
Texts - U.K. Treaty Series No. 67/1959  
- The Law of Tonga (revised 1967) - see below

The Law of Tonga (revised 1967)  
prepared by Campbell Wylie, Q.C. as Commissioner  
Text - Government Printer, Nuku'alofa, 1967
APPENDIX D

Analysis of Tongan constitutional and related legislative provisions 1875-1891

The Constitution of 1875 was amended five times during this period, and on two of those occasions the draftsmen, Baker and Thomson respectively, themselves made changes. The purpose of this analysis is to indicate the nature and origin of the more important changes to the law of Tonga from 1875 to 1891, with particular reference to the Constitution and related statutes, and a significant revision of the land legislation in 1891. Sources include the Tonga Government Gazette and texts of editions of The Laws of Tonga (see Appendix C), some of which do not appear to be available in Tonga.

The Constitution, or its published revision, will be indicated by the year of enactment or revision, underlined, and the article or clause by number only.
The Constitution was amended, revised and published as follows:-

Act of Parliament

1875 4 November - Constitution took effect 4 November 1875 published as 1875 Constitution, 1877 (for list of Tongan and English publications see Appendix C)

1880 31 July - amendments (published T.G. Gazette Vol.II No.8 8 December 1880) not ratified until 16 December 1882 (but apparently acted upon, and referred to herein as "1880 amendments")

1882 19 October - amendments took effect 23 October 1882 and incorporated in consolidated reprint dated 23 October 1882 (T.G. Gazette Vol.II No.22 16 April 1883)

1885 19 November - amendments (published T.G. Gazette Vol.II No.87 4 April 1888) took effect 20 November 1885

1888 14 December - amendments took effect 21 December 1888 and incorporated in consolidated reprint dated 21 December 1888 (T.G. Gazette Vol.III No.30 31 December 1889)

1891 6 August - "new translation" of Constitution (together with revision of all other laws) took effect 15 November 1891 and published in The Law of Tonga 1891

1903 - reprint of 1891 translation of 1888 consolidation published with laws as at 1903 in The Law of the Government of Tonga, 1907
1880 amendments

These were to clauses 3, 23, 49, 54, 55, 58, 59, 62, 63, 82, 83, 85 and 109-132 of 1875. They were not ratified until 16 December 1882, but were apparently acted upon before that date and were incorporated in the 1882 reprint. Most of the amendments gave the King, and in some cases Cabinet, greater flexibility - for example to alter the legal tender without approval of the Legislative Assembly (1882: 49); to appoint such additional persons to Privy Council as the King thinks fit (1882: 54); and to determine the number of nobles, with the number of peoples' representatives to equal that number (1882: 63). The King appointed ten more nobles (T.G. Gazette Vol.II No.1, 1 September 1880) and declared in opening parliament that nobles should receive an honorarium from government (T.G. Gazette Vol.II No.6, 10 November 1880). Governors could sit in the Assembly as well as in the Privy Council (1882: 58). The Constitution was given greater force by the provision that the Chief Justice could prevent from being put into force until the next meeting of the Assembly any law passed contrary to the spirit of the Constitution (1882: 85). The main change in 1880 was the replacement of that part of the Constitution relating to land (1875: 109-132) by a new set of clauses (1882: 109-121). Two principles remained unchanged - the prohibition on sale (with leasing only on terms approved by Cabinet) and the basic law of inheritance. But the original concept of the ownership by Government of all townsites (1875: 110-13) was abolished (the King granted these "back" to the nobles - see his closing address to parliament - T.G. Gazette Vol.II No.6, 10 November 1880), and Government accordingly lost the authority originally vested in the Minister of Lands to lay out town roads and houses (and the provision for town planning was also repealed - 1875: 55(3)). Leases in towns to religious bodies were permitted only where there were at least 30 adult adherents (increase from 20) and the prohibitions on use for other than religious
purposes and on sub-leasing were retained (1882: 113). The restriction on maximum sizes of leases to "white residents" (1875: 118) was abolished. The legal position of the female noble heirs was clarified so that a female could not inherit if there was a male next in line, although, if she later had male issue, that person would inherit on the death of the former male (1882: 117). There was no reference to tax lands, the original idea (1875: 128) being retained of allowing nobles to lease to Tongans, but requiring people living on estates to pay rent anyway.

