

SECTION 6.

THE BAKER REGIME.

The Reverend Shirley Waldemar Baker's political influence in Tongan affairs extends over nearly thirty years. He arrived in Tonga in 1860 and as a young missionary he was adviser to King George Tupou I. We have already noted that he played a prominent part in the drawing up of codes of law and the Tongan Constitution. After 1880 the Rev. Baker severed his ties with the Wesleyan Mission and became Premier of Tonga. Baker's political activities, coupled with certain offensive money raising methods, had led to an official inquiry in 1879 by the New South Wales and Queensland Conference, the controlling body of the Wesleyan Mission in Tonga. The Conference decided that Baker should be recalled. He resigned, however, and went to live in New Zealand. When the King's son, Tevita 'Unga the Premier, died of an illness in New Zealand in 1880, Mr Baker brought the body back to Tonga for burial. After the funeral was over, King George, who was now without a Premier appointed Mr Baker to the vacant position. It is this period of Mr Baker's political career that is so stormy. Many would feel that he did his best work for Tonga as a missionary adviser to the King. When he became Premier, however, serious troubles began which led, ultimately, to his deportation by the British High Commissioner for the Western Pacific, Sir John Thurston.

Several of his policies brought Baker into conflict with European residents in Tonga, particularly British subjects. First of all was his pro-German attitude. The impression was created that he favoured Germany, and there is a certain amount of evidence that this was so. At a time of great colonial rivalry between England and Germany, this was a dangerous policy for an Englishman to pursue. Another aspect of his policy that caused discontent was the licence system. European traders found that virtually every commercial venture came within the scope of some Licencing Act or other. Some of these licence fees were very high, and others required exceedingly high bonds to be lodged, as much as \$1,000 in the case of a restaurant licence. His land policy, by which he reduced security of tenure to as little as three months, and his press laws which effectively banned all other newspapers but his own, caused a great deal of bitterness. The part Mr Baker played in the setting up of the Free Church was perhaps his greatest mistake. The persecutions that followed the setting up of the new church, and the attempt upon Baker's life, brought Sir Charles Mitchell to Tonga in 1877 to conduct an official British investigation. The troubles that continued after that investigation led to the visit of Sir John Thurston in 1890 which resulted in Baker's deportation. The disturbed state of Tonga during these years of persecution brought Tonga very close to annexation by Britain.

Mr Baker was a prolific law-maker. Some of these laws appear trifling or amusing to us today, but many others had a very deep significance for Tongan development. Basil Thomson was very critical of Baker's laws and in many cases with good cause. There are however some very significant laws which Basil Thomson has overlooked. This is particularly true in relation to the laws of inheritance. One of Baker's laws guaranteed that every man should have his lawful inheritance, a piece of land that was to be his own inalienable right. It was to be a possession that would pass down from generation to generation in that man's family.

This section of the documents traces the history of Mr Baker's political career from his appointment in 1880 as Premier to his deportation from Tonga in 1890. His earlier political career, while still a missionary, has been dealt with in a previous section.

A. BAKER'S POSITION WITH KING AND PARLIAMENTOPPOSITION TO THE ^[133]MISSIONARY INFLUENCE 1876.

[E.W.Parker and others to E.Layard Esq. Her Britanic Majesty's Consul,
H.M.S. "Nymph" . Nuku'alofa, 16th February, 1876.]

Sir

We the undersigned residents in Tonga beg to address you -- in the first place to express to you the satisfaction we feel on the arrival of one of Her Majesty's vessels with a Consul on board, and also to beg that you will represent to His Excellency the Governor of Fiji our earnest desire that we should have a resident Consul in Tongatapu.

We should be very sorry to appear to dictate, but if we could have one who would make a stand against the overweening influence of the Missionaries which is rampant here, we feel sure that it would be better for the interests of the Europeans here and eventually for the natives themselves.

Of course there is neither time nor opportunity for us to communicate with the residents in Haapai or Vavau, but we well know that they would cordially cooperate with us in our request.

But in short if you would appoint a place and a day where you would meet us, we should feel much obliged.

If you will kindly give us a speedy answer we shall have time to collect our fellow residents.

We are

Sir

Your most obedient servants,

E. W. Parker.

& 21 others.

Note: This document does not include the names of the 21 other residents. It is marked "Copy", and was obtained from the Archives of the Western Pacific High Commission, Suva, Fiji.

THE EUROPEANS RESIDENTS LETTER OF FAREWELL TO BAKER 1879

[For Private circulation only. Letters and Correspondence in re Tongan Affairs and Request of H.M. King George for Tonga to be made an Independent District. October 1879.

Gibbs, Shalland, and Co. Sydney. 1880. p.9.]

Nuku'alofa, November 18, 1879.

Dear Sir, - We, the undersigned European residents in Tongatabu, hearing of your intended departure for the Colonies, avail ourselves of this fitting opportunity of cordially acknowledging the valuable assistance you have rendered us during your residence here.

We have all found a hearty welcome at your hospitable house. It has ever been your most anxious desire to promote trade and commerce; to advance civilization amongst all classes. Through your strenuous exertions Tongatabu has advanced to her present position in the scale of other nations, and that so many social and important reforms have been effected.

As a Minister of the Gospel, your labours have been beneficial and highly appreciated. As a gentleman, you have contributed to our happiness, adding cheerfulness to our domestic circles, and always most cordially welcomed. Your knowledge and experience of medicine has been invaluable, preventing disease, mitigating pain, saving valuable lives, and that cheerfully, without fee or other remuneration. Consequently, your leaving us is a loss we all deeply regret.

We wish you and your family health, happiness, and every success in returning to the Colonies, and should you again visit Tongatabu, it will afford us great pleasure in giving you a very hearty welcome.

We would also beg you to convey to Mrs Baker our sincere acknowledgment for her invariable kindness in time of sickness.

With our best wishes,

We are, dear Sir,

Yours sincerely,

To Rev. S.W. Baker:-

(25 signatures) (1)

(Signed)

JOSHUA COCKER

T. HEINERMEYNE.

MARCUS, FREDERICK
HAMILTON.

T. KOHNKLE

W. TRESKOW, Manager of the
firm of Messrs. Godeffroy.

CRAMER WALTER, Manager of
the firm of Messrs. Ruge

W. LOMBARD, "Madonna,"

W.D. BARNARD

N. NIELSON

JOHN PURSLEY

B.L. COCKER.

(1) q. i. C. S. p. 277.

RUDOLPH WINTER,	FREDERICK LANGDALE,	HENRY PERCIVAL,
JAMES P. NEILL,	T. KELLY,	BAZLEY LEGER,
PETER JACOBSEN,	GENGE BISSET,	TH. RAHU,
C.O. HAMMELL,	N. RICHTELMANN,	DUNCAN WILKIE,
D. BIERK.		

[135]

GOVERNMENT INTERPRETER FOR THE GERMANS

[For Private Circulation only. Resume of Enquiry in re Tongan Mission Affairs. October 1879. Mr A.P. Maudslay, H.B.M. Vice-Consul v. Rev. S.W. Baker. Printed by Wilsons & Horton, "Herald" Office, Auckland, 1879. p.24.]

THE REV. S.W. BAKER'S DEFENCE.

Mr Baker placed on the table the following documents:-

King's Palace,
October 24th, 1879.

I, King George, state as follows:-

1. Mr Baker had nothing whatever to do in the obtaining, by the kingdom of Germany, the lease of the coaling station in Vavau. Before Mr Baker knew about this matter, Uga and I had decided about it; and, therefore, he did not persuade us, or have anything to do with it, in any one thing.
2. With reference to the letter to the Emperor of Germany to bring a secretary, Mr Baker did not speak about it, or express his opinion, or influence me; it was my own wish.
3. And to say that we are desirous for Mr Baker's removal; are not our eyes filled with tears at our anticipated separation from him? It is our wish that he should remain in Tonga for ever.

(Signed)

JIOAJI TUBOU.

I hereby certify that the above is a correct translation of the letter signed by His Majesty, which I read over in his presence, and which he declared to be his statement and his signature.

J.B. WATKIN.

Ko Faji,

'Okatoba 24th, 1879.

I, Wiliame Tugi, state and declare as follows:-

1. His Majesty the King requested Mr Baker, and I also requested Mr Baker, to interpret for the Government on board the German man-of-war 'Hertha,' when the treaty was being made. Mr Baker and I went.
2. When the clause in the treaty, referring to the coaling station in Vavau, was come to, the two representatives stated that we shall say nothing about this, for it has been decided by Uga.
3. And when I went on shore, His Majesty informed me it was true; I have said that they should have Lotuna.
4. And, therefore, I state that I and Mr Baker are clear in this matter, this which refers to the lease of the coaling station in Vavau (Haafuluhao).

