

AMERICAN SAMOA: A DESCRIPTIVE
AND HISTORICAL PROFILE

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I. Geography

A. Topography

American Samoa consists of five principal islands of volcanic origin, two coral atolls, and six tiny islets, all lying in the South Central Pacific Ocean some 2,300 miles (for the most part) southwest of Hawaii and 1,600 miles northeast of New Zealand.^{1/} Constituting the only American possession located south of the equator, the combined land area of the territory covers only 76.1 square miles. The independent nation of Western Samoa, by contrast, embraces some 1,097 square miles.^{2/}

The largest island in American Samoa is that of Tutuila, which has an area of 52 square miles and lies about 80 miles east of Apia, the capital city of Western Samoa.^{3/} The other four islands, in ascending order relative to size, are: Aunu'u, located one mile to the east of Tutuila and covering only one square mile in area; and the three islands of the Manu'a Group, lying about 65 miles northeast of Tutuila. The group comprises Olosega Island, with 2 square miles; Ofu Island, 3 square miles; and Ta'u Island, 17 square miles. The two atolls—coral—are Swains Island, located some 200 miles directly north of Tutuila, and only one square mile in area; and the even smaller Rose Island, which breaks water 78 miles east of Ta'u. The six miniscule islets are Nu'u Island and Nu'u Silaelae Island, twin "dots" adjacent to the western shoreline of Ofu Island; Sand Island, a barely perceptible

1/ Office of Samoan Information, comp. Annual Report, Fiscal Year 1973; American Samoa. [The Office of Samoan Information, Pago Pago, American Samoa, 1974] p. 1, 46.

2/ The Statesman's Year-Book; Statistical and Historical Annual of the States of the World for the Year 1973-1974. Edited by John Paxton. New York, St. Martin's Press [c. 1973] p. 720, 504.

3/ Ibid., p. 720; U. S. Bureau of the Census. Census of Population, 1970; Number of Inhabitants, American Samoa; Final Report PC (1)-456 American Samoa. [Washington, U. S. Govt. Print. Off., 1971] Issued November 1971. p. 56-5.

projection lying about a mile to the northwest of Rose Island; Taputapu Island, adjacent to the extreme west coast of Tutuila; and Pola Island and Nuusetoga Island, lying a few miles apart just off the northeastern coast of Tutuila.^{4/}

More than 96 percent of all the land in American Samoa is owned communally, with its occupancy and use dictated by Samoan custom. The government of American Samoa "owns," or occupies, 2.3 square miles, or some 1,400 acres. The tiny remainder of the land is individually owned, in fee simple.^{5/}

B. Climatic conditions

The climate is tropical but pleasant, with moderate southeast trade winds prevailing from May to November and the winds variable at other times. Annual air temperatures range from 70 to 90 degrees and the humidity is nearly constant at 80 degrees. The December temperature average is two degrees warmer than that for July, making for year-round vegetation that is abundant, variegated, and often of surpassing beauty. Rainfall in the territory has averaged about 200 inches per year for more than half a century, but with most of it falling from December to March.^{6/} Dry seasons can be long and widespread. In 1971-72, for example, rainfall amounted to only one half of the normal precipitation.^{7/} The current year has been marked by a drought (beginning early in September) so severe that President Ford, on September 30, 1974, declared a major disaster for the territory. Federal Disaster Assistance Administrator

^{4/} U. S. Bureau of the Census. Census of Population, 1970, p. 56--5, 56--5; Christensen, Chris. American Samoa in the South Seas [Robert Boom Co., printed in Hawaii, c. 1973] p. [4]; Office of Samoan Information. Annual Report, 1973, p. 46.

^{5/} Office of Samoan Information. Annual Report, 1973, p. 1.

^{6/} Christensen, Chris. American Samoa in the South Seas, p. [1, 16]; U. S. Dept. of the Interior. Office of Territories. Territorial Responsibilities; American Samoa. [Washington, U. S. Govt. Print. Off., 1963] p. 4; Van Cleve, Ruth G. The Office of Territorial Affairs. New York, Praeger Publishers [c. 1974] (Praeger Library of U. S. Government Departments and Agencies) Chp. III, "American Samoa," p. 60.

^{7/} Office of Samoan Information. Annual Report, 1973, p. vi.

Thomas P. Dunne is to designate the specific areas eligible for Federal assistance, based upon both Federal and territorial assessments.^{8/}

C. Population

1. Statistics

In 1900, when eastern Samoa became American Samoa following ratification of the Washington Convention of 1899, the population of the new territory was 5,679. As of 1970, American Samoa boasted a total population of 27,159.^{9/} It has been estimated that the population in 1974 has reached the figure 29,296.^{10/} The breakdown by islands for 1970 was as follows: Tutuila, 24,548; Ta'u, 1,320; Aunu'u, 425; Ofu, 412; Olosega, 380; and Swains, 74. Rose Island and the three islets of Nu'u, Nu'u Silaelae, and Sand are uninhabited, as, apparently, are those of Taputapu, Pola, and Nuusetoga.^{11/}

2. Race and personality

The Samoan people, like the Hawaiians, the Tongans, the Tahitians, and the New Zealand Maoris, are Polynesians ("people of many islands"—from the Greek words polys (many) and nēsos (island)), and are relatively free of mixed blood. They are, in the main, tall, muscular, and well proportioned. [A personal note: Every male Samoan I have ever seen dressed in his "lavalava"—and I have seen about 150—had calves resembling medium-size tree trunks. Samoans, I am confident, would make superb

^{8/} U. S. Office of the Federal Register, National Archives and Records Service, General Services Administration. Weekly Compilation of Presidential Documents, v. 10, no. 40, Oct. 7, 1974: 1215 [Washington, U. S. Govt. Print. Off., 1974]

^{9/} U. S. Bureau of the Census. Census of Population, 1970, p. 56—5.

