

SECTION 4. KING GEORGE TUPOU I AND THE DEVELOPMENT OF PARLIAMENTARY GOVERNMENT AND THE RULE OF LAW.

One of the very significant products of the partnership between King George and the Wesleyan Missionaries was the development of written codes of law. Tonga, of course, had had its own law for centuries. This law was an unwritten law, but its provisions were nevertheless clearly understood. It found its expression in the concept of the 'Tapu'. However, with the advent of Christianity, Tongan culture began to experience a number of important changes. Apart from a new set of "Taboo's" based on the 10 commandments and the beliefs of Wesleyan Methodism, the missionaries also introduced reading and writing into Tongan culture. By 1839 therefore it became possible to promulgate a written code of laws. In 1875 a complete Constitution had been drawn up. The 40 intervening years had seen an incredibly rapid transition in Tongan society. From a society governed by ancient traditions and the rule of powerful individuals, Tonga had become a Nation in the family of Nations', able to boast a code of Laws and a Constitution.

The first of the written codes of Tonga was the Code of Vava'u of 1839. As its name suggests the code was limited in its jurisdiction to King George's subjects in Vava'u. He was master of Ha'apai and Vava'u at this time, but his uncle Aleamotu'a as Tu'ikanokupolu, ruled in Tongatapu. The 1850 code was promulgated 5 years after he had succeeded his uncle Aleamotu'a as Tu'ikanokupolu. This 1850 Code of Laws therefore can be justly regarded as the first written code of law for the Tonga Islands as a whole. The 1862 Code was also an 'emancipation edict', and the 1875 Code provided Tonga with a Constitution. The creation of those codes of law is another illustration of the effective partnership between the Wesleyan missionaries and Tupou I. The Wesleyan Catechism taught the King the Ten Commandments and the sermons of the missionaries and the Bible became sources of information and formative influences for a King who wished to see progress and development in his Kingdom. The Missionaries were probably the only advisers to King George in the drawing up of the first two codes. By the middle 1850's however, things were changing. The King had travelled abroad, and the visit to Sydney in 1853 broadened his horizons in more ways than one. He saw things that he had not seen before, and he met new people. We note that in 1854 the King commenced correspondence with a Charles St. Julian, a Sydney resident and the Consul to the King of Hawaii. The King sought outside opinion on the laws that had been drafted under Wesleyan missionary advice. This correspondence with St. Julian is clear evidence that the King wished a 'second opinion' on his experiments in law and government.

The 1862 code, which included the 'emancipation edict', was a very important step along the road to constitutional monarchy. In the preparation of this code the newly arrived missionary, the Rev. S.W. Baker, played a significant role. Many of the provisions of this code are simply a repetition, in new and more extended phraseology, of the previous codes. There were, however, important innovations. The emancipation itself was something new, although the King had discussed the matter with his missionary advisers as early as 1831. (See Document 48). The Rev. S.W. Baker was also instrumental in drawing up the 1875 Constitution, using legal codes from N.S.W. and the Hawaiian Constitution as models.

The missionary lawmakers have been criticized by a number of people, including Basil Thomson, the adviser sent by Britain to assist the Tongan Government after the deportation of the Premier, Mr Baker. Thomson, however, in his desire to ridicule and satire, is blind to the many admirable features of this lawmaking. He is blind, for example, to the monumental importance of the land laws. As early as 1850 sale of land was forbidden, and this law was strengthened in every code of laws that followed. It could well be argued that this land legislation prevented European and other foreign influences from taking hold in Tonga, and therefore, indirectly, played an important part in Tonga's fight to maintain independence during the second half of the 19th century. Had Tonga allowed sale of land, European interests would have become significant enough to warrant annexation by one or other of the great powers - as we know was in fact the case in Samoa, Fiji and a number of other Pacific nations.

A. THE CODE OF VAVA'U 1839

[45] INSTRUCTIONS TO WESLEYAN METHODIST MISSIONARIES 1821

[Instructions of the Committee of the Wesleyan Methodist Missionary Society to Mr Leigh, and to Mr Morgan; the former going out to establish Missions in New Zealand and the Friendly Islands the other to river Gambia, in West Africa; read to them at a Public Ordination Service, in the New Chapel, City Road, Jan. 17, 1821. Printed Instruction, Mitchell Library Sydney, A 1959.]

(These instructions were given to Mr Leigh prior to his departure for New Zealand and Tongatapu. Circumstances prevented Leigh from fulfilling his hopes, and the society sent Hutchinson and Thomas to establish the work in Tonga. In a letter to the Rev Hutchinson and the Rev Thomas (dated 18th April 1825) the Rev George Morley on behalf of the society issued the same instructions as had been given to Leigh:

"For the regulation of your conduct to the Committee, to your colleagues and to the Native inhabitant of the Tonga Isles, we refer you to the printed General Instructions and to the particular..... instructions given to Mr Leigh January 17th 1821, when it was expected that he would have gone to that station

..... In giving instruction to the natives, it is of importance, that you rather propose and enforce with meekness the glorious truths of the gospel, than dispute with their superstitious, and absurd opinions. No true Christians have any where been made by mere disputations, however well conducted. You are to propose the gospel in its simplest and most explicit truths, as an undoubted revelation from God; to dwell upon the wretched and guilty state of man, and upon the love and grace of our Lord Jesus Christ; and invite and persuade them to be reconciled to God. Do all this, not with the air and spirit of a dogmatist, but with the sympathy and kind solicitude of him who came to seek and to save that which was lost." Nor let it be ever absent from your minds, that all your hope of success depends upon the Divine influence and power accompanying truths thus spoken, in the benevolent spirit, and according to the true doctrine of the gospel. Let every word of advice, and every public discourse, be given and delivered in the spirit of prayer, and steadfastly fix all your hopes in God.

As you will be appointed to assist the natives in acquiring the knowledge of agriculture, and some of the useful arts of life, habits of labour and industry must be cultivated by you, at least in the early stages of your Mission. To all things by which you can promote the real good of the natives you must apply yourselves, even as the great Apostle of the Gentiles, working with your hands. In all this beware of the secular spirit. These are works to be done in the name of the Lord Jesus, and for him. Whatsoever you are called to in this respect, "do it heartily, and do it as unto the Lord."

The peculiarity of the new Stations in New Zealand and Tongataboo, will require that you should be furnished with a considerable quantity of articles of hardware, implements of agriculture, &c. which you will have to barter with the natives for the food convenient for you, for timber to build your houses, chapels, and schools. In these transactions you are to remember, that the instruction which prohibits all our Missionaries from engaging in trade

is still binding upon you. This barter is to be established merely for the procuring necessary supplies for the Mission, in a place where money is unknown, and no more. It is also explicitly to be understood that no Missionary employed in stations so circumstanced as New Zealand, and other of the South Sea Islands, is to acquire any property. His wants will be supplied by the Committee, by the regular transmission of those articles by which necessaries may be obtained in those places; and the buildings, land, and every thing else which may be procured for the use of the Mission, shall remain the property of the Missionary Society alone, to be used by the Missionaries who may in succession be appointed to those Stations,

Should you acquire influence and consideration with the natives of the places of your destination, as we trust by the blessing of God you will, you may be placed in circumstances of sane difficulty arising from the quarrels and different views of the various chiefs. Your plain line of duty is to take no part in their civil affairs, and to make it understood, that interference in these matters is no part of your object, and that you are sent to do good to all men. This, however, will prevent your giving them such advice as may be beneficial to all parties when it is desired; and more especially you ought earnestly to endeavour to induce them to abandon those cruel practices which are so frequent in their wars. Kind and prudent remonstrances against cruelty of every description, may be the means of softening the barbarism of their manners, even before they are efficiently brought under the influence of the Gospel.

The Rules in General Instructions, as to the administration of Baptism, and discipline in general, are specially recommended for your guidance. Our aim is not merely to civilize but to convert; and in every instance careful instruction in the Christian faith, and evidences of a true turning of the heart unto the Lord, is to be required before that sacred ordinance is administered.

As in New Zealand especially, and ultimately on the banks of the Gambia, the Brethren with their families must live together in the Mission-house, the careful cultivation of the kindest brotherly affection is solemnly enjoined. To promote and establish this, let the rules for your conduct towards each other in the General Instructions, be sacredly adhered to. Let the heathen around you behold and say, "See how these Christians love". In honour prefer one another. Remember your great work; your brief and uncertain life; your solemn account. Live in peace, and the God of love and peace will be with you.

ADDITIONAL INSTRUCTIONS TO Mr. LEIGH.

As you are appointed to superintend the Missions to New Zealand and Tongataboo, we recommend to you great kindness and mildness of manner to your Brethren; as well as great prudence and economy in the management of the whole of our affairs. There must be no inequality among you; you must submit to privations in common, and all your comforts must be equally shared.

It is recommended, that you purchase by barter not more than 500 acres of land, at a fair remuneration to the natives, for the use of the Mission at New Zealand; and if it be thought expedient, not more than the same quantity at Tongataboo.

That you, as soon as possible, and in the most economical manner., erect at the place of your location in New Zealand, suitable premises for a School, a Room for Public Worship, and three suits of apartments, one for the residence of each family, all under the same roof; that there be a common Room, in which the meals of the whole Mission-family may be taken together, and family worship regularly performed. The same is to be done at Tongataboo. Each family to have for its separate use one sitting-room and one sleeping-room for the present.

That all articles furnished from time to time, for barter, for the use of the Mission, shall, both at New Zealand and Tongataboo, be considered as common stock, in no case to be appropriated to his convenience and use by any individual Missionary, either for building, purchase of land, provisions, or other expenditure.

That one of the Brethren shall be appointed Secretary to each Mission, whose business it shall be to enter into a book to be provided for that purpose all the articles sent out for barter, from time to time, by the Committee, and those first taken by the Brethren; and that no articles shall be taken out of the common stock, to be bartered or otherwise made use of, but by the consent of at least two of the Brethren, whilst the number shall be three in each station; or when the number shall be increased, of two-thirds of the whole, and not without an entry being made at the time of the number and kind of articles so taken out of the stock, and the purposes for which they are to be bartered, which entry is to be signed in the hand-writing of the Missionaries as in the first instance, and two-thirds, when the number shall be increased. The Secretary shall be required to make copies, half-yearly, of the book-account of all stores received, expended made up half-yearly, to June 30, and Dec. 31, of each year, in duplicates by the first vessels. These duplicates, as well as the originals, are to be signed by all the Brethren on each station. At Tongataboo, as long as there shall be but two Brethren employed on the Mission, the stores to be applied only by the joint consent of both.

The Secretaries to each Mission shall, with his half-yearly account, also inform the Committee what articles are most in request among the natives for barter; and also state the rise or fall in the value of the various articles, as the case may be.

That for the purchase of articles of food for the Mission-family, each of the Brethren shall in rotation, week by week, be appointed to barter with the natives, one only at the same time being empowered to transact that business; and that each of the Wives also, in weekly rotation, take the charge of cooking the provisions and preparing the meals for the common table. The rotation to be so regulated, that the Wife of the Brother who purchases the articles of food, shall superintend its preparation for the same week.

That a fowling-piece be furnished to each Missionary, but that no barter shall be allowed in muskets, or warlike weapons of any kind.

That Missionaries at New Zealand and Tongataboo will expected to establish Schools for the children of the natives, and, as soon as practicable, bring the natives to contribute to the support of the children of those schools. At each of those stations the Committee will allow, for the support of schools, to the value in goods, of £50 per annum, and the Brethren and their Wives are directed to adopt such methods of instruction as they may, on mutual consultation judge most suitable, and that they themselves act as Teachers.

That on each of these Missions £50 per annum shall be allowed to each married Missionary, and £12 per annum for each child as quarterage, and that the Society send out, from time to time, as many suits of clothes as each Missionary may order, to be charged to his account; and any surplus of cash, due to him as the balance of the above named allowance, be paid to him either in goods or cash, as he may direct.

[46] THOMAS COMMENTS ON GOVERNMENT AND "LAW" 1826

[Thomas to Mason. Diary and Letter Book , Rev, J. Thomas, letter Number 5. Hehefo Tonga, September 21, 1826. Mitchell Library, Sydney. A 1959.]

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In a place like this, so remote from civil society and under a diabolic government, our situation is far from being enviable, and if we did not feel. an assurance of the protecting hand of the Lord our God, it would not be any ways comfortable, but "the Lord reigneth even amongst the heathen, this blessed truth supports the mind, and we also thankfully remember that we are connected with a praying people, blessed be God, thousands of petitions have been heard for us and this Mission, we hope constant prayer will be made for us and these people and then we shall fully expect the divine blessing..

Satan is alarmed for his subjects here, he has been permitted to try us in various ways, he has thrust sore at our own peace and union, but the snare is broken. The people here are notorious for fornication, lying and theft. We have lost several articles, the chief tried means to recover our property but did not succeed, from the least to the greatest they will steal if they can and except they are detected they think it rather an excellency than an evil. The chief has not behaved very well to us since we came, he has broken his promises so that we can place no confidence in his word. Here is another chief of the name of Ulakai, son of the King Tuku'aho who was murdered in 1799, who is very kind and friendly to us, his Father was the greatest chief here and protected the London Missionaries that were on this part of the island while he lived, his son is willing if he had power of doing a great deal for us. If he should be put into his proper place, he would be the greatest chief by far, and there has been some talk about it. We trust we are in our proper place though it is in the heart of the enemies' territories, if we should be spared and the chief should favour us, it is likely great good will be done, as Ata is a great chief and connected with the Ha'apai and Vava'u Islands, we shall gain access there, but we can do but little without the consent of the Chiefs.

[47] VOYAGER WARNS BOUT LAWS 1830

[Waldegrave, W. Extracts from a Private Journal kept on board H.M.S. Seringapatam in the Pacific, 1830. Journal of the Royal Geographic Society, London. Vol 3. 1833. pp. 186-187.]

The Missionaries are hardworking, industrious teachers, and of good private characters; but they are ignorant of their own language. Their congregation consists of about three hundred persons and is said to be slowly increasing. They do not interfere in any questions amongst the natives, but confine themselves to their religious duties. They are not traders. I cautioned them against proposing laws to the natives.

[48] THE KING SEEKS ADVICE ON LAWS 1831.

[Journal. Rev. Peter Turner, 1831. pp 106-109, Mitchell Library Sydney. B.301.]

December 24th The king is kind and has been up to see us, and to ask some questions. One question was whether it was the duty of children to consult their parents when they wished to be married; of course. we told him it was the duty of children to obey their parents "in all things in the Lord". Another subject of enquiry was, whether his servants should leave him when they pleased, and marry without his permission. These were formerly at the will and pleasure of their chiefs, and were a kind of slaves and they could on the least provocation knock them on the head. Some of these are beginning to avail themselves of the profession of Xty¹ to get clear of their political disabilities. This question was not so easy to answer as the former, but we gave him to understand that Xty knew nothing of slavery, but that he must treat them kindly, and that ultimately he would be able to give them their liberty. He seemed to be thoughtful, but said he would think upon the subject.

December 25th Praise God that I have been enabled to get through the labour of this day with more pleasure than I expected. I read the second chapter of Matthew, and informed them that this was Christmas Day and endeavoured to impress upon them the condescending love of the Saviour. They were surprised and pleased and many followed me to know the name of the day, and begged to have the chapter to read in their houses.

December 26th The king came up this morning and wished to have some laws for the regulation of his servants, but as I was in expectation of Bro. & Sis. Watkin I would not do anything until he comes, that I may have the benefit of his counsel. The King says he wishes to imitate Abraham, and those of whom the Scriptures speak. May he always be thus teachable.

¹ Possibly "Christianity"

[49] DISTURBANCE CAUSED BY MASTERS OF VESSELS AND THEIR CREWS 1832.

(Diary-letter book. Rev. J. Thomas. Letter 118, 1832, pp.139ff.
Mitchell Library Sydney, A. 1959.)

I wish to make a few remarks on a subject I have not generally alluded to viz the conduct of masters of vessels and their crews at these Islands. We have long been grieved to hear of their wickedness committed by our own countrymen who visit the Friendly Islands, it has spread its deadly influence far and wide and presents an obstacle of no trifling importance to the spread of the gospel at many parts of this Island and is a constant stumbling block to the infant church of Christ at this place. And from what we have lately witnessed we find that the evil we complain of is increasing upon us. And the consequences are the most afflicting. I do not hesitate to say that 10 out of 20 of the accidents which have happened at these Islands, have taken place through the degraded and wicked conduct of the Crews, as they drink to excess - riot and revel on board and on shore burn in their lust and commit the most abominable sins – quarrel and fight amongst themselves – insult and ill-treat the natives, especially the females, which leads to quarrels with the men, and some times with the heads of the people who are not disposed to put up with such conduct from people they can easily overcome. Thus designs are formed to revenge the evils they suffer, which leads to murder and theft to the great loss of property to the owners of vessels, the disgrace of our common Christianity, and the English as a people and the ruin and eternal disgrace of the perpetrators, as well as the injury of the Missionaries and the natives generally. Yet we know not what we can do it. It were well if such persons knew the hundredth part of the mischief they do. "Oh that they were wise that they would consider their latter end."

Another thing we complain of is Captains of vessels leaving their wicked and disorderly men at these Islands to our no small annoyance, and the injury of our people. We are aware that it is contrary to the British laws for Captains to act so. Yet they continue to do it. We have not reported their conduct to the Secretary of the Admiralty because we do not know your mind upon the subject, but think perhaps it is the one thing that will check this great and growing evil. If you wish to try the effects of it. I here relate a case which you can do as you please with.

Captain Richard Banks of the Mary Jane Whaler of Sydney, S.B. Bettington owner, was in here a few days ago. He said his Steward was a scamping fellow and he would leave him on shore at this place. We told the Captain he had no right to leave him here. Also that we had too many such men at this Island. We furnished him with a copy of the British law on the subject but notwithstanding that he has left the fellow here, the man's name is –

The Captain of the Forward Castle of London has long been in the habit of frequenting Tonga. He has generally taken up his abode at what is called the Mua. It is the East part of Tonga the chief under whom Mr Lawry lived. The above Captain though an old South Sea Whaler, yet I am sorry to say, conducts himself in a very wicked manner. He and his officers and crew have made that part of Tonga a kind of rendezvous where all kinds of wickedness has been committed at which even the poor heathen have been ashamed. A boats crew were on shore there on Monday last. They continued all night for what purpose I need not mention. In the course of the night one of the men went to the young Chiefs house (as it is reported) to look for a woman, it is said the young Chief's wife. But the young Chief was at

home. He rose up and chased the Englishman and caught him. But the Englishman being very strong held the Chief, and while they were struggling together the Englishman drew out a large knife and stabbed the other in eight or nine places about his sides and back, and left him near death and escaped to the bush and hid himself, but was soon pursued by the people of the young Chief who killed him without any further to do (and it is said by some) that they roasted the body, and eat a part, out of revenge to the Captain for his conduct towards them. We have been applied to for Medicine for the wounded Chief and have sent him some but his recovery is very doubtful. The remainder part of the boats crew were sent on board for which we feel thankful. It is a great mercy they were not all killed as the young man who is stabbed is the eldest son of Fatu and of considerable rank. If our Englishmen would profit by this awful event I should be glad, and it may then be worth the trouble of printing. If the young Chief dies I fear they will seek further revenge and our ungodly countrymen put themselves entirely into the hands of the natives while they riot and revel with them in drunkenness and lewdness. Oh shame on English Seamen. What a disgrace to our Holy Religion and the land of Bibles in devilish and beastly conduct.

[50] KING GEORGE'S SPEECH 1833 - A PRELUDE TO THE 1839 CODE

[Journal, Peter Turner, Vava'u, Tuesday 30th April 1833, pp.9-11.
Mitchell Library Sydney. B 302.]

This has been a high day for the natives. They have more formally acknowledged Taufa'ahau as their King. He delivered a very long speech to them in which he taught them their duty. He began by saying that there are few things he wished to mention to them. It was true he said that we have a partial famine, - that some of you have not much to eat in consequence of the late hurricane. Some may think that this is the main cause of their poverty. I am not quite of that opinion. Here are some other causes - besides the late storm. Many of you are idle, and some are wasteful - and others are thoughtless. We have not taken care of the abundance God gave us - in the time past. We eat to our fill, and then we throw much away. We should have made our bread, and should have had many stores of it; then we should have had food to eat in this time of want.

Thus how thoughtless we have been - and how wasteful also. And have we not been idle? Are there not some who do but little work; but go about and live on others. God has been very good in giving us so good a land, but we must dig the soil and plant, or we shall not have much food. My mind is, that those who will not work should not eat: and you will do right to deny the idle young men when they come to beg your food.

There is another thing I wish to tell you about. That you must not all live at Neiafu, but you must go to your own places inland, or to the islands, and you must build your houses, cultivate your fields, and attend to your schools and to your chapel. And let the chiefs live with their people in their own places, and not remain altogether here. If you will do this you will have plenty of food and will have the blessing of the Lord upon all your labours. He said there are some among us who make excuses when they are required to work more, by saying they want to read the word of God. But such people cover their idleness by these excuses. It is very good to read God's word, but you should not neglect your digging - nor

your planting - nor your building, by reading at improper times. You should do your work of this world, and read when your work is done. You have much time for reading if you will not sleep in the day, and go about drinking your Kava (native drink). This speech has made a move among the chiefs and people, and many are leaving for their respective places.

[51] THE "HA'APAI CODE" 1838

[Lyth R.B. Journal. Oct, 8th 1836, Oct. 8th 1842.
Typescript Copy. Palace Records Office Nuku'alofa.]

Dec. 12, 1838 - The King assembled the people from all the islands and gave them new laws. The meeting commenced by daylight and was ended in about 2 hours. This has in consequence brought many of the people to Lifuka.

[52] KEEPING THE SABBATH 1838

[Journal., Vol. 1. Stephen Rabone. Mitchell Library, Sydney MSS 47]

11th February, 1838. "A good day this morning and evening . . . o may the seed sown today spring up and produce an abundant harvest. I do long for the spiritual prosperity of our people many of whom are yet very ignorant and weak and like new born babes require every attention and care and if left to themselves they do wrong. One thing has taken place today for which I feel very thankful. Ulakai when up here begged 'Ata to order the people to desist from all heavy and open labour on the Sabbath. Yesterday 'Ata sent round the fortress to inform the people and today our ears are not dinned with the noise of their beating out the native cloth and other labour. This I pray may be the beginning of good days and that yet the Heathen of Hihifo will know the day of their visitation and turn to God. I long for this - I pray for this - I earnestly desire to see the day when this shall be, but if not and it please the Lord I trust I shall not be unwilling to die even for this,"

[53] CRITICISMS OF "DEFECTIVE GOVERNMENT" 1838

[Journal. Stephen Rabone. Sunday 23rd September 1838. p.152
Mitchell Library, Sydney. MSS 47.]

Tonga is' a trying situation. The Government is horribly defective and every man appears to do what is right in his own eyes, perhaps it is one of the scourges of God Almighty to a sinful people to suffer a man to assume the reins of Government who had neither the head, hand or heart for such a work -- may the Lord help us and remove any hindrance.

[54] THE PUNISHMENT OF OFFENDERS 1841 - 1845

[Journals of Peter Turner, 1840-1842, 1845. Mitchell Library Sydney. B 306-308.]

Thursday 27 (August 1840)

.....The King has been very busy during his visit in receiving visits from his chiefs and in trying those who have done evil since he left. Some old offenders have been beaten by his orders as nothing seems to have any influence

.....

September 23 (1841)

.....All the chief's and matabules have been commanded to assemble with all their people to report the conduct of all their people. The result of the investigation is that many scores of young men have been in the habit of indulging in sinful and foolish sports. Some work has been assigned them - as a punishment, which I hope will prevent any further indulging in the practice.

.....

28th (Feb. 1842)

The King came up to ask our opinion about punishing those who violate the laws of the land. They have punished them of late by beating them in the face with the fist. We told the King that we did not like their manner of punishing culprits, but that like himself we were at a loss to give any new mode which would be useful as almost every kind had been tried and had failed - that we desired not to have much to do with the affairs of the land in a Political sense. We advised him to do the best he could until we should fakataha - meet in our D. Meeting when we would give him some advice upon some subjects if he desired us. We recommended hard labour - and to appoint officers to look after those appointed to work.

.....

Sunday 17th (August 1845)

I have to record another fire. About 8 o'clock this evening the alarm was given that the Institution was on fire and in a few minutes it was a heap of ruins. We are at a loss to conjecture what the motive can be - or in what we have so much displeased some of our people.

Monday 18th

We have had some talk with the King today as to the burning our houses. We told him that we feared lest our houses should be burned down while we were asleep and we burned to death, or at least, that all our property, and the property of the society would be destroyed and the death of our sick on the station hastened in consequence. As were this to be done while we were asleep we should scarce have time to put on our clothes on. He was very sorry, but does not know what to do. He told him that as the judges sometimes came up to make enquiries as to what they should do with certain delinquents - the most abandoned of our people might think that we influenced the judges to inflict certain punishments upon them, and that therefore we do not wish to be consulted any longer upon such subjects. He

was much pained - and quite approved of all we said. He promised to do all he could for us to make us comfortable. This we believe. But we are much pained at these things and what the end will be we cannot tell.

.....

Feb. 3rd 1846.

This is the day for the monthly sessions of this group. And what a sight do we witness - old and young are come to confess their misdemeanours to the Judges. The Holy Spirit has so wrought upon the minds of the people as to compel them to make full confession. More than 300 individuals come forward to make known some breach of the laws.

Feb. 4th 1846.

More than 200 have been today to make confession. The entire number is 529 - and as most of these profess to have obtained mercy, the chiefs have bestowed a free pardon upon all with the exception of those who have been guilty of setting houses on fire, and injuring the persons of others, and those who have wantonly destroyed canoes, and those who have not made frank confession of their sins. These will have to make some remuneration for their offences. When the principal chief arose and declared the benevolent intention of the chief's to forgive the offenders - the effect was almost, overwhelming and reminded me of the declaration of liberty of . . . state, and when he asked them whether it was their intention to endeavour to fear and serve God for the future? They answered as with one voice it was . . . and when he required a show of hands every hand was raised. He exhorted them to return home and to live at their own places - to attend to the schools - and to the duties of religion. Afterwards I spoke to the people and at my wish all arose to thank the chief for their clemency - and they again stood up to render thanks to Almighty God for his saving grace vouchsafed to us. We then sang and 5 chiefs and myself engaged in prayer - when the assembly broke up with thankful hearts.

[55] THE CODE OF VAVA'U 1838

[Ko e Gaahi Lao ki he kakai 'o Vava'u mo Haafuluhao, Vava'u, Me 16, 1838.
Printed document in English and Tongan,
Photostat copy from Palace Records Office, Nuku'alofa.]

These are the names of the King and the Chiefs in council at Vava'u Haafuluhao.

GEORGE The King

Jobe Soakai, Steward or Governor
Osaiasi Veikune, Chief Judge or Magistrate
Eliesa Kijikiji, Judge
Tiofilosi Kaianuanu, Judge

I George make known this my mind, to the chiefs of the different parts of Haafuluhao, also to all my people. May you be very happy.

It is of the God of heaven and earth that I have been appointed to speak to you, he is King of Kings and Lord of Lords, he doeth whatsoever he pleaseth, he lifteth up one and putteth down another, he is righteous in all his works, we are all the work of his hands, and the sheep of his pasture, and his will towards us is that we should be happy. Therefore it is that I make know to you all, to the Chiefs and Governors and People, as well as the different strangers and foreigners that live with me.

That the laws of this our Land prohibit.

1.

Murder, Theft, Adultery, Fornication and the retailing of Ardent spirits.

If any shall transgress these laws of ours, the case must be made known to the proper authorities, that the judge may examine into it.

If any woman shall beat herself or by drinking any liquor or by using any means cause her child to depart from her, her case shall be brought before the judge.

In case of ones eating a poisonous fish or shell fish, knowing it to be destructive to life, the case shall be brought before the judge.

And should one die from taking poison, knowing it to be such, he shall not be buried in the Christians burial ground or as a Christian.

In case of a person being found dead a man, woman, or child and it is not known by what means the person came by his or her death, the judge shall be informed of the case, upon hearing of which he shall fix upon a house to which the body shall be removed. He shall then choose three men out of the nearest four villages to the place where the corpse was found, being twelve in number who shall assemble at the place appointed with the judge, who shall inform then of the object of his calling them together, they shall then proceed all together to view the body, and the place where it was found, after which they shall return to the house and sit in judgement on the case, and each speak his mind as in the presence of God, as to the cause of the persons death, viz whether by the visitation of God or by violent hands, and if their minds are satisfied that the person had been killed, they shall make every enquiry in order to discover the perpetrator who if found shall be brought to judgement, and wait the consequence of his crime.

N.B. No person shall be put to death, except by the express command of the King.

If any person shall rise up and lift up a club (or any other instrument of death) against another for the purpose of killing him, the person so offending shall be brought before the judge, and judgement passed upon him.

2.

My mind is this. That all my people should attend to all the duties of religion towards God; that they should keep holy the Sabbath day, by abstaining from their worldly occupations and labours, and by attending to the preaching of the word and the worship of God in their places of worship.

Should any man on shore or from on ship board come to the chapel for the purpose of sport or to disturb the worship; should he insult the minister or the congregation, he shall be taken and bound, and be fined for every such offence, as the judge shall determine.

3.

My mind is this. That each chief or head of a people, shall govern his own people, and them only: and it is my mind that you each show love to the people you have under you, also that you require them to be industrious in labouring to support the government and in their duties to you their chiefs; and that you divide to each one of them land for their own use, that each one may have means of living, of supporting his family procuring necessaries, and of contributing to the cause of God.

4.

It is my mind that my people should live in great peace, no quarrelling, or backbiting, having no wish for war, but to serve the God of peace in sincerity, therefore I wish you to allow to your people some time for the purpose of working for themselves; they will work for you as you may require them in working your Canoe; in planting your yams, and bananas, and in what ever you may require their services; but I make known to you it is no longer lawful, for you to hunuki, or mark their bananas for your use, or to take by force any article from them, but let their things be at their own disposal.

5.