Amending the Constitution was originally (1875: 82) a cumbersome process - and therefore a safeguard - requiring that an amendment not only be passed three times at one session but also three times and assented to by the King at the next session two years later. The 1880 amendments were apparently dealt with in this manner. Included in them was provision for constitutional amendment (1882: 82) namely that an amendment became law after -

i) it was passed three times by the Assembly

ii) the Privy Council and Cabinet unanimously agreed

iii) the King assented and signed the law,

provided that (same as the original proviso of 1875: 82) the amendment was not one which interfered with "the laws of liberty (Declaration of Rights), the laws with reference to foreigners, the succession to the throne, and the inheritance and titles of the Nobles and Chiefs of the land". In these proscribed areas, there was no express power of amendment but it was apparently assumed that, if nobles and King agreed, any clause of the Constitution could be amended. Clause 70 (1875 and 1882) which provides that "all laws in connection with the King, Royal Family and Nobles of the Legislative Assembly" may be passed in accordance with a special procedure - after the Assembly voted on the measure, the Nobles voted alone and the King also had a veto - is an indication of constitutional intention.

Certainly, many amendments have occurred in proscribed areas - for example,
by 1888 the name of Tungi had been substituted for Ma'afa in the line of royal succession (1888: 35) and, since then, nobles' voting rights have been changed, and provisions relating to tofi'a, hereditary lands, have been amended (as when the commoner's right to tax and town allotments from tofi'a was given constitutional expression in 1929 (1967: 113)).

The Assembly had passed legislation in 1875 and did so again in 1880 (some recorded in the Gazette). Some changes in the Constitution although not technically effective until 1882, were put into operation immediately, for example the number of peoples' representatives was increased to 30 to equal the total number of nobles (Representatives Election Act - T.G. Gazette Vol.II No. 8, 8 December 1880). However, there is no record that the illegality of these measures was raised and the only evidence that they were recognised as such is that it was considered wise to re-enact the Representatives Election Act in 1885 (assented to 13 November - T.G. Gazette Vol.II No.84, 14 March 1888).

1882 amendments

These were to clauses 11, 22, 24, 25, 26, 33, 41, 54, 55, 66, 67, 71, 72 and 88 (1875) and 109, 118 and 119 (1882 as inserted in 1880). They were accomplished by the enactment of a revised Constitution which came into force 23 October 1882 (T.G. Gazette Vol.II No.22 16 April 1883). Most of the amendments were improvements in wording and style, but the King's authority was extended somewhat. He was enabled to appoint such persons as he saw fit to his Privy Council (1882: 55), he could wait for three years instead of two before calling the Assembly together (1882: 41) and the prohibition on discussion by the Assembly of any law disapproved of by the King was extended until the following meeting of the Assembly (1882: 71). With regard to lands and titles, the message was louder. At the beginning of that part of the Constitution relating to land were added words which had not appeared before in the written law of Tonga but which had been used by Tupou when opening the historic 1875 parliament - words which remain in refined form to
this day - "To the King belongs all the land, soil, inheritances and premises". It was for the King to determine what inheritances to grant and to whom (1882: 109). Then the original provision that land without an heir should revert to the Government was amended to require reversion to the King.

In 1882 the Hereditary Lands Act set out the blueprint for the land allotment scheme and the Constitution was amended to provide that every taxpayer should have tax and town allotments which would be protected by Government (1882: 119 - but to be 'watered down' in 1888). A small but significant amendment demonstrated the problem of achieving effective government in a small state with limited resources of talent. The original requirement that Judges should not be members of the Legislative Assembly (1875: 33) was repealed. So also, however, were the words "These three [divisions of government] shall always be distinct", expressing the doctrine of separation of powers adopted from Hawai'i. This repeal made it possible for the Chief Justice to continue to sit in the Privy Council (1882: 54) and, for a period in later years, in Cabinet. Also, the Minister of Lands was empowered to hear and determine land disputes in a Land Court (1891 The Law of Tonga s.84). A further change in 1882 was the deletion from Clause 67 of reference to the "nomination" of candidates for the Assembly. Thomson says any elector could write down the name of any of his friends and drop it into the ballot box (The Diversions of a Prime Minister 1894: 233). Nominations were not specifically provided for until 1915.