I,

(Signed) WILLIAM TUGI.

I hereby certify that the above is a correct translation of the letter signed by William Tugi, which I read over in his presence, and which he declared to be his statement and his signature.

J.B. WATKIN.

[136]

ALL THE RIGHTS AND PRIVILEGES OF A NATIVE TONGAN
[Tongan Government Gazette. Vol.2, No.7. November 24, 1880]

An Act

To grant letters of Denization to foreigners without oath of allegiance.

Section 1. The short title of this Act shall be the "The Foreigners Denization Act"

Section 2. It shall be competent for His Majesty to confer upon any alien who is now resident abroad, or temporarily resident in this Kingdom, Letters Patent of Denization, conferring upon such alien, without any oath of allegiance, all the rights and priveleges of a Tongan native.

Section 3. Such letters Patent of Denization shall be given only to those who accept office of trust under His Majesty.

I CALL MYSELF A TONGAN

[For Private Circulation only. Resume of Enquiry in re Tongan at Mua (1879) Mission Affairs, October 1879. Mr A.P Maudslay, H.B.M. Vice-Consul v. Rev. S.W. Baker. Printed by Wilsons & Horton, "Herald" Office. Auckland, 1879. p.13.]

[Translation of speech of Rev. S.W. Baker, made at Mua, 1st September, 1879]

'You have heard, I suppose, the reason why the "John Wesley" is coming, and the chiefs and the people here assembled are perhaps aware that Mr Chapman is coming on account of a letter written by the Consul, who is in Nukualofa, to the elders of the Church in Britain, to the effect that Tonga is in a bad state through my work; but who can say that any one's love for Tonga is equal to mine. I call myself a Tongan.

There are six things about which I have been charged:-

1. That I am a secret representative of Germany; I punished some of the preachers for enquiring about some of the debt of the Missionary collections; Tonga dislikes me; I am anxious to bring a German to be secretary; that I touched the money of the Government; The chiefs know that no one can say I have got one little penny from it. These are the things that will be investigated when the "John Wesley" arrives here. I am not the least pained about it, for I am quite sure that I am innocent. Therefore, I tell you the chiefs and elders of the Church, if there are some who will take my part and help me at the investigation it will be good. If you leave me to die for the sake of Tonga, I will do so for I love Tonga. If you leave me as a sacrifice for Tobou and Tonga I will submit. I will not shrink it for my love is earnest for Tonga. If I go away from Tonga I will not forget it. If I go away and there is any speech or discussion about Tonga, in Sydney, I shall rush to it and take part, so that Tabou and Tonga may escape. I tell unto you, the chiefs taking part in this meeting, you look out well for we are a land-loving people. Oh! that I could live always at the front of Tobou's house to perpetually help him when a difficulty arises, - and perhaps Tonga may be lost like Fiji. This is a newspaper that was printed in Fiji, these are the words in it:- "A short time is left and then Britain will have Tonga;" also one thing that was told His Majesty from Fiji was to bring an Englishman to be Secretary in Tonga, but it is good that Tobou did not consent.

I tell unto you the elders of the Church now in assembly, you must pray for Tonga. Be brave, because of Tobou and Tonga to stand fast for ever.'

KING GEORGE APPOINTS BAKER PREMIER 1880.

[Tonga Government Gazette. No. 1. Vol. 2. September 1880]

King's Palace
July 31, 1880.

His Majesty King George has been pleased to make this day the following appointments:-

To be Premier of His Majesty's Government and Member of His Majesty's Privy Council: Rev. Shirley W. Baker.

To be His Majesty's Minister of Foreign Affairs and Minister of Lands:
Rev. Shirley W. Baker.

By His Majesty's Command. W.C. Tupou Malohi. A.D.C.

THE BRITISH AGENT COMMENTS 1880.[Blyth to British High Commissioner for the Western Pacific, 3rd July, 1880.
Archives of the Western Pacific High Commission, Suva.]

..... The address from the throne consisted for the most part, of a panegyric on the Rev. Mr. Baker (written probably by himself) concluding with the intimation that it was His Majesty's pleasure that one who had made Tonga all it is, had given it a Constitution, a flag, and good laws, should represent him in the present Parliament as Prime Minister.

The attention of members would be directed to the proposed independence of the Tongan church. His Majesty said that his feelings on this point were so strong that this independence was the condition on which he should continue to subscribe to the faith.

Another matter that would be presented for their consideration was the " Treaty made with Queen Victoria " which should be ratified if approved. The Parliament was a very short one, and appears to have been summoned solely to confirm Mr. Baker's appointment and to hurry through certain measures prepared by that gentleman.

..... The feeling of the people may be expressed in one sentence --- ' it is the King's wish ' . The feeling of the King is that he cannot govern his country -- white-man fashion -- according to the Constitution and the " Tauataina " (i.e. freedom) which he does not understand, without some white man's assistance , and Mr. Baker, by misrepresenting your Excellency's intentions, and insinuating that annexation must sooner or later follow, has succeeded in persuading His Majesty that he himself is the only disinterested person available in his extremity.

BAKER REWARDED WITH POST OF PREMIER 1880

[Tonga Government Gazette. Vol.2, No.6. Nov. 10th 1880.]

HIS MAJESTY KING GEORGE'S SPEECH AT THE OPENING
OF THE LEGISLATIVE ASSEMBLY.

My Salutations to the Speaker, the Nobles and the representatives of the people who meet with us today in our Parliament. This is the second meeting of the Parliament which has been held since the granting of the Constitution Act of Tonga and when I remember that Assembly and look upon this Assembly I am astonished at the number of Chiefs who are not here today.

The first thing I shall refer to is the calamity which has fallen upon the land to the man - David. You know that he went to New Zealand with Mr Baker to seek health but the Lord has been pleased that he should die in the land of a stranger. Truly this is a heavy blow which has fallen upon my house but, nevertheless, the Lord reigns, and it is with him what shall happen and his will has been done. But it is for me to say Lord thy will be done, for Jehovah gave, Jehovah has taken away, but blessed be the name of Jehovah.

But I stand here today to thank Mr Baker for what he has accomplished in bringing David to be buried in the land of his ancestors. Thanks to Mr Baker and his love. And I am also thankful to the Captain of the German Man-of-War and the Emperor of Germany because of David being brought in a German vessel of war, and also for the respect which he has shown to him - a proof of our being a nation. I will write to Germany to express my thanks.

In the course of last year I made a treaty with the Queen of Great Britain. The said Treaty will be laid before you. I expect it will be ratified during the present year.

There was also a letter I wrote to the Ministers in Sydney, who govern the Church to which most of us belong for our church here to become an independent church like the church in Sydney. I have just received a reply to it and in the said reply it appears it is referred to the Great Conference which will meet next year in Adelaide. But my mind is the same, for the Church of Tonga to be an independent Church; and the words I uttered, I still utter, - I and my family will not again contribute to the Foreign missions until Tonga is a Church.

And with respect to your Parliament, there are many things which I will commend to be laid before you. And as regards my mind, you know it is my wish for Tonga to enjoy perfect liberty forever, but since the doing away of serfdomship many of the high chiefs have been made poor. And it is my desire that they should have something, and therefore I ask for you to consider whether it cannot be arranged for them to have a small honorium from the government to help them, and if you can accomplish this I will be pleased, but don't forget also the attendants of the King.

Then there is another thing I wish to refer to here - Mr Baker again visiting Tonga. I am greatly pleased - for who helped us to make the laws and other arrangements of the Government and what we have accomplished, but Mr Baker. Even this Parliament meeting is his work. I have asked him to help me, and while he is resting from his ministerial work, I trust he will help me; and although he may reside in New Zealand, there are many things he will be able to do of service to me, and I have asked him to represent me in your Parliament meeting, and inform you as to my wishes, and I trust your Parliament meeting will be a good and successful one.

[141]

BAKER'S INFLUENCE OVER THE KING 1883.

[Her Majesty's Vice-Consul Symonds to His Excellency G.W. Des Voeux, Acting Consul General. 6th November, 1883. Archives of the Western Pacific High Commission, Suva, Fiji.]

....
An English medical man of high standing, named Buckland now on a visit to Tonga has stated to me that he is of the opinion that King George is suffering from incipient softening of the brain, that he is quite incapable of governing or of forming an opinion for himself, and that he could be easily persuaded to any course or action by any interested person, but it is also his opinion that owing to a very strong constitution King George may be expected to live for many years.