And it is my mind that the land should be brought into cultivation and planted; hence I inform you it is unlawful to turn your hogs outside :the fence or sty: in case of a pig being found eating the yams or destroying the produce of the earth, the owner of the pig shall be apprised directly of it, that he may put his pig up, also he shall make amends for the mischief done; in case the owner pays not attention to his pig either to confine it or to recompense the damage done, and the pig is again found eating the plantation, it shall then be lawful to kill the pig, and the person owning the plantation shall claim it.

6.

In case of an Englishman, or any other foreigner wishing to remain in this land, he will be expected to obey the laws of the land and contribute in some way, (as he may have the means) to the support of the government, by working occasionally for the King, or by what means he may choose, while he does this, the laws of this land will protect him and his from evil.

7.

I beg of you my Chief's and heads of the people that you pay attention to these words, and make known these laws to your people, and see that they practice them.

8.

In reference to the small and light offences, each chief will examine and adjust, in his own place but all the more important offences must be brought to Mua at Neiafu.

N.B. The day for hearing cases of disorder at Neiafu, is the first Tuesday in the month and you need not come at any other time.

On the day of hearing it is expected that the following persons will be present, viz. Jobe Soakai, Osaiasi Veikune, Eliesa Kijikiji, and Tiofilusi Kaianuanu.

N.B. The King will present and take a part when ever convenient,

In case of a person retailing ardent spirits, he shall pay a fine to the King of Twenty Five Dollars and be liable to have the spirits taken from him.

In case of a man either living on shore, or from on ship board, being drunk and, causing disturbance, he shall be taken, and imprisoned, and for the first offence pay a fine of six dollars, which fine shall be doubled in case the offence is repeated.

In case a man living on shore, shall entice or otherwise induce any seaman to leave his vessel for the purpose of living on shore he shall pay a fine of eight dollars to the King; in case a person fails to make known one whom he knows to have run away from his vessel, such an one shall be fined according to the nature of the offence.

In case a man leaves his wife and escapes, she shall claim his plantations and whatever other property he may have left.

In case a woman forsakes her husband, she shall be brought back again to him, and in case she will not remain with him, it shall not be lawful for her to marry any other man while her husband lives.

It is not lawful to tatatau or to kaukau or to perform any other idolatrous ceremonies, if any one does so, he will be judged and punished and fined for so doing.

It is unlawful to leave the island in a clandestine manner, also to give away or enslave any person.

It is also unlawful to cut down timber without liberty so to do.

B. THE 1850 CODE OF LAWS.

[56] THE KING AN "ENEMY TO CIVILIZATION" 1842

[Records of the Methodist Missionary Society, London, Tonga Circuit Report 1842. Microfilm Reference FM 4/1397, Reel 6. Mitchell Library, Sydney.]

It may be right to notice that one thing that tends to increase crime here is that no notice of it is taken by the King (Josiah), he has no laws hence the people do as they please and sin with impunity. Another thing which tends to injure them is the support of the old. Heathenish customs which the King seems more disposed to encourage than religion in the land. By these things they are so poor as scarcely to have the means of keeping themselves clothed and fed, and much less to improve their circumstances. The King is an enemy to civilization so that scarcely a person is now seen with any other dress than a natives.

[57] DISCUSSION ON LAWS; ASSISLNC E FROM NEW ZEALAND 1847

[Rev. Walter Lawry, Friendly and Feejee Islands; A Missionary visit to the various stations in the South Seas in the year 1847. Second Edition. London 1850. pp.23;29]

Sept 2nd. 1847

The King has just now announced his intention to quit Tonga, and live at Hapai; but he intends first to visit Samoa, and to carry the teachers thither. This has operated all at once as a thunderbolt. On the part of the congregated chiefs there is consternation. Yesterday I delivered a lecture to them and the King on various public matters, connected with education, laws, government, and public morals, all of which ought to be in accordance with Christianity. About five hundred persons listened with marked attention for an hour and a half. The matters then discussed have since been fully canvassed, and pronounced to be "the truth and just what is required"

"They are now in a transition state: their old habits are broken up, and their new state of things is only formed in embryo. Formerly they were ruled by terror: the chief dealt death to whom he would with the end of his club; a man who was found refractory was quickly dispatched. But, now that they are freed from the reign of terror, it would be too much to expect that such an emancipation would not be abused. It is abused by certain young Chiefs, who are merely nominal Christians; and it is also abused by a few disorderly persons here and there: but order is rising out of disorder. A code of laws is under consideration; and I am to seek assistance from one of our judges, on my return to New Zealand. Governors are appointed at Vava'u and Ha'apai, and courts of justice are set up. All this needs much to make it complete: but the matter is advancing as fast as such matters usually do, and the movement is in the right direction.

[58] KING GEORGE AND MARRLIGE LAWS 1850

[Rev. Walter Lawry. A Second Visit to the Friendly and Feejee Islands, London 1851.]

pp. 23-24. May 29th 1850

One small and dark spot in the distance had the effect of a shaded background to this picture: three Englishmen or Americans stood outside - men of the baser sort who estimate the Missionary as one who stands in their way. Men without character, living in a society leavened with Christian morals, are happily doomed to be men without influence or consideration of any kind. But still their day is coming; and what will they say, when, side by side with these believing Gentiles, they shall stand before the judgement seat of Christ and hear him say ? -

"Behold, ye despisers, and wonder, and perish; for I work a work in your day, which ye shall in no wise believe, though a man declare it unto you! "

Ås Mr Amos and I were walking by the sea-side early this morning, one of these men came up to us and desired to be married forthwith to a native woman, with whom, it appeared, he had been living for some years, and had several children. Upon inquiry, we found that he had been residing at the Bea, a colo partly Popish and partly Heathen, - if there be any difference, between the two things.

There men live as they list, and no one interferes: but now this man has come to Maofanga to live, which is a Christian colo, and not far from Nukualofa. One of the laws over all King George's sovereignty is that persons are not allowed to live together in a state of adultery: hence this white Heathen has complied with Christ's law, because the magistrates require him to do so. What reason can be given why every land claiming the name of Christian should not do the same?

.....

Here we have a King who rules in love, and makes laws against overt sin; "in whose presence a vile person is contemned." What God has declared to be wrong, he causes to be refrained from, or punished when done; but religion, in all its operations, he leaves where his God leaves it, between God and the conscience: God has dominion over the conscience: the Magistrate rules over men's conduct.

[59] KING GEORGE: A MIND OF HIS TIES

[Rev. Walter Lawry. A Second Visit to the Friendly and Feejee Islands, London 1851 p.49]

June 15th 1850

"The King is expected here from Hapai..... The coming of the King, and of such a King (one who lives before his times, and is wiser than the wise men of his day, who dwell in these Isles) is quite an event among this people; and beside this, the King is coming to preside at

our Missionary Meeting, to consult his Chiefs about some new laws, and to honour the marriage of a chief lady of Mua, the daughter of Eliza Ann"

[60] HESITANCY OF THE CHIEFS

[Walter Lawry, A' second Missionary visit to the Friendly and Feejee Islands, London 1851. pp.53-54.]

June 17th 1850.

"Some new laws are desired by the King but the Chiefs hang as a drag upon his wheels. The present system is this:- The King, as supreme, not only rules all the people, but owns all the land in the Tonga Isles; - the Chief's hold under him, and the people under the Chiefs. When the King wants a thing, he sends to the Chief to send it to him. When the Chief desires a thing, he sends for it, and the owner gives it up. Hence no man can say that any thing he may possess is his own.

This state of things most effectively cuts up by the roots all energy and exertion, and each man tries how little he can do; for he says to himself, "Why should I work hard, and another person eat the fruit of my labour?" The Chiefs seldom work, but they some times command, and often beg: they are the first beggars in the land. The Missionaries see this evil, and the King sees it, with here and there a Chief. They propose a tax for the King, and another for the Chiefs, and the rest to be the property of the man who holds it, who grew it, or who made it. But this is too great a thing to do at once: the difference between it and the old system is so great as to create considerable hesitancy on the part of the chiefs and all the idle ones, of whom there are many

. . . as the dawn of a better day for Tonga has begun to appear, the full day. will certainly follow: but it requires time to elevate and to civilize a . . . barbarous nation. The Schoolmaster has followed the Gospel preacher; and when the people are more fully taught, they will more easily adopt an enlightened system of civil government.

[61] THE KING'S REQUEST

[Friendly Islands Annual District Meeting 20/4/1848, 9/5/1849, Re Records of the Methodist Missionary Society London, Mitchell Library Sydney, Microfilm references F M 4/1397 Reel 6.]

"Q 31. Can any measures be adopted for the promotion of the work of God in this district?

1.
2. The King having repeatedly and earnestly requested the assistance of the Missionaries in preparing a code of laws for the government of his subjects, this meeting appoints Bro. Rabone to prepare the said code, and agree to follow as far as applicable to this people the code adopted in Tahiti published in Ellis's Researches."

* * * * *

Annual District Meeting 9/5/1849 Miscellaneous resolutions.

No. 7 The code of laws drawn up by Rev. Rabone was unanimously approved by the meeting and is recommended to the King and chiefs for their adoption and promulgation.

[62] NON-MISSIONARY ASSISTANCE WITH THE 1850 CODE - 1849

[Journal, Rev. Peter Turner, 1849. Mitchell Library Sydney. B. 309]

November 1st, 1849, (Vava'u)

. Mr Pritchard ("Daphne", British Man of War), has also recommended some alterations in the Port Regulations which we hope the King will adopt. He assembled the chiefs, the King not being here, and advised them what to do with runaway sailors and advised them to unite with the King in making a code of laws for the government of the people.

[63] REACTION OF THE KING and CHIEFS TO MISSIONARY ADVICE 1849

[Journal, Rev. Peter Turner. 1849. Mitchell Library Sydney, B 309]

28th November, 1849.

This is a time of some trial. Our vessel is detained, and when will she come? And the King and chiefs are becoming jealous of our interfering with what they think their prerogatives. We have been recommending to them a better Code of Law, but O no, things must remain as they are and we are thought evil of for our wishing to elevate them in the scale of civilisation and we have but little hope of seeing them much better.

[64] PROGRESS TO BE GRADUAL 1850

[Rev, Walter Lawry, A Second Missionary Visit to the Friendly and Feejee Islands in the year 1850. John Mason, London 1851. pp. 81-82.]

The King is holding his court, and they have now fully agreed upon a code of laws, which are to be published forthwith. They are not all that we could wish them to be; and this I told the King and Chiefs; remarking especially on the mode of paying the judges out of the fines levied on the offenders, which is sure to corrupt the seat of justice; but the King's reply was, "We must do things little by little." Upon the whole however, this movement is a grand step towards the civilization of the entire nation, comprehending nearly two hundred islands. This ought to have been done several years ago, and there is no good reason why it has been so long delayed. No doubt, however, now rests upon any mind, that much good will result from this first attempt at legislation by a written code. The Statute book is to be printed at our Mission press.

These laws were first published by our brethren at Tahiti; and have generally been commended as simple, wise, and just, a pattern of Christian. legislation. They were, however, originally drawn up in Sydney, by one of our Local Preachers (since deeply fallen) at that time in high repute among all who knew him. This fact I learnt from his own mouth many years ago.

[65] THE DECISION TO PROHIBIT SALE OF LAND. 1850

[Rev. Walter Lawry, À Second Missionary Visit to the Friendly and Feejee Islands in the year 1850. John Mason, London, 1851. pp.64, 71,72]

24th (June 1850).

I spent the evening with the King and Messrs West and Amos. George was utterly tired out with the crowds who waited upon him with food, cava and cloth during the day; but in the evening he was exceedingly open and communicative. We heard him give a detailed account of his title to the crown of all the Friendly Islands. . . .

25th To prevent all possibility of mistake I wrote the King this morning the following note:-

'TO KING GEORGE TUPOU

"I beg to ask, with great respect, whether I understood the matter correctly last night; namely,

First, That you were determined not to part with any land in your dominions throughout the Friendly Isles?

Secondly, That though you greatly desire the friendship and alliance of Great Britain, yet you do not intend to be in subjection to any power or State whatever, but to remain, you and your people, a free and independent nation?

I am, Sir,
Your obedient and respectful Friend,
Walter Lawry."

THE KING'S ANSWER

"My mind is, that I will not verily sell any piece of land in this Tonga; for it is small; then, what of it can we sell? and what shall be left for ourselves? . . . I verily wish to be the friend of Britain; in friendly alliance, with all fellowship; but it is not my mind, nor the mind of my people, that we should be subject to any other people or kingdom in this world. But it is my mind to sit down (that is remain) an independent nation.

I am,
GEORGE TUPOU."

Note:

There is no indication in the report of Lawry as to why he asked the King this question. Obviously they had discussed the questions of sale of land and independence on the previous evening, but in what context it is not clear.

[66] THE ORIGIN OF THE 1850 LAWS

(Thomas West, Ten years in South Central Polynesia etc etc. London 1865. pp. 211-213)

With the rapid advance of education, the king felt the need of a more comprehensive and complete code of laws for the government of his people. On this subject, he frequently and earnestly conversed with the Missionaries, and I finally applied for their official help in framing it. The subject was carefully considered, in the annual assembly of the Missionaries, presided over by the Rev. Walter Lawry, in 1847; and, after an interesting and important discussion of the whole matter, we recommended the king to obtain the opinion and advice of the highest English legal authority in New Zealand. The king, therefore, drew up a communication upon the subject, which Mr. Lawry conveyed 'to the proper quarter. A reply came, in due course, to the effect, that King George could not do better than adopt a code of laws, similar to that drawn up for the natives of the Society Islands, with such modifications or alterations as might be considered necessary, for its adaptation to any special peculiarity in the Tonguese government, or the customs of the people. A translation of these laws was prepared by the Missionaries, and placed in the hands of the king and chiefs, for their united consideration. Many consultations were held with the chiefs, and various alterations, amendments, and additions were made. After these were completed, the king waited upon the Missionaries to obtain their further opinion and advice, upon the rough draft thus submitted. Upon carefully and unitedly examining and discussing the whole, we suggested several important alterations, which he and his native advisers were to consider for themselves, to either adopt or reject as they might deem proper. We were very careful to impress them with the conviction, that these laws must be adopted and promulgated as their own, and not as the laws of the Missionaries. This was accordingly done; and, when the code was finally completed, and made law, by public and regal authority, the Missionaries found in it much that was contrary to their own views. It was, however, a great advance upon the brief and imperfect code already in operation, and would, no doubt, prepare the way for something better still.

[67] A VOYAGER'S COMMENTS ON THE EFFECT OF LAWS 1851

[Erskine Capt. J.E. Proceedings at the South Sea Islands the Journal of the Royal Geographic Society of London, Vol.21: 1851.] pp. 227, 228.

"Should George Tubou live for a few years (and he is a man apparently about 45 years of age), it is probable that all the population will become Christianized, and the succession of his son be secured; but should his death happen at an early period, disputes will certainly arise as to the sovereignty of the different islands, and civil war be the consequence. Besides the dignity of Tui Kanakabolu, which gives the right to rule in Tonga, there is

another and a higher one called Tui Tonga, the holder of which is considered to be a kind of sacred personage, and above the cares of government. It is said that the Roman Catholic party advocate for their own views the right of the present Tui Tonga (one of their converts) to the actual rule, and that the heathen party would perhaps assist them; but as the office must expire with the present holder, and he is imbecile, it is not probable that there will be much trouble on his account. George has, under any circumstances, the whole power in his hands at present, having governors at the islands where he is not actually present, and a regular Government at all, with laws for the punishment of offenders.

[68] MISSIONARIES FEAR ABUSE OF POWER 1854.

[Haabai Circuit Report, 1854. Friendly Islands District.]

“During the past year we have found the following to be the main obstacles to a more extended revival of God's work.....

1. A growing worldly mindedness amongst our members and the people generally arising from the increased opportunity of trading with resident Europeans. God forbid that we should discourage the desire for bettering their condition and covering the nakedness of our people, but we are free to aver that it will require a watchful eye and no small amount of Pastoral care to prevent them being hurried away and their affections set upon the fleeting vanities of the world.
2. The danger that exists in the case of many of our leading Local Preachers and Leaders connected with the government and administration of Justice lest they should abuse the new prerogatives and power placed in their hands and use the same, not so much as a means of checking crime as for self-aggrandisement and a source of oppression of the people."

[69] THE TONGAN CODE OF 1850

(THE TAHITIAN CODE OF 1822:) A COMPARISON OF SOME CLAUSES..

[Reverend William Ellis, Polynesian Researches ...etc etc,
Fisher Son and Jackson MDCCCXXIX. pp427-439.

<p>The Tahitian Code of 1822</p> <p>V. Concerning lost Property. When an article that has been lost to is discovered by anyone, and the owner is known to the finder, the property shall be taken to the person to whom it belongs. But if such property is concealed, when the finder knew to whom it belonged, and yet hid it, he also is a thief; and that his punishment be equal to that of a thief, is right.</p>	<p>The Tongan Code of 1850¹</p> <p>XXIII The Law referring to lost property Anything, the property of a person being lost, and found by another, the finder knowing the owner, but does not make it known to him, shall be tried as for theft. Anything being found, but the owner unknown, it shall remain with him who finds it. 2. Payment shall not be demanded by the person who finds the lost property of another.</p>
<p>The Tahitian Code of 1822.</p> <p>VII Concerning disregard for the Sabbath For a man to work on the Sabbath is a great crime before God. Work that cannot be deferred, such as dressing food when a sick person desires warm or fresh food, this it is right to do; but not work such as erecting houses, building canoes, cultivating land, catching fish, and every other employment that can be deferred. Let' none travel about to a long distance on the Sabbath. For those who desire to hear a preacher on the day of food (the preceding day) it is proper to travel. If inconvenient to travel on the preceding day, it is proper to travel on the Sabbath (to attend public worship) but not to wander about to a great distance (to different villages,) on the Sabbath. The individual who shall persist in following those prohibited occupations, shall be warned by the magistrates not to do so; but if he will not regard, he shall be set to work, such as making a piece of road fifty fathoms long, and two fathoms wide. If, after this, he again work on the Sabbath, let it be one furlong.</p>	<p>The Tongan Code of 1850.</p> <p>XII The Law referring to the Sabbath Day The breaking of the Sabbath is a great sin before God. Work which cannot be dispensed with, such as preparing food for a sick person, may be done, or any unforeseen accident occurring; but other works, such as house-building, making canoes, gardening, seeking fish, journeying to a distance, and assembling together for wicked purposes, are all forbidden. Any person found guilty shall work one month, and on a repetition of the crime, two months.</p>

¹ Note: The Tongan Code of 1850 is quoted from Latukefu; Church and State in Tonga. Unpublished Ph.D. thesis. Australian National University, 1967.

<p>VIII. Concerning Rebellion, or stirring up War The man who shall cause war to grow, shall secretly circulate false reports, shall secretly alienate the affections of the people from their lawful sovereign, or any other means for actually promoting rebellion, the man who acts thus shall be brought to trial; and if convicted of stirring up rebellion, he shall be sent to his own district or island, and if there again stir up rebellion, his sentence shall be a. furlong of road. If he repeat the. offence, he shall be banished to : some distant Leland , such as . Palmerston's., and shall return only at the will or pleasure of the king.</p>	<p>XXV. The Law referring to Chief's and people who may cause any Evil to arise in the land If such Chiefs or people are discovered, the same shall be banished from the land that they live in, into another land; nor shall they be permitted to return to their land, but it shall be with the Government, their returning or remaining until the end of their lives.</p>
<p>The Tahitian Code of 1822.</p> <p>XV. Concerning False Accusation The man who shall falsely accuse another before a magistrate, with intent to have the accused person brought to trial, or the man who shall falsely come as a witness, it being his intention or purpose, in giving false evidence, that the accused may be punished or convicted; if his accusation or evidence is proved to be false, the penalty that would have been adjudged to the accused, (had he been found guilty) shall be transferred to the false accuser.</p>	<p>The Tongan Code of 1850.</p> <p>IV. The Law referring to WITNESSES. If anyone accuse another, or anyone. confirms it, but on trial it is after wards found that both the accuser and witnesses have lied, the punishment which would have been inflicted on the accused, the Judge shall order to be enforced against the accuser: and false witness; but when any one works unjustly through a false accuser and false witness, the Judges shall order the false witness to pay him who has laboured contrary to justice, according to his amount of work done for the Governing Chief, and punish the false witness accordingly to the punishment unjustly inflicted on the accused.</p>
<p><u>XXVIII.</u> Concerning Voyaging in large companies. When a member of the reigning family, or a Governor, or other man of rank: or influence, shall project a voyage to another land - such as those from Raiatea or Tahiti, visiting Huahine: it is right that he select steady men, such as are of the church, or have been baptised; not immoral or mischievous men, that cease not from crime such should remain in their own land. But if these voyagers continue to bring troublesome persons, when they upon the shore, the magistrates shall admonish- them</p>	<p>XXVI. The law referring to Voyaging. Should any Chief, with his crew, voyage and do wrong in any land, on his return they shall be tried, and punished according to the evil committed. It shall not be lawful for persons voyaging to bring away the people of the shores they may visit, unless at the request of the Chief of such land, in that case they may; but if they are brought away without the knowledge of the Chief of that land, such Chief taking land them shall pay ten dollars.</p>

<p>not to disturb the peace of the place, nor wander about at night. If they do not regard, such disturber's shall be bound with ropes until their masters depart, when they shall be liberated.</p>	
<p>The Tahitian Code of 1822.</p> <p>XII. Concerning (Divorce) putting away husbands, and putting away wives. That a man should put away his wife, who has not been unfaithful to him, is wrong. The magistrates shall admonish such a one that he receive his wife again. If he will not regard the admonition, let him be punished with labour till the day that he will return to his wife. If he is obstinate, and will not return, then they shall both remain till one of them die; the husband shall not marry another wife. The woman also who shall forsake, or put away her husband-without cause, the above is the regulation with regard to such. But if a man put his wife away on account of her great anger (violent temper) and for her bad behaviour, such man put (her) away, the magistrates shall admonish the wife and the husband that they live together, but if they are perverse, they shall remain; the wife shall not take another husband, and the husband shall not take another wife. They shall also be adjudged to labour until they live together again. The husband's work shall be on the road or the plantation. The wife shall, perform such work as weaving mats or beating cloth. For the King one part, and for the Governor the other parts of the works they shall do.</p>	<p>The Tongan Code of :1850.</p> <p>VII. The law referring to man and wife.</p> <p>8. In reference to man and wife separating, this is the law:- Nothing can justify their separation but the crime of adultery committed by either party. And if any man cast away his wife, or any woman her husband, save for that crime, the Judge shall order the offending to support: the offended party, and on refusal, the man or woman offending shall labour until such time as he or she shall be willing to live together again. In case of separation, these things are to be regarded:-</p> <ol style="list-style-type: none"> 1. The thing that makes it lawful for a man and woman to separate. 2. But the thing that is right and commendable is to forgive, and live together again ; and on no account, after so doing, ever more to refer to it. 3. In the case of either party doing wrong, and the other takes no notice of it, at the time, when the mind of the injured party may be pained towards the other, he or she shall not then be at liberty to refer to it. 4. Let all now that the separating of a man and a wife is a difficult matter; since the marriage contract is a command of God, the minister must first marry them; but, in case of trial, and the crime proved, then the minister must pronounce them separated, in the large Chapel, before all the people, even as their marriage was performed., etc.

[70] THE 1850 CODE OF LAWS

[Latukefu, Sione. Church and State in Tonga: The influence of the Wesleyan Methodist missionaries on the Political Development of Tonga, 1826-1875. Thesis submitted for the degree of Doctor of Philosophy in the Australian National University. Feb, 1967. pp.553-563]

I. - The Law referring to the King

1. The King, being the root of all government in the land, it is for him to appoint those who shall govern in his land.
2. Whatever the King may wish done in his land, it is with him to command the assemblage of his Chief's, to consult with him thereon.
3. Whatever is written in these laws, no Chief is at liberty to act in opposition, but to obey them together with his people.
4. The King is the Chief Judge; and anything the Judges may not be able to decide upon, shall be referred to the King, and whatever his decision may be, it shall be final.

II. - The Law concerning Tax's

Whatever the King deems proper, shall be done by the people for the King.

III. - The Law referring to the Judges

1. It is the province of the King to appoint all the Judges in his kingdom.
2. This is the office of the Judges:- If any one or more be charged with having committed a crime, it is the business of the Judges, when such are brought to trial, to hear the person by whom the charge is made, as also the statement of the prisoner. The trial being over, and his guilt proved, the Judge shall then pronounce sentence, according to what is written in these Laws.
3. The remuneration which the Judges and Officers shall have made to them by the King, is the distribution of the convicted persons amongst them, to labour for them at their respective places.

A brief allusion to the business of the Judges

1. There shall be no respect of persons with the Judges in their trial of offenders. Though the offender be a Chief, or next in rank, he shall be tried according to these Laws; it being unjust to differ between the trial of a Chief, and that of a common man.
 2. On no account for the Judges to receive food or payment from those about to be tried: should any one so receive, and it be discovered, he shall be deposed from his office, having acted unjustly.
 3. . . .
 4. The day of trial arrived, and the Judges seated, the prisoner, complainants, and witnesses, shall be brought before them; and the Judge then state the crime with which the prisoner is charged, and about to be tried for.
 5. The Judge shall then inquire of the accused, whether the charge against him be true or not; and if he admits its truth, the Judge shall at once pronounce

sentence; but if he denies it, the Judge shall order the witnesses to state what they know, the accused being at liberty, if he can, to produce witnesses to prove his innocence of the crime of which he is charged.

6. Should the accused wish to question the witnesses on anything they may state he is not at liberty to address them, but make known his inquiry to the Judge, and for the Judge to put his question to the witnesses, that on no account there be either talking or quarrelling in the presence of the Judges; and if any one breaks this law, it is with the Officers present in court to put a stop to it.

7. And with regard to any serious crime, such as murder, incendiarism, the burning a canoe, or personal assault, or the like, - when the Judges shall have tried the case, and they are of one opinion as to the punishment to be inflicted not for it to be enforced. immediately, but for the Judges and King to confer; and should the King deem it proper to lessen the punishment, well, but not for him to increase it.

IV. - The Law referring to witnesses

If any one accuse another, or any one confirms it, but on trial it is afterwards found that both the accuser and witnesses have lied, the punishment which would do have been inflicted on the accused, the Judge shall order to be enforced against the accuser and false witness; but when any one works unjustly through a false accuser and false witness, the Judges shall order the false witness to pay him who has laboured contrary to justice, according to his. amount of work done for the Governing Chief, and punish the false witness accordingly to the punishment unjustly inflicted on the accused,

V. -"The Laws of the Chiefs and those who govern

1. The Chiefs to whom the se Laws refer are those whom the King has appointed to govern portions of the land, and their people.
2. It is with those Chiefs only to harangue and govern their people, and it is not admissible for any other to order or govern those people.
3. And any one, not being a chief of high rank, who shall break this law, shall be tried for the same, and be ordered to pay to such persons according to the work they have been made unlawfully to do. for him.
4. This is the labour which the Governing Chiefs shell lawfully demand from their people yearly, even to the extent they may think proper; and such Chief shall pay strict attention in seeing the King's work properly executed, but in case of his negligence, his people shall do the less for him.

VI. - The Law referring to Officers

1. On the perpetration of a crime being made known to the Judges, it is the province of the Officers to take care and bring the offender to the place of trial on the day appointed.
2. On the accused being brought before the Judges, it is for them to prevent confusion and quarrelling between the persons on trial and the witnesses; and should any speak loud, or shout, it is for them to put a stop to it, and demand, silence.
3. The trial of offenders being over, and they being condemned to pay or work, it is for the Officers to see that their payment is brought on the appointed day, and to see that the work of the offenders is performed in a proper and correct manner.

4. It is with the King to remunerate the Officers according to their labours.
5. It is the duty of the Governing Chief of the land or place to bring the offender to the place of trial.

VII. - The Law referring to man and wife

1. Marriage is a covenant between man and woman, that they shall be one, and their property one, until the termination of the existence of one of them.
2. Those who are eligible to marry must be 16 years of age, and no one who is less than 16 can be married.
3. No man can have two wives, no woman two husbands at once, but each to live with his or her lawful partner; should this law be broken, the parties shall be judged, and work as for committal of adultery.
4. Another thing forbidden is, the improper interference of any one to promote or stop a marriage. Where the parties are of one mind to marry, they shall not be prevented, unless there be a just and sufficient cause; should this law be broken, the punishment to be inflicted shall be with the Judge.
5. When a man and woman marry, their parents shall no longer govern them; they shall act as they like, and no relative shall forcibly influence them; should they, it is with the Judge what punishment to inflict.
6. From the present evil and impoverishing system at marriages, whatever the friends may think proper to present to either the man or woman about to be married, it shall be his or hers, and on no account be again distributed.
7. Let all men know that it is just to labour and provide food for their families, and in case of their voyaging, to leave food for them; and whosoever shall neglect to keep this law, the Judge shall inflict punishment to the extent he may think proper.
8. In reference to man and wife separating, this is the law:- Nothing can justify their separation but the crime of adultery committed by either party. And if any man cast away his wife, or any woman her husband, save for that crime, the Judge shall order the offending to support the offended party, and on refusal, the man or woman offending shall labour until such time as he or she shall be willing to live together again. In case of separation, these things are to be regarded:
 - (1) the thing which makes it lawful for a man and wife to separate.
 - (2) But the thing which is right and commendable is, to forgive, and live together again and on no account, after so doing, ever more to refer to it.
 - (3) In case of either party doing wrong, and the other takes no notice of it at the time, but they continue to live together; at any future time, when the mind of the injured party may be pained towards the other, he or she shall not then be at liberty to refer to it.
 - (4) Let all know that the separating of man and wife is a difficult matter: since the marriage contract is a command of God, the Minister must first marry them; but, in case of trial, and the crime proved, then the Minister must pronounce them separated, in the large Chapel, before all the people, even as their marriage was performed. Then the writing of divorce shall be given to the innocent party.
 - (5) All parties who have separated, but not according to this law as here written, shall be considered as man and wife; and it shall not be lawful for either again to marry whilst both are still living.
 - (6) Where both parties do wrong, and it is their minds to separate, they may separate; but it shall not be lawful for either of them to marry until one of them become deceased.