^{10/} United Nations. General Assembly. Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. American Samoa. Working Paper Prepared by the Secretariat, 7 June 1974. [New York/ 1974. (United Nations. [Document] A/AC. 109/L. 947) p. 2

^{11/} U. S. Bureau of the Census. Census of Population, 1970. p. 56—5.

middle linebackers in professional football.] With saddle-brown skins, straight black hair, and attractive features, Samoans are classified by physical anthropologists as predominantly Caucasoid with Malayan-Mongoloid strains.

As a people, the Samoans are friendly, vivacious, and given to fun, feasting, games, and mythological observances practiced since antiquity. It has been charged that they have neither understanding of nor respect for the Anglo-Saxon work ethic. This accusation of indolence, however, is considered by many Samoans themselves as unfair and generally untenable. Once the Samoan is instructed in, or oriented toward, a given vocation, his work performance, they maintain, usually is quite respectable. The problem has been lack of competent instruction in coping with unfamiliar Western-type occupations.^{12/}

3. Social structure

The Samoan social structure is based upon the "aiga" (pronounced "oye-inga"—the "n" sound always precedes the consonant "g"), an extended family which may embrace from a handful to hundreds and even thousands of relatives. Heading the aiga is a "matai" (pronounced "muh-tie")—a chief of varying rank—who directs the social and economic affairs of what is still largely a communal way of life. The matai's responsibilities are all-encompassing: he has custody of family lands and property; he designates who works which plots of land; he determines where each nuclear family lives on the extended family's land; he is the guardian of the well-being of all those claiming membership in the aiga; and he represents the aiga in the county and district councils.^{13/}

^{12/} Office of Samoan Information. Annual Report, 1973, p. 3; [Government of American Samoa/ American Samoa. 1967 Annual Report to the Secretary of the Interior for the Fiscal Year Ended June 30. Washington, U. S. Govt. Print. Off. [1968] p. 1; Coulter, John Wesley. Samoa. In *The Encyclopedia Americana*. New York, Americana Corporation [1969] v. 24: 223-227; Coulter, John Wesley. Polynesia. In *The Encyclopedia Americana*, v. 22: 334-337; conversations with the Office of the Samoan Delegate-at-Large.

^{13/} Office of Samoan Information. Annual Report, 1973, p. 3; Lutali, A. P. and William J. Stewart. A Chieftal System in Twentieth Century America: Legal Aspects of the Matai System in the Territory of American Samoa. *Georgia Journal of International & Comparative Law*, v. 4, Spring 1974: 387-401 (391).

The aiga itself has three basic—though somewhat interchangeable—levels. The first is the immediate family consisting of husband, wife, and children. Then there is the household (fua'ifale), which comprises several groups of related families. The third level is the extended family kin group, to which is ascribed the generic term aiga. But the divisions are not inelastic; for example, a given household may include members of an extended kin group the dimensions of which cover several villages, narrowly or widely separated. Thus an aiga may contain many hundreds of persons, with each, whether eleventh cousin once or twice removed or first aunt or uncle, considered equally integral to the group.^{14/}

Selection of the matai "is based on unanimity of feeling among the aiga members, rather than through any sort of balloting or casting of lots among the representatives of each branch. Decisions may be arrived at in a matter of hours, while others may take weeks and months, and even years." The matai (there is no plural designation in the Samoan language) are of two basic types: the "ali'i" (chief, lord, patriarch, or titleholder) and the "tuafale" (orator, talking chief). The former is the more powerful and holds the more important positions; the latter serves not only as adviser and executive to the former, but also as "the mental storehouse for memories and traditions, the custodian of group knowledge, the lawyer-like manipulator of words."^{15/}

The ali'i are of several ranks. At the top of the hierarchy is the "ali'i itumalo," the county chief. He is appointed by the Governor, who, in nearly every case, has merely confirmed an "open" election by Samoans. At the next level is the "ali'i sili o le nu'u" (high chief of the village); nearly every one of the 59 villages in American Samoa has a high chief. Below him are descending ranks of ali'i within the extended

^{14/} Hunkin, Eni Fa'auaa, Jr. Some Observations on the Matai System's Leadership Structure in Relation to the Administrative and Legislative Processes in American Samoa, 1900-1951. An unpublished paper by the Administrative Assistant to High Chief A. U. Fuimaono, Delegate-at-Large, Government of American Samoa. June 1973, p. 7.

^{15/} Ibid., p. 7-9.

family, with some controlling entire aigas and others being heads only of immediate families, as in Western society.^{16/}

Somewhat incidentally, matais may be of either sex; but only a few females ever have attained that rank.^{17/}

Within the aiga, each person, male and female, is ever conscious of what group in the extended family he belongs to and the nature of the responsibilities assigned both to him and his group. It is a prescribed, measured life, with personal decorum expected and inordinate ambition execrated.^{18/}

The aiga-matai system faces inevitable modification as the ways of the West continue to influence the Samoan young. Already some aiga matais seem to be more concerned with their own nuclear units than with their extended families, while others feel threatened by their sons who have returned to the ancestral lands after being educated abroad. Some of these prodigals have been elected matais, and are finding it difficult to reconcile the fa'a Samoa (Samoan way) with their own, western-oriented concepts. It is to be hoped that these new matais will be satisfied with "improving" the system rather than calling for its emasculation. Opting for the latter "could make for very real problems in future Samoan society" without the installation of a whole "new set of social controls."^{19/}

^{16/} Lutali, A. P. and William J. Stewart. A Chieftal System in Twentieth Century America . . . , p. 389-392.