That the opinion of Dr. Buckland may be relied on is proved by the copy of his testimonials that I have now the honour to enclose for Your Excellency's information, and to this opinion I would most particularly desire to call attention while taking into consideration the recent acts of the Premier.

On 23rd October the Rev. J. E. Moulton, the Chairman of the Wesleyan church of Tonga left for Haapai to attend the annual district meeting and on Sunday last he returned. The vessel had no sooner anchored than the wildest rumours were spread of the extraordinary action taken by Mr. Baker, in the cause of the King and Government, in bringing a long series of charges against Mr. Moulton and great and deep indignation was felt and expressed by both Chiefs and people when it became known that a letter signed by the King and four Government officials asking for Mr. Moulton's removal from Tonga had been laid before the meeting, for that gentleman is deservedly very popular.

The names attached to the petition are I believe those of King George, the Crown Prince, the Chief Justice, the Minister of Police and Mr. Baker's clerk, and Your Excellency will perceive that much importance cannot be attached to these, when you remember that one is suffering from incipient softening of the brain, another the Prince, a young Chief of expensive tastes who annually spends at least three times the amount of his salary, and whose only hope of succeeding his grand father is through Mr. Baker, while the Chief Justice I have already reported to Y.E. as having received instructions from Mr. Baker before certain trials came on; the remaining names being those of Mr Baker's colleague and his clerk, further comment is unnecessary.

As far as I can learn the principal charges against Mr. Moulton, which are very numerous, were trivial in the extreme, but hearing that some of them related indirectly to me since they were based on work done at my request I asked Mr. Moulton to allow me to see them The 2nd charge reflects but little credit upon the Tongan Government and would seem to convey an insult to the British Government second only to that given by the convictions of the petitioners at Haapai. That the removal of a missionary should be asked for because he, at the request of Her Majesty's representative translated a petition to Her Majesty and that he should be held responsible for the sentiments contained therein, appears to me a request too absurd to require any comment.

THE PREMIER'S ROLE IN PARLIAMENT: REPRESENTING THE KING'S MIND.

[Tonga Government Gazette. Vol. 2. No. 12. October 25th, 1882.]

(His Majesty's Speech at the opening of Parliament, 1882.)

..... It has been arranged in this Parliament meeting that it should be deliberated concerning the hereditary lands of the Chiefs, but there is something which I want to speak about, because of the tracing of inheritances which is being done, and the commencement to seize the tax lands of the people by the chiefs; But when I have said that the hereditary lands of the Chiefs should be determined, it did not mean that the Chiefs should seize the tax lands of the people or to divide the lands afresh, or to give it to other persons, or for the Chiefs to please themselves concerning the same -- for the day that the Chiefs shall be allowed to please themselves concerning their hereditary lands, that day will Tonga most certainly be lost -- because if any Chief should be vexed with his people, he should eject them and lease their land to foreigners and Tongans would become strangers in this land; but this is my mind concerning the same: (1) For it to be defined what shall be termed the hereditary lands of the Chiefs to be kept for hereditary titles for them to receive the payment of same, for as the people are now free from compulsory work for the Chiefs, it is right for the Chiefs to receive some payment for their lands. (2) For the tax lands of the people to be protected. (3) Seeing that some have no lands, and the lands of others are small, and others have two or three plantations, it is right to adjust these, so that any man who pays taxes for him to have his tax land, and for any one who prepares his land, for him to be able to bequeath it to his children, and in defining each one of the hereditary lands of the Chiefs, I would again remind you of my words -- " Those lands which you now hold, those you shall hold." For if we commence to trace hereditary lands a great deal of ill feeling will arise, and therefore an ordinance will be brought by the Premier --- a statement of my mind regarding this, and I trust that it will be pleasing to you and the people of our land.

THE PREMIER'S ROLE IN PARLIAMENT: REPRESENTING THE KING'S MIND. (Cont.)
 [His Majesty's Speech at the Prorogation of the Legislative Assembly 1882.
 Tonga Government Gazette. Vol. 2. No. 12. October 25th, 1882.]

My mind is greatly pleased with the Law in reference to the hereditary lands because it is apparent from the regulations you have made in the said law, you truly love the people of this land; and it is clear to me, that it will be good for Tonga, that there will be neither a poor man nor a pauper in this Kingdom; that if anyone be poor, it will be his own wish to be poor through his own laziness in not using the opportunities which have been given to him.

I congratulate you, Chiefs, on your being willing to grant the request made by the Premier to allow the tax lands of the people to be hereditary. In your doing so the people will thank you, not only so, but you yourselves will rejoice in your seeing the people comfortably settled. I trust that you and them will be blessed.

[143]

MAKER OF THE CONSTITUTION 1879

[For Private Circulation only. Resume of Enquiry in re Tongan Mission Affairs. October 1879. Mr A.P. Maudslay, H.B.M. Vice-Consul v. Rev. S.W. Baker. Printed by Wilsons & Horton, "Herald" Office, Auckland, 1879. p.24.]

Extract from the Tonga Government Gazette (by authority).

Nukualofa, August 22nd, 1877.

* * * * *

"In the press, and will shortly be ready - 'The Constitution of Tonga,' translated into English. Thirty pages demy 8vo. Constitution granted by His Majesty George Tubou, by the Grace of God, King of Tonga, on the fourth day of November, 1875.

["POSTSCRIPT.]

"This Constitution was originally compiled at the request of His Majesty King George, by the Rev. Shirley W. Baker, and 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 Tonguese into English.

"WELLINGTON T. GU,

"Aide-de-Camp."

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BAKER'S COMMENTS ON HIS RELATIONSHIP TO KING AND COUNTRY 1879

[For Private Circulation only. Resume of Enquiry in re Tongan Mission Affairs. October 1879, Mr A.P. Maudslay, H.B.M. Vice-Consul v. Rev. S.W. Baker. Printed by Wilsons & Horton, "Herald" Office, Auckland, 1879. p.44.]

That I have great influence with the Tonga Government I do not deny; that I designed their flag I admit; that, at the King's request, I compiled the original draft of the Constitution I admit.

That, at his request, I assisted him in reference to the laws I admit. That I corrected the proof copies of the law I admit.

That, at his request, I planned the present system of Police Courts and Debtor's Courts, and system of Registration, I admit.

That, as long back as 1862, I drew out the charter of their liberty, I admit.

That I was the editor of the Boobooi, and also of the Tongan Times, I admit; that I have tried to raise them to be a nation and a people I admit.

When the Rev. B. Chapman was in the chair of our District Meeting in 1874, I said I had two objects before me - to make Tonga a Church and a nation.

But that I have used my influence to compel or to enforce, or to interfere, I deny. I have given my opinion, but I have never pressed my views either on the King or on chiefs.....

[145]

SIR CHARLES MITCHELL'S OPINION 1887

[Report by Sir C. Mitchell, High Commissioner for the Western Pacific, in connection with the Recent Disturbances in, and the Affairs of Tonga. Presented to both Houses of Parliament by Command of Her Majesty, July, 1887. Printed by Samuel E. Lees, Sydney, 1887. Paragraph 10, p.2.]

Note. Sir Charles conducted a very demanding interview with Tubou, soon after his arrival to conduct an enquiry into disturbances in Tonga. There were 50 prepared questions ranging over a variety of subjects. The following is Sir Charles Mitchell's estimate of King George.

10. On the afternoon of Tuesday I went, by appointment, to the Palace, accompanied by the Chief Judicial Commissioner and by the Secretary to the High Commissioner. The King's manner to me was courteous, and his replies

straightforward and unhesitating. I may here remark that I saw no indication, either on this occasion or on that of any of the many subsequent interviews I had with the King, of his mental incapacity, or of his being under Mr Baker's control. On the contrary, his mind appeared to me to be clear, his manner decisive, and his whole bearing that of a man of strong will and independent character.

[146]

BAKER'S CONCERN OVER KING GEORGE'S INDEPENDENT DECISIONS

[Appendix. Report of Sir C. Mitchell etc, etc. London 1887. p.145]

THE REV. S. BAKER TO THE KING OF TONGA.

(Translation.)

Tubou,

PARDON me, but there is something which I wish to speak to your Majesty about, and I write you because, from what the Consul says, I shall be held responsible for these things, and it will end in my being commanded to return to Papalagi.

As the land does not still listen ("fakaogo") to me, therefore they will command me to return.

I am grieved in Otuhouma being commanded to be brought here, and especially about his being beaten; if Otuhouma is brought to stay here it is wrong, but if he be brought for your Majesty to speak to him and then for him to go, it is well.