1885 amendments

These were to clauses 23, 27, 31, 32, 91 and 100 (1882 and 1888). These were accomplished by an amending Act (T.G. Gazette Vol.II No.87, 4 April 1888) and were of no great significance except perhaps to foreigners. Foreigners were required to pay taxes as soon as they arrived, instead of after six months' residence (1888: 27). They were deprived of
the right to a jury comprising half foreigners (1888: 31) and the requirement that all laws be printed in both English and Tongan was repealed (1888: 32).

Certain items of legislation 1882-1888 appeared to plead causes. In addition to interfering with 'free speech' in its sweeping references to blasphemy and libel, the Libel Act 1882 (T.G. Gazette Vol.II No.84, 14 March 1888) favoured a "special class" (1875: 4 and 1882: 4) by providing substantially severer penalties for committing the offence of defaming a person "who holds a high position" than would otherwise be the case. An Act commonly called the 'Law of the 6 and the 30' was passed as part of anti-Wesleyan religious persecution. Legislation provided that no foreigner could represent a Tongan in court and that a court could not command a Minister or Governor to give evidence relating to his department (T.G. Gazette Vol.II No.82, 12 November 1885).

1888 amendments

These were to clauses 9, 11, 15, 16, 35, 70 and 119, and, as in 1882, were accomplished by the adoption of a revised Constitution which came into force 21 December 1888 (T.G. Gazette Vol.III No.30, 31 December 1889). The King's obligation to consult the Assembly before suspending the right to a writ of habeas corpus was abolished (1888: 9). The right to counsel in court was deleted (1888: 11). Magistrates were to behave in the same way as judges (1888: 15). The privilege of nobles effectively to decide "all laws in connection with the King, Royal Family and Nobles" was reinforced by removing the requirement in the original Constitution that the whole House should vote on the matter before it was voted on by the nobles. Now, the nobles alone voted, three times (1888: 70). In the line of royal succession, the name of Tungi was substituted for Ma'afu (1888: 35). As Ma'afu had died in 1881 and the change in succession was announced by proclamation in 1885 (T.G. Gazette Vol.II No.35, 20 November 1885), it may have been an oversight that this amendment was not made in 1885.
(and it could have been an embarrassing one if Tupou had died without heirs in the meantime). As to the land scheme, the wording of the new provision of 1882 was amended in a puzzling way. What appears to have been a constitutional right in every taxpayer to have tax and town allotments was changed to constitute only a conditional right - if one already had a tax allotment - to have a town allotment as well (1888: 119). The question of the initial right to a tax allotment was discussed in the Assembly in 1891 (T.G. Gazette Vol.IV No.6, 8 June 1891) when land legislation made it clear, but it did not appear in the Constitution again until 1928.

The 1888 Constitution was also published in 1889 with the code of criminal and civil laws which Baker had been commissioned to prepare as a consolidation. A comparison of the laws as originally published 1875 to 1888 with the code of 1889 shows a number of changes in wording and meaning. 1891 "new translation" of 1888 Constitution

Thomson boasted that he had to scrap the whole of Baker's code as a "literary curiosity" but that he "did not dare meddle" with the Constitution which Tongans regarded as "Holy Writ" (The Scene Changes 1939: 140). He alleged that the Tongan version of the Constitution (in which language it had been adopted) was described by Premier Tuku'aho as "very often unintelligible" (ibid.: 141). In the 'Translator's Preface' to the 1891 Code, Thomson said "Although the Constitution of 1888 was not revised during the Session of 1891, the English version was found to be so inaccurate and grammatically incorrect that a new translation has been made for publication as an Appendix to the present volume" (1891). It is not clear to what extent the Tongan version was also 'improved' at that time, but the Thomson translation was subsequently accepted and adopted in 1903 and by those who revised the laws of Tonga in later years (e.g. in 1928, 1947 and 1967).