^{17/} Ibid., p. 396; Hunkin, Eni F. Some Observations . . . , p. 7.

^{18/} Hunkin, p. 10-11.

^{19/} Lutali and Stewart, p. 400-401.

II. Economic conditions

A. Industry

The principal industry in American Samoa is fish processing, primarily that of tuna. The firms of Van Camp and Star Kiet together exported a total of \$61 million in canned tuna in FY1973, representing a one-third increase in production for each company. Of some 8,000 pay checks received by Samoans, about 2,000 stem from fish processing. (Nearly 4,000 other checks went to employees of the Government of American Samoa.)

The oft-repeated assertion that Samoans are too lazy to sail the seas themselves to fish commercially was proved something of a canard when the Samoan Office of Marine Resources, aided by the Office of Economic Opportunity, launched a fleet of 18 new Samoan-manned fishing dories in 1973. They brought back 200,000 pounds of fresh fish.

Among the new industrial enterprises that have been established in the territory are those represented by Pacific Time, a subsidiary of Bulova Watch Co., and Pacific Basin Manufacturing and Trade Company Ltd., a subsidiary of Sultan Jewelry of Hawaii.^{20/}

B. Agriculture

Of the 48,640 acres making up the 76 square miles of land in generally mountainous American Samoa, only 11,000 are suitable for cultivation of tropical crops, with another 1,000 good for growing "temperate zone" vegetables, and another 8,000 amenable only to coconut and cacao.^{21/} Yet it is estimated that the amount of land now under cultivation could be increased as much as sevenfold; and production of the main element in the Samoans' diet—the starchy taro—could be expanded sufficiently to reduce markedly the present need to import the tuber from Western Samoa. Family farm plots, moreover, could easily be enlarged from their

^{20/} Office of Samoan Information. Annual Report, 1973, p. IV, VI, 8, 19-21.

^{21/} The Statesman's Year-Book, 1973-1974, p. 721.

present tiny dimensions.^{22/}

Although Samoans traditionally have been close to the soil and many take pride in its cultivation, the development of industry, particularly that of fish processing, and the expansion of job opportunities in the bureaucracy have combined to limit agricultural production. Better and wider instruction in the science of farming, as well as intensive official promotion of the vital importance of farming as an occupation, is required if the trend away from the land is to be reversed, or even slowed.^{23A/}

C. Tourism

Only a year ago, tourism promised to be the most important avenue to continued economic growth in American Samoa. But with inflation and recession becoming ever more alarming to Americans (and most other peoples) the appeal of the singularly beautiful islands—located just a few hours by air from Hawaii, Fiji, and Australasia and lying directly in the lanes of Pacific cruise ships—probably will be progressively less compelling for some time to come.

The number of tourists staying 24 hours or more in the territory in fiscal year 1973 was 27,937, compared to 24,899 in 1972 and 19,199 in 1971.

Accommodations for tourists have been significantly expanded and improved in recent years. The already large and luxurious Pago Pago Americana Hotel is undergoing a 90-room expansion; and several other hotels and motels have been built and enlarged. Another attraction—to some—is the 9-hole Lavalava Golf Course in the Tafuna area that began full operation in 1973.^{23B/}

^{22/} Van Cleve, Ruth G. The Office of Territorial Affairs, p. 60-69.

^{23A/} Conversations with the office of the Samoan Delegate-at-Large. The office takes sharp issue with Van Cleve's assertion (on p. 69 in her book, The Office of Territorial Affairs) that farming is held in low esteem by Samoans.

^{23B/} Office of Samoan Information. Annual Report, 1973, p. 22.

III. Government

A. Status of the territory within the American polity

American Samoa is an unorganized and unincorporated American territory, and has been such since 1900, when American jurisdiction was first established.^{24/}

The overseas holdings of the United States have been divided into the following categories: (1) incorporated Territories (usually capitalized); Alaska and Hawaii were last of the breed; (2) unincorporated but organized territories; (3) unincorporated and unorganized territories, or possessions; and (4) the Commonwealth of Puerto Rico (which is still unincorporated). An incorporated Territory is recognized as an integral part of the United States of America; in other words, Congress has incorporated it into the body politic of the Nation by making the Constitution expressly applicable to it. An unincorporated territory, on the other hand, is one which belongs to the United States but is not a part of it. An organized territory, either incorporated or not, is one on which Congress, through legislation establishing a systematic, organized government in the area, has conferred, in large or small measure, powers of self-government.

The fact that Congress has never enacted legislation making American Samoa an "organized" territory cannot be disputed. But to assert that this American territory does not have an organized, systematic government is less than accurate. The islands are governed under a system featuring the traditional divisions of American government: executive, legislative, and judicial. And although the Governor's power and influence still overshadow the other branches, the form and some of the substance of the Congressional concept of organized territorial government (which historically has been elastic) do exist. Moreover, American Samoa has been operating, at least in part, under a constitution drafted by its own

^{24/} United States v. Standard Oil Co. of California, 404 U. S. 558; 48 U. S. C. §§ 1661, 1662.

people since 1960. It should be remembered, too, that although Guam and the Virgin Islands have been organized under specific Congressional "organic" legislation for years, neither has a constitution of its own. This is another in the long list of anomalies distinguishing the history of America's colonial rule.