It has been ordered that every Wesleyan, man and woman, shall stay in their own place: that order is a good one, and if kept will be well, but if broken, as in the case of Otuhouma, it will be bad. My wish is that Otuhouma should come here for your Majesty to speak to him and then for him to go to Utulau, and if not this thing will cause trouble, and the world will say your orders are variable, and we shall be ashamed and disconcerted, and not only so, but I see plainly if our affairs go on thus, England is certain to command me to go and leave Tonga to itself. I could earnestly wish that in all the regulations that are made that we should consult each other, for these things need not be inquired of from you but from me, and I could earnestly wish that you would not listen to the foolish people who come, for if things go on as they are it is certain I will go.

My love,

(Signed)

S.W. BAKER.

THE PREMIER AND THE TONGAN COURTS 1890.

[Basil Thomson. *Diversion of a Prime Minister*, Edinburgh 1894. pp.224-226. Reprinted by Dawsons of Pall Mall, London 1968.]

"The confused state of the law had a remarkable effect upon the magistrates. The only written law within their reach had been so often altered and repealed that they had come to rely for their decisions not upon the written law, but upon the verbal directions of the Prime Minister. I myself came at last to admit the advantages of this system, since, when I declined to give them advice upon cases sub judice, much of my time was occupied in appeasing consular representatives for illegalities practised by the courts upon the subjects of foreign Powers. If I had attempted to right the wrongs of Tongans suffered at the hands of their own magistrates, I should have had time for nothing else. The stumbling-block of the magistrates was the subtlety of their reasoning. Not long before my arrival three men were indicted for stealing a pig. It transpired in the evidence that two of them had agreed to keep watch while the third committed the theft. "This," said his worship, "was no ordinary theft; it was conspiracy" He found that his law-book defined conspiracy as a synonym for talisone (treason) and the punishment provided for talisone was twenty years' penal servitude. These criminals were said to be languishing in prison when the general amnesty that followed Mr Baker's fall set them at liberty.

~~The pliancy of the police magistrates made them, in the hands of a~~
Free Church Government, ready instruments of persecution. The courts took their bias from the attitude of the Executive. Every law that could be made to bear hardly upon the Wesleyans was strained to their discomfort. By an abuse of the land laws they were deprived of their holdings. In places where the minister was the only Wesleyan, he was charged with neglecting to keep the church lands weeded - each enclosure being treated as a separate cause of offence - and imprisoned in default of paying the enormous fines imposed upon him. For all these abuses Mr Baker has, with some injustice, been made personally responsible. He, it is true, gave the bias to the courts, but, once started on their devastating way, the magistrates in their crass stupidity went to lengths he would have repudiated had he dared."

G. EUROPEAN DISCONTENT

[148]

- (i) MR PAYN AND THE TAPA CLOTH
 "that this sentence of outlawry ought to be reversed"
 [P. Payn to H.B.M. Consul E. March. Tongataboo, Friendly
 Islands, October 1870. From the original held in the National
 Archives of Fiji, Suva. FL/12-9(a).]

Sir,

I hereby make a formal and respectful appeal to you as a British Consul, begging your protection as a British subject. For the trifling offence of a horse accidentally spoiling a piece of native cloth which I at once offered to buy at the full and fair price, I was summoned to the court here, and directly I arrived I found the judges had already passed sentence on me, and that I was to pay two dollars. Being condemned when (absent) and thinking that this the sum was small the offence was smaller, I perhaps too hastily told them that I would not pay, and we had no resident consul would leave it till the first man-of-war arrived here. A man-of-war being a sore subject with the Chiefs here, and calling on my country having touched their pride, they at once lost all control over their tempers and told us that neither my father, my brothers or myself need bring any cases forward for them try again, they then called on to go out and the chief judge began to beat the table with passion while an officer came round to me flourishing a stick. I really believe he would have struck me had I not turned myself around and looked hard at him, he stopped, and then thinking I could go out without having the appearance of being driven I went.

As sometimes the King is willing to hear cases after the judges have decided them I tried to obtain an interview but failed, and the next thing I heard was that all our family was "tabued" natives were forbidden to sell anything even food to any of us, thus punishing people for my offence even had I been more in the wrong than I was. My brother being in a native town at the time tried to buy food but the people said they had orders to refuse every thing even shelter and this proves what I say.

I could lengthen out this letter with many little things which go well for my case, but as we hear you may be here very soon, they will be heard where you try it and I will not trouble you with a longer letter than necessary.

This "taboo" lasted during three days completely stopping our agents, and our drays from doing any business. We had five tons of cotton lying at our agents house eighteen miles from our works and this we were ordered to clear away in two days!!

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Dear

An impossibility. All our agents were ordered to bring us our trade and drays and to leave us under penalty of a heavy fine.

My father with some difficulty got this arranged but then the king says he and my brother may go on trading. I must buy nothing and must leave the country in six month !!! And it is against this that I appeal begging you most respectfully to in intimate at once to these people, that this sentence of outlawry ought to be reversed till tried by some more competant Court than they have here. For even were I to admit that I was grossly wrong in the first instance for not paying. It is no offence commensurate with the sentence even had they passed that sentence, on me, when I was present which they did not.

I am, Sir,

Your obedient servant.

(Signed) P. Payn.

- (ii) "before adopting extraordinary measures.....you will communicate with me.."
[H.B.M. Consul Edward March to King George Tupou I. Ovalau, October 24th 1870. From a copy in the National Archives of Fiji, Suva. F4/12-9(c).]

Sir,

I have lately received a letter from Mr Payn of Tongatabu complaining that he has been unjustly dealt with by your government in the matter of a fine of two dollars for injuring a piece of native cloth, and that his declining to pay the fine has resulted in his being ordered to leave the country within a month.

Without entering upon the merits or demerits of the case, I would express a hope that before adopting extraordinary measures in the matter, you will communicate with me on the subject, and you may rest assured that my hearty cooperation will be accorded to you on all occasions in support of Law and Order.

I regret that no opportunity has been afforded me of making your acquaintance, but I hope soon to have that pleasure at Tonga when we can talk over matters of mutual interest.

I have etc.

(Signed) Edward March.

- (iii) "mocked the judges....."

[Tupou Haabai, Secretary of the Tonga Government to H.B.M. Consul E. March. Tonga, Friendly Islands, February 13th 1871. F4/12-9(d). From a copy in the National Archives of Fiji, Suva.]

Dear Sir,

Having certain intelligence that the Messrs Payn (who it appears are not content to await your arrival in Tonga) have lately been soliciting signatures to a Petition addressed to the Earl of Belmore Governor of New South Wales, asking his Lordship to interfere in the matter of Philip Payne, and which said Petition I have reason to believe goes on to Sydney in this vessel, I think it right to place before you the facts of the case of Mosese Hihifo v Payne as disclosed by the Books kept by the Judges Clerk.

It appears that Philip Payne was trading for Cotton in one town of Hihifo on or about the 24th August 1870, when one of his Horses broke adrift and after leaving the Highway passed through private property crossed a grass plot on which was spread out to dry some 80 stripes of Tappa value from 12 to 20 dollars. The weight of the horse caused its feet to penetrate the Tappa thereby doing damage to the same, which damage was increased by the said Philip persuading the horse and turning the same while in the middle of the Tappa, this case being brought by Mosese the owner of the Tappa before the Bi Monthly Sessions in this town held on the 7th Sept. The Judges decided that Philip Payne should pay the owner of the Tappa the sum of \$2 as compensation for the damage. Philip Payne not only refused to pay this amount but mocked the judges and upon their informing him that if he was not willing to obey the Laws of Tonga he had better seek a country whose Laws he could obey, he said he would have the case tried by a man-of-war, and mockingly asked them if they could send him from the country whereupon the Judges referred the matter to the King who decided to stop all the family of Paynes from Trading with the natives - as soon as I heard of this I went and represented to H.M. how unjust it was to punish the whole family for the fault of one member of same. H.M. said he had probably been unjust in this respect, and the following day removed the tabu from all save Philip, but said he must leave the country in 6 months.

This is the account of the affair put in its most favourable light as regards my countrymen.

Hoping you will soon pay us a visit.

I am etc.

Tupou Haabai.

EUROPEAN RESIDENTS COMPLAIN TO THE GOVERNOR OF N.S.W. 1871.

[Hanslip and others to His Excellency the Rt.Hon.Earl Belmore,
Governor of N.S.W. February 1871. Copy. Archives of the
Western Pacific High Commission,Fiji.]

We the undersigned British subjects residing in the Friendly Islands humbly and respectfully beg to address Your Excellency and to petition you to be pleased to enquire into the manner Europeans are treated and to what they are subject in these Islands.

More especially we most earnestly beg you to institute an inquiry into the case of Mr. Philip Payn, a most quiet, respectable, and unoffending settler lately expelled from these Islands under circumstances described below.