VIII. - The Law referring to Adultery

When a man or woman shall be tried for adultery, and be found guilty, if the man has transgressed, he shall pay to the injured man, which whose wife he has sinned, three large hogs and sixty yams, and afterwards work three months; and where the woman sins, the payment shall be the same as in the other case.

IX. - The Law referring to Fornication

When a case of fornication is tried, and proved, the guilty man shall work for two months, as also the guilty woman. Where the crime is repeated, the parties shall work three months, and so on.

X. - The Law referring to Illegitimate Children

Let all persons know it shall not be just for a relative to take forcibly a bastard child from its mother, but by her consent only; and if any one break this law, the Judge shall order the child to be restored.

XI. - The Law referring to Dances, and other Heathen Customs

Let all people know that Dancing is strictly forbidden, as well as all Heathen. Customs: and if any are found practising such, they shall be tried, and on being proved guilty, work one month; and, in case of a repetition, two months.

XII. - The Law referring to the Sabbath-day

The breaking of the Sabbath is a great sin in the sight of God. Work which cannot be dispensed with, such as preparing food for a sick person, may be done, or any unforeseen accident occurring; but other works, such as house-building, making canoes, gardening, seeking fish, journeying to a distance, and assembling together for wicked purposes, are all forbidden. Any person found guilty shall work one month, and on repetition of the crime, two months.

XIII. - The Law referring to taking anything forcibly

Let all persons know, that taking anything forcibly, or on the score of relationship, is strictly forbidden. If any one takes that which is the property of another without his (the owner's) consent, the Judges shall reprimand him, and he shall bring back that which he took; and in case of his repeating the act, he shall pay four times the value of the article he has taken by force: or, on the score of relationship, twice the value of the thing taken to the owner, and twice its value to the King.

XIV. - The Law referring to Fighting, Quarrelling, and things very disorderly

Should any persons fight, quarrel, or create any disturbance, they shall work three weeks; and if all concerned be equally bad, their punishment shall be the same.

V. - The Law referring to Murder

Persons committing murder, from an evil mind, shall be hung.

XVI. - The Law referring to Manslaughter

The signification of manslaughter is, the killing another accidentally, whilst working, or with the weapon of another, but not designing to kill. Should such a case occur, be tried, and an individual found guilty, but it appear that he had no bad design towards the deceased, or expectation to commit such an act, but that it was purely accidental, he is not guilty and shall be discharged. But on trial, if it be discovered that they quarrelled, or fought, or fought with clubs, or wrestled, or did anything from which sprang the death of one, but which was not done with an intent to kill, he shall work for the space of two years.

XVII. - The Law on producing Abortion

That to which this law refers is a most disgusting crime, and highly deserves punishment. In case any woman should take any medicine, or eat anything, or do anything, in order to produce premature delivery, and she be tried and found guilty, she shall work for the King a whole year.

XVIII. - The Law referring to Incendiarism

Should any person set fire to a canoe, or house, with intent to destroy it, and be found guilty, such person shall pay the value of the house, as well as of all the property it contained.

XIX. - The Law referring to Robbery

If any one steals a thing from the house or plantation of another, or from else where, the thief shall pay four times the value of the thing stolen, half to the person he robbed, and half to the Government. Any one stealing a trifle, whom the Judges think proper to punish, it shall be done unto him as they may see to be right.

XX. - The Law referring to the breaking, or committing a nuisance on, a Canoe

If any one breaks, or commits a nuisance upon, a canoe, the property of another, and is detected, he shall be tried, and the Judge order him to pay a carpenter for repairing her. The offender shall after wards work for Government according to the extent of damage he has done to the canoe. This law extends also to a similar injury done to a house.

XXI. - The Law referring to breaking of Fences

Should a man or woman break the fence of any one, the person so transgressing shall repair it, and work for Government according to the extent of the injury committed. If the animal of any one whether dog, pig, or goat, shall injure a good fence, the property of another, the owner of such animal shall repair the fence; and should he not afterwards secure the animal in his own premises, but permit it again to injure a fence, he shall forfeit his animal to Government, and Government shall do as it deems proper with it.

XXII. - The Law referring to Pigs, and all destructive animals

In case the animal of any one be discovered injuring a plantation, or anything else, it shall first be made known to the owner of such animal that he may put it in a sty, or tie it up. If the same animal should destroy a second time, the Judge shall order the owner of it to pay the person who has sustained the injury, that which may be equivalent to it, and forfeit the destructive animal to Government. But should the fence injured be an old or rotten one, the owner shall pay for the first damage it does, agreeable to this law, but he shall not forfeit his animal to Government for the first offence,

XXIII. - The Law referring to lost Property

1. Anything, the property of a person being lost, and found by another, the finder knowing the owner, but does not make it known to him, shall be tried as , for theft. Anything being found, but the owner unknown, it shall remain with him who finds it.
2. Payment shall not be demanded by the person who finds the lost property of another.

XXIV. - The law referring to such persons as shall make known a Crime about to be perpetrated
Should any persons agree to commit a great evil, whether two, three, or ten; and they shall have determined to perpetrate it, but one shall repent and make known what they were going to do, he shall be forgiven; but all the others concerned shall be punished according to the evil they intended committing, even as though it had been committed.

XXV. - The Law referring to Chiefs and People who may cause any Evil to arise in the Land

If such Chief's or people are discovered, the same shall be banished from the land they live in, into another land; nor shall they be permitted to return to their land, but it shall be with the Government, their returning or remaining until the end of the lives.

XXVI, - The Law referring to Voyaging

Should any Chief, with his crew, voyage and do wrong in any land, on his return they shall be tried, and punished according to the evil committed. It shall not be lawful for persons voyaging to bring away the people of the shores they may visit, unless at the request of the Chief of such land, - in that case they may; but if they are brought away without the knowledge of the Chief of that land, such Chief so taking them shall pay ten dollars.

XXIX. - The Law referring to the Soil

It shall not be lawful for any Chief or people in Tonga, Haabai, or Vavau, to sell a portion of land to strangers (ie, foreigners); it is forbidden; and any one who may break this law shall be severely punished.

XXX. - The Law referring to Carpenters

Carpenters, working at their trade, she..) do their work faithfully, and shall be paid by those for whom they work; but should those for whom they work not pay them, the Judge shall order them to pay them even more than was originally designed.

XXXI. - The Law referring to waving to Canoes

Canoes may be waved to, and should the canoe not come to the beckon, the person in it shall be fined a pig. In particular cases of urgency, Chief's may wave to a canoe under sail.

XXXII. - The Law referring to the Roads of the Land

The Chief's shall see that the roads are hoed. The payment for not hoeing a road of any length, shall be a pig and twenty yams; and the not hoeing a short path, the fine shall be twenty yams,

XXXIII, - The Law referring to the digging Graves

It shall not be lawful for any other than the appointed persons, called 'Haatufunga,' to dig graves; but, should there be no Haatufungas where the deceased is to be interred, in that case only others may dig the grave. The relatives of the deceased shall pay to the Haatufunga according to the work done; and, should the friends of the deceased refuse to do so, the Judges shall compel them to pay the Haatufunga.

XXXIV, - The law referring to Deceased Persons

There shall be five days of cooking food for the Chief's, four days for the matabule or gentlemen, and three days for the common people; the 'tukuofu,' with the 'toka' and the 'lanu kilikili,' shall be given up; and if the friends have not wherewith to inter the dead in, others may furnish what is needed. The thing most becoming is, for the relatives to take care of the afflicted whilst yet alive; to feed, clothe, give drink, etc., and contribute something towards the burial before his decease. The people shall please themselves about the cooking at the burial. If the copse is buried as to-day, not to cook until tomorrow; and not for the burial to be as a feast, for it is a visitation of the God to that family, and it is right that they should humble themselves before God.

XXXV. - The Law referring to the Tortoise

If any man catch a tortoise, and take the first he catches to the Governor, and then take another, the second shall be his, the third he catches shall be the Governor's, the fourth his, and so on.

XXXVI. -- The Law referring to Men

You shall work and persevere in labouring for the support of your family, as well as yourself, and in order to trade and contribute to the cause of God, and the Chief of the land; and each man shall seek his piece of land to cultivate. Any man not willing to work, he shall neither be fed nor assisted; all such persons being useless or, the land and its inhabitants, and unprofitable to their friends.

XXXVII. - The Law referring to the women

You must work, women, and persevere in labouring to clothe your husbands and children; unmarried women shall work to be useful to their relatives and parents. If they do not

work, they shall not be fed or assisted; for our assisting the indolent, is supporting that which is an evil.

XXXVIII. - The Law referring to Chiefs, and those who have people under them to govern
The duty of such is, to make known these laws to the people they govern, whether they keep them or not; and, if they do not keep them, exhort them to do so: but, if they still break them, make known their disobedience.

XXXIX. - The Law referring to persons who depreciate the character of others, and to Evil-speakers

If there is any one who shall depreciate the character and speak evil of the King, the Chief's who govern the people, the Judges, or the Missionaries, and, when tried, are found guilty, the Judge shall order him to be punished according to the evil he has done.

XL. - The Law referring to Foreigners

If any foreigner desire to reside in this kingdom, and will act agreeable to the laws of this land, the laws of this land shall protect him; but if he breaks the laws of this land, he shall be tried as the people of this land; and if any of the inhabitants injure him in any way, they shall be punished accordingly. Foreigners shall pay yearly according to the portion of land they hold, whether large or small; and it shall be with the Judges to demand such payment from the foreigners.

XLI. - The Law referring to Clothing

The Chiefs, Governors, and people shall clothe.

XLII. - The Law referring to Catching Fish

Any persons catching the larger fish shall not do as they please with them, such as the turtle, albicore, bonito, and ulua, etc., but, on obtaining one, shall take it to the Chief; the second he takes shall be his, and so on afterwards.

XLIII. - The Law referring to Disobedience

All persons disobedient to the King, or to the Governors of the people, shall be taken to the Judge to be punished, according to the evil they have done.

Translated by G.R.H. Miller.

C. THE 1862 CODE OF LAWS.

[71] THE KING'S VISIT TO SYDNEY 1853.

[Sydney Morning Herald. 21/12/1853. Microfilm copy from Mitchell Library, Sydney.]

KING GEORGE OF TONGA

Yesterday evening, a very large meeting of ladies and gentlemen interested in the spread of Christianity throughout the islands of the Pacific, took place in the Central Chapel, York Street, for the purpose of taking leave of the distinguished chief George Tupou, who is about to proceed to his native country, Tonga. The Rev, Mr Boyce, occupied the chair, and opened the business of the meeting with prayer and praise; he then explained that the object for which they were assembled that evening, was to present King George with an address expressive of their regard for him in the deep interest which they felt in the conversion and civilization of his fellow islanders. He concluded by reading the address. It was then proposed by the Rev. N, Turner and seconded by the Rev. Peter Turner, in speeches of great length replete with interesting anecdotes, illustrative of the progress of the missions in the Friendly Islands, that the address be adopted, signed by the chairman, and presented to King George Tupou, on behalf of the meeting. The resolution was carried unanimously. The address was written in the native language and read to the King by the Rey Mr. Babone. The following is a translation:

We being friends and supporters of Christian Missions would express to you our great pleasure in having you with us for a season. We have long prayed for your lovely islands, that they may be overspread with righteousness. We rejoiced when the missionaries were received in your land, and especially when tidings reached us from time to time of the glorious triumphs of the gospel among your people. The account of your personal conversion to God, was a cause of abounding joy. Your high position by hereditary rank, and the respect which your energy of character and personal talents had already commanded all led us to expect much as the result of your personal decision and faithfulness. We have been gratified to hear of your steady devotion to God - your respect for His servants, the Missionaries - your zealous labours in the cause of your own redeemer and your deep anxiety for the salvation and welfare of your people. We admire your sacrifice in leaving your queen and family to take this voyage, for the purpose of learning how you can best improve the temporal circumstances of your people. We acknowledge our national greatness as subjects of the British realm, and all the benefits of civilization, as resulting from the elevating influence of our Holy Christianity, and we shall look with interest on your islands and expect to see them rising gradually into all the comforts of the highest civilization. Present our Christian respect to your Royal Consort Queen Charlotte, and say that we have been gratified to learn that she is exhibiting such truly Christian zeal in the welfare of the young, and we have heard of her labours in the Sabbath School, and in other departments of Christian usefulness. Assure your ministers of our affection for them as God's servants, and of our special and prayerful remembrance of them and their important labours. Remember us with affection to your chiefs and people; we rejoice in their changed circumstance, we have greatly admired their union with you, in the truly Christian and successful methods you have recently employed to subdue and annihilate the unhappy rebellion against your

paternal Government, which for a length of time existed and at last demanded suppression. We have already appealed to your Kingly clemency exercised towards these subdued rebels as a glorious evidence of the triumph of the cross. And we earnestly hope that habits of industry among your people will result from their sense of responsibility to God, and realize to them all the blessings and conveniences of civilized life.

In conclusion we pray that the King of Kings may long spare your valuable life, may direct all your movements on behalf of your people, and afford you abundant success in aiming at their improvement, and when at his call you lay down your earthly sceptre, may you receive a crown of glory that fadeth not away, and have a place among those who stand by the eternal throne."

The King then rose, amidst loud cheering, and spake as follows, each sentence being interpreted by Mr Rabone.

"I stand up in your presence to make known my thankfulness, and to tell you that I rejoice in the great things I have seen since I came amongst you. And if I did rejoice, would it be out of order - would it be wrong or unbecoming - would it be a rejoicing without a meaning, or good foundation, after all that has been done for me and my people. (Cheers) If, for instance, a very gracious or good thing came to the mind of a man or woman, is it a matter for surprise that his mind should literally dance and his mouth laugh. (Cheers) In my hearing this writing (alluding to the address) has been read to me this night, and I have listened with feelings of admiration to the kind spirit which it breathes towards me and the cause of the missionaries. I am also very thankful to the Missionaries who are here tonight, for the chiefs of this congregation for their kind expressions of love towards me. Why should I not rejoice, - and why should not the people of my land rejoice also. (Cheers) Has your work amongst us been in vain in the Lord. Has not your work of prayers - your work of tears been prospered by the Lord - and has not the promise of scripture been admirably fulfilled in our case: "Those that sow in tears shall reap in joy." (Loud cheers) In these prayers and tears and labour of the missionaries in our behalf when we were in great darkness - but thank God we see a great light now, - is this not cause for rejoicing, not only for us, but for every man, woman, and child in the world? (Cheers) Would it be right that my thanksgiving should be little, seeing that your labour for me and my people has not been little? (Cheers.) And as I listened to this writing and heard that it had reference to us especially, I was much gratified to find that you took such a deep interest of the success of missions in our land. And in sending us missionaries, did you send them because they had no land, no house, no home, - because they were rebellions subjects in Great Britain, because you had no love for them? - No, but because you had a great love for us, and were anxious to show us the way of life. (Cheers) And is there anyone in this house tonight who will feel the least offence in his mind at my expressing my gratitude for what you have done for me and my people. When the Missionaries arrived at our lands what accompanied them? Did they take with them soldiers, cannons or guns? No, they took with them the word of God, the strong sword of life, and was not the fruit of the fruit of the teaching of that word to be found in the islands now? (Cheers.) What was the meaning of Barnabas - what was the meaning of Phillip, when he went down to Samaria? Was it not a rejoicing

in both cases that the grace of God had descended on them? Have I not cause also to rejoice in the grace of God, which was a thing to be seen; like a city placed upon a hill it cannot be hid. (Cheers) When, in my own land, the missionaries used to tell me and my people of what God had done in England and elsewhere, we have listened with very great interest. Some of us believed, and some did not; and I therefore resolved in my mind to come and see this land. (Cheers) I found on my arrival that all I had heard previously was but a little thing compared with what I have seen since. I found that everything I heard was perfectly true, and, like the Queen of the south, I found that only one half had been told to me. (Loud cheers) Say it who will that I ought not to be glad for the kindness that has been shown to me during my residence amongst you. Has any one spoken of me as a foreigner or a stranger - have I been hungry and not been fed - naked and not been clad? Has not all I have met with been love, and nothing, but love? (Cheers) Mr Boyce, ministers, and Christian friends all - it is impossible for me to express to you any sense of gratitude for all the kindness I have received from you since I have been here. As I go along the street, one says, King of Tonga, come and eat; another says, George, come and drink warm water (meaning tea); a third says King George come and see this thing, - so that between one thing or another my days in Sydney have been the most pleasant of my life. (Cheers) Ever since I came here, I have found the love of the people a matter of the greatest astonishment. Go where I will, along the street, along the sea-side, round the Domain, and I meet with women, children, and men, who take my by the hand and vie with each other in manifesting their love towards me. (Cheers) In fact, I never was in a land where people showed so much love towards me. And when I am sitting alone in any place, or when I lie down on my bed at night, my most ardent wish is that the people of my land were here to see all the great things that you have done, and to participate in acknowledgements of your great kindness towards both me and them. - This is my saying to you in your presence; I hope it has not been too long for you. (The King resumed his seat amidst great and prolonged cheering.)

After a few observations from the Chairman, the meeting terminated as it began, with prayer and praise.

[72] THE OUTCOME OF THE SYDNEY VISIT 1853-54.

[Friendly Islands District Minute Book, The Tonga Circuit Report for 1853-4.
Archives of the Free Wesleyan Church of Tonga, Nuku'alofa.]

One circumstance which has seriously militated against the prosperity of the cause of God is the removal of two of your missionaries to the Colonies in consequence of ill health. The Western part of the Circuit has been without a missionary for six months, excepting an occasional visit from one who resides, several miles distant. If the shepherd be not in the fold to watch his flock, the wolf will enter in, and thus the sheep will be scattered and destroyed. We hope, therefore, that the Committee will - be able to send us missionaries to take charge of our vacant stations. If the great work which has been commenced is to be carried on, if the harvest is to be gathered in, labourers must be sent into the field. Another circumstance which has been the occasion of much injury to our cause is the evil reports which have been circulated throughout the length and breadth of the land by those who

sailed with King George to New South Wales. They went up to see the land, and returned bringing an evil report with them. They saw much which they were not accustomed to see in their own land, while they participated largely in the Christian kindness and hospitality of our friends in Sydney. It was hoped that much good would result from this visit to the Colony, while we feared also for the evil that might arise. But we would not be understood as saying, that no good has arisen from it; one thing has been learned by King George, that the Colonies support their own Ministers, and the churches bear their own burdens; and he has resolved to do what he can for the support of the Missionaries who minister to the spiritual necessities of his people; and recently we have, obtained a subscription of between five and six tons of Cocoa nut oil; and had we been supplied with large iron tanks or oil casks, our subscriptions would have amounted to much more.

[73] KING GEORGE SEEKS CONSTRUCTIVE CRITICISM 1854.

[M.S, S, copy. Foreign Office and External Papers. Hawaiian Officials abroad. May 1855. Hawaii State Archives.]

Literal translation of Letter from the King of the Friendly Islands to Mr. St. Julian, the Commissioner of the King of Hawaii.

November 24th, 1854.

Charles St. Julian.

I am thankful with a rejoicing heart this day in my receiving the letters which have been brought to me from you my friend, to aid me and my people and my land. And I wish to be truly thankful to you, you and the King of Hawaii, in the manifestation of your true kindness -- in the manifestation of the desire of the Government of Hawaii and its Council, to be serviceable to me and to my people --to elevate my Kingdom.

Yes! and are my thanks and my rejoicing unfounded? For is it your desire to injure my Kingdom? Is it not your desire to raise me and my Kingdom? Therefore it is that I call you my friend. · My Kingdom is established in these days. It has its laws and the people obey them. Chief's are Chief's: Gentlemen (Mataboole) are Gentlemen: people are people. And I greatly desire, in these days to raise my people and my land that they may become civilized like the various Kingdoms of the world. And I earnestly beseech you, the King of Hawaii^{1*} that you will not cease writing nor your desire to assist me, but write to me and cease not. And. this is the Book of our Laws² to that I send you. Do you look into it, and if there be anything that seems strange or wrong you make it known to me and I will consider respecting it. And this is the end of my letter to you.

I am

George Tupou
Your Friend.

¹ It is obviously myself, as the King's representative, and not His Majesty in person, to whom the Tongese Prince thus addresses.

² A printed copy in the Tongese language of the laws which are in force in the states of Tonga, Habai, Vavau united under the rule of King George was enclosed with this letter.

[74] CREATING AN EFFICIENT GOVERNMENT: ST. JULIAN'S ADVICE 1855.

[St. Julian to Tupou I. Hawaii State Archives, Foreign Office and External Papers, Hawaiian Officials Abroad, December 1855.]

His Hawaiian Majesty's Commission
to the Independent States and Tribes of Polynesia,
Sydney 26th June, 1855.

Sir

Following up my letter of the 25th April last I now proceed to submit a few suggestions in reference to the government, by your Majesty, of the islands over which you have been called upon to rule. In the first instance, however, I must repeat what I then stated -- that I have not the slightest desire to dictate. I tender advice because your Majesty has requested me so to do: because it is my earnest desire, as it is the desire of the Sovereign and Government of the Hawaiian Islands, that your Kingdom should be permanently independent: and because it is only by the establishment of a good and efficient Government that this permanent independence can be secured. It is for you, who as the Sovereign of the Tongese Nation must be best acquainted with its condition its wants and with its means, to determine what shall be done and what shall be left undone. I must beg of you, however, to consider, well ere you decide, for upon the course which you may adopt now will, in all probability, depend the future welfare of your nation; -- whether it is to remain permanently free and sovereign or to sink into a position of absolute dependence upon some other and more powerful state: whether it is to rise in the scale of social and commercial prosperity or to remain in a state of semi-barbarism and poverty: whether, in short, the Tongese name and Nation shall be perpetuated or shall be suffered to become extinct.

2. The numerous and fertile islands over which your Majesty holds sway cannot remain as they are. It is a maxim that has become so generally, recognized as to amount to a fixed international law that the whole earth belongs to the whole human race. That is to say that no particular nation or community has a right to retain lands in a state of unproductiveness while there are other nations and communities seeking sustenance, and ready and willing, by their labour to raise articles of food and commerce not only for themselves but for others from the unproductive lands. It is upon this plea that the tribes of the American and Australian continents have been held to have no retainable property in their lands and have been dispossessed. White men, in whose hands these territories have become productive of immense wealth. Much injustice and crime has, in some parts of the world been committed under cover of this principle but, as in too many other cases, the evil is lost sight of when the benefits and the profits are calculated. Now it is true that this principle will not apply to the Tongese Islands. The land there is cultivated and food is raised not only for home consumption but for the supplies of shipping. There are also some exports of oil and other produce. But all this falls very far short of what might be done. Your Islands are capable of yielding a large export of cotton and other articles of commerce which, while they would increase the supplies and consequently the comforts of the people to whom they are sent, would bring wealth and increased supplies and increased comforts to the people who produced them. As this part of the world becomes more thickly peopled, and the importance of your islands as to geographical position and fertility becomes more

apparent, their commercial value, also, will be known and appreciated. Unless their resources shall have been developed under the fostering care of a well organized and well administered Government the attention of the needy and the adventurous will be attracted to this profitable field for exertion, and in all such cases excuses are never wanting to carry out the designs which interest has planned. The only way, then, for your Majesty to secure the permanent nationality of your country is by the establishment of a Government upon such principles as are recognized as just and equitable by the great nations of the earth; and which shall not only be just and equitable but efficient. Of such a government as will aid, as rapidly as may be, the advancement of your people in civilization and the increase of the national wealth. Of such a government as will be capable of maintaining its political rights. With your Kingdom thus governed there can be no pretext whatever for any other power to attack its independence. On the contrary the great maritime countries will rather desire to maintain that independence in order that the Tongese Islands may remain a neutral state.

3. Your Majesty must remember that, in offering suggestions, for the organization of your government I labour under the disadvantage of having no tangible information as to the system which has hitherto been pursued. It is possible, therefore, that there may be a greater degree of efficiency than I at present suppose and that some improvements which I may suggest have been already made. It is equally possible that I may suggest measures which would be inapplicable. For any errors of this kind into which I may fall from want of proper information I must crave your Majesty's indulgence.

4. Your Majesty's own position I understand to be this: that you are the lawful inheritor of the Sovereignty of your nation as the representative of the Royal Family; and that, in addition, to such right of inheritance your rule has the confirmation, express or implied, of the nation itself. It is, I must tell your Majesty upon the latter foundation that all sovereignties are assumed to have been erected. The notion which once existed that Kings ruled by a divine right has long been discarded among all civilized nations. No one who did not wish to be deemed mad or laughed at would now contend that any individual or family, however exalted, could have any inherent rights which are inconsistent with the liberty and welfare of a whole people. It is upon one principle and one principle only that the rights and powers of every sovereign are maintained; that by the will of his people he has been raised up from among them for the preservation of social order; as their agent in all dealings with other nations and as the general guardian of their interests. He is assumed to have been chosen for the purpose of exercising in reference to the nation these functions which are exercised by a parent in reference to his children. If, as in most cases, the Sovereign has not been actually elected the choice of the nation is implied by their permitting him to rule. Upon the same principle the laws or usages which regulate the ascension to the throne are assumed to have owed their origin to an exercise of the national will. And in all civilized countries the right of accession to the throne is carefully regulated by law to prevent the contests and anarchy which would otherwise naturally ensue upon the death of each sovereign. If, therefore, the accession to the sovereignty of the Tongese Islands has not already been regulated upon fixed principles so as to guard against all contests and confusion of the kind I have alluded to, this I respectfully submit, is a subject requiring your Majesty's immediate attention. Among the many advantages, which must result from the rule of succession being thoroughly determined, is that the heir or heirs of the throne can be properly trained and prepared, under the guidance of the reigning sovereign, for the

exercise of the high functions which are to devolve upon them.

5. The King may justly be and, in fact ought to be regarded as the head of his nation in every respect. Every branch of the government should be administered in his name and under his authority. But in the minute details of the government he ought not personally, to interfere. There are three good reasons for this. In the first place it is the duty of the King to superintend every department of the government and to see that each is properly administered. This he can scarcely do if his time is occupied in attending to the duties of any one of them. Secondly the personal interference of the King in these details has a tendency to lower his position and influence. Thirdly in the event of the King falling into any error there would be less chance of redress to those who might suffer by it, than they would have in the case of a subject from whose acts or decisions they might appeal to the Sovereign's judgement. For these reasons the sovereigns of all the great nations invariably entrust the management of all matters of detail to their officers, reserving to themselves only the rights and powers of vigorous superintendence; so as to secure efficiency and to guard against injustice.

6. There are six functions, or rather duties, vested in every independent government.

1. Legislation or the duty of making the laws by which all the nation, from the sovereign himself to his meanest subject, should be bound.

2. The administration of Justice in strict accordance with the laws thus made.

3. The representation and the guardianship of the nation's interests in its relationship with other powers.

4. Military control for the defence of the nation from foreign aggression and for the suppression of internal anarchy.

5. The collection and expenditure of the public revenues and the administration of public properties.

6. A general Executive control for the purpose of promoting social improvement maintaining order and securing efficiency in the various departments of the state.

7. These six functions resolve themselves, practically, into three – the Executive the Legislative and the Judicial; and the exercise of each of these functions should be kept as distinct as possible from the other. It is well proved, by experience that by this means only can good and impartial government be secured.

8. The Executive functions embrace the third, fourth, fifth, and sixth of those mentioned in section 6 of this letter. In all these matters the King should exercise an active superintendence but should leave the details to his Ministers and Deputies for the reason already stated. Already, I believe, a governor has been appointed to each of the principal islands of groups of the Kingdom and there are also, I presume, inferior officers at each to assist in carrying out the duties of the Government. If there are no such officers they ought to be appointed as well as a constabulary for the preservation of order and the detection and punishment of crime. But besides these officers and servants of the state who are to perform the various duties of the government throughout all parts of the National Domain the King should be assisted in the performance of his executive functions by Ministerial officers acting under his immediate control.

9. His your Majesty's Kingdom advances in civilization and increases in importance the work of the government will become greater and a greater amount of Ministerial aid will become necessary. But at present and for some time to come a very simple organization will suffice and will be found, I think to work the best, and I do not think that any plan more simple (to be at the same time productive of efficiency) could be devised than the one which I am about to suggest. It is this. To divide the Ministerial superintendence of every branch of the Executive Management of the Kingdom between four Officers acting under the immediate direction and surveillance of the King.

1. A Secretary General to be regarded as the chief of the Ministry. This Officer should correspond with all the Governors and heads of departments so as to watch over the internal affairs of the Kingdom and should, under the authority and order of the King, exercise a general supervision over every department of the state. He should also in like manner conduct all the correspondence of the Tongese Government with the governments of Foreign countries or with the representatives of the latter and should render advice and assistance to the King and government upon all matters in reference to which such advice and assistance might be necessary.

2. A Financial Secretary to superintend ministerially the collection, and expenditure of the public revenues to keep the accounts of the State and to inspect and check the accounts of all subordinate officers to whom the collection and expenditure of public funds might be in any way entrusted. He should also carry out all arrangements as to the leasing of land and it should be his especial duty to watch over the commercial progress of the Kingdom and to facilitate that progress by any means which might offer.

3. A Secretary of the Interior to superintend and inspect all Police arrangements, the making of roads and other internal improvements, the transmission of letters, the social and educational improvement of the people and all matters of internal control not coming properly within the superintendence of any other administrative officer. He should also be required to keep full accounts of the progressive increase or decrease of the population - of births marriages and deaths -- and of every item of detailed information which might be useful to the government.

4. A Military Secretary to superintend and carry out under the immediate direction of the King all arrangements for securing the defence of the nation and to keep registers of troops arms and munitions of war -- to make arrangements for military supplies of all kinds, to draw up all general orders commissions etc to conduct all correspondence relative to the national defences and generally to assist the King in this branch of the public service.

10. The strict observance of three rules are imperatively necessary.

1st. All business transacted by the Government should be in writing. Thus, there can be no mistake or dispute as to what has been said as the writing will, at all times speak for itself.

2nd. Every act of the Executive should be performed through the agency of one or other of the public Ministers; and each Minister should be held responsible for the proper fulfilment of all such duties as are entrusted to him.