A comparison of the English versions of the Constitution of Baker (1888) and Thomson (1891) reveals that the latter's changes in the meaning as well as the grammar of the Constitution lay him open to the sort of
charges he was fond of levelling at Baker. The clauses in which changes in the wording were made are 4, 14, 15, 24, 35, 47, 54, 81, 82, 85, 88, 105 and 113 (1888 and 1891). In most cases the meaning was also changed. For example, the prohibition on laws "for any special class to the detriment of another class" loses the 'detriment' test to become "for one class and not for another class" (1891: 4). The original power of the Assembly to "ratify" or "annul" ordinances passed by the Privy Council was changed to "make them law or rescind them" (implying that the ordinances were not law until considered by the Assembly - 1891: 54). From that part of Clause 82 which limits power to amend the Constitution, Thomson deleted reference to "laws with reference to foreigners". Leases for religious purposes would revert to government on proof of use for a non-religious purpose or of sub-letting, but the 'new translation', while forbidding such use, limits the grounds for reversion to sub-letting alone (1891: 113).

Thomson also introduced marginal headings to describe the main point of each clause. This praiseworthy innovation was spoiled by the inappropriateness of the headings he chose - examples of which persist today (see 1967: 7, 14, 33 and 35).

In revising the 1888 code of laws (to become The Law of Tonga 1891) Thomson also changed the law in a manner apparently designed to curtail the power and discretion of the King - changes which had repercussions in later years. Section 8 of the code purported to require the King to obtain the consent of the Privy Council to the appointment of Ministers - which was inconsistent with the Constitution (1888 and 1891: 54 and 55) where the King's will was unfettered. Section 44 of the code required that, in addition to the other Ministers, Cabinet consist of the Chief Justice, Auditor General and the Governors, while the Constitution contained no such stipulation (1888 and 1891: 55). Skeen, C.J. noted these discrepancies in the 1903 code (Report to High Commissioner, 19 July 1906. BCTonga 1/43/48) but seemed unaware of their origin. Also, contrary to the clear authority
of the King to act as he pleased, Section 20 of the 1891 code purported to limit the number of nobles the King could appoint to thirty-one. However, to give Thomson his due, he put together all previous collections of statutes in a clear and definitive code of 850 sections, with an index. The first 250 sections, and a further 160 throughout the code, comprise explicit and detailed rules for government operation. In keeping with the volume of earlier laws relating to the administration of justice, the 1891 code contained over 200 sections prescribing offences and a staggering 166 dealing with the structure and operation of the courts, evidence and rules for the guidance of the judiciary.

With regard to land, it appears that Thomson was responsible for the dramatic changes which, on paper at least, transformed the basic principles of 1882 into a government-administered system with sanctions. Comparison of the 1891 code (The Law of Tonga 1891, Chapter 18) with Baker's of 1888 (Chapter 42) shows that Thomson had carried out his stated intention "to make the Crown collect their [hereditary tofi'a-holders'] rent and pay it over to them, while reserving to itself all rights of granting allotments and evicting tenants" (Diversions... 1894: 230). After further describing his plans he had added - "I adopted the idea suggested to me by Mr Hanslip [a local European trader] that the tenure of land should be made dependent upon the regular payment of taxes. I converted the poll tax into a land tax, and gave to every taxpayer the right of occupying one allotment of a fixed area, inalienable in his family so long as he and his heirs continued to discharge their debts to the State, but liable to forfeiture if for three successive years they were guilty of neglect... Thus, we combined the 'nationalisation of the land' with the institution of lords of the manor" (ibid.: 231). As to the tax aspect (The Law of Tonga 1891, Chapter 19), while the tax was soon called a poll tax again (The Law of Tonga 1903, s.582), it remained associated with allotment-holding until 1918.
Important features of Thomson's Chapter 18 for the development of the land distribution system were:-

i) every Tongan male was to have an allotment - but only one - (The Law of Tonga 1891, ss 454, 460 and 463) and the tofi'a-holder on whose land he was residing could not refuse a proper request (ibid. s.458);

ii) allotments were to be granted by the Minister of Lands, registered and transferred only on approved conditions (ibid. ss 460 and 481);

iii) an allotment-holder could not be ejected except according to law (ibid. s.455) and the stated grounds were related to the payment of tax (ibid. ss 473-480 and 491-2);

iv) the tofi'a-holder was to receive rent of $1 and the Government to receive tax of $9;

v) the right of tofi'a-holders to reserve land for their matapule was repealed (compare Statutes and Laws of Tonga 1888 Chapter 42 s.5); and

vi) the Minister of Lands was empowered "to preside over a Land Court and to determine all disputes respecting hereditary estates and tax lands" subject to appeal to the Privy Council (The Law of Tonga 1891 s.84).
NOTE OF POINTS ACCEPTED BY THE KING.