For the protection of the undersigned we would also respectfully ask you to define a limit to the arbitrary authority of a Government which to say the least is, and only can be semi-civilized.

We would also humbly beg your excellency to decide whether after holding out fallacious inducements to Europeans to come here, and after having granted leases of land these natives may with impunity take upon themselves for slight offence to order British subjects (with considerable property in these islands) to leave.

Most of the undersigned have been resident in these islands for some years for the purpose of trading, planting, etc under the protection (lately but nominal) of H.B.M. Consul in Fiji, and have had to submit to much that has been hard and grievous to bear, owing to the irregular communication between the two groups.

We venture now to address Your Excellency on a matter so vitally affecting our prospects here, as does the case of Mr. Payn, in preference to again writing to Mr. March who has ^{been} applied to without result, owing probably to the difficulties of communication above mentioned or to a great press of business in Fiji.

Mr. Philip Payn's horse * last being startled swerved on to and somewhat damaged a piece of Native Cloth , Mr. Payn was summons for trial and upon

* There is a blank space in the copy obviously left for the insertion of the exact day in question

arrival at the court was ordered to pay a certain sum, thinking it too much and being annoyed at the case having been decided before he came, he foolishly and wrongly perhaps, refused to pay adding, that the case should be re-tried by the first Man of War.

The King was enraged at this and at once put a tabu on the whole family, the unconcerned members of which were stopped trading, and the natives forbidden to sell them anything, even food, and the concerned was ordered to leave the country in six months.

The fine was subsequently offered and refused, Mr. Payn is the owner of cattle, and in partnership with his brother in a trading establishment, and coffee plantations.

We respectfully beg to subscribe ourselves,

Your Excellency's

Most Humble and Obedient Serwants,

R. Hanslip
 Thomas Gardner
 L. Hartshorne
 Thomas Trood
 Charles W. Anderson
 W. G. Whitesides
 Henry Percival
 John Thomas
 James Macgraw
 Rudolf Winter
 John Pursley
 Joseph B. Nye
 F. Jones

John Olding
 E. W. Parker
 Samuel Parker
 Herbert Boys
 William G. Young
 James H. Young
 John Saunderson

If honoured with a reply we beg the same to be sent to
 Messrs Payn Bros., Tongatabu.

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PARKER BROTHERS AND THEIR SHEEP 1871
 [E.W. Parker to E. March Esq. H.B.M. Consul. Fua, 20th August
 1871. From an original in the National Archives of Fiji, Suva.]

Dear Sir,

From what Mr Young told us we are all anxiously expecting you here with the "Blanche" and certainly I am not the one that would be least glad to see you.

The natives killed nearly four hundred of our sheep in four months and most of them those with which I intended to supply the Fiji Market. My brother and self do not hesitate in saying that the highest authorities here have been the root of it and in this way. When I came back from Fiji I got the better of them in some unjust decisions and not suspecting the mischief would go so far I feel sure they winked at any wrong done us if not it is hardly likely that Government officials would cook and eat sheep with the Government prisoners as their own courts have convicted them of doing. The loss I speak of occurred from Nov/70 to Feb/71 when we last counted but we will know the full extent of our losses in a week or two.

However since I complained to the King whatever he might have winked at before they have done all they could to find out and sift the affair. Up to the time I write about seventy parties are convicted on about one hundred and ten sheep. But the judges say themselves all the people on the island have eaten mutton. I intend to send in a demand for all our losses at 20/- per head and then we will see if justice here stands a practical test.

I have known for years they destroyed sheep but had no absolute proof till lately so we held our tongues and waited. At the trial it came out that they used to cut their throats and wantonly push them over the precipice into the sea by tens at a time.

I would give anything to go to Fiji myself this time and see you in person more especially as I could get a passage back in the "Blanche" but my brother having at present bad health I cannot.

A man-of-war passed last week and thinking she had come with you I went over to Tonga but it was the "Hamelin" come to look after the French Missions. Tho. this was not what I hoped it was the next best thing for I enjoyed myself immensely with the officers on board and ashore. They will shortly be at Livuka and I am sure you will like them all. This reminds me that I take the great liberty of sending a parcel and letter to a Monsieur Blarly to your address and if you would very kindly allow it to remain till the "Hamelin" arrives I should take it as a great favour. I wish the French priests here were a little less

long suffering. I should enjoy to see them remind King George that France had still one or two men-of-war left.

However the "Hamelin" did a good deal of good and the missionaries were much pleased at her visit. She left for Wallis Island, Samoa, Fiji and Caledonia.

Please allow me to congratulate you on your marriage and remember me most kindly to Mrs March. When I had the pleasure of last seeing her she said she would like to see Tonga. Trusting she is of the same mind and that the "Blanche" may soon be here.

I remain dear Sir,

Yours truly,

(Signed) E.W. Parker.

[151]

A GERMAN TRADER'S MISTRESS AND CHILIAN MONEY

[Deputy Commissioner and Vice Consul James Blyth to the High Commissioner, Western Pacific High Commission MSS copy. Archives of the Western Pacific High Commission, Suva, Fiji.]

Next day (12th May 1880) the "Nantilus"* sailed at 9 a.m. for Vavau, having on board the Governor of that Province (Gu) and Mr Baker as interpreter (?) to make enquiry into certain charges against the former. It is reported that the charges are mainly two.

- (1) One German complains that the Governor caused a Tongan woman, complainants mistress, to be dragged from his house, tarred, and shaved; and
- (2) the German traders generally complain that the Governor of Vavau prohibited the people from taking Chilian money and that thereby they have suffered loss. In regard to the second charge there are at least extenuating circumstances. The Governor was collecting the money due in payment of the second instalment for the purchase of the schooner "Tupou Malohi", which was to be paid in English Coin and on his application to the German firm to "change" it, they told him that they must charge (it is said) 25% discount. He, therefore, brought the money to be changed here, and made chilian coin "tapu". I may remind your Excellency that by Tongan act of Parliament, Chilian money is not legal tender.

* German Man-of-war.

THE QUARREL OVER BRITISH SUBJECTS AND THE TONGAN LAW 1882
 [Tonga Government Gazette. Vol.2, No.11, October 11th 1882]

Premier's Office,
 Nuku'alofa, Tonga.
 July 3rd 1882.

To His Excellency,
 Sir Arthur Gordon, G.C.M.G.
 High Commissioner. W.P. etc etc.

Your Excellency,

I am requested by His Majesty, King George, to present His Majesty's request to your Excellency, and to ask your Excellency, as a personal favour to His Majesty, to be so kind as to give His Majesty a written interpretation of the Second Clause marked (b) in Article 3 of the Treaty, referring to the Municipal Laws of Tonga. In order to bring the matter more prominently under your Excellency's consideration and opinion, the following questions:-

1. Whether the Tongan Government are not authorized by the said Municipal Clause in the said Treaty, to enforce the payment of all taxes due by British subjects according to Tongan law as such taxes cannot be said to be cognizable as such under British Law, as they are taxes imposed by the Tongan Government on persons residing in Tonga.
2. Whether the Tongan Government are not authorized by the said Clause, and for the same reasons in enforcing the payment of all licences and in also in enforcing the payment of any fine or fines which may be inflicted by the proper Tongan Courts of justice for the violation of any licence law or laws.
3. Whether the Tongan Government are not also authorized by the said Clause, and for the same reasons, in enforcing the payment of any arrears of rent or rents for Tongan lands leased to British Subjects.
4. Whether the Tongan Government are not also authorized by the said clause, and for the same reasons, in enforcing the law relative to the tariff, and imposing fines in consequence of violation of the tariff laws.

5. Whether the Tongan Government are not also authorized, by the said clause in carrying out the municipal law of Tonga, in imposing damages for destruction done by sheep, horses, cattle and other animals owned by British subjects.
6. Whether the Tongan Government are not also authorized by the said Municipal Clause, in enforcing the Tongan law relative to sly grog selling, and the selling of intoxicating spirits and drinks to natives.

I have the honour to be

Your Excellency's most humble and obedient Servant,
 Shirley W Baker
 Premier.

* * * * *

Nuku'alofa.

4th July 1882.

Sir,

1. I am directed by his Excellency the High Commissioner to acknowledge the receipt of your letter of yesterday's date, in which you inform His Excellency that it is the wish of His Majesty, the King of Tonga, to obtain from His Excellency a written explanation of certain portions of the third article of the treaty of 1879.

2. The High Commissioner will readily, comply with His Majesty's request, although he fears that it may happen in this case, as it has not unfrequently done in others, that an elaborate commentary may prove to be even more susceptible of misapprehension than the simple language of the article itself. Which was very carefully prepared, and appears to His Excellency to be perfectly clear and precise.