3rd. Copies should be carefully preserved of all Executive Acts and correspondence and should be so arranged that they may be at any time referred to.

11. The Ministers as well as such officers as it may be found necessary to appoint for the purpose of performing the requisite duties of the Government should all hold office during the King's pleasure. That is to say: It should be the well understood right of the King to

remove any or all of them from office whenever he saw fit to do so. It would be well, if competent men could be found, that these ministers should all be native born subjects of the King but if as is probable, it should be found necessary in the first instance to have the assistance of men of Foreign birth, it is most indispensably necessary that every person thus employed should be completely subject to the Tongese Crown and laws, quite as much so, in fact, as a Native.

12. The duties of Legislation, to which I must next refer are of the highest importance and require the most strict attention. In the best governed countries of Europe this task is committed to a body of men chosen from the different ranks of the people for this especial duty. In Great Britain the Nobles assemble in one house and the elected representatives of the people in another, and every measure must be approved of by both these houses, as well as by the sovereign before it can become the law of the land. In all cases the assent of the Monarch is necessary. It is quite impossible for me without more definite information as to the state of your Majesty's dominions and the mental capacity of your people to offer any practical suggestions as to the construction of a Legislature. I should imagine, however, that it would be better to confine this duty to a single Council composed of the Ministers and a select number of the wisest and most intelligent of the Chief's. If possible it would be well that there should be representatives in this Council from each of the groups under your Majesty's sway. The number of the Council I should think should not be great.

13. The King ought not to preside in the Legislature personally because his presence there might check the freedom of discussion and would certainly have a tendency to lower the dignity of his office. Another reason against him taking part in the actual deliberations of the Legislature is that, as all laws require his assent before they become valid, it is rather his duty to consider and revise these laws carefully, after they have passed the Legislature, than to take an active part in the preparation of them. But it is the duty of the King to watch over the work of the Legislation as over that of every other branch of the Government. And besides his review of the Council's acts there is another mode in which this is to be done. The Legislative Council should hold its sessions at least once in each year and its proceedings should be in each session opened and closed by the King in person with a written address at the opening as to what ought to be done and a similar address at the closing as to what has been done. And during each session whatever the King has to recommend or communicate may be either recommended or communicated by a written message or through one of his Ministers. These officers, too, acting under the immediate superintendence of the King, will, as members of the Council, not only be able to render all such information as the Council may require as to their several departments, but to make such proposals as may be necessary for the various branches or the public service.

14. Such fundamental principles should be laid down as would form what is termed a constitution and all subsequent legislation should be in strict accordance with these principles. In the first instance not much Legislation would be needed. But little probably, beyond the code of laws which your Majesty has already promulgated and which, although I have not yet: been able to procure a translation of them so as to understand them properly I believe to be good laws. But with the rise of the Kingdom will arise an absolute need of Legislation upon many points with which it is now unnecessary to deal. The laws of a country should be plain and simple so that everyone may understand them. But they

should at the same time, be such as to provide, as far as possible, for every case that may arise within the country, either between natives or between Foreigners.

15. In all the best governed states it is by the authority of the Legislature that taxes are levied and the public income expended. Experience has proved that the only way of ensuring the permanent independence and happiness of a Nation is to secure by this and similar means the liberty of its individual members. But it is a dangerous experiment to cast into the hands of any people, powers and duties for which they are unfitted. Such a people should be trained and prepared by degrees for the full exercise of constitutional liberty and the duties which invariably accompany it. Upon existing circumstances, therefore, of which I am not in a position to advise, must depend the extent of the concessions as the powers of Legislation and self Government which it would be proper in the first instance to make. It is for your Majesty to decide this question.

16. I now come to the third and last of the great functions of a Government - the administration of justice. There needs no argument to show how deeply important it is to every state that Justice should be well and impartially administered. A principle which should always be maintained most strictly in a sovereign state is that all persons who reside within its jurisdiction whether on the land or on the waters; whether native born subjects or foreigners: are wholly subject to its laws, None are exempt unless such. persons as may have exemption, in some matters, expressly stipulated for . by treaty, or as possess certain privileges by international law. But to maintain this principle of local jurisdiction without injustice there must be tribunals fitted to dispose of whatever questions may arise. There should be a superior court, therefore, with Judges of a sufficient degree of intelligence to decide these questions. It would be better that one of these Judges should be a white man competent to deal with all such disputes, arising between White men, as require some knowledge of the white men's laws and usages for their adjudication. There should be two other Judges who should be native born subjects of the King, if men competent for this office can be found. This court should deal with all the most difficult cases occurring throughout the Kingdom. Its business should be conducted according to fixed rules which should be made public and a record should be kept of everything done. In order that the Judges of this court may be in a position to act with complete impartiality they should not be removable from office unless proved to be incompetent or to be guilty of some corrupt practices. In various parts of the kingdom there should also be subordinate magistrates competent to deal with cases of less importance, but there should be an appeal from their decisions to the Supreme tribunal of the Kingdom. In all cases of great importance, either criminal or civil, questions of fact should be decided upon by juries; according to the practice of most civilized countries.

17. It should be the duty of the principal officers of police in the various districts to prosecute those guilty of crime within their several localities and to carry into effect all decrees of the courts. All prosecutions should be in the name of the King. All convictions and sentences should be reported to the Secretary General to be by the latter laid before the King for his approval. It should be the well understood right of the King, whenever he saw good cause, to remit a portion or the whole of the punishment, but he should not , in any other way interfere with the action of the tribunals.

18. For the assistance of the King in the exercise of his numerous and very important functions and for general consultation, as often as might be necessary, upon the affairs of the state, there should be an executive Council. Over all the deliberations of this council the King himself should preside and it should include the declared heir of the throne, the Chief Judge of the Kingdom and the four Ministers. Other members might be added if it was thought advisable. But none should be thus chosen but Chiefs of high standing and ability. And the number of the Council should not at any time be large: for two things are necessary, first that everything discussed in this Council should be calmly and maturely weighed; secondly that its deliberations should (in most cases) be kept secret -- neither of these ends can be attained if there are many members. Of all that is done by the Executive Council as well as of all that is done by the Legislative council there should be a record in writing.

19. I will in another letter offer your Majesty some suggestions as to your relationship with Foreign powers, the raising and expenditure of public revenues, and the Military defence of your dominions.

With the highest respect and consideration
I have the honour to be Sir Your Majesty's very obedient humble servant
C. St. Julian.
H.H. M. Commissioner

His Majesty
The King of the Friendly Islands.

Copy of letter (N055/50)
from the Commissioner to
the King of the friendly
Islands dated 27th: June 1855.

[75] CRITICISMS OF TUPOU I'S PROGRESS IN DEVELOPING "CIVILIZED" GOVERNMENT
1857

[John Eggleston to Editor of the Sydney Morning Herald, Sydney, Jan., 11th 1857.
St. Julian to Eggleston, 13th January 1857. Mitchell Library, Sydney AS60.]

Note: Following criticisms of King George by St. Julian in the Sydney Morning Herald, Eggleston, Secretary of the Wesleyan Missionary Society in Sydney, wrote this letter to the Editor. St. Julian was shown the letter and made reply, reemphasizing his criticisms.

Sydney, January, 11th 1857.

To the Editor of the S.M. Herald.
Sir,

I suppose that the Summary of News you prepare for transmission to England by the Mail Steamer is based on reliable authority and that you will be prepared to establish the positions if they are objected to. I must say that your paragraph, respecting King George of Tonga, is utterly opposed to all the information I have received from the Islands both from Wesleyan Missionaries and others who have visited King George's Dominions and I deeply regret that an article so damaging to one who has wrought so hard for the elevation of his people should be sent to England on your authority. There is one part of the paragraph correct that he still holds the office of Local Preacher but the other part I repudiate as a slander upon his Character until proof is adduced from a reliable source. Hoping that this may find a place in your issue of Tomorrow.
I remain yours truly.

John Eggleston.

S.M.H. Office, 13th January, 1858¹

Dear Rev. Sir,

Mr Fairfax having kindly shown me your letter in reference to the Summary of Central Polynesia news in Saturdays Herald it was my intention to have called upon you but I have been unable to do so..

That Summary was made up by myself from four letters two from permanent residents at Samoa, one from a gentleman who has recently visited both archipelagos and a fourth from a permanent resident at Vavau. The only part taken from the letter was that which relates to the present resources of Vavau and advocates a total prohibition there of the sale of intoxicating liquors. With this I presume you do not find fault but with the proceeding paragraph. All that was said by the writers as to the probable designs of King George as to an anticipated disruption at his death of even his present sovereignty and as to the impolicy of allowing him to extend his power involved merely matters of opinions but as they represented opinions which have been held by unprejudiced lookers on and as I am my self

¹ This is obviously a mistake and should read Jan. 13th 1857.

unable to deny that they are apparently well founded it would have been manifestly unfair to have suppressed them. There are three statements as to matter of fact. First, as to the present inefficiency of King George's government except for the requirements of a barbaric people. Second, as to his resistance of improvements. Third, as to his still holding under the Wesleyan Missionaries the office of a local preacher. - The first is a strong assertion but I am unable to deny its truth when I remember that the Tongese laws imperfect as they are, are administered by chiefs who divide among themselves by way of remuneration for their trouble the fines and labour of those whom they convict and when I remember too that they have proved powerless for the enforcement of some of the simplest Contracts known to civilised men. - That King George having brought his governmental System to its present condition has hitherto expressed the strongest disinclination to make such further improvements as would fit his state for the duties imposed on Civilised governments and justify its admission within the pale of internationality, I am myself aware. - The allusion to his continuing to hold the office of Local Preacher was made as I understood it in the same spirit which has dictated a similar allusion to that fact by myself namely: That while a ruling prince is thus exclusively identified with one section of his people and to a certain extent made hostile to another section while he is made dependant upon those who in temporal things are supposed to be subject to himself it is impossible that he can rule satisfactorily. King George is much in advance of his tribe in intelligence and he is a good man in the widest sense of the term. By his intelligence and his goodness he has done much for the social advancement of his people but looking at his and their political state (the only aspect in which I now regard them) there is still very much to be desired. I should be glad as you well know to see King George not only recognised by all the great maritime powers and invested with an extended rule if the conditions precedent of qualifying his government to fulfil international obligations were complied with. But ere this be he must give up his canoe progress feasting and Cava parties must have an organised government and an effective code of Laws impartiality administered must relieve the lower orders from the actions of Chieftom must encourage industrial improvement must give up his local preachship and stand neutral between all sects and classes of his Subjects.

Charles St. Julian.

[76] DESECRATIONS OF THE SABBATH AND DIABOLICAL MARRIAGES 1860

[Tonga Circuit Report, 1860. Friendly Islands District Minute Book. Archives of the Free Wesleyan Church, Nuku'alofa.]

The present year has been one of unprecedented trial and anxiety. . . . Our anxieties have been many and varied both in their character and origin -- Popery is one source --

Popery is not only displayed in Tonga tapu as the 'Mystery of Iniquity' but also as the 'man of sin', 'The Mother of Harlots'. When it was first introduced here it promised to the heathen chiefs their Harems, wives, and concubines many. And this as part and parcel of the lotu baptism alone being insisted upon -- It has this year revived the nearly forgotten heathen games of Tonga -- Pitching, -- Topping, -- Lancing, -- Dancing etc, with which it desecrates God's Holy sabbath and disturbs the peaceable inhabitants by its midnight revels

-- The only heathen game prohibited being the night dance which was performed naked -- that is the only Tapu game.

Marriage by or with heretics (Protestants) it now ignores. A chief in Hihifo committed adultery the other sabbath evening. And on the day following one of the Priests married him, a married man (whose lawful and virtuous s wife was at home and ignorant of what was transpiring) to the guilty woman, in the only condition being that he and the woman should become papists, which they did.

This is not an isolated case. Three such cases have taken place within this month. These things, Sabbath desecration, and diabolical marriages are done in direct opposition to the laws of the land and persisted in, in defiance of the lawful authorities, under the pretext that they are essential parts of its mysterious system, therefore the suppression of them by the Government, the Priests maintain would be a breach of the 2nd Clause of the French Treaty and that France will punish any breach of that Treaty. This is the first cause of our anxiety. Will not God visit for these things. Our God shall hold them in derision. The weapons of our warfare are not carnal but mighty through God. Pray for us.

Our work in Tonga tapu is not however without its bright side its encouraging features. God is with us. And the shout of a king is in our camp. Of the converts of last year few comparatively have fallen away in this we rejoice.

Popery in Tongatapu is like a blighted tree its many seductions and menaces backed as they are by the influence of the French Vessels of War,-- makes no converts save in cases of unlawful marriages --in this we rejoice.

Spared through another year of happy anxious toil, in which we have been sustained by the power from on high in answer to the prayers of our Fathers and Brethren -- we give ourselves afresh to God, and by His help to our work, rejoicing that unto us who are less than the least of his saints, is this grace given that we should preach among the Gentiles the unsearchable riches of the Gospel --

"Happy if with our latest breath
We may but gasp his name
Preach him to all and cry in death
Behold, behold the Lamb."

[77] CRITICISMS OF THE FIRST PARLIAMENTS 1859-1862

[Friendly.Islands District Minute Book (1850 - -1862)
Free Wesleyan Church Archives, Nuku'alofa.]

(i) Tonga Circuit Report 1860. - "The infantile Parliament"

The sale of intoxicating liquors and ardent spirits by the trading vessels and which are retailed secretly by the persons ashore, is another serious anxiety to us. This presents a great temptation to the natives - we have had to mourn over three or four of our chiefs and senior Local Preachers, who have made shipwreck of their faith this year through this snare of the evil one. The dangers to our people from this cause is greatly accelerated by the manner in which the infantine Parliament of these Islands is conducted. The majority of the male population is brought together on these occasions, and evil results. We believe that His Majesty King George will soon alter the present arrangement, and thus save his people from this very serious evil.

(ii) Haabai Circuit, Report 1861. - "I withering and most pernicious influence"

There are however many influences still existing arising from the manners and customs of the people, among whom we labour, which being opposed to the "spread of Scriptural Holiness throughout the land" causes us no little anxiety, and among these particularly are the injurious affects we feel and anticipate through the annual assembly of the Chiefs and people of all the Islands, at Tonga, Haabai OR Vavau, should these meetings be continues - The effects of such immense gatherings under circumstances the most exciting, and for purposes of purely a worldly character is acting prejudicially on the piety of many who have but lately started in their career of Holiness and on the Church at large a withering and most pernicious influence, so that not less that one hundred who had but just surrendered themselves to God and to his Church, and of whom we were hopeful, date from that period their downfall in piety and religion and have no longer a place amongst us - But for this our returns would have shown an increase of even more than that number over the past.

(iii) Tonga Circuit Report 1861 - "Voyaging, feasting, and idleness"

And again the native Parliament which is to hold here its fourth sessions next May 1863 (sic) by its voyaging feasting and idleness, dissipates the minds of many, to their spiritual loss if not ruin."

(iv) Vavau Circuit Report 1862. - "The Disorders of the time of Meeting"

The past year has been very unfavourable from various causes to the temporal and spiritual prosperity of this circuit, and has presented great obstacles to the advancement of our people in personal piety or the enlargement of the Church. The death of the Kings son with its consequences have been felt throughout the District and not lightly in this group, but especially has the native parliamentary meeting held in Tongatabu last June told severely on our Societies. The preparations for several months preceding it - the evils connected with voyaging - the disorders of the time of the Meeting, with the results arising from the Political change in the civil relations of the Chief's and people then enacted - have been causes of stumbling or spiritual declensions to many, and of actual backsliding and renunciation of Christian profession and practice to not a few."

(v) *The Australian Society's View 1862. - The Beginning of greater things*

[Report of the Australasian Wesleyan Methodist Missionary Society April 2 1862, Sydney 1862 (Received for the year 1861) p. 27-28.]

A Native Annual Parliament has been established by the King, to which he invites all the leading chiefs from the various groups of islands, that they may afford to him their views on various subjects connected with the government of their lands. Hitherto these large gatherings have been very expensive to his people, and have been a means of much spiritual dissipation and loss. They will doubtless, however, be an ultimate benefit. When the excitement has passed away, and they are relieved of much of the unnecessary outlay, the Government of the land may gradually become less arbitrary in its character, and a regular Parliament may be established, having authority to give laws to the land, and this will greatly tend to prevent confusion and strife, when in the order of Divine Providence their present wise and powerful sovereign shall be removed to his eternal reward. Hitherto many evils have attended these large assemblies of the people, and there has been much waste and extravagance. At the last held at Vava'u 80,700 yams, 2,534 pigs, 130 turtles, and other things, were provided for the occasion."

[78] **CONCERN OVER MARRIAGE LAWS 1861.**

[Davis to Eggleston, September 6th 1861. Mitchell Library , Sydney.]

Have seen King George-today on his arrival from Tonga. Held conversation about the marriage question. It appears that he has published to his people, that the individual violating the marriage contract shall be put away, and after three years be allowed to marry again. Is not such administration a violation of Scripture?

He has heard from Captains of vessels, that a similar law to the above exists in England and the Colony; or rather, that in the former it is five years, and in the latter, four; and as Tonga is but semi-civilized they have reduced it to three.

Will you ascertain the exact state of the English and Colonial law on the point, and write me per first vessel.

[79] **PRINTING OF THE NEW CODE OF LAWS 1862**

[Friendly Islands District Minute Book, Printing Office Report, 1862.]

The work of the printing office was necessarily suspended for three months in the middle of the year ---- the leading workman having claimed the privilege of visiting Tongatapu at the time of the annual Parliament. Since then we have been mainly occupied in passing through the Press folding and stitching etc the King's New Code of Laws, His Majesty having obtained the sanction of the Chairman for this purpose.

[80] THE ECONOMIC EFFECT OF THE NEW LAWS 1862.

[Whewell to Eggleston, 23rd June 1862. Mitchell Library Sydney.]

There are many things on my mind of which I wish to write but in the bustle of the 'Fakataha fakabuleanga' - gathering together of the Kingdom - I fear I shall fail to do as I wish.

First of all I would say -- We are grieved at not seeing you here, this year as a Deputation from the Conference. We are, or ought to be, the best judges of the necessities of this district as it is.

The Islanders are now in the most eventful crisis of their history. The doings of this Parliament will affect our work in the most fundamental organizations, and institutions -- Our Native Agencies in a way you little anticipate. King George is not a Local Preacher, Leader, or even a Member now. Our Native Agencies have heretofore been free from all Government work, and all taxes, --for their works sake. They are now to be on a level with others in everything --- many will leave the work unless we can pay them a small salary. Without this they cannot pay their taxes. It would be easy to pay this if it were likely that the contributions would now be equal to years gone by, but this is not probable because the amount of direct taxation ---- 12/- per man annually -- beside ground rent is more than the people can afford -- more than they can do. And further King George's promise -- to support Seven Missionaries -- was given to the winds in their Fakataha in Haabai in 1860. We were not informed of that decision until long after it was passed. Now we have only ticket contributions to fall back upon. And if the people be so heavily taxed we shall have little oil to send up to the Committee year by year. This will be fearfully true so far as the Tonga Circuit is concerned. The meaning of all this change is easily explained. Many of our head chiefs are worldly as the New Zealanders.

They have long looked with an envious eye on the shipments of Mission oil and Europeans have not been wanting to tell them what a fine revenue for them this will make.

They are now for trying it. The result on our balance sheet will be anything but agreeable. I fear Tonguese gratitude and a Tonga man's sense of obligation is as effervescent as the morning cloud, or early dew.

Then again our church property. We hold it on the most flimsy and uncertain tenure -- the will of a man. I do not think we shall lose it while King George lives. But King George is getting old -- He is not the man he was in many respects. For some years he has been getting more worldly wise - and worldly minded, and since the death of Vuna he has ceased to meet in class. . . . At his funeral an old heathenish practice was revived, the Tukufofo - presenting native property to the dead -- which is divide among the surviving relatives. Our church useage, and the printed laws of the land prohibit this. But the Fakataha last year had revived and legalized this practice as a family institution.

[81] MISSIONARY RESPONSE TO THE NEW LAWS 1862

(i) *Tonga Circuit Report 1862. - "The Magna Carta of Tonga"*

The year 1862 is to be immortalized in the annals of the future of Tonga as the year of Jubilee to the people, and the 4th day of June is to be kept for ever a day of public rejoicing, as the date of the signing of Magna Carta of Tonga. King George has long been known and styled "the Alfred of the Friendly Islands"; and truly his great desire seems to be, to give his people a code of just laws and establish among them, a wise and popular administration - This is one glorious and happy consequence of a faithful acception of our holy divine Christianity. - To God only wise be the glory and the praise. High hopes are entertained by the King and the people in reference to the decisions and doings of the Parliament held in May and June last. - That these hopes may issue in substantial and lasting good is the sincere wish of every right feeling heart.

(ii) *Haabai Circuit Report 1862. - "Abolition of the Annual Festival"*

The year has been characterized by more than ordinary events to the Church and to the world. The enemy has scattered tares among the wheat, and rallied his forces to do battle against the Lord and his anointed. . . . Whole some restraint from the indulgence of heathenism customs, and habits, have been removed and an attempt made to return to practices we had hoped were. (sic)

These circumstances have called forth earnest prayers to God, and faithful protests have been made against practices antagonistic to the Spirit of Christianity. The influence of ignorant and ungodly chiefs have in some cases been exercised prejudicially to the interests of our cause, and in not a few instances, uncontrolled by a higher power - has it proved detrimental to spiritual improvement. Strong drink has been imported in large quantities by various vessels much to the detriment of our work, and the end of it in some instances has been most injurious -- a passion for tatooning with other heathenish practices, and a desecration of God's Holy Day has followed causing us much anxiety and grief.

The annual festival which for past years has prevailed but which we rejoice is now abolished, has been productive of much irregularity and mischief - the several islands have been drained for the time of men, women, and children and old and young of both sexes have been allowed indiscriminately to amingle, exercising an influence the most demoralizing and pernicious. These circumstances have had their natural and legitimate result. Sin to a greater extent has been indulged in, into which some of our weaker people have fallen, so that our numbers are considerably below the returns of the previous year.

(iii) *The New Laws optimistically received - "The Assurance of Perfect Freedom"*

[Friendly Islands District. Vava'u Circuit Report, 1862]

The newly printed Laws inspire us with hope for the prosperity of true religion and for the peace and establishment in the faith of our people. They are in favour of Christian morality,

and if carried out, will put effective checks on improper marriages and illicit sale of intoxicating drinks. Their tendency is towards the enforcement of the sanctity of the Christian Sabbath and the promotion of Educational efforts - they hold out the assurance of perfect freedom from the arbitrary and oppressive rule of the chiefs. And though the changes contemplated are not unattended by danger, we are persuaded that all things shall work together for the good of the Native Churches. Since the enforcement of the Liquor and Marriages Acts - drunkenness which had become common has been almost unknown, and the Roman Catholic Priests though anxious to do so have not dared to violate the Law concerning unlawful marriages, so that the depraved and licentious dispositions of the worst are restrained, and sobriety and morality publicly encouraged. The things which have happened have fallen out rather to the furtherance of the Gospel.

(iv) Friendly Islands District Report 1862 - "A Great Evil."

This year will be memorable in the Church History of Tonga, as the year of sifting and testing of the principles and piety of the Church. Often have we had, during the year (like the son of Pethuel) to weep between the porch and the altar, and say, "Spare thy people O Lord, and give not thine heritage to reproach, that the heathen should rule over them." Of many who did run well, we have now to say, "O foolish Galatians, who have bewitched you that ye should not (continue to) obey the truth" - We have to report a very serious decrease, as our schedule will show - The occasion of this decrease is principally the "Great Fakataha" - the immense labour, expense and anxiety of preparing for it (for a whole year) with the feasting and dissipation in connection with its sitting. The objects and designs of this great national movement were good and laudable, but its influence and associations have been destructive of the piety and spirituality of many of our people. - The Tonga people are impulsive and passionate to a proverb; nor is human nature more immaculate here, or the restraints of education and example so strong as in civilized Society. The moral influence therefore of this parliament has been what we feared it would be, a great evil to the "lotu" people, a temporary one we hope, but an evil, and one which we cannot but deeply deprecate.

(v) A More Cautious Comment From The Missionaries, - "An entire revolution"
[Friendly Islands District, Tonga Circuit Report 1863]

The transition state through which the Islands have lately been passing, effecting an entire revolution in things of a political character, putting into the hands of our chiefs, wealth to which they have hitherto been strangers and releasing the people from a state of semi-barbarian servitude to one of almost unrestrained liberty - taking away guards which had hitherto been regarded as wholesome and beneficial - has in some instances had an injurious tendency by introducing our people into scenes of danger and temptation heretofore unanticipated and unknown. These circumstances called forth more than usual care and watchfulness on the part of our Missionaries.

[82] AN ATTORNEY-GENERALS REACTION 1863

[The Report of the Australasian Wesleyan - Methodist Missionary Society for the year ended April 1863, Sydney 1863. p.33]

King George has long been studying the political relations of the people and how to afford them all the civil privileges which accord with the maintenance of good government. Slavery was abolished by him several years ago. He has for few years convened an annual Parliament, in which the leading Chiefs of all the Groups have been invited to afford him their united counsels and has gradually prepared them for a scheme of Government which was passed into law at their last Session of Parliament. Your Committee need not enter into an explanation of that Code of Laws, as a translation was published in the January number of the Notices. The Attorney - General of a neighbouring Colony was so pleased with it, that he at once handed over a subscription to the funds of the Society, and declared his intention to solicit subscriptions from his friends for a Society, that had so far elevated a people recently sunk in barbarism. Your Committee would not overlook the fact that this transition state has its evils and strong temptations. The Parliamentary Meetings have been on so costly a scale as to cause much waste and extravagance. Nearly five thousand strangers had to be provided for during the last Parliament. Henceforth these Meetings are not to be so dissipating or expensive, the Chiefs not being permitted to bring retainers with them.

[83] THE CODE AS THE ACHIEVEMENT OF THE WESLEYAN MISSIONARIES.

[Wesleyan Missionary Magazine, 1863, page 750]

The Friendly Islands demand a little notice at our hands. A very remarkable instance of the collateral results of Missions has been there furnished us during the year. This extraordinary code is a model of jurisprudence. . . In plain straight forward speech, it announces its meaning, which nobody can misunderstand. It is not faultless of course. You do not expect the first Code of Laws of any nation to be absolutely without blemish. That is not very common, even in British legislation. . . I claim for Christianity first and foremost, a tribute of recognition and of thankfulness; and I claim for your earnest, loving, and unostentatious pioneering Missionaries of the Friendly Islands the tribute that is due to heroes, and the recognition of the sublime greatness which shall outlive the lapse of time.

[84] EVALUATIONS OF THE 1862 CODE.

(i) *"the olive branch of peace"*

[Journal of the Rev. S. W. Baker, in Baker, Beatrice Shirley, Memoirs of the Rev. Dr. Shirley Waldemar Baker D.M., LL.D. Missionary and Prime Minister, Dunedin, Christchurch, Wellington, 1927. p. 7]

June 4th_1862.

When we reached the temporary platform, we saw a mighty congregation that had come to show their allegiance and respect to King George, and to unite in the great parliament which he had called. Some four or five thousand natives sitting together in solemn silence, under the spreading branches of the banyon (ovava) tree in whose cool shades sits in solemn majesty King George of Tonga. Yes; majestic in appearance as well as in power. What power, but that of Gospel Grace, could have changed that man's heart? Many are the victims that have fallen beneath the herculean blow of his war-club. A few years hence, his was the glory to imbrue his hands in the blood of fellow-men; but see him now waving the olive branch of peace. After a hymn that echoed through the mighty throng I preached to them from the book of Acts, ii, 2-4.

(ii) *"Cursed be those who try to bind you up again in the bonds of slavery"*

[Speech of King George Tupou I from the Journal of the Rev. S. W. Baker in Baker, Beatrice Shirley, Memoirs of the Rev, Dr, Shirley Waldemar Baker, M.D.; LL.D., Missionary and Prime Minister. Dunedin, Christchurch, Wellington. 1927.]

pp. 7-8 The King's Speech

Palace, June 4, 1863: - Today, the first anniversary, the first year of the freedom of Tonga, is passed. It is true we are a small government, a small nation, but I am thankful there are no slaves in the government. Thanks to the great God that I am alive to-day to see it a success. If I never accomplish anything else, I am grateful I have been able to give to the Tongan people their freedom from slavery. This freedom I give you all, will become the law of the government for ever and ever, and it will not be possible for anyone to make slaves of you all again. And cursed be those who try to bind you up again in the bonds of slavery.

(iii) *"this grand advance of Christian principle and social order"*

[Thomas West. Ten years in South-Central Polynesia: Being reminiscences of a personal mission to the Friendly Islands and their independencies. London 1865.]

In commemoration of this grand advance of Christian principle and social in order, it was also enacted that, "as it was on the fourth of June, in the years one thousand eight hundred and sixty-two, that civil liberty came to Tonga, when that day shall arrive in each year, all and every land in the kingdom of Tonga shall keep it as a festival, in memory of the liberty of Tonga; and it shall be so for ever and ever."

The inauguration of the new constitution took place at Nukualofa. Great preparations had been making for many months previously. Forty-nine large canoes conveyed the chiefs and

representatives from Haabai, Vavau, Niua Foou, Niua Tobutabu, Samoa, and Fiji, to the metropolis of Tonga. There the three or four thousand visitors so assembled, were treated daily with a princely liberality during nearly two months. The king gave a state breakfast and dinner every day to a select number of the chiefs, whom he invited in due rotation. These repasts were laid out in the best European style. There were all the appurtenances of a lordly table; - cutlery, silver forks and spoons, epergnes, cruets, liqueur-stands, champagne and claret glasses, &c. It was indeed some thing new, and not a little amusing, to see the chiefs at the king's table, seated on splendid chairs, dressed in suits of Europeans black cloth, and with white neckties, who, an hour before, or after, might have been seen parading the beach, in the primitive simplicity of native dresses and bare limbs.