1. The King to rule with and through the Chiefs.

2. The British Agent and Consul to be consulted and his advice taken.

3. Services of an English officer to be utilised for the re-organisation of the Police.

4. Laws to be published in English as well as in Tongan.

5. Distribution of Lands as contemplated and promised by the late King to be carried out.

6. Rents of Government lands to be paid into Public Account, and no longer to be regarded as part of the King's emoluments.

7. Renewal of Leases to Foreigners on terms to be arranged.

8. Laws regarding spirituous liquors to be enforced.

9. New appointments to the Public Service to be made in consultation with His Britannic Majesty's Agent and Consul.

10. Changes among leading officials to be made only in consultation with His Britannic Majesty's Agent and Consul.

11. Revised Estimates for 1905 to be adopted.

12. Rights of succession and inheritance not to be interfered with.

I agree without reservation

(Signed) TUBOU II.

Nukualofa, 18th January, 1905.

Henry Douglas Wilkin,
Commander R.N. H.M.S. "Clio".

Witness: Jiaoji Fatafehi.

Witness: J.F. Mateialona.
I. OFFICIAL RECORDS AND PUBLICATIONS

Note
This part of the bibliography is intended to amplify and explain references in the footnotes. It also lists those official publications which are the sources of laws referred to, and, for such laws, it should be read in conjunction with Appendix C. The diversity of sources renders impracticable a list of all individually named statutory provisions.

Abbreviations

NZNA  National Archives of New Zealand, Wellington.
WPHC  Western Pacific High Commission Archives, Suva.

A. RELATING TO SAMOA

Early Samoan Governments

Brandeis Papers, official records of the Tamasese-Brandeis Government, 1887-8. NZNA.
Malietoa Government Papers, 1891-9. NZNA.

Samoa Royal Gazette, 1892-9, Apia.
Samoa Government Gazette, 1899, Apia.

British Consular and Foreign Office

BCS  British Consul, Samoa. NZNA.
BSP  British and Foreign State Papers.
FOCP  British Foreign Office, Confidential Prints.

United Kingdom Treaty Series.

WPHC  Western Pacific High Commission. WPHC Archives, Suva.

German Administration

GCA  German Colonial Administration. NZNA.
2.

New Zealand Administration


BMO British Military Occupation. NZNA.

IT Island Territories Department. NZNA.

NZSA New Zealand Samoan Administration. NZNA.


Ordinances and Regulations of the Administration. NZNA and Apia.

N.Z. Gazette New Zealand Gazette

Government of Western Samoa

Acts and Regulations of Western Samoa, Government Printer, Apia.


Annual Reports of Land and Titles Court (various), Justice Department, Apia.

Census Reports (various), Department of Statistics, Apia.


Electoral Rolls for 1976, Justice Department, Apia.

Justice Department files, Apia.

LTCI Land and Titles Committee Inquiry papers, Justice Department, Apia.

LC Land and Titles Court Records (Case no.), Justice Department, Apia.

Lands and Survey Department files, Apia.


3.


Report to Cabinet on Matai Titles, Customary Land and the Land and Titles Court, 1975, Justice Department, Apia.

Report of Select Committee on Council of Deputies and Succession to Office of Prime Minister, Parliamentary Paper No. 29, 1975, Apia.


Resolutions Adopted by the Constitutional Convention 1960, Government Printer, Apia.

Savali 1905 to date, Prime Minister's Department, Apia.

Third Five-Year Development Plan 1975-1979, Department of Economic Development, Apia.

Western Samoa Gazette, Apia.

W.S.L.R. Western Samoa Law Reports, Supreme Court Office, Apia.
4.