3. Clause (b) of article 3 provides that "If any subject of His Majesty in Tonga, is charged with any offence against the Municipal law of Tonga, not cognizable as such under British law, he shall be amenable to the jurisdiction of the Tongan Courts, the proceedings of which shall be conducted in Public and the records of which shall be public and accessible."

This clause it will be observed, only places British subjects under the jurisdiction of the Tongan Courts in respect to offences committed by them, not cognizable by the British law, or, in other words, in criminal and police cases only; and by clause (d) the jurisdiction of the High Commissioners Court is maintained unimpaired as regards all civil suit to be brought against British subjects.

The difficulty which seems to be felt by the Tongan Government, and some European residents in the group is that of distinguishing accurately between criminal and civil cases. Broadly stated, the distinction may be said to be this: When the object of the prosecution is to punish, by the infliction of a penalty, for an offence against the law a criminal prosecution must be instituted. When the object is to obtain some right wrongfully withheld, to recover debts, or to obtain damages for any injury the prosecutor may have received, through the act or negligence of the defendant, a civil suit is necessary.

5. In some cases, however a difficulty may arise as to the enforcement of the penalties incurred in a criminal case brought before the Tongan Courts. If the penalty adjudged be imprisonment, it can at once be inflicted; if the penalty be a fine, with the alternative of imprisonment in default of payment, that alternative can be enforced if payment of the fine be not made; but, if the penalty be a fine only, and the party liable refuses to pay, it becomes a debt due to the Tongan Government, and as such must be sued for civilly in the High Commissioners Court. It would not in such a suit be necessary to re-open the merits of the original case itself. It would be treated simply as a case of debt, and the production of the record of the Tongan Court, showing the penalty had been inflicted would, with proof that it had not been paid be sufficient to show that the person sued was a debtor to the Tongan Government.

6. I am now directed by his Excellency to answer in order the questions asked in your letter.

(1) The Tongan Government is clearly authorized to require the payment of taxes by foreign residents in Tonga according to Tongan law. His Excellency is not aware that the penalty, imposed by the law for non-payment of taxes is. If it be imprisonment, that can undoubtedly be at once carried out by order of the Tongan Courts. If it be a money penalty only, it must be sued for as before explained if payment is refused. The tax itself, if the party refuses payment should also be sued for in the High Commissioners Court as a debt due to the Tongan Government in the manner already described.

(2) The Tongan Government is indoubtedly entitled to require the

payment, by British subjects, of all licence duties imposed by law, and that of all penalties legally inflicted. Any such penalties if unpaid, become a debt to the Tongan Government, and can be at once recovered before the High Commissioners Court, on proof of the debt in the manner before shown.

(3) Unpaid rent is a debt, and a suit for its recovery is clearly a civil suit, which must, therefore, be brought in the High Commissioners Court only.

(4) The question would appear to be answered already by anticipation, in the replies given to the questions (1) and (2).

(5) This question, as put, does not admit of a perfectly simple answer. An action for damages is clearly a civil suit and as such, can only be brought before the High Commissioners Court. But the infliction of a willful damage to property is in itself an offence, usually punishable by a fine or imprisonment, and consequently cognizable by the Tongan Courts. An illustration will perhaps best explain this distinction. "If a man stabs, or otherwise injures another mans horse, or cuts down a tree belonging to him, he is guilty of malicious injury to the property, and offence to property, an offence punishable under the the criminal law. If on the other hand, through his going to sleep or absenting himself, a horse or other animal committed to a mans charge, but belonging to another, falls over a precipice or otherwise injures itself, he is liable for an action for damages, for the loss and injury the owner of the beast has sustained through his act of negligence. This is a civil suit, which can only be brought in the High Commissioners Court. I should add that a criminal prosecution for malicious injury does not, according to English law, prevent the party aggrieved from bringing a civil action in respect of any loss or injury he has sustained thereby.

(6) Subject to the explanations already given as to the mode of recovering unpaid penalties, it admits of no doubt that the Tongan Government is fully justified in enforcing the observance of these laws, on foreign residents.

I have the honour to be

Sir

Your obedient servant.

(Signed) GERALD BROWNE

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HANSLIP'S CASE : A DANGER TO PEACE AND GOOD ORDER 1882

[Printed Proclamation by the British High Commissioner, Sir Arthur Gordon, Nuku'alofa, Tongatapu, 5th July 1882. Free Wesleyan Church Archives, Nuku'alofa. English translation by Fusi Watkin and Nigel Statham.]

I was asked by the king and the Premier of Tonga to make out an order for the deportation of R. Hanslip for causing unrest in the West Pacific. The Crown Prince and the Minister of Police also acted as witness to it before the assistant Commissioner Mr Simon; they also signed a letter they had written to support their charge.

And so it has fallen to me to show clearly from the evidence Hanslip's causing trouble in the Tonga Islands in accordance with the Royal ordinances brought into force by the Privy Council on 13th of August 1877.

The first charge against Hanslip was that he had incited the people of Mu'a to revolt and had encouraged them to write a letter to the Queen requesting that one of her subjects living in Tonga to serve King George Tupou, be removed from this country.

With regard to this first charge mentioned above, the inciting of the people of a kingdom to revolt, is a very serious matter, and if it were to become evident to me that anyone should have done such a thing I would definitely regard this as the causing of a disturbance here in the West Pacific: as stated in the ordinance I have already referred to.

There is not one scrap of evidence in those letters supporting this charge that Hanslip bears malice towards the King and the Constitution of Tonga. What does appear is that he is bitterly apposed to the regime of the Premier and that what he wants is to have him deported; but he bears no malice towards the country; after all people are free to think and criticize leadership and to express an opinion as to its being beneficial or detrimental to the interests of the King. The Leadership and the Premier also are free to make criticisms. As for Hanslip therefore and others who regard it as detrimental there is nothing at all to stop them expressing their opinions or from attempting to persuade others to hold the same opinions as long as these attempts are in accordance with the Constitution.

Therefore I cannot say that Mister Hanslip has clearly incited the people of Mu'a to revolt.

As for the petition made by the people of Mu'a to Her Majesty the

Queen in connection with one of her subjects living in Tonga no one can doubt its propriety. Peoples of many countries express grievances to the Queen and the British Government about the actions of their British residents but I have never heard of a government which has tried to prohibit the writing of such documents.

So I don't really know if I can punish Hanslip for teaching the people to do something which is quite legal; regardless of whether he did it with good or bad intent.

The second charge was that he had called together a meeting known as a Parliament and had incited them to announce their dissatisfaction with the Premier and his regime. It is difficult to express the meaning of this word (Fale Alea), but I have been told by someone I trust implicitly that it is a word used for Trustees or a meeting to discuss matters. If he had called this Fale Alea (House of debate or discussion) a "house for the setting up of laws for the country" with serious intent then clearly no fault could be found with such a thing. Any punishment would be too heavy for a British subject were he to be deported from here for such an act. If he had said a National House of Debate then a Court could bring down a judgment on these charges which have been made.

The third charge is that he composed the petition to the Queen mentioned above and that he encouraged the people to use it.

Even though there is absolutely nothing illegal whatsoever about writing such a document it is true, perhaps, that if there had been other accompanying charges, including suspicious behaviour for example, then it would certainly be regarded as an example of causing a disturbance. With regard then to this charge there is no evidence at all to prove an incitement of unrest.

The fourth charge is that he is inciting convicts.

This charge to me is indeed a very grave matter, and if it were true I would perhaps consent to the wishes of the Tongan Government. But in thinking more deeply about it, it turns out to be not such a grave matter after all. For it turns out that those incited by Hanslip had not yet been tried or convicted but were merely waiting for trial. Now until a man has been convicted he cannot be called a convict, therefore these people ought to be called "innocent" for they have not yet been tried.

There is a clear distinction between inciting convicts and this affair, for it is one thing to incite convicts to rebel against the decision of a court and the inciting of accused persons to hope that their innocence would thereby

be proved and their accusers silenced.

The fifth charge is that he incited the people of Kolofou to dispute with King George the possession of certain of his own lands. This charge would be a very grave one if it were true for it is interference. But now, the question with regard to this charge is: Is it true or not that these are King George's lands?

Whether rightly or wrongly the advice Hanslip gave to the residents of those allotments was that they should seek an explanation from the courts. If there be a disagreement about anything the decision of the courts should be sought and followed - for there it is never a matter of the word or the compulsion of any one person alone.