For the general mass of the visitors, profuse provision was made by the various districts of Tongatabu, the distribution of the same commencing each day about six o'clock A.M., amidst much ceremony, at the Strangers' House, in the centre of Nukualofa. These supplies consisted generally of immense pigs, roasted whole; turkeys, geese, ducks, fowls, and fish of all kinds. These were accompanied by large quantities of yams, sweet potatoes, bread-fruit, puddings, bananas and fruits of various descriptions. To give an idea of the quantity of provisions consumed, during this feast "of weeks," it was computed, by an eye-witness that one hundred and fifty thousand yams, and nine thousand pigs, were consumed, and the consumption of other provisions was in proportion. Several hundred turtles were distributed in the course of one day.

The most interesting spectacle was, perhaps, when Queen Charlotte herself presided over a distribution of presents to the numerous visitors from distant islands. All the females on the island walked past the queen, in procession, two abreast, making obeisance, and depositing the presents brought. These consisted of native dresses, curiously wrought; mats, some of extensive size for large buildings, and smaller ones of exquisite fineness for wearing round the body; bales, or rolls, of native cloth, of enormous dimensions, from forty to one hundred yards in length, printed or scrolled in a most tasteful manner; also fans, combs, baskets, and personal ornaments, with a variety of other articles. It is impossible to describe minutely, or to give a complete list of what was collected. At the termination of the procession, two enormous masses of presents, each the size of a tolerable wheat-stack, lay on either side of the queen, after which the whole was distributed, by her directions, to the strangers present in Tonga on the auspicious occasion.

But the religious element of this wonderful scene was the most impressive of all. Nearly all the old Missionaries of the island, - indeed, all but one, - were removed by death, or to other lands; but the younger race were men of the same spirit; and with great joy and exultation they looked upon the scene which the labours, and prayers, and anxieties of their predecessors had brought about.

Under the spreading branches of the banyan trees sat some four or five thousand natives from Tonga, Fiji, and Samoa, on Whit-Sunday, 1862, assembled for public worship. Foremost among them all, sat King George in solemn majesty, - yes, majestic in appearance, as well as in power. Around him were seated old chiefs and warriors who had shared with him the dangers and fortunes of many a battle. The eyes of some of these were now dim; and their once powerful frames were bending down under the weight of years to seek the

friendly support of a staff. But, whether they were old or young, one could not mistake the meaning of those gleaming eyes, and shining faces. They were radiant with Christian joy, love, and hope.

It would be impossible to describe the deep feeling manifested when the service was commenced, by the entire audience singing the hymn beginning, -

"Jesus shall reign where'er the sun
Doth his successive journeys run;
His kingdom stretch from shore to shore,
Till suns shall rise and set no more."

And the conclusion of the hymn, prayer was offered up by an old Hihifo friend of mine, Tevita Ahomee. "If ever man prayed," says one of the Missionaries, "he prayed; for, like Jacob, he prevailed, Thank God, the Tonguese can pray, though it may be, as one from Samoa says, "They pray like steam!" Many were the 'Amens' that echoed through the mighty throng, and it seemed as though branch after branch of the spreading banyan trees caught up the glorious sounds." A suitable sermon from one of the Missionaries, was followed by several discourses, or orations, from native ministers; the whole proceedings of the memorable occasion being a very fitly completed by a sermon, preached by a converted cannibal Fijian, who was himself the first-fruits of Tonguese zeal and love for Christ. When he, in return, told the assembly, in their own tongue, of the wonderful works of God, in his native islands of Fiji, the crowning glory was added to the services of the day.

A more hallowed and noble triumph, of Gospel truth, Tonga had never witnessed, than when the social and political advancement of its population was to thus acknowledged, by king, chiefs, and commoners, to be the sole result of that enlightenment and saving grace, which the religion of Jesus Christ had imparted and before which heathenism and tyranny had fallen to rise no more.

(iv) "nothing would content them but a formal Liberation"

[Thomson, Basil. *Diversion of a Prime Minister*, Edinburgh. 1894, P. 222.]

The Tongans had reached a state of development midway between the patriarchal and feudal systems. Their chiefs had the blood of the founder of the family in its purest form, and were the earthly incarnation of their deified ancestors. Each chief had hereditary retainers who followed him to battle, and obeyed him in time of peace; but the constant wars during the latter half of the eighteenth century had created a lower class of servants than these - the tu'a, children of prisoners of war. These, together with the illegitimate children of the chief's father or grandfather (his cousins, in fact, for a chief bred servants for his descendants), were in the nature of serfs, leading, however, an easier life than such a designation would imply. The missionaries had perhaps read of Peter the Great and Wilberforce, and they too panted to win the grateful admiration of posterity. To their heated fancy the people appeared as slaves, because they yielded service without fixed wages, and nothing would content them but a formal liberation. They did not stop to reflect that these "serfs" were fed and clothed by their chief, and that as members of his household they enjoyed privileges which men of their low rank could not hope for in other societies. If

they were contented, they ought to be taught a noble discontent, and to pine for the Anglo-Saxon fetish, freedom. King George, as he hoped to be saved, must "liberate the serfs."

In 1862 he yielded, and signed a brand-new Constitution, drawn up by the missionaries, after a model devised for the King of Hawaii by a Mr St Julian. On the 4th of June 1862 there was a solemn meeting of the newly constituted Parliament. In the intervals of feasting the code was passed, and at the end of two months the legislators dispersed, leaving the land as bare as if a swarm of locusts had passed over it. The missionary historian waxes emotional as he tells of how they contrived to eat 150,000 large yams and 9000 hogs, besides other provisions, and of how they feasted daily at a board spread in European fashion, clad in decent black broadcloth and white chokers, to the glory of God and the triumph of missionary statecraft.

[85] THE TEXT OF THE 1862 CODE

[Latukefu, Sione: Church and State in Tonga: The influence of the Wesleyan Methodist Missionaries on the Political Development of Tonga, 1826-1875. Thesis submitted for the degree of Doctor of Philosophy in the Australian National University February 1967. pp.564-575.]..

THE 1862 CODE OF LAWS

(Translated by the Rev. R. Amos)

I. - The law concerning the King

1. The King is the root of all government in the land, and it is with him to appoint those who shall govern in his kingdom.
2. But should the King intend any weighty matter to be done in his land, it shall be with him to assemble the Chief's and Governors to take counsel with him upon it.
3. And whatsoever things are written in these laws, it shall not be lawful for the King to act contrary thereto, but to act according to them as well as his people.
- 4 The King is the Supreme Judge, and any case which the judges cannot settle shall be brought to the King, and the King's decision shall be final.

II. - The Law concerning the land.

It shall in no wise be lawful for a chief or people in this kingdom of Tonga to sell a piece of land to a foreign people - it is: verily, verily forbidden for ever and ever; and should any one break this law he shall work as a convict all the days of his life until he die, and his progeny shall be expelled from the land.

III. - The law concerning the Judges

1. It is the province of the King to Commission judges in his kingdom.
2. This is the duty of the judges - when any one is accused of a crime, and is brought before the court, it is the duty of the judge to hear the statement of the accuser and also of the accused; and after the crime is proved against the accused the judge shall sentence him to

punishment according to what is written in these laws. A short admonition to the judges on their duty - show no partiality in judging criminals; be he chief or gentleman, judge according to the laws; for it is unjust to make a difference in judging chiefs and common people.

3. It is forbidden to the judges to take a bribe from a person about to be judged, and should any judge do so he shall lose his office and give up the bribe to the Government.

4 The judges shall put no one on his trial until they have received certain information.

5. On the days of judgement, when the judges are set, there shall be brought into their presence the accused, accuser, and witnesses, and then shall the judge state the offence with which the prisoner is charged.

6. The judge shall, then ask the accused if he be guilty of the charge, and if he plead guilty the judge shall at once pass sentence; but if he plead not guilty then witnesses shall be called to prove the charge; and it shall be lawful for accused to call witnesses to prove his innocence if he be able to do so.

7. It shall be lawful for the accused to examine the witnesses against him, but the questions shall be put through the judge, that there be no confusion or dispute in the presence of the judges, and if any act otherwise, the officers of in the court shall silence him.

8. And in case of any great crime, as murder, house burning, canoe burning, and such like, when it has been judged by the judges, and the punishment is determined, it shall not be executed immediately, but the King and the judges shall consult, and if the King wish to lessen the penalty he may, but he cannot increase it.

IV. - The law concerning witnesses

If any one shall accuse another, or bear witness against another, and it shall afterwards be found that the accusation, or the witness was false, the punishment due to the accused, had the crime been proved, shall fall upon the false accuser and false witness; and if any one shall be unjustly put to hard labour in consequence of the false accusation or false witness, the judges shall make the false accuser and false witness pay back to the accused the amount of labour done for the Government.

V. - The law concerning Governors or Rulers

The Governors to whom this law applies are - those whom the King has commissioned to govern a territory and its people, and it shall be the duty of such Governors to make known these laws to the people whom they govern, and if any Governor fail in this he shall be fined thirty dollars, and if he neglect his government, or the notional works appointed by the King, or Government, he shall lose his office.

VI. - The law concerning Officers (ie. Police.)

1. The duty of officers is - when an offence is reported to the judges it is their duty to bring the offender to the court on the proper day.

2. And in the presence of the judges it is the duty of officers to see that no confusion arise among the prisoners and witnesses, and should any arise it is their duty to silence it.

3. And after judgement is given; and the guilty are sentenced to fines of money or labour, it is the duty of officers to see that payment be made on the proper day, or that the labour be well and duly performed. It is the province of the King to pay the officers.

And because this land now pays tribute, the prisoners shall work for the Government every day, and one officer shall be stationed where prisoners are at work, and see that the work commences at sunrise, as ordered by the King or Government, and lasts diligently until sunset. Also to watch the capital each day, to inspect its streets, to tell of some of the convicts for the purpose of levelling and sweeping the streets, and to appoint two of themselves to watch the capital during the night, and this shall be done from sunset until sunrise, the two so watching to be free from duty on the following day.

VII. - The law concerning Marriage

1. Marriage is a covenant made between man and woman, to dwell together as one, until the death of one of the parties; marriage is both a religious and a civil compact.
2. The parties eligible for marriage must be sixteen years of age, nor is it lawful for any one to marry under that age; and should any one break this law he shall be fined ten dollars.
3. It shall not be lawful to have more than one wife, or husband, but each one shall live with the person to whom he or she is married; and whoever shall break this law shall be kept to hard labour for the space of three years, and shall put away the person to whom he or she was last married.
4. And besides, it shall not be lawful for any one to interfere to prevent a marriage, if the men and woman wish to be married; and let no one forbid it, except for a great and just reason; and any who break this law shall be fined ten dollars.
5. And when parties are married their parents shall have no further jurisdiction over them, but they are at liberty to do as they please; nor let any friend interfere with their affairs; and if any break this law they shall be fined five dollars.
6. Because the present usage at marriages is bad and impoverishing, if any friends wish to make a present to parties going to marry, it shall belong to the man and woman, it shall not be again distributed; and if any break this law he shall be fined twenty dollars.
7. The Wesleyan Missionaries and the priests of the Pope's religion are the persons to celebrate marriage, severally to the people of their own religion; and if a Wesleyan marry a Papist, or a Papist a Wesleyan, man or woman, the marriage shall not be one-sided, but the ceremony shall be performed by the ministers of both churches; and whoever shall break this law shall be fined ten dollars and the marriage shall be invalid.
8. The ministers shall, please themselves whether they call the banns of marriage for three Sabbaths in their places of Worship or not, each one according to the usage in his own church shall be lawful if the parties bring a certificate from the Judges appointed by the King to the minister, to certify to him that there is no civil obstacle in the way of their marriage. But should any Judge give a certificate unjustly to man or woman whom he knows cannot lawfully marry, he deceives the minister celebrating the marriage, and shall himself be fined in the penalty of one hundred dollars.
9. All the marriages celebrated in the Wesleyan and Papal churches by their ministers shall be valid, and the King and chiefs will protect them if they be according to these laws; but if any marriage take place illegally it shall be void.
10. And in the matter of divorce. It is not lawful for them to separate except for adultery; and in case of separation, the innocent shall be at liberty to marry, but the guilty shall not marry again until after the space of three years, when they may marry. In divorce observe the following things;-

11. Know that the separation of man and wife is a very difficult thing, for it was God who instituted marriage. And let them who wish a divorce be judged by the Governors and Judges to see if it be right that they should separate; and the minister shall divorce them in the church before the people, in the same way that they were married.

12. If any one wish to marry without calling of banns he must first make it known to the Rulers of Judges, and if he be free to marry he shall receive a certificate from the Rulers or Judges to make known to the minister his condition: and if he obtain no such certificate, and a marriage take place without one, that man shall pay a fine of one hundred dollars.

13. No one shall be able to cast off causelessly either wife or husband, and who ever does so shall be judged, and fined a hundred dollars.

14. When a marriage is celebrated the man shall make it known to the Scribe, that it may be registered; and if he delay it more than three weeks, he shall be fined one dollar, and this law shall also apply to divorces, which must be reported to the scribe that he may register the day of their separation.

VIII. - The law concerning adultery

When a case of adultery is judged and proved, the offender shall pay to the injured party the sum of fifty dollars, and shall work for Government a whole year, and whether it be man or woman the punishment shall be the same.

IX - The law concerning fornication

When a case of fornication is judged and proved, the culprits shall be put to hard labour for two months, and if two offences three months, and so on: if a child be born in consequence of fornication, the father shall be bound to maintain it for the space of thirteen years, which maintenance shall be two shillings a week paid to the mother of the child.

X. - The law concerning murder

Those who kill others from malice shall be hung.

XI. - The law concerning manslaughter

The meaning of manslaughter is this - if any one meet his death through another, but the other did not intend to kill him, and after it is judged and found that the offender really had no hatred towards the deceased, nor intended to kill him, but that it was purely an accident, he shall escape; but if it shall transpire in the examination that the parties had differed, or wrestled, or fought, or cudgelled, or done anything which caused death, the criminal shall be put to hard labour for two years.

XII. - The law concerning abortion

If a woman shall purposely injure herself, or take drugs, or do anything to procure abortion, when it is judged and proved, she shall work as a convict all her life.

XIII. - The law concerning house burning and canoe burning

If any one shall set fire to a house or canoe, intending to destroy it, when found out, judged

and proved, he shall make good all damages, and if life be lost through the fire he shall be hung.

XIV. - The law concerning robbery

If any one shall steal anything from another's farm, or elsewhere, he shall pay the owner the value of it, and work for the Government according to the magnitude of his crime.

XV. -The law concerning Sabbath breaking

It is not lawful to work on the Sabbath day - either to build houses, or canoes, or to farm, or go fishing, or such like; but there are things that may be done on the Sabbath, such providing for sickness, or accidents. And whoever breaks this law shall be fined eight dollars, and for the second offence sixteen dollars.

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XVI. - *The law concerning fighting and quarrelling*

If any are determined to fight, let them go into the bush and fight it out, but it is expressly forbidden to fight in a public road, or green; and whoever commenced the quarrel shall be fined six dollars; but if both be to blame both shall be fined.

XVII. - *The law concerning destroying canoes*

If any one shall break or injure a canoe belonging to another, the Judges shall make him pay to the owner the value of the canoe, and he shall work for Government according to the offence.

XVIII. - *The law concerning destroying fences*

If anyone destroy another's fence he shall make it good again, and work for Government according to the nature of the offence. If the animal of any one destroy a good fence, the owner of such animal shall make the fence good again; and if the owner neglect to keep the animal at home, and he destroy fence again, the animal shall be forfeit to the King.

XIX. - *The law concerning voyages*

If a chief make a voyage, and he and his crew do evil in any land, on his return he shall be judged, and punished as his crimes deserve. It shall not be lawful for voyagers to bring back any inhabitants of other lands against their will, but when the King of the land grants permission they may let them come; and if anyone bring a person by force, the captain of the canoe shall be fined ten dollars. And this shall be the usage of voyagers - if a vessel sail the vessel shall have papers from the Rulers, and then it is lawful to go; but if a vessel sail without papers it shall be seized, as it is a runaway, and be fined thirty dollars.

XX. - *The law concerning all destructive animals*

If an animal is known to destroy the crops of another person, it shall be made known (sic) to the owner of the animal, that he may keep him fenced in, or tied; and if he neglect it, and the animal commit further depredation, the Judges shall order the owner of the animal to

pay an adequate sum to the injured party, and the destructive animal shall be forfeit to the King; but if the animal went through a rotten fence, then the payment shall be for the first damage only, nor shall the animal be forfeit according to this law.

XXI. - *The law concerning lost property*

If one lose a thing and another find it, and the finder know to whom it belongs but does not restore it, he shall be treated as a thief, and judged; but if the owner cannot be found it shall be the finder's; and if the owner be found, the owner shall pay to the finder one-third of the value of the property so found, as a reward.

XXII. - *The law concerning turning King's evidence*

Should any conspire to commit a great crime, as murder, or some great evil; and after the conspiracy is arranged, if one should repent, and reveal the conspiracy, the King shall pardon him, but the other parties concerned shall be punished as though the crime intended had actually been committed.

XXIII. - *The law concerning indecent assault*

If judged, and proved, he shall pay to the woman thirty dollars, and work for Government ten months.

XXIV. - *The law concerning rebellion*

Should any chief or people stir up strife, or instigate rebellion, that chief or people shall be banished from the land; nor shall it be lawful to return, but it shall be at the pleasure of the King whether they return, or be exiled until death.

XXV. - *The law concerning sleeping*

If a man enter a woman's sleeping apartment he shall work for Government three weeks, if a man and woman (unmarried) sleep under the same coverlet they shall both work a fortnight.

XXVI. - *The law concerning calling canoes*

It is not lawful for people to call canoes for no reason, but one cause can justify it, which is that his own canoe is in danger, and if in such case the canoe does not come, it shall be fined fifty dollars.

XXVII. - *The law concerning public roads*

The roads shall be cleaned after two months, and within a fortnight, and shall be inspected on the third week, and the people and Rulers shall attend to this. If the Rulers do not attend to it, the fine is four dollars, and the fine for not cleaning the roads is to be one shilling for five fathoms.

XXVIII. - *The law concerning funerals*

It is not lawful for all persons to conduct them, but undertakers only; and if there be no undertaker in the place, then any person may conduct them, and the friends of the deceased shall properly pay the undertaker, which if they do not, the judges shall order them to pay him five dollars, which shall be paid to whoever undertakes the funeral.

XXIX. - *The law concerning slander and evil speaking*

If anyone shall speak evil of the King, or Ruling Chiefs, or Judges, or Missionaries, or anyone else, and it be judged and proved, he shall be fined ten dollars,

XXX. - *The law concerning foreigners*

Any foreigner wishing to dwell in this kingdom must obey the laws of the land, and be judged as the people of the land, and if any here injure them, they shall be judged, and punished as they deserve. And the foreigners shall pay to the King an annual rent for their premises, according to the size of the allotment on which they live, whether large or small, and the Judges shall collect this rent from foreigners annually. It shall not be lawful for any foreigner to come and dwell in the land ignoring the King, or Governor.

XXXI. - *The law concerning cocoa nut trees*

If anyone wish to cut down a cocoa nut tree he must first plant three cocoa nuts, and then cut down the tree, but should he cut down the tree and neglect to plant the nuts, he shall be fined five dollars.

XXXII. - *The law concerning parents who neglect their children's education*

Whoever shall neglect to send their children to the schools shall be fined ten dollars.

XXXIII. - *The law concerning impudent persons*

Whoever shall commit depredation, or nuisance, upon the dwelling of another, and gets beaten for it, the person inflicting the punishment shall be held justified.

XXXIV. - *The law concerning tribute*

1. All laws formerly (sic) printed in the code of laws of Tonga relating to serfdom are repealed, and the following is the law of Tonga instituted by the King and Chiefs of Tonga, in the Parliament House at Nuku'alofa, in Tongatabu, on the fourth day of June, in the year of our Lord one thousand eight hundred and sixty-two (1862).
2. All chief's and people are to all intents and purposes set at liberty from serfdom, and all vassalage, 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 Tonga fashion, any thing from any one.
3. Every one has the entire control over every thing that is his.
4. All chiefs and people shall pay tribute (or taxes) to the Government; and the King shall pay the salaries of all Governors, Rulers, Judges, officers, (Police) and other persons in Government employ. The tribute for the first year shall be three dollars each

person. This tax is right; and after the proclamation of this law no people will provision canoes, or support voyagers gratis, because if a canoe go on the business of the King or Governor, it will be provisioned at Government expense and all national works will be paid for by the State. And if other voyages be undertaken, the voyagers must look to their own friends to provide for them, but it shall not be lawful for the Rulers to order any one in the land to which they go, to wait upon them as vassals; or to appoint any work to be done by any one for himself, or the state, except clearing his own frontage on the public roads.

5. The rent to be paid by the people to their lawful chiefs (or landlords) shall be two shillings a year each person.

6. And the chief's 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.

7. And the King affectionately recommends that the size of the farms be increased according to the number of the family.

8. And these are the persons who shall pay tribute - all males of sixteen years of age and upwards.

XXXV. - *The Decree of a Festival*

And it was on the fourth of June, in the year one thousand eight hundred and sixty-two, that civil liberty came to Tonga, when that day shall arrive in each year, all and every land in this kingdom of Tonga shall keep it as a festival, in memory of the liberty of Tonga, and it shall be so for ever and ever.

XXXVI. - *The law concerning Judges, Rulers, and Officers*

1. If any Governor, Judge, Ruler or Officer be drunk, the King shall immediately depose him, and stop his salary.

2. The King shall pay from the State Treasury the salaries of the Governors; - Judges, Rulers and Officers, and shall pay them quarterly.

3. Criminals shall work for, and pay fines to the State as they have done, and the money shall go to the Government.

4. Fines may be levied for these offences - cursing, drunkenness, and light offences: but adulterers, fornicators, and all such as violate weighty laws, shall be put to hard labour upon the roads, and works appointed by the King or Governor to be done.

5. And fines shall be paid in money, according to the week or month to which the sentence of the criminal refers.

6. And to add to the salutary effect of their sentence, the convicts working for Government shall provision themselves, no food will be provided by the Government.

XXXVII. - *The law concerning Spiritous Liquors*

1. It shall be lawful to sell spirits by license from the King, but not otherwise.

2. The price of the annual license shall be 100 dollars.

3. And these are the regulations for sellers of spirits:-

(1.) He shall sell nothing else, but spirits only. If he wish to carry on other business besides, he must have two licenses, one for spirits, and another for general trade.

(2) On no account whatever, must they sell on the Sabbath.

- (3) They may sell from sunrise, until 10 o'clock p.m.
 - (4.) On no account must they sell to one who is drunk.
 - (5) It is forbidden to mix drugs with the spirits.
 - (6) If any licensed person persist in breaking these laws, his license shall be revoked, and not renewed hereafter.
 - (7) If any one sell without a license, he shall pay the penalty of 200 dollars.
 - (8) The payment shall first be brought to the King, or Governor, and then the license shall be given to the applicant.
4. All spirits landed shall pay duty, and the party landing them shall pay the duty.
 5. Brandy, Rum, Gin and that kind, shall pay two dollars a gallon duty - all kinds of Wine, one dollar a gallon. This law relates to all foreign liquors.
 6. For all spirits made in Tonga, the duty shall be a dollar a gallon - all Tonga wines shall be free.
 7. He that breaks these laws shall be fined 100 dollars, or to be sentenced to six months hard labour.
 8. Every one found drunk in the road, or on the green, or in another person's premises, shall be fined five dollars.

XXXVIII. - *The law concerning the Scribe (or Registrar)*

The King has, with the chiefs, appointed three Registrars to be the Scribes of the kingdom – one at Tongatabu, one at Haabai, and one at Vavau; and it is their duty to write the affairs of the Kingdom - births, marriages, divorces and deaths.

1. If after three weeks the birth of a child be not registered, the parent of the child shall be fined one dollar.
2. And if a person marry, but do not register his marriage, he shall be fined one dollar.
3. And if parties be divorced and do not register the divorce, they shall be fined one dollar each.
4. And if a funeral take place, and the death be not registered, he to whom the dead properly belonged shall be fined one dollar, as it is not lawful to bury any one whose death is not registered. These laws are made that the King and Chiefs may know if the land is prospering, or otherwise and to prevent confusion.
5. It is also the work of the Scribes to collect the tribute, and to make known the pleasure of the King or Governor. When the time fixed for making the tribute, (by the King, or Governor) is expired, and there be some who have not paid up, it shall be lawful for the Scribe to sell by auction as much of their property as will pay the tribute.

XXXIX. - *The law concerning fire-arms and ammunition*

It is not lawful for any one in this kingdom to land arms or ammunition, be he Tonga man or foreigner, without the knowledge of the King or Governor; and if the Government do not wish to purchase them, they may be landed, but he who lands them shall pay duty - for a musket or rifle, two dollars, and for a cannon, ten dollars. For large shot, four dollars a bag, and for loose powder, one shilling a pound.

XL. The law concerning the division of lands

When the land is divided among the people, if there be a part that is not used by the people, as farms, or in any way, it shall be resumed by the Government. And when any one dies, leaving his land to no one in particular, it shall be claimed by the State.

D. THE CONSTITUTION OF 1875

[86] THE CONSTITUTION AS THE BOOK OF FREEDOM 1875

[Ko e Bo'obo'oi. 1st March 1875. Vol.2. No.1. p.2. - Column 3.
English Translation by Viela Kinahoi.]

A letter from those Europeans who talked about 'Tonga Fie'ilo'¹ in the previous editions of the Bo'obo'oi is printed in this edition. 'Tonga Fie'ilo' has been treated very badly by many people, and for what reason we do not know.

We thank him for raising the topic for us to discuss in this newspaper. The letter refers to the relationship between the Europeans and the Tongans and also the method whereby a foreigner may become a citizen of this country.

It is true that after that letter was written, and the Government's reply given to the Europeans, some of the laws in the British Government concerning aliens have changed and we will talk about that some other time - What we want to discuss in this edition are the words, 'If there will be a day when Tubou will give his people a Constitution' because some will wonder what the Constitution is. Some may be like the man who, when he heard of it, thought it was a great celebration, feasting on pork. That is why we want to talk about it so that it will be understood. Thus the question that we will answer: 'What is the Constitution?'

Perhaps it is best to begin by asking 'What is the Bible?' Is it not the book which explains our spiritual freedom, the things that we should do and the things that we should not, the relationships between man and man, the King on his Throne and the subjects in his Kingdom, in particular the way the church should be governed, and what is to be done in the Church. If a preacher is judged because of his sermon, from which book is he judged? Is it not from the Bible - to see if his sermon is scriptural? Also if anyone from the church is to be judged - from what Book is he judged? His attitudes and his work are considered to see if they measure up to Biblical standards.

Therefore what is the Constitution but the Book of Freedom and the method by which the country is Governed. The Constitution explains the way a King is appointed and who has the right to rule; What the King has authority to do, and what he does not have the authority to do in the governing the country; What those in leading positions have the authority to do and what they are not authorized to do; The nature of the Courts and what the Judges can do and what they have not the power to do; The nature of man's freedom and what may result in the loss of his freedom, and so on. Is this the way people at present consider it? It is not.

We say that the country is free, but free in what way? Free and still under control, free but still required to do service for others.² Whose freedom is this? Who cannot give evidence of

¹ Presumably a pen name used by a contributor to the Bo'obo'oi. He had asked "respectfully" when the Constitution of Hawaii would be printed for people to read.

² "Tau'ataina ka e kei fei'umu pe" - free but still required to serve the chiefs, in the preparation of food.

these things? -

With due respect, to the Chiefs who have to deal with so many different things, like this newspaper, the Bo'obo'oi.¹

With respect to His Majesty, so much of the Governmental work which is not fitting for a King, is carried out by the King. The Governors are doing a great deal of work that is quite unsuited to their position. In other parts of the world the work of Governors is not like that, and the same is true of the judges. One of the things that is thus compounded, yes, we will speak the truth, is that no one in the whole structure of the society is free from interfering in other peoples responsibilities. And it is true - most of the Chiefs do not really know what they should do, as though they are groping in the dark. Why is it? Because there is no Constitution to divide responsibilities and show each the work he should do in his particular position, to show how free the country is, and the nature of our freedom, or what would cause the loss of our freedom. And so the Constitution is the document to limit the King's power to rule, the testament of our freedom to the people of the country, and a testament as to how they should be ruled. Any law discussed by the Parliament will be rejected if it is not in keeping with the Constitution. If we have the Constitution, let us say 'the country is truly free' and, if not, let us compound things, freedom and responsibilities, just like the Bo'obo'oi (a collection of various ingredients mixed together as in a Tongan-Pudding).

In the days to come we will print the Constitution of Hawaii for this country to see, for it is the Constitution that knowledgeable people in our country refer to as the document that will be most useful for these countries as an example in so many ways.

[87] TUPOU REQUESTS A CONSTITUTION 1875

[Boobooi, Vol.2, No.6, Sept. 1875. The Constitution is printed in full in Tongan in this issue. The following document is Baker's explanation for printing the Constitution. English translation by Viela Kinahoi.]

People of Tonga,

It is fitting that we should present some introductory remarks in this newspaper on the question: "Why publish the Constitution of Tonga?" We write this letter in order to prevent any misunderstanding and rumour.

From time to time during the last two years Tupou said to me: Mr Baker, please translate for me the basic laws of your country (and of other countries) which are known as "The Constitution." And if there is anything that you think is useful for Tonga or that we can accomplish, then write it down for me to consider. I am attempting to establish laws here in Tonga, as is done in other countries, so that Tonga will truly become a Nation."

I agreed to do as he asked and this is the document that I gave to the King and which he

¹ Bo'obo'oi - a Tongan pudding. The suggestion is that several ingredients have been mixed together. In Political matters it conveys the idea of a mixed confused state.

requested should be published in the Bo'obo'oi in order to make it known to the people, to be a basis for the thinking of the leaders during the Parliament that we are looking forward to in September.

I ask you, friends, to look at this document as a whole before you pass judgement, for I know that there will be discussion and debate. I did not look to the interests of any particular group. We are impartial, only considering those things that are useful to Tonga. May the leaders of our country come to agreement so that these laws may be printed. Let us join in unity so that our country will remain stable and well ordered. I know that many things will appear strange to some of you, but I beg you to let the love for Tonga create unity. Thus our descendants will give praise, and be thankful, because of our endeavours and our love for our country. We believe that the only reason for his Majesty's request was his love for Tonga, to keep Tonga for the Tongans: And we know that this was the only reason for our agreeing to the request. May this country too accept it in the same spirit.