B. RELATING TO TONGA

British Consular and Foreign Office

BCT
British Consul, Tonga, WPHC Archives, Suva.

BSP
See 'Samoa'.

FOCP
See 'Samoa'.

WPHC
See 'Samoa'.

Report on Tonga Protectorate (various years), British Consular Office, United Kingdom Treaty Series.

Government of Tonga

Acts and Regulations of Tonga, Nuku'alofa (and see Appendix C).

Annual Reports of Chief Justice (various), Nuku'alofa.

Annual Reports of Minister of Lands (various), Nuku'alofa.

Census Reports (various), Prime Minister's Office, Nuku'alofa.

Civil Service Lists (various), Prime Minister's Office, Nuku'alofa.

Lands and Survey Department records, Nuku'alofa.

PO
Premier's Office files, Alexander Turnbull Library, Wellington.

PO MP
Minute Papers in Premier's Office files (ibid.).


Royal Correspondence, Palace Office, Nuku'alofa.

Supreme Court records, Nuku'alofa.


T.G. Gazette
Tonga Government Gazette, 1880 to date, Palace Office, Nuku'alofa; Mitchell Library, Sydney; and Fiji National Archives, Suva.

T.L.R.
Tongan Law Reports, 3 vols., Supreme Court Office, Nuku'alofa.
II. UNOFFICIAL PAPERS AND JOURNALS


Gilson, R.P. Papers. Pacific History Library, Australian National University, Canberra.


III. NEWSPAPERS

Ko e Bo'obo'oi 1875-1877. Vol. II. Palace Library, Nuku'alofa.

New Zealand Herald 1925, Auckland.


Samoa Times 1915-1930.

Samoa Times 1967 to date.

Samoa Weekly Herald 1898, Apia.

Samoanische Zeitung 1901-1915. GCA, NZNA.

Tonga Chronicle 1964 to date, Nuku'alofa.

IV. BOOKS, ARTICLES AND THESES

Abbreviations

ANU Australian National University
CUP Cambridge University Press
JPH Journal of Pacific History
JPS Journal of the Polynesian Society
OUP Oxford University Press
Aikman, C.C. 1961. 'Samoa comes of age', The Round Table, 204, 347-364.
Aoyagi, Machiko 1966. 'Kinship organisation and behaviour in a contemporary Tongan village'. JPS, 75, 141-176.
Bataille, Marie-Claire 1976. 'Le "salon de l'agriculture" aux îles Tonga', Journal de la Société des Océanistes, 32 (March 1976), 67-86.
7.


Blanc, Joseph Felix (P. Soane Malia) 1934. A History of Tonga or Friendly Islands. Vista, California.


Boyd, Mary 1956. 'Political development in Western Samoa and universal suffrage', Political Science, 8, 44-69.

Boyd, Mary 1968. 'The military administration of Western Samoa', New Zealand Journal of History, 2, 148-164.


8.


Collocott, E.E.V. 1921a. 'Notes on Tongan religion', *JPS*, 30, 152-163 and 227-240.


Collocott, E.E.V. 1923b. 'Marriage in Tonga', *JPS*, 32, 221-228.
Collocott, E.E.V. 1927. 'Kava ceremonial in Tonga', JPS, 36, 21-47.
Couper, A.D. 1968. 'Protest movements and proto co-operatives in the Pacific Islands', JPS, 77, 263-274.
10.


Davidson, Janet M. 1969. 'Settlement patterns in Samoa before 1840', JPS, 78, 44-82.


Davidson, J.W. 1971. 'The decolonialization of Oceania', JPH, 6, 133.


Douglas, Bronwen 1979. 'Rank, power, authority: a reassessment of traditional leadership in South Pacific societies', JPH, 14, 2-27.


Ella, S. 1899. 'The war of Tonga and Samoa', JPS, 8, 231-234.


Ember, Melvin 1962. 'Political authority and the structure of kinship in aboriginal Samoa', American Anthropologist, 64, 964-71.


Fairbairn, Ian 1971. 'Pacific Island economies', JPS, 80, 74-118.


Firth, Raymond 1957. 'A note on descent groups in Polynesia', MAN, 57(2), 4-8.