The document on which the King's name appears, referred to as the affidavit in fact contains no testimony and has absolutely no bearing whatsoever upon this matter for it is merely a document proving that the disputed allotment is his.

A quotation from Hanslip's newspaper was used also to strengthen this charge. I'm afraid that even though I expect it was improper for him to have become involved in this matter, I cannot find one single thing in the advice he gave which would be in any way unlawful for a British subject to write and publish, should he be resident in a Constitutionally governed country. Indeed it is entirely within the limits of the law.

The words at the end of the letter are right indeed and how I wish that they be kept in mind at all times by the king and the Minister.

Since the Constitution was brought in "The will of the King is no longer the Law of the land these days; the only function of the King with regard to the law is for him to make his decision about Laws which have been agreed upon by the Parliament "

So therefore, even though I have tried to do something about the matters requested by H.M. the King of Tonga I have not been able to. I would say that I have examined those things and have found that from the evidence of these affidavits no incitement of unrest has been committed by Hanslip in the West Pacific in accordance with His Majesty's Laws and so I would not be justified in making out a order to prevent his living here or pronounce that he has caused unrest. Nevertheless I am happy to be able to express here my abhorrence that a European should meddle without reason in the government affairs of the country. And I would express my hope that they will not cause problems but assent good naturedly to the king's right to appoint his ministers. And no matter what they

think of certain ministers, whether they be good or bad, the King of a country is right to expect that some measure of respect be shown them while they are in authority.

[154]

FURTHER CONCERNS : FREEDOM OF THE PRESS AND LAND TENURE 1882 - 1884

- (i) Freedom of the press: "law relating to the 'Printing of Newspapers' is an exact contradiction of Clause 7 of the Constitution"
 [Her Majesty's Vice Consul Symonds to the Acting Consul General des Voeux, 17th December, 1882. Archives of the Western Pacific High Commission, Fiji]

..... At the time the treaty was signed, offences against the Municipal laws was punishable by fine only and such fine if not paid could be recovered before H.B.M. High Commissioner's Court as a debt due to the Tongan Government.

All taxes and licences due to the Tongan Government could also be recovered in the same way together with the penalty imposed by the Tongan Government for their non payment.

Your Excellency will perceive that the Tongan Govt. had thus the power of recovering from British subjects all fines or taxes due to them but as the law then existed, could only do so through Her Majesty's High Commissioner's Court while British subjects were protected from those acts of injustice and oppression that are unhappily such frequent attributes of the Tongan Law Courts.

In the last Parliament, however, have been passed amendments to all those Municipal laws against which Europeans are most likely to offend, empowering the Tongan Magistrates to inflict a penalty of imprisonment, instead of the former money penalty only, which term of imprisonment the Tongan Government can cause to be carried out. Thus, according to the new laws, Y.E. will perceive that the Tongan Government have assumed the power of throwing into prison, without the option of a fine, any British subject who, from poverty, illness, or any other cause, has failed to pay his taxes or licences, or has, in the opinion of the Tongan Magistrates, been guilty of treason or of other breaches of the Municipal law.

The law relating to the 'Printing of Newspapers' is an exact contradiction of Clause 7 of the Constitution, which provides that "There shall be freedom of speech and newspapers (Press) for ever", yet notwithstanding this the Parliament has passed the new law, which is simply prohibitory to any one unless he is a supporter of Mr Baker.

The only newspaper that exists in Tonga, with the exception of the organ of the Premier, is a publication edited by an Englishman and supported by the British Residents, who, while contributing largely to the revenue, naturally look

upon the press as the most legitimate means of expressing their grievances and making known their views. The editor of this paper was prosecuted before the High Commissioner last July for having been dangerous to the order of the land and fully acquitted; yet in the face of His Excellency's judgement, that Government which is only allowed jurisdiction over British subjects in matters pertaining to Municipal law has passed this enactment, which, if allowed, will entirely take away from Foreign residents here that liberty of expressing their views which in other countries is universally accorded to the masses.

I would also ask your Excellency to consider whether this law does not deal entirely with civil matters, and whether the Tongan Government has the power to insist upon bonds being given and to impose penalties in a matter, that, it seems to me, must be brought before and tried by Her Majesty's High Commissioner's Court.

Another law that vitally effects British residents in this country is the law "Relative to Foreigner's Lands". The majority of Europeans now living in Tonga hold their land under a native title, that is to say, when the land was originally divided out to the natives, an European wishing to acquire an allotment would obtain from the owner of the land the right to use it, and generally also procured the permission of the Chief of the place or of the King, and in no instance was any objection made to his building. The land tenure however has been completely altered and the land has all changed hands, and now under the new law British subjects are liable to be expelled from their land at three months notice.

I would now ask your Excellency's permission to inform the Tongan Govt. that if it wishes to take possession of land thus in the occupation of British subjects, a lease for a short term should be granted to the tenant and thus give him an opportunity of making other arrangements and prevent his being ruined by the constant changing of the land tenure and the vacillating policy of the Government and such a course would I feel sure prevent serious future complications, for the only means the Tongan Govt. can take to recover these lands held by British subjects, will be to procure an order of ejectment from Her Majesty's High Commissioner's Court.

In conclusion I would draw Your Excellency's attention to the present unsatisfactory state of law and justice in this country (of which the case of the men who petitioned Her Majesty for the removal from Tonga of a British subject and who are still prisoners (bobula ie. slaves) at Haabai, is an example) where the judges are notoriously not the exponents of the law, but simply used as means for carrying out the views of the Premier, Mr S.W. Baker, and I would

most respectfully but emphatically urge that the Tongan Govt. should not be allowed to assume over British subjects any further jurisdiction than that held by it at the time of the signing of the treaty.

I have, etc.

His Excellency

(signed) H.F. Symonds.

The Acting Consul General.

H.M. Vice Consul.

- (ii) Land tenure : "ran at once and trampled under foot one row of yams"
 [Tonga Government Blue Book. Correspondence between the Tonga Government and the British Government, In Re the Action of H.F. Symonds, Esq., H.B.M. Vice-Consul, Tonga, and of the Captain of H.M.S. "Espiegle." For Private Circulation. p.7.]

Affidavit of J. Fifita.

NEIAFU, VAVAU,

4th August, 1884.

I am a carpenter. This is what I know with respect to our moving from our former ground to the ground which was given to us by the Premier at the command of His Majesty.

We had cleared the land and prepared our premises, and on the portion of land to which this affidavit refers we had planted our yam patch, and erected a fence around it.

Whilst we were engaged in our work, the Consul, Mr Symonds, came with Mr Percival, Mr Coventry, and some others.

When he came up to the ground he demanded to know at whose command we had planted on their ground, and ran at once and trampled under foot one row of yams, and then turned round and trampled under foot another row. We went to him and said:

"Mr Symonds, why are you thus destroying our garden?"

Then Mr Coventry replied that it was his ground.

After this the Consul turned round and tore up the fence, when we again spoke to him and said:

"Mr Symonds, do not tear up our fence, for it is the ground of the King on which we are residing."

When Mr Symonds replied, "If there is anyone here wishes to fight, let him come and we will fight;" when we replied, "We do not want to fight."

After this the Consul said, "Do not put your feet again on here. This is a portion of Britain, which we possess."

And as they went, Mr Percival stood and said, "I have nothing to do with this. Ko Lelu au" (referring to his native name).

Witness my hand.

(Signed) J. FIFITA.

CHARGES OVER PUBLICATION 1883

[Tonga Government Blue Book For Private Circulation. Containing a list of charges, brought by the Premier of Tonga (Rev S.W. Baker), on behalf of the Tongan Government, against the Rev J.E. Moulton, Wesleyan Missionary, together with the Reply of the Rev. J.E. Moulton, as made before the District Meeting of the Wesleyan Church, at Lifuka, Haapai, October 24th, 1883, and the Replication of the Rev. S.W. Baker to the same. Charge III, 1st series, pp.5-6; Charge VI, 3rd series, pp.16-17.]

CHARGE III.

In using the Mission Press against His Majesty and his Government.

- (1) By printing Mr Hanslip's case.
- (2) By assisting the "Niu Vakai."

As to the first, whatever may be the decision given by the High Commissioner of the Western Pacific in Mr Hanslip's case, His excellency being bound to decide in accordance, not with the merits of the case, but upon the evidence produced, yet Mr Hanslip's antagonism to His Majesty, and his well known opposition to the Government, ought to have prevented Mr Moulton from giving the influence of the mission in favour of Mr Hanslip, and against His Majesty and his Government.