'Ofa atu,
Mr Baker.

[88] TAXATION AND PARLIAMENTARY REPRESENTATION

[Ko e Boobooi. Vol.2, No.1, March 1st 1875.
Translation by Viela Kinahoi.]

This is a Letter that was written by some European to King George.
November, 25th 1873.

To His Majesty King George Tubou, King of the Friendly Islands.

We, the undersigned, are residents of Tonga tapu. We write this letter with a request to you.

Since the last Quarterly meeting many taxes have been placed upon us. In Civilised Nations it is well known that no tax is to be levied on any people if they do not have Parliamentary Representation. Thus we ask you to allow us (by means of a Letter signed by Your Majesty,) to choose two representatives to the Parliament and the Quarterly meetings.

These representatives will suggest rules to regulate or to prohibit these taxes, and to protect the interests of those whom they represent. And because we know that this is done in so many countries, and your desire to be just is well known, and because of your striving to follow the procedures of the more advanced Governments we hope that our request will be accepted.

We are, your servants,
Mr Young and 22 other Europeans.

* * * * *

The Reply

[Ko e Boobooi. Vol.2, No.I. March 1st 1875.
Cocker to the 22 European Petitioners.]

Government Office,
November, 25th 1873.

To Mr Young and the other 22 Europeans who signed this Letter.

Gentlemen,

His Majesty has requested me to reply to the letter that Mr Young, Mr Crook, and Mr Hudson brought, with your request to elect two representatives to enter the Parliament.

His Majesty says that your request amounts to a pledge of loyalty to the Flag of Tonga. There is no civilised country in the world which will allow anyone but a true citizen or a naturalized person to enter the Parliament or participate in the election of Representatives to the Parliament.

As yet none of the Europeans who reside, here in Tonga have taken this oath of naturalization - so they are not citizens of this country. Although some of those who signed their names have agreed to take these oaths, Tonga is not yet a Nation, so these paths would not be valid.

It is true that His Majesty is aware of the respect that British warships and those of other nations have paid to the Flag of Tonga, as is done in the Free Nations, but the Treaties with Britain are yet to be completed and ratified. Therefore His Majesty is not permitted to accept the Oath of Naturalization by British subjects or people from other countries at this present time.

Some will say that British subjects enter the Parliament in Fiji. But His Majesty says that the Government of Fiji differs greatly from Tonga. For Cakobau and the Chiefs of Fiji have sold their country to the Europeans, but not an inch of Tongan soil has been sold to a European. So he says that the Oath of Naturalization and the matters that concern that Oath, as in civilised Nations, has not been violated in anyway.

And that which you were certain of in your letter "Everyone knows that tax and duty is not imposed on people in civilised a countries if they do not have a representative.

His Majesty says this is incorrect and there is no basis or evidence from the Civilised Nations for this. Duty is applied to all people in civilised nations and yet they do not have representatives to the Parliament. Duties are levied on foreigners in certain nations, and yet they do not have representatives except the Consuls who represent the nations to which they belong.

And His Majesty states that it appears in the books that were given to him as gifts from the

Government of New South Wales that many aliens from different nations reside there, - French, Germans, Americans and people from other different countries. And they compose almost 1/25 of the population. But the friends who have put their names to this letter comprise only 1/409 of the people of Tongatapu.

Even though you were so sure about it in your letter, it appears that although the Aliens are in great number in New South Wales, that Government has not yet allowed these people to submit a representative to the Parliament, and if this 'great number or people', "the 23" put forward two representatives then no Parliament in the world would be large enough for all the representatives.

And to prove the inaccuracy of your letter His Majesty says that he remembers the incident where, some years ago, one of the states in Australia levied A heavy tax on one group of Aliens who made up 1/10 of the population of that state, and yet this civilised country did not allow them to elect a representative.

And one other thing His Majesty says is that 'If those who signed their names were citizens of the country they would not be allowed to elect two to represent them in the Parliament. If the Civilised countries did have such provisions for representatives of that kind, those countries would be in disorder. No Parliament in the world has provisions for representation of every class of people, shop keepers, workers, the various trades, and other groups.'

And concerning one section of your letter - that the work of the representatives is to see to various matters that the members of Parliament will discuss. If these are to be representatives then His Majesty says 'that you should desire the election of representatives from every twenty three who reside through out the length and breadth of the land. Tongans are taxed in exactly the same way as those friends, yet they are prohibited from the election of those two representatives.' It appears from your letter that your request is not based on economic considerations for some whose names are included are employees of others, and some have not been here for very long. And so if there is a European who has been taxed - you agreed to let him join. And if that is the reason then His Majesty--says- "Let us never see the day when Tongans and Europeans will contend with each other." And may the time soon come when His Majesty will give the Constitution to his people, for he hopes that in the near future it will be granted. To His Majesty, everyone is equal whether they are people who were born here or by means of the Oath of Naturalization - they will still be the same in every way.

And His Majesty states that he was surprised when he inquired in the Government office to find that not one of those who signed this letter had paid his tax. This is something unheard of in any country of the world or in the history of the Nations; that a group of people who had given no help to the Government were begging permission to be part of the Government. You made your request on the basis that you pay taxes. And thus, even if it were permitted in many countries to accept your request, your letter would be of no avail since you yourselves have not fulfilled the requirement.

His Majesty says that even though you are certain that your lives and properties are insured

by the Government, and you have made use of this Government's regulations, of the Magistrates, and the Police, and the public roads, at no charge to you, yet your contribution to the Government is less than that from the most needy Tongan in the land. So his Majesty says that the Europeans should not complain for they bear the same tax as Tongans, and who would say that their wealth is the same? As you know the Government cannot operate if there is no help, and if the Government operates Well! For whose benefit is it?

Therefore the Europeans should agree to help the Government. His Majesty is thankful to see the comment in the letter 'Because we know your desire to be just' because he is aware that many of the names in the letter are those who not long ago wrote to Sydney for a warship to come to make a judgement against him and his Government. Thus he is thankful, for he knows that they have changed their minds and now trust and respect him.

In conclusion His Majesty says that although he will not be able to accept your request, he promises that an alien would not even receive in Britain the blessing and protection received by all people from all nations who reside in His Majesty's Kingdom.

Another thing: No duty has been exercised and he hopes that no duty will ever be levied on aliens that is not levied on the people of Tonga. Nor shall there be any preferential duty, for he will treat all ships in the same way. And to all the people who reside here in Tonga - Even though they cannot enter the Parliament because they are aliens, His Majesty says when the time comes for Tonga to become a Nation in the Family of Nations, he will be very glad to accept the oaths of Europeans with good reputation who wish to take the vows of naturalization. But it is up to His Majesty to accept or to refuse. And if he refuses the reasons will not be given.

His Majesty is grateful to those Europeans who have helped in the economic development of this country and he is happy because he knows that some who were very poor when they came, today are worth thousands of pounds.

His Majesty says that there is no other country in the world in which the aliens property is increasing so greatly, or a place in which they are more peaceful in their residence, for they can set sail or travel day or night in every part of His Majesty's Kingdom without fear, for there is no place here in Tonga in which they are prohibited to live, or in which their goods are prohibited.

I am, under orders of the King,
Your Servant,
Mr Cocker.

[89] THE KING'S MALANGA

[King George Tupou I's Speech at the Opening of Parliament 1875.

"Ko e Booboosi, Vol. 11, No.6, 1875.

English translation by Viela Kinahoi.]

I extend my best wishes to the chiefs who have gathered from Tongatapu, Haabai, Ha'afuluhao and the two Ninas - the chiefs of long standing namely the Ha'asiulangapo, Ha'alatuhiho, Ha'atafatu, Ha'avaea and Ha'alaimoana and those of more recent times the Ha'a Ma'afu, Ha'a Havea, the Ha'a Ngata Motua and the Ha'a Ngata Tubu and Kau Hala'uta, and to all the Chiefs who have gathered here today.

I think it fitting to give thanks to God for making it possible for us to meet here today; a day that we have looked forward to. I am also grateful because no epidemic (such as has befallen Fiji and other countries,) has occurred here. For if it had, then we wouldn't have been able to meet happily as we do now. When I heard of the epidemic that has befallen Fiji and the other countries from which ships come to Tonga, I set up regulations (as is done in civilized countries) for the inspection of ships and also laws concerning ships that may spread sickness. The secretary was away so I asked Mr Baker to write letters to those who represent me in Sydney in order that they would inform the authorities in Sydney that these laws have been established, and the authorities in Sydney have accepted this. For this, I am grateful. A letter was also sent to New Zealand and again they accepted, as did the British, and the German Consul in Samoa. Therefore I thank them for helping me to prevent the spread of these diseases. Thanks be to God for protecting us.

Since the meeting that we held at Vava'u, Fiji had become a part of Britain. It is true that we did hold certain parts of Fiji but it is quite a while now since I have given them up. Britain has taken Fiji and I am thankful that we were not involved with Britain over it. I also gather that Samoa has gained American influence. I am grateful then that Tonga is still free, that we are not controlled by the powerful nations, and that we are at peace with them. Tonga then is free to go forward and embrace further aspect of civilization, to go forward in understanding, in Christian development, and in Truth.

After the meeting at Vava'u I ordered a National Coat-of-Arms for our country. Copies have been sent to other countries so that they may be familiar with our Coat-of-Arms. I want these words to be printed on it:

"God and Tonga are my Inheritance" - that these words may become the motto of the Kings of Tonga forever. A Royal Flag for my use has been ordered and again I want it to be the flag for the Tu'i Tonga and the Tu'ikanokupolu forever.

Mr Baker on his return, brought with him a gift from the Government of New South Wales, a complete set of their laws. Once again I am grateful to them for this valuable gift which signifies our contact with this country. Twice we received letters from the Governor at Sydney, thus showing that the big powers are taking notice of a small country like ours. This then is something for us to be thankful about, for we are now a part of the family of Nations.

Since the last meeting that we held at Vava'u I have instructed that a duty should be applied in order to prevent people from taking alcoholic liquor. I am glad that there is not yet a building for the selling of liquor in the Kingdom and I hope that it will stay that way. For if there will be one then I am afraid it will be a means of leading the Tongan people astray. Yet Tonga should rejoice because of the increase of trade. For example the export for the last four months (copra, oil, and cotton) amounted to £59,000. Isn't everyone surprised to see the great numbers of boat arriving here. I am happy at the increase in the population for it indicates that a new era is dawning for our country. The laws refer to keeping homes and gardens clean. Housing for many people is improving, people have better food. The death rate is decreasing and the birth rate increasing. The period of change has come. The population is increasing at the yearly rate of one in a hundred and the blessings for Tonga will be even greater in the future.

A savings Bank has been set up and it is encouraging that not a shilling was used in its upkeep, and yet it is a money earner for the Tongan Government. Because the Trustees of the Saving Bank have requested me to truly establish the bank, I have established it by opening in my name, a Royal Bank account. The Bank has begun operating and is proving very useful.

The church should be one of the things to make us thankful even though there are now two in the country. Yet I and my family belong to the Wesleyan Church. Instructions for the new church have been given, and it is established like the church in Sydney - a part of all the Wesleyan Churches of the world. It is true that our responsibilities will increase - yet whose church and responsibility is it but ours?

The Government buildings have been erected - offices, printing works, and the courts. A boat has been purchased, the "Taufa'ahau", and if it trades with Sydney. It will save us expense. I though much has been done yet we owe nothing and we are free and not dependent on European countries.

A day has to be decided for the opening of the Parliament of Tonga and I think that this present meeting is the most important since the meeting of 1862 when the people were emancipated. Therefore I praise the Lord for allowing me to see all these changes taking place. One other thing that I am especially concerned about is my desire, while I still live, to see Tonga become a Nation. I feel that I am getting older and if the Lord desires it then I beg to finish the work that I have started. Since the country is now independent, I desire to see it become a Nation.

Now I will deal with the matters for which we have gathered here today. To open the Parliament of Tonga I have called you to meet here and discuss the changes that are to take place in the running of the Government, that is the establishment of the Constitution to be the foundation of Government and the basis for future law making. As you are aware, in this country no one rules but me. My wishes are Law. I alone choose those who enter the Parliament. I alone have the power to decide who will hold chiefly titles, and it is within my power to change them. . . . Now it seems to me that this was suitable for the Dark Ages, but a new age has come to Tonga: an age of enlightenment. Thus I wish to give to Tonga a Constitution and I, and those who come after me, will rule by the Constitution. The

Constitution should be for Tonga an eternal Foundation stone. The establishment then of the Constitution will become a final testimony to the Independence of the Tongan people forever. It will be evidence of your Independence - and may it be the most valuable possession for the people of this country. It will be a means whereby the Tongans can boast of their independence like the people of Rome in days long ago and the British of today.

The Constitution states that the law will be the same for everyone - Tongans and Foreigners - that there will never be any tax or duty on anything for Foreigners that is not also applied to Tongans. I would like to comment also on the good relations between the Europeans and Tongans. Perhaps through out the whole of the Pacific there are no better Europeans than the ones residing here.

The Constitution makes reference to the Parliament and the way it should operate. Chiefs will be summoned and they will hold their titles on a hereditary basis - their descendants to be their successors, and they will be called the Nobles of the land. I state in the Constitution that the people will choose their representatives to enter the Parliament and join in the discussion of the Laws. I state in the Constitution that Ministers will also be included to represent me and the Parliament in supervising the work of Government. A Premier will be responsible for all Government matters. There will be a Minister of Finance, a Minister of Lands. A Minister of Police will see that the people act according to the laws - they will find their responsibilities and Parliamentary procedures in the Constitution. If adhered to everything will be orderly. A Privy Council will be established to help me in dealing with weighty matters of Government. It is the work of the Council to finalize these matters. The Constitution states that the legal procedures will be re-structured. We know that the strength of the Nations lies in their Courts - if they are weak the nation is weak. That is why there is to be a supreme Court and a Chief Justice and Local Magistrates and a Police Court; and with such an organization I expect peace and order. The people of Tonga can be truly proud of these courts.

Another section of the Constitution deals with the land, although I am aware that such matters are seldom included in the Constitutions of other Nations of the world. Do not forget that we are different from them, for not a piece of our land has been sold - it is kept safe - up to this present time. Thus in the Constitution I have vowed that not a piece of Tongan soil is to be sold now or in the future. Nevertheless there is a regulation that should be established, and it is in the Constitution. The regulation allows the leasing of the land by the Government and the Nobles are to have the land as their inheritance, then they and their descendants should possess it for ever. It is permissible for the nobles to lease their lands to Europeans and Tongans, according to the Constitution, and they will receive the revenue from the leases. In order to make the Constitution stable and orderly I have made a vow that I will no longer change titles or appoint chiefs but they will hold their titles and inheritance on a hereditary basis. It states in the Constitution that the inheritance is to be to legitimate heirs. (those of true blood). Adopted children have no right to the titles, the inheritance; or any thing else - only legitimate children have those rights. Any argument that may arise will be dealt with in the court, according to the Constitution. To Nobles who hold titles and control land - once the Constitution is passed - You and your legitimate heirs will hold the titles and land forever. I have made the Constitution in order to create the new positions.

I have been thinking of a way to increase Government revenue and it seems to me that it would not be wise to raise the taxes. For if we do that then the imports will decrease. From where then will the Tongan people obtain their clothing and goods? Not only that, but if we impose a heavy duty, who will pay for it but the Tongan people. Therefore let trading be free except for a duty on liquor and the goods that are taxed at present. To raise money then I think it reasonable to let the Government collect the lease money from the established towns - as a means of increasing revenue - and the Nobles collect their lease money from the villages.

If things are done in this way then Government revenue and Government activity will increase and the country will develop. Thus it will not be a burden to anyone. Licences will be established but not so as to be a burden to anyone, for there is nothing that satisfies me more than to see the increase of trade and goods from overseas.

Take note also that none of the Laws will be altered except those that are not in keeping with the Constitution. All the laws of our quarterly meetings - forget about them - they belong to another time. Leave the way clear for the new Parliament, when the Constitution is passed, so that they will see what amendments are necessary.

The other thing that I will deal with is this. Let no one ever think that these regulations that we have established for the church will be altered - although the Government will not be able to make any financial contribution to support the church as is done in Britain and other countries. We have done all that we can do.

The Primary Schools: It is not time for us to take control of them and the colleges. However a written instruction will be issued to the Parliament to increase the yearly Government contribution to support the schools. There will also be another small matter in relation to the Primary Schools, but it will not be given until the Parliament is to meet. The Parliament will also receive a Lease Book which I have used for leasing my land and I want it to be a model for leasing procedures - the way I want it to be carried out.

Other instructions will be given to you, including a written instruction on dress and the gradual abandoning of the use of ngatu (tapa cloth). I do not mean to do away with it completely in case there will be difficulties and disease will break out. I want therefore to regulate the discarding of it in this way. It is to be discarded gradually and in this way no harm will come to anyone.

My speech will conclude with a reference to matters that concern me and my family. You are aware that I am not boastful. If I have achieved anything then it is because the Lord is with me. For I am nothing but dust that God has heaped together to build up Tonga. Glory be to Him. Throughout the years of my rule of this country none of you can say that I touched or grasped or took by force any of your possessions or depreciated anyone in order to exalt my children.

It is hard for me to say this but I want to be sure of it while I am still alive - Who is to succeed me? You all know that we agreed to allow Vuna to be my successor but the Lord

has chosen to take him away and his judgement is Righteous. So I do not complain because it is his will alone. I said to myself that Ma'afu should be my successor according to our Tongan customs. This is his position. But I see that if changes will come about in this matter of the Royal succession then your position will also be changed. Therefore I want it to be a hereditary succession - for my position as well as yours too. If it is not so, then I can see that no regulation will stand not to mention that no position in the British Government of Fiji. I don't think that Ma'afu has any ill-feeling towards Tonga that he would do anything that will result in disorder and therefore the loss of this country. So in the Constitution I have stated that 'Unga will be my successor and Ngu his legitimate son to take over from him. If by chance Ngu does not have any children then let the position pass to Ma'afu and his descendants. Again, if Ma'afu has no children then the Parliament should choose a King according to the Constitution.

Members of Parliament, I have make known the desires of my heart. The being of the country whether it is blessed or unfortunate depends on you.

May God be with you to guide and help you in the work that you have gathered here to carry out.

Viliami Tungi will be the speaker of the Parliament. 'Unga will bring the Constitutional Document and the other Instructions to be put before you. He will also answer any questions that may arise.

And so I declare this Parliament of Tonga open. You will hold your first meeting on Thursday of next week.

'Ofa atu,

[90] TONGA FOR THE TONGANS

King George Tupou I, Speech to the Members of the Parliament
on the last day of the Parliament of Tonga, 4th November 1875.

Ko e Boobooi. Vol.2, No.6. 1875. English translation by Viela Kinahoi]

Greetings to you all. I thank the Lord that I am still alive for this day, an exceptional day for Tonga. May it be like one of the laws that you have established. Let this day, the 4th November, be a day of rejoicing and commemoration for the people of Tonga forever.

I am grateful to you, the representatives of this parliament, because of your eagerness in the work to which you have been called to carry out. I am also thankful because of your glad acceptance of the Constitution - because the majority of you agreed that it should become the Law of the land. And you who have disagreed, let the day soon come when you will realize that the Constitution established by the Parliament is the greatest possession of our country.

I am grateful to you for the commonsense shown in establishing the laws that will be useful

for our country and this new era of ours, and for the departments that you have created and the new positions that have been established.

And now, here is the Constitution of Tonga, written on parchment, to be kept in the Parliament of Tonga, a document to commemorate and to testify to the work that we are doing today. This day I have added my name to it and so it becomes the Law of Tonga. May you and your descendants, you the people of Tonga be blessed now and for ever while you follow the Constitution. May the day never dawn for Tonga when someone, or anyone, will alter the basic principles of the Constitution. Let it become the Foundation stone of our Country for ever. May the Lord desire it that way, and that he may help you all to observe it and act accordingly. I have added my name to the Register of Leases which has also been inscribed on parchment and added to the Constitution. It is to be the Register of Leases for the Government and the Nobility for all leasing of land.

I will now speak about the matters, referred to in the Constitution, to make sure that no confusion arises. According to the new Regulations, each will carry on his responsibilities to the 1st January 1876. If there is any delay in the Ministers Directions, then carry on until they are received. May you all do your best, according to the authority given to you and the position that you occupy.

Do not forget that we are all Tongans and we are working for Tonga to build up our little country so that we and our descendants, may possess Tonga for ever. May each of you inscribe on your hearts:-

Tonga for the Tongans."

If Tonga will remain as it is now, I will not say that it is because of our intelligence or our knowledge or whatever it is that we can do, but only because we are with God. As I have said before I will say again,

"Tonga is dedicated to God."

One other thing that is appropriate for a new era and that is to start anew. Whoever is in debt to the Law today - whatever it is that he has committed or whatever his debt on the 1st January 1876 I will set him free from his bondage to go to his island and to his home and to start anew and try to become a worthwhile citizen.

This concludes my speech and I declare the Parliament closed. You are to leave for your islands. My best wishes to the members of this Parliament. My best wishes to the chiefs and people who have gathered here. And if it is of any use to be blessed by an old man like me then I say:

"May you all, and Tonga, be blessed of the Lord."

[91] REACTION OF MISSIONARY COLLEAGUES TO BAKER'S WORK 1875

[Minutes of Friendly Islands District Meeting begun in Sion Church, Nuku'alofa, Tonga. Dec, 21st 1876. Abbreviations have been extended eg. Wes. Meth. = Wesleyan Methodism. J.B.W.= J.B, Watkin etc.)

Ques 3. Are there any objections to any of our Ministers or Preachers on Trial in this District?

Ans. Yes. Charge by Rev J Thomas against Chairman S.W. Baker, playing false to the Confidence reposed in him by Conference and the breaking of the Laws of Wesleyan Methodism.

Charge by Chairman against Rev J Thomas "With breaking regulations of Wesleyan Methodist Church to Missionaries by taking part in party politics –

Charge by Rev J B Watkin against Chairman Rey S W Baker - "Intimate connections with political affairs of Tongan Govt.

I Playing false to the Confidence reposed in him by Conference and the breaking of the laws of Wesleyan Methodism.

(1) By meddling with the politics of Tonga in becoming virtually King in the administration of the Government affairs of Tonga –

(2) By overthrowing the former laws of Tonga and in becoming the author of the new and existing laws of Tonga.

(3) By causing the natural succession to the throne of Tonga according to Tongan custom to be overthrown by excluding Maafu of Fiji from his true position and causing it to be given to Ngu.

(4) By being the means whereby Mate Ki Tonga became Governor of Vavau –

(5) By giving and printing the existing laws of Tonga at the request of the King as Mr Baker himself stated in a Tongan paper –

(6) By being the author of the so called King's malanga –

(7) By composing the King's reply to the Europeans - as printed in the Boobooi as told me by Mr Baker in my own house.

(8) By becoming interpreter between the German and Tongan Govts.

* * * * *

IV. By sacrificing the spirituality of our work in Tonga for temporalities.

(1) By general course of conduct that brings odium and disgrace upon the Missionaries, and their work and the cause of Christ –

(2) By setting young Missionaries and Native Ministers a bad example in meddling with Politics, I claim it as a right to have to do with them -

V. His Conduct dangerous.

He acts upon his own responsibility in matters which should be laid before the District Meeting for Mutual consideration.

- (1) His position in the Government
- (2) Becoming interpreter
- (3) Sad lack of manliness in his policy
 - (1) He should have left the Church in entering on Politics –
 - (2) Commencement of King's house and writing letters in King's office
 - (3) Promise to have no more to do with govt affairs -

VI. He does not manage the affairs of our District –

- (1) The first Quarterly Meeting proper of Vavau was a disgraceful failure. through Mr Baker -
- (2) Not knowing till informed by Mr Moulton that it was his duty to be present at the first Quarterly Meeting of Vavau
- (3) Writing me that it was Faleono and not Mataila concerning which the-request was made not to send a Catechist
- (4) Writing me that was: the express wish of the District Meeting to act as he did in writing me concerning 'Utulau - (see his letter)
- (5) Not knowing about the position of Jone Taufu until told by Mr Watkin
- (6) Precipitating our new affairs thus the sad lack of harmony
 - (1) Concerning the laws that were to be used in the Quarterly Meeting and those left out.
 - (2) Concerning the Jubilee –
- (7) Denying in the District Meeting his arrangements in the Meeting in Vavau concerning the race he arranged between Mataika and Faleono
 And also the double salary to teachers taking Schools –
- (8) Disregarding the request of Quarterly Meeting for a Catechist for faleono.

I By meddling with the politics of Tonga - see charge –

Mr Thomas states Capt Stevenson said, I told him that I was king of Tonga. Captain Stevenson, in a written solemn declaration that I never told him I have a leave it to them who is guilty of falsehood - I would advise Mr Thomas to ask King George who is King of Tonga. I was not aware the former laws were overthrown. As to the author of the new and existing laws of Tonga, I am aware that I have advised King George with regard to many of the new laws, (not all) but King George and the Parliament, passed them and altered them as they pleased.

(2) By causing the natural succession to the throne of Tonga according to Tongan custom, to be overthrown by excluding Maafu of Fiji from his true position, and causing it to be given to Ngu - I should like to know who is Mr Thomas's authority? for in reference to the King's succession I have always maintained, it is with King George alone, and whoever be appoints as the rightful successor – I appeal to King George's own statement in proof of the above and would refer Mr Thomas to the Committee for further information on this point, as they are possession of a letter from King George himself -

(3) By being the means whereby Mate Ki Toga became Governor of Vavau - I don't think Mr Thomas dare tell King George this -

(4) By directing the appointment of the Agents in the Tongan Govt. Yes I have advised the

Government to appoint many of their men - (so have other Missionaries) some they have appointed - others not. -

(5) By giving and printing the existing laws of Tonga at the request of the Tongan King, as Mr Baker himself stated in a Tongan paper. What I stated in a Tongan paper is quite correct. I printed (that is corrected) through the press the book of laws at the King's request. Seeing I have the use of the foot type of press - I thought it was the least I could do –

(6) By being the author of the so called King's speech –
And who told Mr Thomas I was the author - there are some things in the speech I did not know until they were sent me to correct in the press. For further information I would advise him to ask the King on this subject.

(7) By composing the reply of the King to the Europeans, as printed in the Boobooi as told me by Mr Baker in my own house - Yes I helped Mr Cocker in the framing that reply, and a good reply it is - I have always thought so, and as that was written when (more than three years ago) Mr Thomas was a probationer, it is certainly a piece of impertinence on his part, to bring a charge so many years after - however I reply to it in order to prove Mr Thomas' in these charges -

(8) By becoming interpreter between the Tongan and German Governments. Yes, after various solicitations I acted as Interpreter to oblige King George as many of my predecessors have done, some before Mr Thomas was born. Knowing no Methodist law to the contrary -

IV. By sacrificing the spiritualities of our work in Tonga for temporalities –

(1) By a general course of conduct that brings odium and disgrace upon the Missionaries and their work and the cause of God. As no facts are here stated, I must politely thank the brother for his mistaken opinion of me, and as the Lord blesses my work I will let him be judge.

(2) By setting young Missionaries and Native Ministers bad example in meddling in politics, I claim it as a right to have to do with the same Mr Baker's motto is Tonga for Tonga - mine is Tonga for Britain - if this does not out Herod - here is a Brother carrying a charge against his Chairman for meddling in politics and yet winds up by saying, he does so himself, and claims the right of doing so, and not in politics in the way his Chairman does, by giving advice but in party politics - stating to his people at Vavau, as he admitted to me in my study on Saturday last - (1) That he hopes Britain would before long take Tonga, and that if he remained in Tonga he would work for it - (2) That he believed at King George's death Maafu would be put on the throne of Tonga by the British, and that then he would give Tonga to the British - (3) That he believed it was the will of God that England should take Tonga - I would refer the Brother to the Instructions to Missionaries.

Whatever I have done or may not have done - I have not taken any part in party politics, nor have I been guilty of treason to the King. All I have done has been by way of advice - and it has been with his Majesty to approve or disapprove as he may have seen fit -

V. His conduct dangerous. He acts upon his own responsibility in matters which should be

laid before the District Meeting for mutual consideration –

(1) His position in Government as nothing is here defined. I leave it undefined.

(2) By becoming interpreter. Yes, and until the Committee says 'No' I don't see what regulation I have broken.

(3) Sad lack of manliness in his policy

(1) He should have left the Church in entering on Politics - Poor Brother. The first time I have been charged with unmanliness - I have always been charged with the reverse. I was not aware there was anything effeminate in me - We live and learn –

(2) Commencement of King's house and writing letters in Kings offices - This to me is an enigma. What the King's house has to do with my manliness I can't tell - nor did I think it unmanly to write letters in the Kings offices, though that certainly was some time ago - It strikes one I have not written a letter there during the 8 months Mr Thomas has had the honour of being Superintendent and the Kings house was commenced when he was still a probationer and second preacher –

(3) Promise to have no more to do with Government affairs - I am not aware I ever made such a promise to Mr Thomas - for the first time I have since I have been Superintendent is now at this Meeting.

VI. He does not manage the affairs of our District. The first Quarterly Meeting of Vavau was a disgraceful failure through Mr Baker - Yes I believe it was Mr Thomas was in the Chair hence the disgraceful failure - My letter asking him to postpone it till my arrival was delayed through adverse winds - had there been fair winds it would have been received in time, but unfortunately there were not hence the first was a failure - the second a success. Mr Baker being in the Chair, hence it was not a disgraceful failure through Mr Baker but through foul winds.

(2) Not knowing until informed by Mr Moulton that it was his duty to be present at the first Quarterly Meeting at Vavau. The good Brother just charges me unlawful interference, and then I don't interfere enough - Yes Mr Moulton said to me that if I did not go to Vavau and hold the Quarterly Meeting, that if anything went wrong the Conf. would hold me responsible.