The distinctions between incorporated and unincorporated territories were coined, and delineated, by the U. S. Supreme Court in the famous (if not notorious) Insular Cases, beginning, particularly, with Downes v. Bidwell (182 U. S. 244) in 1901 and culminating in Balzac v. People of Porto Rico (258 U. S. 298) in 1922. Alarmed by the acquisition of "alien" peoples following the War with Spain and the partitioning of the Samoan islands, neither the President, the Congress, nor the Supreme Court, at first, had any clear idea as to how such "different" (a euphemism for backward) souls could be assimilated. The Court finally found a solution. These non-Anglo-Saxons would be placed under the protection of the United States but would have to undergo a long period of tutelage before they, and their territories, could be fully integrated, and incorporated, into the fabric of American society.^{25/}

The Court declared that Congress itself was to determine, by any means it chose, which territories were to be considered incorporated and which were not. But once a territory was declared incorporated it assumed superior status. To it, the Court maintained, all provisions of the Constitution—the "formal" and "procedural" as well as the "fundamental"—were to apply. Only the fundamental parts of the Constitution, on the other hand, were to apply to unincorporated territories. The Court failed, however, to list which parts are fundamental and which are formal or procedural; and no such listing has ever been attempted, by either the Court or the Congress. The policy, instead, has been for one or the other to make such distinctions only as laws are enacted and cases decided under them.

^{25/} See Willoughby, Westel Woodbury. The Constitutional Law of the United States. New York, Baker, Voorhis & Co., 1929. v. 1, chpts. XXX and XXXI; Coudert, Frederic R. The Evolution of the Doctrine of Territorial Incorporation. Columbia Law Review. v. XXVI, Nov. 1926: 823-850.

It has been held, for example, that the provisions of the Constitution relative to jury trials do not apply to unincorporated territories; such provisions have not been considered "fundamental."

Although Congress can declare a territory incorporated (it never formally has), the Supreme Court, in the absence of a specific and definite Congressional declaration in regard to certain territories, has itself declared one (Alaska), and regarded another (Hawaii), as incorporated simply because Congress, in setting up organized governments, or in extending Federal laws to the territories, had extended all provisions of the Constitution to them. The Court declared that Alaska had become incorporated long before passage of the 1912 Organic Act. Mr. Justice White, in Rasmussen v. U. S. (197 U. S. 516), asserted in 1905 that "both before and since the decision in Downes v. Bidwell [182 U. S. 244 (1901)] the status of Alaska as an incorporated Territory was and has been recognized by the action and decisions of this court It follows, then, from the text of the treaty by which Alaska was acquired, from the action of Congress thereunder and the reiterated decisions of this court, that the proposition that Alaska is not incorporated into and a part of the United States is devoid of merit" ^{26/}

The doctrine of incorporation is no longer held sacrosanct by lawyers and jurists alike, with the U. S. Supreme Court itself having indicated in Reid v. Covert (1957) that the reasoning behind the Insular decisions has been outmoded; those cases "involved territories which had only recently been conquered or acquired by the United States. . . . [and] they involved the power of Congress to govern temporarily territories with wholly dissimilar traditions and institutions [I]t is our judgment that neither the cases nor their reasoning should be given any further expansion." ^{27/} But the doctrine, though weakened, is not moribund.

The Samoan constitution boasts a rather comprehensive bill of rights; but in conformity with the Federal nonincorporation doctrine, it contains no provision for trial by jury. There is little or no evidence that any Samoans are overly exercised by lack

^{26/} Pages 523, 525.

^{27/} 354 U. S. 1 (13-14). Emphasis supplied.

of/right most Anglo-Saxons consider altogether "fundamental" (with the extended family embracing so many relatives, it would be difficult ever to assemble an impartial jury), but American citizens, including some Samoans who are not mere "nationals", are indignant. On appeal now before the District of Columbia Circuit of the United States Court of Appeals^{28/} is the case of King v. Morton.

Jake King, an American citizen from the States living in American Samoa and operating a weekly newspaper there, was tried and convicted by the High Court of American Samoa without benefit of jury in a criminal case (American Samoa v. King).^{29/} Mr. King, who frequently exhibited a less than friendly attitude toward Governor John M. Haydon, quickly learned that the disregard was entirely mutual. After withstanding attempts to have himself deported, King became the subject of a criminal information charging him with being negligent in regard to his Samoan income tax returns. Following his conviction (judgment was suspended), King entered suit in the United States District Court for the District of Columbia against Secretary of the Interior Rogers C. B. Morton (King v. Morton)^{30/}; but his case was dismissed without opinion for want of jurisdiction. His cause—that every American citizen regardless of domicile is entitled to every protection found within the Constitution of the United States—may yet go from the U. S. Court of Appeals to the final appellate court; and the Supreme Court conceivably could expand its consideration to passing judgment on the denial of jury trials to nationals as well as citizens in an American territory.

^{28/} Civil No. 73-1995 (D. C. Cir., docketed Sept. 17, 1973).

^{29/} Criminal No. 785 (High Court of American Samoa, Trial Division, Dec. 8, 1972).

^{30/} Civil No. 2030-72 (D. D. C., decided June 8, 1973).

Discrepancies and anomalies have been almost the rule in the administration of American territories. Alaska and Hawaii were both incorporated Territories, yet their people were never permitted to elect their own Governors. Puerto Ricans, whose homeland has never been incorporated, have enjoyed that right since 1947; and the people of the unincorporated territories of Guam and the Virgin Islands were accorded that same right in 1970. The citizens of Alaska and Hawaii were subject to the Federal income tax, but were represented in the Congress only by a non-voting Delegate; Puerto Rico, unincorporated and exempt from Federal income taxation, has had precisely the same limited representation in its Resident Commissioner. (The only differences between Delegate and Resident Commissioner have lain in the names—and in the supposed "inherent promise" of eventual statehood for the Territory represented by a Delegate, a promise no longer acknowledged with the admission of Delegates from the District of Columbia, Guam, and the Virgin Islands to the Congress.)