Freeman, J.D. 1944. 'The Vailele earthmounds', JPS, 53, 145-162.
Freeman, J.D. 1947. 'The tradition of Savalālā', JPS, 56, 295-317.
Freeman, J.D. 1948. 'The social structure of a Samoan village community'.
   Unpublished manuscript. 2 Vols.
Freeman, J.D. 1972. 'Social organisation of Manu'a - some errata', JPS, 81, 70-78.


Green, Roger C. 1972. 'Revision of the Tongan sequence', JPS, 81, 79-86.


Green, Roger C. 1975. 'Polynesian voyaging, Science, 187 (4173), 274.


Groube, L.M. 1971. 'Tonga, Lapita pottery and Polynesian origins', JPS, 80, 278-316.


Gunson, Niel 1979. 'The hau concept of leadership in Western Polynesia', JPH, 14, 28-49.


Hempenstall, Peter J. 1975. 'Resistance in the German Pacific Empire', JPS, 84, 5-24.


Hirsch, Susan 1958. 'Social organisation of an urban village in Western Samoa', JPS, 67, 266-275.


Kaeppler, Adrienne L. 1971b. 'Eighteenth century Tonga: new interpretations of Tongan society and material culture at the time of Captain Cook', *Man*, 6 (2) 204-20.


Keesing, F.M. 1937. 'The taupo system of Samoa', *Oceania*, 8, 1-14.


16.


(Translation by de Beer, 1941. 2 Vols.).


Lätükefu, Sione 1967b. 'Tonga after Queen Sālote', JPH, 2, 159-162.
Ma'ia'i, Ata 1974. 'Western Samoa's general election 1973', JPH, 9, 146-152.


Mead, Margaret 1971. The role of the individual in Samoan culture.
   In Howard, A. (ed.) (reprint of 1928, _Journal of Royal Anthropological
   Institute_, 58, 481-96).
Mead, Margaret 1930. Social Organization of Manu'a. Bishop Museum Bulletin
   No. 76, Honolulu.
   London.
Meleisea, Malama 1976. 'The last days of the Melanesian labour trade in
   Western Samoa', _JPH_, 11, 126-132.
Meller, Norman 1969. _The Congress of Micronesia_. University of Hawai'i
   Press, Honolulu.
Milner, G.B. 1961. 'The Samoan vocabulary of respect', _Journal of the
   Royal Anthropological Institute_, 91, 296-317.
Monfat, Le Père A. 1890. _Les Samoa ou Archipel des Navigateurs_. E.
   Vitte, Lyons.
Morton, Keith L. 1975. Kinship, economies and exchange in a Tongan
Morrell, W.P. 1960. _Britain in the Pacific Islands_. Clarendon Press,
   Oxford.
Moses, J.A. 1972. 'The Solf régime in Western Samoa', _N.Z. Journal of
   History_, 6, (1), 42-56.
Moses, J.A. and Kennedy, P.M. (eds.) 1977. _Germany in the Pacific and
   Far East 1870-1914_. University of Queensland Press, St. Lucia.
Mouat, H. and Davis, E.J. 1913. 'Engineering experiences in the south
   seas 1906-1910', _Northern Engineering Institute of New South Wales,
   Newcastle_, 60-79.


Pratt, George 1890. The genealogy of the kings and princes of Samoa. In Australian Association for the Advancement of Science, Report 2, Melbourne.


Schultz, E. 1911. 'The most important principles of Samoan family law and the laws of inheritance', *JPS*, 20, 43-53.


Smith, S. Percy 1920. 'Kava drinking ceremonies and boat voyage', *JPS*, 29 (Supplement).


Tiffany, Sharon 1974. 'The Land and Titles Court in Western Samoa', JPS, 83, 35-57.

Tiffany, Sharon 1975a. 'Entrepreneurship and political participation', Oceania, 46, 85-106.

Tiffany, Sharon 1975b. 'Giving and receiving in Samoa', Ethnology, 14, 267-86.

Tiffany, Sharon 1976. 'Note on contemporary Samoan and Maori cognatic descent groups', JPS, 85, 375-380.


Williams, John 1838. *A Narrative of Missionary Enterprises in the South Sea Islands*. John Snow, London.