(3) Writing it was Faleono and not Mataika concerning which the request was made not to send a Catechist - Yes I may have made a mistake called Faleono Mataika, and Mataika, Faleono - I am sorry it is not the first time I have miscalled names. I called a cow the other day a bull; and a native corrected me the other day for calling a man a horse. I am sorry I am so remiss, I will try to mend.

(4) Statement that it was the expressed wish of the District Meeting to act as he did in writing the concerning Utulau, see his letter. Yes in my letter of Feb 29/76 I told him we had no power to send Joeli into the work, and that I thought he would have remembered the remarks made at the District Meeting in which it was distinctly stated that we must not give Joeli any work until we heard from Conference - lest the Fiji Brethren might think we were trying to get our N M from them.

(5) Not knowing the position of Jone Taufu was received into the Ministry when I was in the Colonies I believe - I thought he was only a Catechist, whereas he turned out to be a Native Minister on trial and as he had been guilty of a fearful crime cannot preach again til he has permission from Conference.

(6) Precipitating our new affairs thus the sad: lack of harmony –

(1) Concerning the laws that were to be used in Quarters Meeting, and those left

out. I don't know what the Brother means - my instructions were to hold a regular Methodist Quarterly Meeting –

(2) Concerning the Jubilee - Yes I have heard that Mr Thomas forgot all about the Jubilee of Tonga until Mr Watkin reminded him of it and he then held his Jubilee Meeting some weeks after the time - and as to the Jubilee in Tonga, it was a great success. I was able to manage that it appears, although the Brother says I can't manage the affairs of the District, alas what a Methodist preacher is subject to.

(7) Denying in the District Meeting his arrangements in the Meeting in Vavau concerning the race he arranged between Mataika and Faleono in their Misinales and Meetings - and also the double pay to the kau tauhi taking schools - My remarks referred not only I believe to Mataika and Faleono but other places as well. I said these places that contributed most would have first claim and as to the double pay. Yes, I don't remember my exact words but I intended to convey the idea that such would be the arrangement I should propose at District Meeting. I must apologise for the lightness of some of my remarks but the Brother is so wanting in common sense I can't help it - I don't feel annoyed for I have always considered the Brother as wanting in knowledge and common courtesy - certainly his present charge doesn't tend to remove that impression -

Whatever may be the view of the District Meeting on the subject - I wish the matter to be referred to Conference seeing the Brother has already written the President - and hence consider it no longer a District affair but a Conference matter. In the first place I am not aware in what way I have played with the confidence of Conference. I am too much of a Methodist to play with the arrangements of Conference much less their confidence.

(2) And as to the breaking of the laws of Methodism - Mr Thomas does not advise one law I have broken much less laws - as regards politics that may be a matter of opinion - As regards the instructions to Missionaries in no single instance has he proved or can he prove I have taken part in party politics - see clause hence I deny the truth of the whole fabrication of heterogeneous ideas which he has huddled together and thought fit to bring as a grave charge against his Chairman - so far as regards my being false to Conference or breaking the laws of Methodism -

Charge against Rev James Thomas by Shirley W Baker -

(1) With breaking the Regulations of the Australian Wesleyan Methodist Church to Missionaries inasmuch as he has been guilty of taking part in party politics which is contrary to such regulations See clause. By using language to natives in Vavau which he himself admitted to me in my study on Dec 9th as follows -

1. That he hopes Great Britain will before long take Tonga, and that if he remains in Tonga he will work for it.
2. That he believes on King George's death, the British Government will put Maafu on the throne of Tonga, and then he will give Tonga to Britain.
3. That his motto is Tonga for Britain - As the utterance of such expressions as these are calculated to create sedition and treason against King George and his Government hence his Majesty has intimated that should Mr Thomas remain in Tonga he should be compelled to request the Committee to recall Mr Thomas.

Thus on two grounds I feel compelled to bring this charge –

(1) As being directly contrary to the laws of Methodist as per Regulations to Missionaries.

(2) For the peace and credit of the District and of the Missionaries to prove to the

Natives that Missionaries are not the agents of the British Government to acquire lands for Great Britain –

Resolution of District Meeting in reference to Chairman.

That this Meeting deprecates the conduct of Brother Baker in taking so active a part in the preparation of The Constitution of Tonga, and in virtually passing it through the Parliament and also deprecates his intimate connection with Government inasmuch in general and detail, and believes that this is opposed to the Instructions to Missionaries calculated to produce discord among the Brethren and to injure the work of God. This meeting would therefore respectfully request a deliverance from Conference on the subject by approving or otherwise the conduct of the Chairman -

Resolution of District Meeting in reference to Rev Thomas

That this meeting is of opinion that brother Thomas was guilty of a grave indiscretion in making such statements but scarcely considers that it amounted to a violation of our laws against interfering in politics.

Ruling of Chairman - The Chairman rules that the case having been closed and the Meeting having passed on to other business - That the Meeting has no right on the day after to open the case again to take fresh evidence -

[92] CRITICISMS OF THE 1875 CONSTITUTION & ITS AMMENDMENT

[Basil Thomson, Diversions of a Prime Minister, Edinburg 1894.
Reprinted 1968 by Dawsons of Pall. pp. 223-224)

This code (1862) was considerably altered, - I reject the word "amended" advisedly, - and in 1875 a complete penal code, far too elaborate for the Tongans, yet infinitely better than the pretentious laws that afterwards repealed it, was passed by the native Parliament. From 1875 to 1888 Mr Baker can al tried his 'prentice hand at legislation. He altered the Constitution four times, and drafted and passed laws and ordinances whenever the fit took him, until the body of law had become so confused and conflicting that not even a Blackstone could have cut a path through its thorny labyrinths. Some of these laws were not even read to the Parliament that passed them; more than a few were enacted in English, and never translated into Tongan. Of these, some were printed in the 'Gazette' in English; others had not even this courtesy extended to them. The fatal case of legislation bred in the Premier's mind a kind of disease - , Legislatitis - until every idea that flitted through his facile imagination was crystallised into an ordinance, and the cause of every passing annoyance was made penal by enactment. Some one remarked that the wild duck were becoming scarce: an ordinance was passed to preserve them. A ship-of-war was disappointed in not finding coal: a statute converted Nukualofa into a coaling-station for foreign ships. Some urchins shouted "Sail ho!" on the beach near the Premier's office: to cry "sail ho!" became forthwith a penal offence. Many of these enactments were extremely unpopular; but the wily Premier knew how to let the fury of the mob beat upon other heads than his, and generally caused his laws to be promulgated the day after he sailed for one of his frequent holidays to New Zealand. By the time he returned the people had become

accustomed to them.

[93] THE AMENDMENTS OF THE CONSTITUTION DURING THE 1880's

[Basil Thomson, Diversions of a Prime Minister, Edinburg 1894.
Reprinted 1968 by Dawsons of Pall Mall. pp. 226-229.]

At the beginning of 1888 the confusion in the laws had become such scandal that Mr Baker determined to codify them. He lacked either the courage or the energy to submit his code to Parliament, and he therefore passed an Act empowering him to "revise" the code of laws and print them in Tongan and English - surely the widest power ever conferred upon an individual in the history of representative government. At the end of two years he had written the English version and about half the Tongan. I have it on the authority of the pundits - native and European - that the Tongan version was so full of errors as to be quite unintelligible; but it is possible that in his anxiety to retain his position as legal adviser to the magistrates, he intentionally made their path thorny and difficult

The English version is entitled to rank high among the curiosities of literature. If compositors turned loose with all the known fonts of capitals can alone make a code, then the work was a monument to jurists; but, since the lavishness of printer's art only brings into greater prominence confusion in arrangement, gross contradictions, and vital omissions, the Ministry were justified in not feeling proud of a production for the revision of which they had to pay a bill of fifty guineas to a solicitor in Auckland. But regarded merely as a literary "sport", it was well worth the money. In the "Act relative to Murder" we read: -

Section 11.- Should any one poison any water with evil intent to cause the death of another or others and should the same die he shall be considered guilty of murder and punished accordingly but should the same be known before the death of any one it shall be considered manslaughter of the first degree.

In honestly trying to understand this section, the mind reels backward as in an attempt to realise eternity. Did the reverend jurist mean that if the poisoned person dies he shall be considered guilty of murder, but that if he (the unfortunate victim) be known before the death of some one else, it (ie, the poison, the water, or the death) shall be considered manslaughter? And if not this; - what did he mean?

In the "Act relative to assault and Battery" there is the following remarkable passage: -

Section 13. - Whoever shall strike or assault or throw anything at one's father or one's mother as stated in this Act such person's penalty for any such offence shall be doubled.

A Tongan who wished to strike his enemy had first to ascertain whether he had children. These are only two out of the many claims put forth by the late Premier in this wonderful book to a high place among the unconscious humorists of literature.

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:

- (1) the Judicial Committee of the Privy Council;
- (2) the Supreme Court;

(3) the three District Courts;

(4) the Police Courts.

There were thus three appeals against a decision of the police court, and each appeal brought in fees. 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.

Besides these courts there were - the Probate Court, the Divorce Court, the Admiralty Court, the Lands Court, and Courts-Martial, for none of which was any form or procedure laid down. In the case of disputed wills I found the practice to be for one claimant to seize the property, and for the other to prosecute him for larceny. In one case an unfortunate widow was convicted at the suit of her stepson of stealing her late husband's house in which she was living.

We condemned this code on its first hearing. No amount of amendment could make it work. The Tongan version was unintelligible; the English was ridiculous. Nothing less than a new code would meet the necessities of the case. I confess that at first I recoiled from the toil of drafting a code, translating it into Tongan, taking it through Parliament, and passing both volumes through the press with compositors ignorant of the language they were setting up. The work must be done in odd hours, snatched from arduous administrative duties, in a period of less than six months. I succeeded, and a consideration of a difficulties against which I had to contend should soften the harsher criticisms that may be passed upon my code in the future. I worked upon the Indian Penal Code and the existing law of Tonga, using the plan of the former, and simplifying the latter as far as the constitution would let me. Working far into the night, I made my rough draft in English, and then with the help of a little shorthand writer, Pauli by name, I turned the draft into halting Tongan. This version went sheet by sheet to Tukuaho for conversion into elegant Tongan, and then came back to me for careful revision, lest the sense should have suffered in the process of decoration.

My principal difficulty lay in the Constitution. Though the king readily consented to the abrogation of the laws, he had an almost superstitious dread of tampering with the Constitution. This attitude had its advantages when we wanted to silence our opponents of the Radical party in the House. We had only to point to the Constitution, which "Tubou did not wish to alter," as a reason for re-enacting an old statute, and the opposition collapsed; but we were well aware that the pretentious document beginning, "Seeing it appears to be the Will of God for man to be free," with its complicated machinery, designed to deceive strangers into the belief that Tonga was a State growing in importance and prosperity, was utterly unsuited to the Tongans.

[94] CONSTITUTION OF TONGA, 1875

[Latukefu, Sione. Church and State in Tonga: The influence of the Wesleyan Methodist Missionaries on the Political Development of Tonga, 1826 - 1875. Thesis submitted for the degree of Doctor of Philosophy in the Australian National University. Feb. 1967. pp.577-605.]

PART I

DECLARATION OF RIGHTS

SEEING it appears to be the Will of God for man to be free, as He has made of one blood all nations of men, therefore shall the people of Tonga be for ever free, and all people who reside or may reside in this kingdom. And the lives and bodies and time of all people shall be free to possess and acquire property, all doing as they like with the fruit of their hands, and using their own property as they may seem fit.

2. No one shall be obliged to work as a servant to another excepting he is willing to do so, saving in breaches of the law: and any slave running away from any country to Tonga [if he is not running away from the law of any land in consequence of being a murderer, thief, or guilty of any crime or debt] shall at once be free on putting foot on Tongan soil; for no one shall ever continue to be a slave under the protection of the Flag of Tonga.

3. Any one wishing to bring people from different islands to work for him, it shall be lawful for him to agree with them for how many years' service they shall work for him; and an exact copy of the agreement and contract made between him and them shall be lodged in the Government Offices, stating the amount of payment they shall receive the time they shall work for him, and promising to take them back to their own land. And the Government will see such contract carried out on behalf of those who may engage and those who may be engaged. And any such persons coming shall be subject to the law of the land, and shall pay taxes and duties the same as all people residing in the kingdom. But it shall not be lawful for any one to make any contracts with any Chinese to come and work for him, lest the disease of leprosy be brought to Tonga the same as exists in the Sandwich Islands. But it is not by this intended to prevent any Chinese coming to Tonga, but to prevent them coming as labourers the same as is done in many places. But any Chinaman wishing to reside in Tonga must first produce a doctor's certificate that he is free from such disease: then it shall be lawful for him to reside in Tonga.

4. There shall be but one law in Tonga, one for the Chiefs, and commoners, and Europeans and Tongese. No laws shall be enacted for any special class to the detriment or another class; but one law equally the same for all persons residing in this land.

5. All men are free to perform their worship and to worship God as they may deem fit in accordance with the dictates of their own consciences and to assemble to perform their worship in such places as they may appoint to do so. But it shall not be lawful for them to construe this privilege [Liberty] to commit evil and licentious acts under the name of worship; acts which are not in accordance with the law and peace of the land.

6. The Sabbath Day shall be sacred in Tonga for ever and it shall not be lawful to work, or artifice, or play games, or trade on the Sabbath. And any agreement made or document witnessed on this day shall be counted void, and will not be protected by the Government.
7. It shall be lawful for all people to speak, write, and print their minds opinions, and no law shall be enacted to forbid this for ever. There shall be freedom of speech and newspapers (Press) for ever. But this does not nullify the law relative to libel, and the law for the protection of His Majesty and the Royal Family.
8. All people shall have the right of writing to or petitioning the King or Legislative Assembly, and assemble and consult concerning things which appear to them necessary to petition to the King or Legislative assembly for the purpose of making enactments or repealing, so long as they meet peaceably without arms and without disorder.
9. The law of the writ of Habeas Corpus is the right of all people, and it shall never be suspended for ever excepting in cases of war or rebellion in the land, and then it shall be lawful for the King, with the consent of the Legislative Assembly to suspend it.
10. No one shall be imprisoned or punished because of any offence he may have committed until he has been judged according to law, in the presence of a court having jurisdiction for the same.
11. No one shall be judged or commanded to appear before any court, or punished for not appearing, unless he has previously received a written indictment, (Except in cases of impeachment or for small offences within the jurisdiction of the police magistrate, or for contempt of court whilst the court is sitting.) The written indictment shall clearly explain what is charged against him, and he is to be judged. And when being judged the witnesses against him shall be brought face to face and he shall hear their evidence, and it shall be lawful to him or his counsel to question (cross-examine) them and to bring in any witnesses of his own, and to plead or explain himself or through his counsel, because of what he may be charged. But any one who shall be indicted for any great crime such as treason, rebellion against the King, theft, bribery, perjury, forgery or embezzlement, or of a crime of the like nature shall be tried by jury. This law shall be inviolable for ever. And all debts shall be tried by jury, but it shall be with the Legislative Assembly to determine what shall be the amount of debt that shall be tried by jury.
12. No one shall be judged twice for any offence for which he has already been judged, whether he was acquitted or convicted, except in cases where the guilty persons shall confess after having been acquitted by the court, and then only when there is sufficient evidence to prove the truth of the same.
13. No one shall be judged for any thing else but what appears in the writ or warrant that for which he was brought to be judged.
- 1.4. No one shall be compelled to witness against himself, (in any criminal case) nor shall his life, property or liberty be taken away but according to law.

15. It shall not be lawful for any judge, or for any juryman to sit in any case which concerns his relative either as plaintiff, defendant or witness. It is not lawful for any judge to sit in any case which concern himself. It shall be lawful for any judge or juryman to receive any present or money or any thing else from any one who is about to be judged, or from any one of his friends, but for all judges and juryman to be entirely free, and in no case whatever to be an interested party or accomplice in their duties.

16. It shall not be lawful for any one to enter forcibly the house or premises of another, or to seek any thing or to take any thing the property of another, excepting by the command of the judges according to law. But should there be any one who shall lose any property or other things and know that it is hidden in any place, house or premises, it shall be lawful for him to make affidavit in the presence of the judges that he thinks that it is hidden in that place. He shall describe particularly the nature of the property so hidden and the place that he thinks that it is so hidden, and the judges shall issue a search-warrant to the police to seek the property according to the affidavit so made.

17. The King conducts his Government on behalf of all the people, not for the purpose of enriching or benefitting any one man, or any one family, or any one class, but on behalf of all the people without partiality, but for the good and benefit of all the people of his kingdom.

18. All the people have the right to expect that the Government will protect their life, liberty and property, and therefore it is right for all the people to assist and pay taxes to the Government according to law, and if at the same time there shall be war in the land, and the Government shall take the property of any one or any thing from any one, the Government shall pay to whom it belongs that which is right. And if the Legislative Assembly shall decree to take from any one or any number of persons their premises or a part of their premises, or their houses for the purpose of making Government roads or other work of benefit to the Government, the Government shall pay that which is right; such payment shall be made according to the directions of four arbitrators, two to be chosen by the Government, and two by the person or persons to whom belong the premises or houses. And these four shall choose another to be their chairman, and what they shall agree to shall be considered the lawful payment.

19. It shall not be lawful to increase or decrease the taxes or duties but with the consent of the Legislative Assembly. Nor shall any money be paid out of the Government Treasury, or debts contracted with the Government, but as shall be arranged by the Legislative Assembly, excepting in cases of war or rebellion or fearful epidemic or a like calamity. And in such case it shall be done with the consent of the Cabinet, and the King shall call together at once the Legislative Assembly, and the Treasurer shall give the reason why that money was expended, and the amount.

20. It shall not be lawful to enact any retrospective laws.

21. All the military shall be obedient to the laws of the land. Whether they belong to the Guards, the Artillery, or to the Militia (see 23rd clause) and should any of them break the laws of the land, they shall be judged in the courts of the land the same as any one else.

And it shall not be lawful for any officer to quarter any soldier to the premises of any one for them to provide for him, except in time of war, and then only as shall be enacted by the Legislative assembly.

22. Any one who shall have arrived at the age of 21 years and pays taxes, the same being one of the land, or one who has taken the Oath of Allegiance and can read and write, and from the time of the Constitution becoming law has not been guilty of any great crime such as treason, murder, theft, bribery, perjury, forgery and embezzlement or a like crime (these depriving a man of his liberty a subject, preventing him from joining in the government of the land, according to the 25th clause of this Constitution) it shall be lawful for him to vote for representatives to the legislative Assembly, such election being made by ballot. And on the day appointed to vote for representatives to the Legislative Assembly he shall be free from summons because of debt, but this law does not refer to the issue of warrants because of crimes in accordance with the 25th clause of this Constitution.

23. It shall be lawful for the military (that is Guards and Artillery) though they may not pay taxes, if they have arrived at the age of 24 years and if they can read and write, and if they have not been guilty since the passing of the Constitution of any great crime as mentioned in the 25th clause, for them to vote for representatives to the Legislative Assembly: and when the day of election shall arrive, the Commanding Officer shall so arrange for them to have time to go and ballot. During the time of peace it shall not be lawful to press any one to join the military excepting for the purpose of completing the number of the Guards if they cannot be completed from those who are willing to join: such being the case the number required to complete the Guards shall be divided out to the different lands according to the number of the population, and it shall be arranged thus:- All the unmarried men of the land shall draw lots, and those to whom the lot falls being equal to the number of those apportioned to that land, they shall join the Guards for a period of seven years; and it shall be with the King and Legislative Assembly to determine how many. But if there should be any disturbance in the land it shall be lawful for the King to call all those capable of bearing arms to join the Militia and to make laws for their government: and when peace shall be proclaimed the Militia shall be dispersed and the military of the land shall consist only of the Guards and Artillery. (See clause 22 relative to the military.)

24. Any one who shall have arrived at age, and shall be able to write and read and since the passing of the Constitution shall not have been guilty of any great crime such as treason, murder, theft, briber, perjury, forgery, and embezzlement or any like crime, in accordance with the 25th clause, and has paid his taxes, and is not heavily in debt so that if judged it would appear that he would not be able to pay his debts, it shall be lawful for him to enter the Legislative Assembly if chosen by any electorate as a member according to law. But any one holding a position of trust or payment in the Government, it shall not be lawful for him to enter, excepting members of the Ministry. And any judges receiving payment, - either one of the high judges or police magistrates, it shall not be lawful for him to enter the Legislative Assembly. This law has reference also to all Governors whilst they hold the position of Governor.

25. It shall not be lawful for any one who has committed a great crime such as treason, murder, theft, bribery, perjury, forgery, embezzlement or a like crime if such has been done

since the passing of the Constitution, for him to hold any position in the Government of Tonga, whether one of payment or honour, or vote for representatives to the Legislative Assembly if he has not received pardon from the King and it is expressly declared in his pardon that he can again hold his position in the kingdom, his liberty as a subject and lawful (sic) to vote for representatives to the Legislative Assembly according to the 22nd clause.

26. It shall not be lawful for any one holding a position in the Government whether one of payment or otherwise, to hold any position or receive any payment from another Government, without first obtaining permission from the King and Legislative Assembly. And it shall not be lawful for any one holding a position of payment from the Government to trade or work for any one else.

27. All men who have arrived at the age of 16 years shall pay taxes whether they have plantations or not. And all foreigners or strangers who shall come and reside in this land, whether as traders, or carpenters or artificers, whether they have premises and plantations or not, after they have resided six full months in the land shall pay taxes the same as all other people, notwithstanding they may have trading licenses or may pay for leases or not.

28. Any one who shall be really poor, whether arising from sickness or old age, if he cannot really pay taxes, whether a Tonga-man or foreigner, shall appear before one of the high judges on a day appointed by the Government, and it shall be lawful for them to give him dispensation to be free from paying taxes; but it shall not be lawful for them to free any one holding a lease of land, as such cannot come under the class of paupers.

29. Although it is hereby appointed that all men who have arrived at the age of 16 years shall pay taxes, yet it shall not be lawful for them to become the heir of any inheritance or any name until they have arrived at the age of 21 years. But the Royal family shall be considered to have arrived at the age of maturity at 18 years.

30. All the people of the land who shall have arrived at the age of 21 years and pay taxes, can write and read, and have not been guilty of any great crime as explained in the 25th clause of this Constitution shall be liable to serve on juries; and once every year the names of all those who are liable to serve shall be printed. Any one who neglects to take his turn shall be punished as shall be enacted by the Legislative Assembly. But members of the Legislature, Missionaries, assistant missionaries, teachers, schoolmasters, collegians, Institution lads, servants of the Government, clerks of the Bank, military officers, the Guards and Artillery-men, and all officials of the Government shall be free from this law.

31. Any foreigner or stranger from any one of the great nations who shall be guilty of any great crime as expressed in the 25th clause of this Constitution, or who shall owe a large amount, (it is with the Legislative Assembly to enact what shall be the amount of debt which shall be judged by jury) shall be judged by jury, six being foreigners resident in the land who pay taxes, and six Tonga jurymen whose names stand on the jury list of the place where the court is held.

32. That any nation which has recognised Tonga as a kingdom, it shall be lawful for the people from that nation after they have resided in Tonga for the space of two years to take

the Oath of Allegiance. Such persons shall have the same privileges as the native born subjects of Tonga. And for the benefit of strangers residing in Tonga after the 1st January eighteen hundred and seventy-six, any law which may be enacted by the Government shall be printed both in Tongese and English. And if in the arrangement of any foreigner it shall appear that there is a difference of meaning between the law published in English from that published in Tongose, the case shall be judged according to the English version of the law, which shall be held to be the meaning of the law. And should any foreigner be judged and there shall be no Tonga law to meet the case, he shall be judged according to the British law which shall be held to be the law of Tonga in such cases, until a law has been passed by the King and Legislative Assembly to meet the same.

PART II

FORM OF GOVERNMENT

THE form of Government for this kingdom is divided into three divisions:

1st, the King, Privy Council, Cabinet, (The Ministers.)

2nd, the Legislative assembly,

3rd, Judicial.

These three shall always be distinct, and it shall not be lawful for any judge to be a member of the Legislative Assembly.

34. The form of Government for this kingdom is that of a Constitutional Government under His Majesty, King George Tubou, his heirs and successors.

35. The Crown and Throne of this kingdom is possessed by His Majesty, King George Tubou; and it is hereby confirmed that it shall be possessed by him, and to him who was begotten by him David Uga, and to him who was begotten by him Wellington Gu, and to them who shall be begotten by him in marriage; and if there shall be no heirs by marriage of Wellington Gu it shall descend according to the law of descent. This is the law of descent: It is lawful only for those born in marriage to succeed. The succession shall be to the senior male child, and the heirs of his body: but if he should have no descendants, to the second male child and the heirs of his body, and so on until all the male line shall be ended. Should there be no male child it shall succeed to the first female child, and the heirs of her body; and if she should have no descendants it shall descend to the second female child and the heirs of her body until the, female line is ended. And if there should be none of this line, lawful descendants by marriage to succeed to the Crown of the King of Tonga, it shall descend to Henry Maafu and his lawful heirs, those that shall be begotten from his body by marriage, and to their heirs that shall be begotten by them; and if there shall be no lawful heir the King shall appoint his heir if the House of Nobles are agreeable to it. (The representatives of the people have no voice in the same.) And the same shall be declared heir to the Crown publicly during the King's life. Should there be no heir or successor appointed to the Crown; one who has been publicly proclaimed the Premier shall call together, and in his absence the Cabinet, the Nobles of the Legislative Assembly; (the representatives of the people having no voice in the same) and when they meet the House of Nobles shall choose by ballot some one of the Chiefs that they are agreeable to succeed

as King. And he shall succeed as the commencement (new sturps) for a new Royal family, and he and his heirs from his body born in marriage shall possess the Crown according to law. And in the event of there being none to succeed according to this law, the Premier shall again call together, and in his absence the Cabinet, the Nobles of the Legislative Assembly in accordance with this law, and they shall choose a King, one to succeed to the Throne, the beginning (or sturps) of a new Royal family, and so on again according to this law for ever.

36. It shall not be lawful for any member of the Royal family, - any one likely to succeed to the Crown, - to marry any person without the consent of the King. And if any one should thus marry it shall not be considered a legal marriage it shall be lawful for the King to forfeit the right of such a one for on no account to succeed to the Crown of Tonga, or his heirs. And if he shall thus act, it shall succeed to the next one in succession to him, and he shall be considered the heir, and the offender shall be considered as dead.

37. After this Constitution shall become law His Majesty shall take this Oath on a day appointed, and it will also be taken by those who shall succeed in the succession to the Crown:- 'I solemnly swear in the presence of Almighty God to keep in its integrity the Constitution of Tonga, and to govern in conformity with the laws thereof.'

38. No one shall ever succeed to the Crown of Tonga who has been judged and found guilty of any infamous crime, or who is insane, or an idiot.

39. The King is the Commander-in-Chief of the forces on the land and sea. It is with him to appoint the officers, and to make arrangements for the training and governing of the forces as he shall think best for the benefit of the land; and it shall not be lawful to make war without the consent of the Legislative Assembly.

40. It shall be lawful for the King, with the consent of the Privy Council, to grant pardons to all who have broken the law after conviction, saving those who have been convicted according to the 55th clause, - cases of impeachment. For such it shall not be lawful for him to grant any pardon.

41. The King, by the consent of the Privy Council, convenes a Legislative Assembly, and they shall always assemble in the principal town of the Kingdom, - Nukualofa. It shall not be lawful to meet in any other place except in case of war. And if the King shall be displeased with the Legislative Assembly, it shall be lawful for him to dissolve the assembly, and to command for new representatives to be chosen for them to enter the Legislative assembly. But it shall not be lawful for him to dismiss any one of the Nobles of the Legislative Assembly except in cases of treason, and then only in accordance with the 48th clause. But it shall not be lawful for the kingdom to remain without a Legislative Assembly for a longer time than two years;-and-if-anything-extra-ordinary shall arise in the land, the Legislative Assembly shall be called together at once to consult about it.

42. It is with the King to make treaties with foreign nations; but it shall not be lawful for him to make treaties contrary to the laws of the kingdom, or to alter the duties without the consent of the Legislative Assembly. But it is with the King to appoint his representatives to

other nations according to the law of nations.

43. It is the prerogative of the King to receive and acknowledge public ministers, and to send word to the Legislative Assembly, by writing, things concerning the kingdom, and also concerning matters that he wishes to bring under their notice to consult about.

44. The person of the King is sacred. He governs the land, but his Ministers are responsible. All laws that have passed the Legislative Assembly must have His Majesty's signature before they become law.

45. Should the King die before his heir is 18 years of age, a Prince Regent shall be appointed according to the 46th clause.

46. Should the King wish to voyage from the land, it shall be lawful for him to appoint a Prince Regent who shall administer the affairs of the kingdom during the absence, and if the King should die whilst his heir is under age, - that is arrived at the age of 18 years, - and has not left a will as to whom he wished be Prince Regent whilst his heir was yet young, the Premier or the Cabinet shall call together at once a Legislative Assembly (the representatives of the people having no voice in it) and they shall choose by ballot who shall be Prince Regent; and the one whom they choose shall administer the affairs of the kingdom in the name of the King until the years of the Prince, the heir, shall be complete.

47. The King is the Sovereign of all the Chiefs and all the people. The kingdom is his.

48. It is the King's prerogative to give all titles of honour, and to appoint and give all distinctions of honour. But it shall not be lawful for him to take away the name of any one who has an hereditary name, such as Chiefs of the divisions of the land, and Nobles of the Legislative Assembly, those to whom the lands belong, and the hereditary name of the Legislative Assembly according to the 41st clause of this Constitution, except in cases of treason. And if any one shall be judged and found guilty of treason it is with the King to say who of that tribe shall succeed to the name and inheritance of the guilty party.

49. It is the prerogative of the King, with the advice of his Cabinet, to arrange as to what money shall be legal tender in this kingdom, and to make arrangements for the coining of currency money of this land which shall be impressed with the King's head upon it. But until other arrangements shall be made by the Legislative Assembly, the following shall be the legal currency in this kingdom: all English money and French money, except 1 franc pieces, all United States money, quarter dollars, half dollars, and all gold.