Perhaps the strangest anomaly of all was the fact that the Philippines, when an unincorporated territory, had two Resident Commissioners, simultaneously, whereas Puerto Rico has always been represented by only one. And Alaska and Hawaii, both incorporated, had only one Delegate apiece.

B. Status of the Samoan people

The great majority of Samoans are "nationals," rather than citizens, of the United States.^{31/} As such, they owe permanent allegiance to the United States and, in return, are entitled to this Nation's protection. Unlike citizens of Guam, the Virgin Islands, and Puerto Rico, who may vote in all American elections if they migrate to the United States and establish residence in one of the States, the Samoan nationals cannot vote in any mainland election. They may travel freely in the States, however, and without passports or visas.

^{31/} 8 U. S. C., ~~1101A~~ (29), 1401, 1408.

A number of Samoans, as individuals, have become naturalized citizens, either through service in the American military or by the usual naturalization process. The latter procedure is a relatively simple matter for determined Samoans. With their own land considered American "residence" for naturalization purposes, they have only to fly to Hawaii or San Francisco, apply for citizenship at the nearest Federal court, and their objective is largely accomplished.

It is estimated that as much as 10 percent of the Samoan people are now American citizens.^{32/}

C. Organization of government

1. Suzerainty of the Department of the Interior

Since 1951, pursuant to Executive Order 10264 (signed by President Truman on June 29, 1951), the administration of American Samoa has been under the ultimate direction of the Secretary of the Interior, who, since that time, has delegated responsibility for overall administration to an office within that Department. The agency was known as the Office of Territories from 1950 to 1971, when it was abolished and its responsibilities transferred, briefly, to a newly created Deputy Assistant Secretary for Territorial Affairs, under the Assistant Secretary for Public Land Management. In the spring of 1973 the Office of Territories was resuscitated, but with a slightly altered name: Office of Territorial Affairs.^{33/}

The primary objective of the Office, currently headed by Director Stanley S. Carpenter, is to effect, in concert with territorial officials, improved living conditions both general and specific in all the outlying areas. Accordingly, it apprises insular representatives of sources of

^{32/} Van Cleve, Ruth G. The Office of Territorial Affairs, p. 60-61.

^{33/} Ibid., p. 158, 218; U. S. Congress. Senate. Subcommittee on Appropriations. Department of the Interior and Related Agencies Appropriations for Fiscal Year 1972. Hearings, 92d Congress, 1st session on H. R. 9417, part 3. Washington, U. S. Govt. Print. Off., 1971. p. 3962.

Federal assistance wherever available within the Washington bureaucracy; keeps the Secretary of the Interior abreast of economic, social, and political developments in all the territories; and proposes programs and policies of its own to be considered by Congress or the Executive Branch.^{34/}

2. Budget programs for American Samoa, FY1965 through FY1975

Table for fiscal years 1965 through 1975

1965

Dept. of the Interior budget authority		
A. Direct Congressional appropriations		\$ 246,089
B. Dept. of the Interior grants-in-aid		<u>5,067,912</u>
	Subtotal	\$5,314,001
Funds from sources other than Interior authority		
A. Local revenues (appropriations)		\$2,416,000
	Subtotal	\$2,416,000
Total, or program, budget	Total	\$7,730,001

1966

Dept. of the Interior budget authority		
A. Direct Congressional appropriations		\$ 286,974
B. Dept. of the Interior grants-in-aid		<u>3,795,000</u>
	Subtotal	\$4,081,974
Funds from sources other than Interior authority		
A. Local revenues		\$2,756,100
B. Balance of excess revenues & savings from 1964, 1965		<u>806,745</u>
	Subtotal	\$3,562,845
Total, or program, budget	Total	\$7,644,819

^{34/} U. S. Dept. of the Interior. Office of the Secretary. The U. S. Virgin Islands. [Washington, U. S. Govt. Print. Off., 1973?] p. [1] Pamphlet.

1967

Dept. of the Interior budget authority	
A. Direct Congressional appropriations	\$ 276,885
B. Dept. of the Interior grants-in-aid	<u>8,403,450</u>
	Subtotal \$8,680,335
Funds from other sources	
A. Local revenues	\$3,008,954
	Subtotal \$3,008,954
Total, or program, budget	Total \$11,689,289

1968

Dept. of the Interior budget authority	
A. Direct Congressional appropriations	\$ 369,183
B. Dept. of the Interior grants-in-aid	<u>9,495,595</u>
	Subtotal \$9,864,778
Funds from other sources	
A. Local revenues	\$3,326,087
	Subtotal \$3,326,087
Total, or program, budget	Total \$13,190,865

1969

Dept. of the Interior budget authority	
A. Direct Congressional appropriations	\$ 492,261
	<u>6,113,739</u>
	Subtotal \$6,606,000
Funds from other sources	
A. Local revenues	\$3,698,860
B. Applied carryovers	2,489,644
C. Other Federal grants	<u>332,000</u>
	Subtotal \$6,520,504
Total, or program, budget	Total \$13,126,504

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1970

Dept. of the Interior budget authority		
A. Direct Congressional appropriations		\$ 437,526
B. Dept. of the Interior grants-in-aid		<u>6,785,474</u>
Subtotal		\$7,223,000
Funds from other sources		
A. Local revenues		\$5,023,500
B. Applied carryovers		370,940
C. Other Federal grants		<u>823,084</u>
Subtotal		\$6,217,524
Total, or program, budget		Total \$13,440,524

1971

Dept. of the Interior budget authority		
A. Direct Congressional appropriations		\$ 400,303
B. Dept. of the Interior grants-in-aid		<u>7,841,697</u>
Subtotal		\$8,242,000
Funds from other sources		
A. Local revenues		\$5,753,100
B. Other Federal grants		1,110,600
C. Applied carryovers		<u>826,350</u>
Subtotal		\$7,690,050
Total, or program, budget		Total \$15,932,050