(2) It is reported that College lads assisted in setting up the type of the "Niu Vakai:" and type is also lent from the College to print the "Niu Vakai." The character of the "Niu Vakai" is too well known to need comment from me. Mr Moulton, by countenancing such, is not only injuring the mission, but abetting and aiding the enemies of the Government in their conduct, and thus disturbing the peace of Tonga. I would also observe the continuous agitation which Mr Moulton keeps up by his sermons and his addresses, is not only destroying the confidence of many in the lotu, but is keeping the islands in a state of agitation such as would never be permitted in any part of the civilized world.

MR. MOULTON'S REPLY.

Our reason for printing the "deliverance" respecting Mr Hanslip was, that we were requested to do so by the European residents, it being an important document, - the decision of the distinguished individual to whom the Queen of England had committed the protection and guidance of her subjects in these seas, - and it not only contained the decision in Mr Hanslip's case, but also directions to Europeans as to what they were to do and avoid: and I am surprised at the

Government making a complaint of printing of such a document, when they had just concluded a treaty with Great Britain. Therefore, I wish it to be clear that neither His Majesty nor the Prince take part in this charge; for England is sure to resent my being charged thus.

As to Hanslip's enmity to the Government, all I know about it, is his criticisms of the Premier's doings, which is surely lawful in a country that professes to be civilized and free. The worst of Mr Baker is that, if any opposes his plans, he calls him an enemy of His Majesty!

(2) As to the "Niu Vakai."

Mr Hanslip requested me to print it, and I refused. The type with which it is set up was got from the tutor of the Government College. All that they have had from us has been a dozen k's or so, when they are short, - a help which all printing offices afford one another.

I do not know of any collegian who has helped them, except John Manu, who has finished his course. He came and told me that they had asked him to help them. I replied that I did not wish to place restrictions on one who had finished his work; "Do as you like; but I am not quite clear about it." So he used to work at it at night, when his duties at the College were over. After a while I took up one of the "Niu Vakai's," - for I seldom read them, - and I disliked many things in it, and said to John, "I don't wish to prevent your trade (printing), but I wish you would have nothing to do with it;" so he gave it up, and I am not aware that he has taken to it again; I believe not.

I should be very glad to see an opposition newspaper in Tonga, for it would be of great use to the country; and I often spoke to some that were engaged in it, and remonstrated with them for allowing such low words as "fokofokai" (liar) to appear; but they replied that they were only following Mr Baker's example, for he had commenced using such language in the "Boobooi." I am not aware of keeping up any agitation, as averred, only that I have criticised any regulation that appeared faulty.

It is plain to me that all these charges have sprung from Mr Baker not being able to bear any criticisms on his doings. With regard to the "Niu Vakai," it should not be forgotten that the High Commissioner said, "He wished that it could be read by King, chiefs, and people."

I annex herewith copy of judgment we printed, referred to in No.3.

Voting -	Guilty	.	.	.	5
	Not Guilty	.	.	.	0
: Did not vote; 9.					

It was proposed by Mr Oldmeadow, and seconded, "That many were unable to vote on the Third Charge, because it appeared to them that he was not guilty of all the charge, or altogether free."

But the chair ruled that the charge could not be altered.

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CHARGE VI

In distinctly breaking the law relative to newspapers and periodicals, as passed by the late parliament, and which became law on the 23rd October, 1882, and now stands as October 23 in the Statute Book of 1883, by printing and publishing, in the 37th number of the "College Magazine," pages 21 and 22, an inflammatory article on the conduct of the Tonga Government, commencing with - "Kuo loa ene ha ki mamani," and ending with "ke hao mei he houhou ni," and dated July 8, 1883, - an article calculated to most seriously injure the friendly relations existing between Great Britain and Tonga, and to disturb the good order and peace of the Tonga natives; and as the aforesaid law has not been complied with, by obtaining a permit for the publishing of the same, and procuring approved bondsmen as required by said law, Mr Moulton has rendered himself liable to both imprisonment and fine for the breach of such law.

MR. MOULTON'S REPLY.

As to the infringement of the newspaper law by printing the "Magazine":

(1) I have ^{never} seen said law; nor has it been officially announced by the Consul up to this date.

(2) The Consul informed me that he had suspended the operation of all the laws passed at the late parliament as far as British subjects are concerned, until he had communicated with his Government.

(3) I am told that Her Majesty the Queen of England will not permit such a law to be imposed on any of her subjects.

(4) The "Magazine" is of long standing, and is not a newspaper.

(5) The paragraph was a warning of danger, and where was the evil of it?

MR. BAKER'S REPLICATION.

Mr Moulton's logic in reply to this charge is certainly at fault, for he first says, "His printing that article was no infringement of the Tongan newspaper law, because he had never seen the said law;" yet, in his reply marked 3,

he admits he had heard of the law, and says, "I am told that Her Majesty the Queen of England will not permit such a law to be imposed on any of her subjects," and thus, on his own confession, he wilfully broke the law. But as to what representations may have been made to the British Government, we have nothing to do with here, the Tongan Government only wishing to prevent seditious libel and unfit literature being circulated, and to require the publishers to procure bondsmen, so as in case of any law expenses, the Tongan Government not to be the losers.

But the question is, - Is it right for a missionary to violate the law of the land to which he goes, and to shelter himself under the pretence that such is not the law of his own country? But so as the Conference may be able to judge whether the Tonga Government are justified in their complaint, "That Mr. Moulton's conduct is calculated to most seriously injure the friendly relations existing between Great Britain and Tonga, and to disturb the good order and peace of the Tonga natives," I will translate the article referred to.

"It has been long apparent to the world that New Guinea would belong to the Europeans, for who will say its own people are able to govern it? The important part of the matter is, it has become apparent the big countries are seized with the sickness of wishing to seize land; for instance, France, Italy, and Spain (the last country having just seized the Sulu Islands and the adjacent islands); but whoever thought Germany would be one of them? And then Britain also, many of its people trying to persuade the Government to seize the islands of this sea. The missionaries of the London Missionary Society have gone to the Minister of State, whose province it is to look after these parts, and have entreated him to persuade Victoria to seize the New Hebrides. It has not taken place yet, but it is apparent these are difficult times for such countries as this. I tell you, I breathe with trembling, because of Tonga; there is only one escape, and that is to take care of the friendship with Britain, and that is what is not done. The Commodore has just been here with a British man-of-war, with an important document from Her Majesty the Queen of Great Britain. I shall not speak to it, because I translated it; but this is the report of the Europeans that came in the vessel, perhaps, or from somewhere else. They say, "It appears Great Britain is very vexed with Tonga, and if the conduct of the Government is not changed, their friendships will be broken. Never has any Government so ill-treated my representative." Such is said to be Her Majesty's -word, and for Tonga to be quick and bring the pocket-handkerchief to the Consul. It is all the more impor-

tant because the Consul is trebly supported, - by the Governor of Fiji, by the High Commissioner, Sir Arthur Gordon, and by the Minister of State of Her Majesty, whose word is equal to the word of the Queen. That chief is one whose mind never changes. Many of the people are tired of him, because he is never hot in anything. The time that Russia was saucy, the people of Great Britain made up their minds to fight: he alone, of all the chiefs, was not hot, and stopped the rushing feeling; and he is always like it; and his father, when the chiefs presented Borneo, would not have it, and all the world knows when he speaks importantly, it is truly important. And is it wrong for me to respect my language, and try and stop the wave? Would that attention were paid to the steering, lest Europeans shall have Tonga. Who says such was determined to be? There are many little kingdoms alongside of our kingdom, and they are still well, but what is the reason? They do those things which are not displeasing to Great Britain. They therefore chose a Premier which they see is a man pleasing to the great kingdom, and when they pass any laws, they seek from the Consul how they will be approved of by Her Majesty; they are therefore able to stand, although they are alongside the great kingdom which owns one-fourth of the world. Therefore, let us pray to the Lord for him to influence the mind of Tubou, for him to steer well his vessel, so as to be clear from these agitating currents."

After reading this article, I am certain the Conference will admit that Mr Moulton has gone beyond his province as a missionary, and whatever Mr Moulton may call his periodical, it is not simply a literary magazine, but a political pamphlet as well; that is, a newspaper, and a newspaper printed at the mission press, and at mission cost; that is, at the expense of the Tonga Wesleyan Church.

But before I dismiss Mr Moulton's reply to this charge, I would like to observe that I do not think either the British Government or the New South Wales and Queensland Conference will expect the Tongan Government to permit, without some kind of restriction, the publishing of newspapers in the native language for distribution among the natives, - I say distribution, because they are principally distributed not sold, - containing articles of a libellous and seditious nature, and using language which has already been observed to be sometimes filthy and obscene; papers that would not for a moment be permitted by the Government of Fiji to be circulated in Fiji.