50. Should there be civil war in this land, or war between this land and another, it shall be lawful for the King to proclaim martial law for any part of the land, or for the whole of the land.

51. The Flag of Tonga, the flag of King George, shall not be changed for ever, shall always be the flag of this kingdom. And the present Royal Ensign, shall be the ensign of the Royal family of Tonga for ever.

52. Inheritances of the King and the property of the King is his, to do with it as he pleases. The Government shall not touch it, nor shall it be liable for any Government debt. But all houses built for him by the Government and any inheritance which may be given to him as King shall descend to his successors as they property and inheritance of the Royal line.

53. It shall not be lawful to judge the King in any court for a debt, without the consent of the Cabinet.

PRIVY COUNCIL

54. The King shall appoint a Privy Council to assist him in his work in great important affairs. The Privy Council shall be composed of the Cabinet in accordance with the 55th clause, and the Governors in accordance with the 58th clause, and the Chief Justice. And if any thing shall arise in the land, or any great dispute because of any debt, or concerning any inheritance, if such has been judged in the Supreme Court it shall be lawful to appeal to the Privy Council to re-judge the same and such shall be the final court. But it shall not be lawful for the Council to re- judge any criminal case; only civil cases and the like.

CABINET

55. The Cabinet of the King or his Ministers shall be the Premier, Treasurer, Minister of Lands and Minister of Police. It is the prerogative of the King to appoint the Ministers. They shall hold their position during the pleasure of the King. It shall be lawful to impeach the Ministers by the Legislative Assembly if their administration and work is not according to law. The Ministers shall enter the Legislative Assembly as Nobles of the Legislative Assembly; and any order which may be passed by the King and Privy Council shall not have any effect in the land until the signature of the Minister to whose department of work such order concerns is attached. And if such order shall be wrong he alone shall be responsible.

(1) It is with the Premier to appoint Bule Kolos, (Mayors) and to make arrangements for the cleaning and inspection of Government roads; to make new roads; to take care of the Legislative House, prisons, and all houses of the Government; and to take care of and govern the vessels of the Government. It is with him to provide for the military, and for the houses of the military; to provide for the various courts; to see to the work of the Registrars (those whose duty it is to register births, marriages and deaths); and also to appoint all Police Magistrates. He also has charge of the Great Seal of the Government and to all the working of the Government which does not belong to any other particular Minister. He also represents the Government to other nations (Minister of Foreign affairs); and. transacts all business in connection with the same.

(2) It is with the Treasurer to see that the taxes are collected as arranged by the Legislative Assembly; to collect the duties and payment for licenses; to receive from the Premier fines from the courts; from the Minister of Lands payment for leases, and to pay all the debts or expenses of the Government as enacted by is the Legislative Assembly.

(3) It is with the Minister of Lands to take care of all Government premises and town sites; to make all town roads; to arrange for the proper position of the houses in the town; and to make arrangements for the leasing of lands to foreigners with the consent

of the King and Privy Council; and to see that the Government leases are complied with in accordance with the Constitution as enacted by the King and Legislative Assembly.

(4) It is with the Minister of Police to see that the land resides in peace, and. to prevent all disturbance; to see that the police report all breaches of the law; and that the laws of the land are carried out as it shall be enacted by the King and Legislative Assembly; to govern all the police; to prosecute in the Supreme and Circuit Courts, or those persons who have been committed from the Police Courts; to see punished all prisoners as sentenced by the judges, and that everything is carried out as far as concerns the laws of the land.

(5) Each Minister shall draw up a report once every year, explaining to the King the nature of the work or his department; such report shall be sent by the King The Legislative Assembly when it assembles, and if the Legislative Assembly shall wish to know any thing concerning the department of any Minister, he shall answer the question made by the Legislative Assembly and explain every thing in connection with his department.

56. Each member of the Cabinet shall have an office in Nukualofa, the principal town in the kingdom; and it shall be with him to see how all the servants in department perform their duties. And the Government shall build or rent office suitable for the carrying out of the work of each Minister.

57. When the Legislative Assembly shall meet, the Minister of Finance (Treasurer) shall report on behalf of the Cabinet, the first week of their meeting, all monies which have been received and expended during that year, or since the last meeting of the Assembly, and the nature of the receipts and expenditure.

58. The King shall appoint, with the consent of the Cabinet, Governors to Haabai, Vavau, Niuafuou, and Niuatobutabu, but because of the King residing in Tonga and also the Premier, no Governor shall be appointed to Tong (sic) Tabu, (because of their [sic] being no work to do). And it shall not be lawful for the Governors to enter the Legislative assembly; but they shall be members of the Privy Council whilst they hold the office of Governor, and they shall be Governors only during the pleasure of the King.

59. It shall not be lawful for any Governor to enact any laws; but his work is to see that the land where he resides complies with the laws. They shall be changed every seven years. If their administration be wrong it shall be lawful to impeach them by the Legislative Assembly in accordance with the 58th clause which has reference to the Ministers.

LEGISLATIVE ASSEMBLY

60. It is with the King and Legislative Assembly to enact all laws; and the Nobles and representatives of the people shall sit in one House. And when the Legislative Assembly shall agree upon any thing, the same having been read and voted for by the majority three times, it shall be presented to the King for his pleasure; and if he approves of the same and fixes his name to it, it shall at once become law. Voting shall be considered either by the raising of hands or standing up in division, the same as is done in the Legislature in Sydney,

or by ballot according to the various clauses of this Constitution, or by speech, - 'aye' or 'no' as is the manner of Legislative Assemblies.

61. The Legislative Assembly shall be called the Legislative Assembly of the kingdom of Tonga.

62. The Legislative Assembly shall meet every second year in the second week of June, or before that time if the King shall wish it; and if any important affairs transpire in the land, it shall be lawful to command the Legislative Assembly to meet to consult about the same.

63. The Legislative assembly shall be composed of the Ministers in accordance the 55th clause, and the Nobles and representatives of the people.

(1) Ministers. - It shall be lawful for the King to choose his Ministers from Nobles, or from the representatives of the people, or from persons outside. And if so they shall enter the Legislative Assembly in accordance with the 55th Clause.

(2) NOBLES. - After the Constitution shall be passed the King shall appoint twenty Nobles who shall be members of the Legislative Assembly; such Chiefs shall become the Nobles of Tonga and their heirs for ever in accordance with the 48th clause; and they shall be appointed as follows:- Tonga Tabu, 9; Haabai, 5; Vavau, 4; Niuatobutabu, 1; and Niuafouu, 1.

(3) REPRESENTATIVES OF THE PEOPLE. - The land shall choose twenty representatives of the people who shall be appointed as follows:- Tonga Tabu, 9; Haabai, 5; Vavau, 4; Vavau, 4; Niuatobutabu, 1; and Niuafouu, 1.

64. The following Oath shall be taken by the members of the Privy Council:-

'I solemnly swear in the presence of God I will be truly obedient to His Majesty King George Tubou the rightful King of Tonga; and I will keep righteously and perfectly the Constitution of the Government of Tonga; and I will assist to the end of my power and ability in all things in connection with the Privy Council'

The following Oath shall be taken by Ministers:-

'I solemnly swear in the presence God I will be truly obedient to His Majesty King George Tubou the rightful King of Tonga; and I will keep the Constitution of the Government of Tonga, and perform my work in my department to the end of my ability for the benefit of the King and this Kingdom.'

The following Oath shall be taken by the Nobles and representatives of the people:-

'I solemnly swear in the presence of God that I will be truly obedient to His Majesty King George Tubou the rightful King of Tonga and I will keep righteously and perfectly the Constitution of the Government of Tonga, and perform truly and righteously the duties and work of the Legislative Assembly.'

The members of the Privy Council shall sign their oaths and read them in the presence of the King; members of the ministry shall sign their names to the Oath and read the same in the presence of the King; the Nobles and representatives of the people shall sign their names to the Oath and read the same in the presence of the Legislative Assembly.

65. The King shall appoint the Chair of the Assembly from one of the Chiefs of the

Legislative Assembly; but all other officers shall be appointed by the Legislative Assembly. They shall make also all rules in connection with their meetings in accordance with the usage of other Legislatures.

66. No one shall succeed to the position of Noble until he shall have completed the 21st year of his age; and no one shall succeed to that position, or enter the Legislative Assembly, who is insane or an idiot, or who has been guilty of a great crime as is stated in the 25th clause. It shall not be lawful for the King to increase the number of Nobles to more than twenty, saving at the petition of the representatives of the people; and that repeated twice or two years between each petition for him so to do, and it shall then be lawful to increase their number by the King according to the petition.

67. The representatives of the people shall be chosen by ballot. It shall not be lawful for any one to enter the Legislative Assembly who is insane or an idiot; only those who are free in the law according to the 24th and 25th clauses. The mode of ballot shall be as follows:- The names of the candidates who have been nominated, shall be printed, those who are desirous to enter the Legislative Assembly, from which the voters shall choose (those are entitled to vote according to the 22nd clause), and they shall cross out the names of those whom they are not willing to vote for, and leave those names to stand they wish to vote for, and then sign their name to the paper. Such papers shall be collected by the scribe (Registrar) who shall be appointed by the Premier for the purpose; and he shall see whose right it is to enter the Legislative Assembly; and he shall announce on the day of election who has been elected, and report the same at once to the Chair of the Assembly. He shall also collect all the ballot papers, and such ballot papers shall be preserved in the Government offices for the space of seven years.

68. It shall not be lawful for any one who is insane or an idiot to vote in the election for representatives of the people to the Legislative Assembly, only those who are free in the law according to the 22nd clause.

69. If any one shall use threatenings or shall use bribery for the purpose of getting people to vote for him, and he should become elected to enter the Legislative Assembly, such a one shall be unseated by the Legislative Assembly when the same shall be reported to them and when judged it shall be found to be correct.

70. With reference to all laws in connection with the King, Royal Family, and is Nobles of the Legislative Assembly, the whole of the Legislative Assembly (that is both Houses) shall first vote together in accordance with the 60th clause, after which it shall be lawful only for the Nobles of the House to vote; and if they shall be willing to the same after it has been read and passed three times by a majority of the Nobles, it shall be taken to the King at once for his pleasure; and if the majority of Nobles are not willing, the same shall be dropped, although it may have passed the majority of the whole of the Legislative Assembly, and if also it is not approved of by the King it shall not become law in accordance with the 60th clause of this Constitution.

71. If the Legislative Assembly shall agree and pass any law in accordance with the 60th and 70th clauses of this Constitution it shall be taken to the King, and if he does not approve of

the same it shall not be lawful for the Legislative to Assembly again to discuss the same in that session.

72. It shall be lawful for the Legislative Assembly to judge the conduct of its members; and although all members of the Legislative Assembly may not be presents it shall be lawful for the Legislative Assembly to discuss and pass laws should one-third of the members of the Legislative Assembly be present, or ten members. But if there are less they shall adjourn from that day to another day until one-third of the House shall be present, or ten members. But when they meet again if there still be less than one-third of the House or ten members present, it shall be lawful for them to command the presence of all the Nobles and all the representatives of the people; and if they do not attend it shall be lawful for them to declare their punishment for such disobedience.

73. If any one shall speak or act disrespectfully in the presence of the Legislative Assembly, it shall be lawful for them to imprison the same for thirty days; and if, while the House is in session, any one shall write libellous articles on the Legislative Assembly, (false reports) or threaten any of its members or his property, or shall rescue any one that has been commanded by the Legislative Assembly to appear before them, it shall be also lawful for them to imprison the same for thirty days.

74. Should any one of the Nobles act unbecoming his position either whilst the House is sitting or not, it shall be lawful for the Nobles to judge the same. (But it shall not be lawful for the representatives of the people to take part in such judgment). And it shall be lawful for them to depose him from his position as a Noble; and should such be the case it shall be with the King to appoint one in his stead from his tribe to the Legislative Assembly. But it shall not be lawful to take from him his name or his inheritance excepting for treason.

75. The Legislative Assembly shall keep a journal of its proceedings, and 'ayes' and 'noes' of the Legislative on any question shall, at the desire of one-fifth of those present, be entered in the journal of the Assembly.

76. The Nobles and representatives of the people shall be free from arrest whilst the Assembly is sitting, excepting in cases as enumerated in the 25th clause. And no member of the Legislative Assembly shall be liable to judgment for any thing said in the Legislative Assembly.

77. It shall be lawful for the Nobles and also the representatives of the people to impeach any one of the Ministers or Governors or Judges for mal-administration [or misconduct], and when the same shall be judged and shall be proved to be true, the Legislative Assembly shall have power to depose the same from his position, but it shall be with the Courts to punish the same according to law should he be brought before them.

78. If any one of the representatives of the people should wish to resign his position in the Legislative Assembly it shall be lawful for him to send in his resignation to the Speaker, and after sending the same his connection shall end with the Legislative Assembly.

79. Should any one of the representatives of the people resign or die, the Speaker shall

immediately command that electorate which he represented to elect one in his place. But the Legislative Assembly shall not in consequence adjourn although their number may not be complete but they shall go on with their proceedings.

80. All the representatives of the people shall be chosen every five years, but it shall be lawful for the King to dissolve the Legislative assembly of the representatives of the people although their five years may not have expired should he so wish to do, and to command the electorates to choose again representatives to the Legislative Assembly according to law.

81. It shall be with the Legislative Assembly to arrange the amount of taxes which shall be paid by the people, and also the amount of duties; also the amount of payment which shall be made for licenses; and it shall be with them and them only to pass the estimates of the expenditure and work of the Government in accordance with the 19th clause. And when the Legislative Assembly shall meet it shall be with the Minister of Finance to report the amount of revenue received in the two years preceding the meeting of the Assembly, and also the amount of money paid in the expenditure of the Government, and it shall be with the Legislative Assembly to determine the amount of estimates for the expenditure of Government for the two succeeding years. Whatever may be the amount which they may determine for the expenditure and support of the Government the Ministers shall distinctly carry out such estimates made by the Legislative Assembly.

82. It shall be lawful for the Legislative Assembly to consult with regard to any amendments of the Constitution should such amendments not interfere with the laws of liberty [Declaration of Rights], the laws with reference to foreigners, the succession to the throne, and the inheritances and titles of the Nobles and Chiefs of the land. And any clause of the Constitution which the Legislative Assembly may wish to amend shall, after it has passed three times, be left over until they meet again in the next Assembly to be held after two years. And if they still approve of it and it shall be passed again three times, it shall be lawful to take it to the King, and if it receives his consent such amendment shall become part of the Constitution.

83. The enacting style in making all laws shall be; -
'Be it enacted by the King and Legislative Assembly.'

84. To avoid confusion in the making of laws, every law shall embrace but one object, and that shall be expressed in its title.

85. The present laws of the land shall still be in force until altered by the Legislative Assembly, excepting in such cases where they are contrary to the spirit of this Constitution. And any law which may be passed contrary to the spirit of this Constitution shall not become law or be put in force.

JUDICIAL

86. The Judicial power of the kingdom shall be vested in the Supreme Court, Circuit Courts and Police Courts.

87. The Supreme Court shall consist of the Chief Justice and two associated justices, any two of whom may hold a court. And should the Chief Justice not be there, the senior associated justice shall preside. All three justices have equal powers and rights.

88. It is with the King with the consent of the Cabinet to appoint justices to the Supreme Court. And the justices of the Supreme Court shall hold their offices during good behaviour, and shall receive their salaries from the Government as may be arranged by the King and Legislative Assembly. And whilst they hold their position, although it may be lawful for the Legislative Assembly to increase their salaries, it shall not be lawful to diminish them. But should it appear to the Legislative Assembly that the conduct and adjudication of any one of the judges is altogether wrong and inconsistent, it shall be lawful for the Legislative Assemble to impeach and judge such an one according to the 77th clause.

89. It is with the justices of the Supreme Court to arrange the manner of holding the lower courts, and also to draw out all forms, and make rules for all the business of the same.

90. Should any case of impeachment be tried by the Legislative Assembly of any one of the Governors, or Ministers or Justices, the Chief Justice shall preside in the Legislative Assembly whilst the case is being heard. But should at any times the Chief Justice he impeached by the Legislative assembly, the King shall appoint some one to preside during such trial.

91. Should the Supreme Court be held and the three judges he agreed in any case, or any two of them, such decision shall be final. And it shall not be lawful to grant a new hearing, if such was a trial for crime in accordance with the 25th clause. But should it be a cause for debt or dispute about any inheritance it shall be lawful to appeal to the Privy Council in accordance with the 54th clause.

92. The powers of the Supreme Court shall extend to all cases in Law and Equity arising under the Constitution and laws of this kingdom, and treaties made or which shall be made; and to all cases affecting Public Ministers and Consuls, all cases of Admiralty and maritime jurisdiction.

93. It shall be lawful for the King, or the Cabinet, or the Legislative Assembly to require the opinions of the Justices of the Supreme Court on important questions of law and difficult cases.

94. It shall not be lawful for any Justice or magistrate to sit alone on any new trial or appeal in any case on which he may have given a previous judgment.

95. The Chief Justice and Associated Justices shall take the following Oath:-

'I swear in the presence of God that I will be obedient to King George Tubou the lawful King of Tonga, and that I will perform righteously and truly with impartiality my work as a Justice

in accordance with the Constitution and laws of this land.’

The Justice shall sign and read this Oath in the presence of the Cabinet.

96. It is with the Legislative assembly to decide what shall be the court fees in the various courts; but in case any trial shall take place where the Minister of Police is prosecutor no fees shall be paid. A copy of all cases judged in the Supreme Court shall be kept in the Record office of that court.

97. It shall not be lawful for any Justice or Police Magistrate to receive a portion of any fine or fines which may be paid by persons because of breaches of the law; or for the Government to portion out prisoners to work for any Justice, or magistrate, or police, or juror, or any other person as payment for work done by them.

98. It is with the Legislative Assembly to regulate the mode of summoning and empannelling jurors, or what fees they shall have.

99. It is for one of the Justices to hold the Circuit Courts, and it is with the King and Legislative Assembly to arrange how many Circuit Courts shall be held in this kingdom.

100. All cases tried before the Supreme Court and Circuit Court shall be by jury, and any one prosecuted for the committing of any crime as stated in the 25th clause, or any case which has been committed for trial from the police court shall be tried by a jury of twelve and this law shall not be repealed for ever.

101. It is the duty of jurors in all criminal cases to pronounce whether the person accused is guilty or not guilty according to the evidence produced,[and the evidence alone]. In civil cases they award payment or compensation as the case may be, and according to the merits of each case.

102. It is the duty of the Justice or magistrate in criminal or civil cases to direct the jury as to the principles [sic] of the law bearing upon each case as it is tried and thus to assist them in their deliberations as to what conclusion it is right for them to come to. It is also with the Justice or magistrate to decide all questions of law, or as to the admisability [sic] of evidence which may arise during a trial.

103. It shall be lawful for the Circuit Courts to judge all criminal and civil cases, but not to judge both kinds of causes on the same day. Different days shall be appointed to hold the Criminal Sessions, and also different days to hold the Civil Sessions,

104. Should any case be tried in a Circuit Court, and the plaintiff or defendant not be satisfied with the decision of that court it shall be lawful for him to appeal to the Supreme Court. And if it shall appear to that court the decision of the Circuit Court was wrong it shall be lawful for them to reverse the judgment.

105. The Chief Justice shall report once every year to the King with regard to the administration of justice and the state of morals, and as to what improvements or changes in the law it appears to him ought to be made. When the Legislative Assembly meets, the

King shall lay this report before the Assembly in the same manner as the reports of the Ministers.

106. It is with the King and Legislative Assembly to regulate how many police courts shall be held in this kingdom, and how often. And it shall be with the Legislative Assembly to regulate the powers of the Police Magistrates in criminal and civil cases, and also the amount of debt he can judge, and what cases are too be committed to trial to the Circuit Courts. Criminal and Civil cases shall be held at different times as stated in clause 103, which has reference to the Circuit Courts.

107. Should any one of the Legislative Assembly lay an accusation against any one of the Cabinet, or Governors, or Justices for the purpose of his being impeached by the Legislative Assembly, the impeached officer shall have a written accusation of the same seven clear days before it shall be lawful to try the same. Such trial shall be held in the same way as all trials are to be held, as stated in the 11th clause. After all witnesses shall be heard the accused shall retire whilst the Assembly deliberates; and when the Legislative Assembly shall have arrived at a decision he shall be brought before them and the decision of the Legislative Assembly announced to him. If found guilty it shall be lawful to remove him from his position; but if acquitted it shall not be lawful to impeach him again on the same grounds in accordance with clause 12.

108. Causes which warrant impeachment are those as stated in clause 107, breach of the laws or the regulations of the Legislative Assembly, maladministration, incompetency, destroying and embezzling the property of the Government, or the performance of acts which may lead to difficulties between this country and another.

THE LANDS

109. It is hereby solemnly declared by this Constitution that it shall not be lawful for ever for any one of this country, whether he be the King or any one of the Chiefs or any one of the people of this land to sell one part of a foot of the ground of the kingdom of Tonga, but only to lease it in accordance with this Constitution. And this declaration shall be a most solemn covenant binding me on the King and Chiefs of this kingdom, for themselves and their successors for ever.

110. It is hereby declared by the Constitution, that the Government shall hold and possess the sites of all towns in this kingdom at present inhabited; and it shall be with the Minister of Lands to hold in trust and govern the sites of all such towns on behalf of the Government, in accordance with the 3rd paragraph of clause 55 of the Constitution Act.

111. It shall be with the Cabinet to fix what shall be the payment for the various leases in the different towns as they may seem fit; but it shall not be lawful to lease any ground in any town to any one for a period of upwards of 21 years, saving for Church purposes, - the two denominations which are now here, the Wesleyan and the Roman Catholic, according to the 117th clause:- and also to the King for his premises in Nuku'alofa, Lifuka and Neiafu, which shall be leased for a period of 99 years. But should there be premises of any great

Chief of any town whose was the town according to former custom; and such land was the inheritance of his forefathers - it shall be lawful for that Chief to have a lease of that land, and his heirs after him, for a period of 99 years - and they shall pay to the Government, whether such premises be large or small, the sum of one dollar per annum on account of such lease.

112. And if any one shall lease any premises in any town from the Government it shall be lawful for him to re-lease such premises or any portion of such premium to others should he so wish to do and it shall be with those who thus release such premises to pay to the Government according to the original lease.

113. It shall be with the Minister of Lands to define the boundaries of all towns now inhabited and such shall be possessed by the Government. Such boundaries shall be printed in the GOVERNMENT GAZETTE and after being proclaimed it will be tabu to enlarge the sites of the towns owned by the Government. And should any high Chief feel aggrieved at the boundaries of the towns thus proclaimed by the Minister, it shall be lawful for him to appeal to have it adjudicated, according to the 123rd clause of this Constitution.

114. The deeds, as have been prepared and approved of by His Majesty King George are hereby proclaimed the model deeds of the Government of Tonga, according to which all future deeds of leases, either for the Government or the Chief's, shall be made. Those deeds of leases to which His Majesty has affixed his royal signature, such model deeds, together with the Constitution, shall be preserved in the office of the Government at Nukualofa.

115. This Constitution does not affect any leases which have been made by the Government or any leases which they have positively promised shall be made, whether leases of land in the interior or in town; such leases will be protected by the Government. But this arrangement does not include any new lease which may be made after the Constitution becomes law.

116. No more leases shall be granted [beyond those which have already been made] of any town sites in any town either to the Wesleyan Church or to the Roman Catholic Church, or for the premises of a teacher, should there not be more persons, including both men and women of such Church, those who have arrived at the age of 16 years, [leaving out the children] equal to the number of twenty in such town. And no more leases of sites for school-houses, or the premises for school masters will be granted should there not be in such town children to the number of thirty, constant attendants at the school of such Church.

117. It shall be lawful for the two Churches, - the Wesleyan Church, and the Roman Catholic Church, - to have leases of their premises, in accordance with clause 111, for the term of 99 years. But it shall not be lawful for them to use those premises for any other purpose than that of religion, or to re-lease to any one else for them to use or reside therein; and shall such be the case, and when tried found to be true, the leases of such premises shall revert to the Government.

118. It shall not be lawful for the Government to lease to any white resident, or to any one and his family, any town site greater than 5 acres; and it shall not be lawful for the Government to grant permission to any Chief to lease to any White resident or white residents in company any land in the interior upwards of 1000 acres added together.

119. All the beach frontage of this kingdom belongs to the Government from 50 feet of high water mark. But it shall be lawful for the Government to lease a portion of any beach frontage for the purpose of erecting a store, jetty or wharf'; and it shall be with the Minister of Lands to grant such lease with the consent of the Cabinet.

120. The deed of any lease granted by the Government to any white resident shall be made out in the English language.

121. Should the King or Cabinet be willing to grant any lease and such lease be made, the Minister of Lands shall sign his name to such lease in the name of the King, and affix the seal of the Government: and such deed shall be witnessed by the Premier and Treasurer, and an exact copy of it shall be kept in the office the Minister of Lands, and such registry shall be preserved for ever.

122. It shall be with the Cabinet to arrange what shall be the charge for registering deeds in the office of the Government [The office of Minister of Lands). The leases made by Chiefs, and all sub-leases shall not be considered to be in force until such shall have been registered, and the deed first registered will be the one protected by the Government.

123. Should any dispute arise between the Government and any Chief because of any town site [or site of a town], or between one Chief and another because of any lands, it shall be lawful for them to petition to the Government to have it adjudicated. The manner of adjudication shall be as follows: The Minister of Lands shall choose four arbitrators, and those who are appealing for adjudication shall also choose four arbitrators, and the Minister of Lands shall appoint either one of the justices or one of the police magistrates to preside over such Court of Arbitration, and all parties shall abide by the decision to which that court may come. But should either the petitioner (or petitioners) or the respondent (or respondents) be not satisfied with such decision, it shall be lawful for him to appeal to the Supreme Court; and if he be not satisfied with the decision of the Supreme Court it shall be lawful for him to appeal to the Privy Council, and whatever the King and Privy Council shall decide upon shall be final.

124. After the Constitution has come in force the King shall appoint and cause to be printed in the GAZETTE and BOOBOOI the names of those Chiefs that held titles which shall be hereditary together with their lands from father to son, - that is the Nobles who shall enter the Legislative Assembly according to the 63rd clause, and those also who may not enter the Legislative Assembly but who shall hold hereditary titles and land.

125. This is the law of inheritance: It is lawful for those only born in marriage to inherit. The law of inheritance shall be to the senior male child and the heirs of his body; but if he should have no descendants then to the second male child and the heirs of his body; and so on until all the male line is ended. Should there be no male child, the inheritance shall

succeed to the first female child and the heirs of her body; and if she should have no descendants, then to the second female child and the heirs of her body, and so on until the female line is ended. It shall, then revert to the eldest brother of him who was the inheritance, commencing with the first and his heirs in succession, to the last and their heirs in accordance with this law of inheritance. And if the brothers shall have no descendants it shall descend to the eldest sister and the female line, as it had previously done to the male line. And if these should have no descendants, and there should be no legally begotten heir (in marriage) shall revert to the Government in accordance with 127th clause.

But in case a female shall succeed to the inheritance of any one of the Nobles, and should take this place, it shall be lawful for her to appoint the male heir that succeeds to her in accordance with this law of inheritance to represent her in the Legislative Assembly, or she may consult her relatives as to whom shall represent her, (until such time as she may have a son and he becomes of age). Should this be so arranged, such representative shall receive one third of all monies received because of the inheritances belonging to such title. But should a party be appointed unfit for such a position, it shall be lawful for the King and Legislative Assembly to command her choose another representative. This regulation has also reference to the hereditary inheritances of all Chiefs who hold hereditary titles and lands. And should at any time any Chief refuse to take his legitimate title, it shall be lawful for that particular tribe to consult and appoint same one to that position; but should they appoint a person unfit for such a position, it shall be lawful for the King and Privy Council to command to seek a substitute.

126. Should there be any inheritances which are not still owned by any one, - a chief to whom properly belongs a town or district of land, such land shall revert to the Government, and it shall be lawful for the Government to lease such lands in accordance with the 127th clause, and the Government shall be at liberty to use such monies for the benefit of the Government.

127. Should it occur there are no legitimate heirs to any portion of land, [hereditary titles] such lands shall also revert to the Government, and the Government may possess it in accordance with the 126th clause.

But should his Majesty desire to appoint any one to such lands and titles, it shall be lawful for his Majesty so to appoint; and any one so appointed shall become possessors of said title and lands, and his heirs.

128. It shall be lawful for the Chiefs to whom belong the various districts of land, to lease any such land to the Tongese for the various terms of 21, 50, and 99 years, as they may so arrange. But should any Tongese not be willing to lease the lands (they have hitherto held) from their Chief, they shall pay to their Chief to whom belongs that district of land; as shall be directed by the Cabinet. But after the space of two years it shall be lawful for the said Chief to command for said lands to be given up to him, and to lease the said lands to any one who may be desirous of so doing; or to allow the said Tongese the use of the same lands for another space of two years, in accordance with this regulation, and to continue to do so as long as he be so willing.

129. It is with the Legislative assembly to regulate what shall be the payment per acre to be made by the Tongese for their garden lands, and whatever shall be decided upon by the Legislative Assembly such regulation shall be binding upon all the Chiefs until the space of 21 years. It shall then be lawful for the Chiefs to make what agreements they like with the people.

130. It shall not be lawful for any Chief to lease any premises to any white resident without having first obtained the permission of the Cabinet. This clause is not made to prevent the leasing of land to white residents, but to prevent any Chief acting foolishly in leasing the whole of his land to white residents, and driving the Tongese into the sea.

131. Should any one lease any premises, whether town sites or country sites, either from the Government or Chiefs, it shall be lawful for him, should he be so desirous, to bequeath such sites by will, in accordance with the 125th clause.

132. This Constitution became the law of Tonga on the 4th day of November, 1875.

GEORGE TUBOU, King

POSTSCRIPT

This Constitution was originally compiled, at the request of His Majesty King George, by the Rev. Shirley W. Baker; afterwards amended and completed by His Majesty himself, together with certain alterations made by the Legislative Assembly, 1875.

By his Majesty's request the Rev. S.W. Baker translated this Constitution from Tongese into English.

WELLINGTON. T. GU.

Aide-de-Camp.