1972

Dept. of the Interior budget authority		
A. Direct Congressional appropriations		\$ 960,000
B. Dept. of the Interior grants-in-aid		<u>11,223,000</u>
Subtotal		\$12,183,000
Funds from other sources		
A. Local appropriations		\$ 6,939,000
B. Local appropriations—excess revenues		1,956,000
C. Other Federal grants		<u>6,183,000</u>
Subtotal		\$15,078,000
Total, or program, budget		Total \$27,261,000

1973

Dept. of the Interior budget authority	
A. Direct Congressional appropriations	\$ 520,000
B. Dept. of the Interior grants-in-aid	<u>14,510,000</u>
Subtotal	\$15,030,000
Funds from other sources	
A. Local appropriations	\$ 7,571,000
B. Local appropriations—excess revenues	2,797,000
C. Other Federal grants (received & anticipated)	<u>5,545,000</u>
Subtotal	\$15,913,000
Total, or program, budget	Total \$30,943,000

1974

Dept. of the Interior budget authority	
A. Direct Congressional appropriations	\$ 556,000
B. Dept. of the Interior grants-in-aid	<u>13,444,000</u>
Subtotal	\$14,000,000
Funds from other sources	
A. Local appropriations	\$11,377,000
B. Local appropriations—excess revenues	3,293,000
C. Other Federal grants (received & anticipated)	<u>6,286,000</u>
Subtotal	\$20,956,000
Total, or program, budget	Total \$34,956,000

1975

Dept. of the Interior budget authority	
A. Direct Congressional appropriations	\$ 626,000
B. Dept. of the Interior grants-in-aid	<u>13,324,000</u>
Subtotal	\$13,950,000
Funds from other sources	
A. Local appropriations	\$17,525,000
B. Other Federal grants (received & anticipated)	<u>5,651,000</u>
Subtotal	\$23,176,000
Total, or program, budget	Total \$37,126,000

Summary of totals for budget programs, FY1965-1975, inclusive:

Dept. of the Interior budget authority:

A. Direct Congressional appropriations	\$ 5,171,221
B. Dept. of the Interior grants-in-aid	<u>100,003,867</u>
Subtotal	\$105,175,088

Funds from sources other than Interior authority:

A. Local appropriations, excess revenues from local appropriations, other carryovers, and savings	\$ 81,934,280
B. Federal grants other than those from Interior	<u>25,930,684</u>
Subtotal	\$107,864,964

Total, or program, budget	Total	\$213,040,052
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Notes:

The figures comprising the table and summary were culled, laboriously, from hearings before the Senate and House Committees on Appropriations:

1965: U. S. Congress. Senate. Subcommittee of the Committee on Appropriations. Department of the Interior and Related Agencies Appropriations for Fiscal Year 1967. Hearings, 89th Congress, 2d session on H. R. 14215, part 1 (Feb. 17, 1966 through March 3, 1966) Washington, U. S. Govt. Print. Off., 1966. p. 94

1966: ——— Department of the Interior and Related Agencies Appropriations for Fiscal Year 1968. Hearings, 90th Congress, 1st session on H. R. 9029, part 1 (Feb. 23, 1967 through March 8, 1967) Washington, U. S. Govt. Print. Off., 1967. p. 162-163.

1967: ——— Department of the Interior and Related Agencies Appropriations for Fiscal Year 1969. Hearings, 90th Congress, 2d session on H. R. 17354, part 1 (Feb. 19, 1968 through Mar. 1, 1968) Washington, U. S. Govt. Print. Off., 1968. p. 116.

1968: U. S. Congress. House. Subcommittee of the Committee on Appropriations. Department of the Interior and Related Agencies Appropriations for 1970. Hearings, 91st Congress, 1st session, part 2. Washington, U. S. Govt. Print. Off., 1969. p. 560-561.

1969: U. S. Congress. Senate. Subcommittee of the Committee on Appropriations. Department of the Interior and Related Agencies Appropriations for Fiscal Year 1971. Hearings, 91st Congress, 2d session on H. R. 17619. Washington, U. S. Govt. Print. Off., 1970. p. 317-319.

1970: ——— Department of the Interior and Related Agencies Appropriations for Fiscal Year 1972. Hearings, 92d Congress, 1st session on H. R. 9417, part 1. Washington, U. S. Govt. Print. Off., 1971. p. 1114-1115.

1971: ——— Department of the Interior and Related Agencies Appropriations for Fiscal Year 1973. Hearings, 92d Congress, 2d session, part 3. Washington, U. S. Govt. Print. Off., 1972. p. 2938-2940.

1972: ——— Department of the Interior and Related Agencies Appropriations for Fiscal Year 1974. Hearings, 93d Congress, 1st session on H. R. 8917, part 3. Washington, U. S. Govt. Print. Off., 1973. p. 2763.

1973: ——— Department of the Interior and Related Agencies Appropriations for Fiscal Year 1975. Hearings, 93d Congress, 2d session, part 1. Washington, U. S. Govt. Print. Off., 1974. p. 718.

1974: Ibid., p. 717-718.

1975: Ibid., p. 718. In a telephone conversation on October 10, 1974 with Mr. J. David Wilson of the House Subcommittee on Interior and Related Agencies of the Committee on Appropriations, I was informed that the conference committee on H. R. 16027 (93d Congress) had agreed to cut \$50,000 from the proposed Interior Dept. budget of \$14,000,000. Otherwise, the figures were the same for the total budget as given in the proposed total budget that was inserted in the Senate hearings, 93d Congress, 2d session, part 1, p. 718. The cuts were: \$25,000 from the Governor's Office; \$21,000 from Administrative Services; and \$4,000 from the judiciary.

3. Insular government

(a) General

American Samoa is divided into three political districts comprising fifteen political counties, viz.: the Manu'a District, composed of the counties of Ta'u, Faleasao, Fitiuta, Olosega, and Ofu; the Eastern District, consisting of the counties of Sua, Vaifanua, Saole, Ituau, and Ma'uputasi; and the Western District, constituting the counties of Fofu, Leasina, Tualatai, Lealataua, and Ma'upu.^{35/}

The seat of government is at Fagatogo, a village on the south central side of Pago Pago Bay and situated about a mile to the southeast of the village of Pago Pago; it is the commercial as well as governmental center of American Samoa.^{36/}

(b) The Executive

The Governor and Lieutenant Governor of American Samoa are appointed by the Secretary of the Interior and serve for indefinite terms. The most recent Governor, John M. Haydon, served from August 1, 1969 until October 15, 1974, the effective date of his resignation.^{37/}

Until the Samoan people were permitted—by the Secretary of the Interior—to write their own constitution, in 1960 and 1966, the Governor was not only the chief executive but also completely overshadowed the legislature, which up to that time had been only an "advisory" body. Now his power has been somewhat reduced. He no longer may promulgate into law any of his own "urgent" proposals. A vetoed bill, moreover, can now be repassed at any session, regular or special, of the legislature. If the Governor does not approve the repassed bill within 15 days, he has to send it to the Secretary of the Interior, who makes final determination of its fate within 90 days.^{38/} In effect, however, the Governor retains a

^{35/} Rev. Constitution of American Samoa, Art. V, § 10, A. S. C., v.1, p. 39.

^{36/} Ibid., Art. V, § 9; U. S. Bureau of the Census. Census of Population, 1970, p. 56—3 (map).

^{37/} Washington Post, Aug. 7, 1974: B 7.

^{38/} Rev. Constitution, Art. II, § 9, A. S. C., v. 1, p. 29.

virtually absolute veto; the Secretary of the Interior almost always, if not invariably, has sided with the Governor.^{39/}

The Governor also retains no mean measure of influence on the judiciary. Whenever there is a vacancy in the office of either the Chief Justice or the Associate Justice, or in case of disability, disqualification, or absence on the part of either Justice, the Governor may designate a temporary replacement. He appoints the associate judges of the High Court—who are Samoan and are at least five in number—albeit upon the recommendation of the Chief Justice. And although only the Chief Justice may remove any of the associate judges—for cause—he can do so only after securing the Governor's recommendation.^{40/}

Operating under the Governor's authority is a score of Departments and Offices, among the more important of which are the Departments of Education, Medical Services, Administrative Services, Manpower Resources, Legal Affairs, Public Safety, Public Works, and Port Administration; the Offices of Economic Development and Planning, Marine Resources, Tourism, and Samoan Affairs. There is also the Governor's Office. And the number of boards and commissions totals two score.^{41/}

(c) The Legislature

(1) General

The legislature (called the "Fono") is bicameral, with a Senate of 18 members chosen in "open meeting" by county councils, and a House of Representatives containing 20 members elected by secret ballot plus an optional Delegate from Swains Island elected in open meeting. Senators serve for a term of four years; Representatives and the Delegate, 2 years. Elections extend to as much as four weeks following the first Tuesday

^{39/} Conversations at various times with the office of the Samoan Delegate-at-Large.

^{40/} 5 A. S. C. ~~203~~, 204.

^{41/} Office of Samoan Information. Annual Report, 1973, passim.

after the first Monday in November.^{42/}

Senators and Representatives alike are to be "reapportioned by law at intervals of not less than 5 years."^{43/}

The legislature has authority not only to legislate in areas of "local application," including the right to appropriate local funds, but is also entitled to be party to the drafting of Federal budget requests.^{44/} The latter authority, however, is largely a phantom power. The Governor has a relatively enormous staff to help him in preparing the requests; the legislature has virtually no assistance. And if the Governor rejects a given proposal offered by a legislator, the idea dies, abruptly; there is no appeal.^{45/}

(2) Qualifications of the legislators

Senators and Representatives alike must be U. S. nationals. A Senator has to be at least 30 years old at the time of his election; a Representative, at least 25. Both Senator and Representative must have lived in American Samoa at least 5 years, with the Senator a bona fide resident of the territory for at least 1 year next preceding his election and the Representative having to/a bona fide resident of the representative district from which he is elected for the same length of time. The Senator, also, must be the registered matai of a Samoan family who has fulfilled the obligations imposed upon him by the customs of his county.^{46/}

^{42/} Rev. Const., Art. II, ~~§~~ 1-2, 4-6, A. S. C., p. 25-29. There is a curious discrepancy between the Revised Constitution and the revised Code relative to election dates. The Code, published in 1973 and containing the Revised Constitution, nonetheless quotes the 1960 Constitution in citing the election provisions, stating that elections end "not later than three weeks" after the first Tuesday (emphasis supplied). The Revised Constitution, with its reading of four weeks, presumably takes precedence over the Code, which apparently, in this instance, was poorly edited.

^{43/} Rev. Const., Art. II, § 2, A. S. C., p. 27.

^{44/} Ibid., Art. II, § 1, A. S. C., p. 25.

^{45/} Conversations with the office of the Delegate-at-Large.

^{46/} Ibid., Art. II, § 3, A. S. C., p. 27-28.

(d) The Judiciary

The judiciary is dominated by the High Court of American Samoa, which supervises the entire court system of the territory.

The High Court itself consists of five divisions, subdivided into a number of departments. The divisions are the appellate, trial, probate, land and titles, and the newly created public health court.

Serving these divisions and departments alternately and in various combinations are the Chief Justice, the Associate Justice, and five associate judges. The Chief Justice and the Associate Justice are appointed from the States (although neither the U. S. Code, the Revised Constitution, nor the Samoan Code specifies that either Justice be a non-Samoan) by the Secretary of the Interior; each holds office during good behavior, being subject to removal by the Secretary for cause. The associate judges—all Samoan—are appointed by the Governor upon recommendation by the Chief Justice, and may be removed by the latter for cause, "after obtaining the recommendation of the Governor."

The Chief Justice or the Associate Justice (the two may never sit together at any session of any division of the High Court), presides at all sessions of all divisions except the matai title department of the land and titles division, the small claims department of the trial division, the traffic department of the trial division, and the public health court.

The Chief Justice designates the associate judges who are to sit with him during sessions of the trial, land and titles, and appellate divisions, as well as those associate judges who are to sit with the Associate Justice when the latter presides over sessions of the same divisions.

Sessions of the appellate division are held either before the Chief Justice and two associate judges, or the Associate Justice and a like number of associate judges.

The district courts—one for each village and presided over by a magistrate elected by the village council—constitute a separate system, though under the overall cognizance of the Chief Justice.^{47/}

^{47/} 5 A. S. C. chps. 1, 3, 5, 7, 9.

D. Elections

1. Suffrage

Voting for a member of the House of Representatives (Senators are chosen in open meeting by county councils) is the right of every otherwise qualified Samoan who has attained the age of 18, is a U. S. national, has lived in the territory for at least two years, and been a bona fide resident of the election district where he intends to vote for at least a year next preceding the election. No person, however, may vote if he is a ward, "non compos mentis," insane, or an unrehabilitated ex-felon.^{48/}

2. Nominations

There are no organized political parties in American Samoa. Candidates may label themselves as "Democrats" or anything else—including rather exotic designations—but these distinctions (when there are such) are whimsical, public relations gimmicks.

Every candidacy for membership in the House of Representatives is by petition, in the form prescribed by the election commissioner and signed by at least 25 registered voters in the given election district. The executed petition is filed with the commissioner on or before October 15 of each election year; the commissioner, after ascertaining that the candidate is eligible for election, then has printed a ballot for him and all other qualified nominees within that district.

At least 10 days before the election, the commissioner distributes sample ballots among the qualified voters to ensure that the names of all the nominees are widely known.^{49/}

^{49/} Rev. Constitution, Art. II, § 7, A. S. C., p. 29.

^{49/} 19 A. S. C. §§ 204, 205.

IV. History

A. Exploration and exploitation

The first clearly recorded sighting of the Samoan archipelago by a Westerner was that by the Dutch explorer Jacob Roggwein, who entered Samoan waters on June 14, 1722. The second known explorer to view the islands was the Frenchman Louis Antoine de Bougainville, whose expedition sailed by the Manu'a group in May of 1768 and who dubbed the islands "L'Archipel des Navigateurs," in tribute to the sailing skill of the natives. (For generations thereafter the entire Samoan group was known to the western world as the "Navigators Islands.") The first expedition actually to land on any of the islands was that of another Frenchman, Jean Francois La Perouse, who, however, soon incurred the ire of the indigenes and was chased away, with considerable loss of life, in December 1787.^{50/}

The islands were "opened" in the early years of the 19th century by whalers (principally American) and, from 1830 on, by English missionaries. German merchants soon followed, and by the middle of the century had built up a flourishing trade in coconut oil and copra. Meanwhile, Lt. Charles Wilkes, under orders to survey the entire "Southern Ocean" on behalf of American whale-hunters, reached Pago Pago harbor on the island of Tutuila in October of 1839 and proceeded to survey and chart all of the islands in the archipelago. He also negotiated, on his own, a code of rules with certain chiefs on the island of Upolu in western Samoa, which purported to protect Americans while curtailing abuse of the natives; and he even had the temerity to appoint Englishmen to serve as acting American consuls to Apia, the principal village on Upolu (as well as in all of Samoa) and the busiest port in the islands.

It was not until 1852 that Washington began regularly to appoint American citizens as consuls to Apia. The Samoans had no king, no central government of any kind; consequently, the port town of Apia became the focus for European and American intercourse—commercial and otherwise. But

^{50/} Ryden, George Herbert. The Foreign Policy of the United States in Relation to Samoa. New Haven, Yale University Press, 1933. p. 5-9.

with the copra trade controlled largely by German merchants and to a lesser extent by their British counterparts, the American consuls had little to do but arbitrate disputes between American whalers and the natives.^{51/}

With the advent of the first Grant administration, however, Samoa began to loom larger in the eyes of official Washington. Grant and his Navy Department advisers were not only strong believers in America's "manifest destiny" to expand territorially, but were also convinced that it was time for American commerce to become dominant along the South Pacific trade routes. The Samoan islands, lying in a direct line between San Francisco and Australia and New Zealand, could serve as an invaluable maritime way station, as well as a coaling depot for the American Navy, which itself had to be expanded if American trade were adequately to be protected.^{52/}

On February 14, 1872 Commander Richard W. Meade of the U. S. S. Narragansett arrived in Pago Pago harbor with instructions from the U. S. Minister Resident in Honolulu (and encouragement from the U. S. Pacific Fleet Admiral) to promote "by all legal and proper means, American interests and enterprises."^{53/} Three days later, Meade drew up an agreement with Chief Mauga of Pago Pago whereby, in exchange for a promise of American protection for the people of Pago Pago (no other area was mentioned), the United States would receive the exclusive "privilege" of establishing a naval station in Pago Pago harbor.^{54/}

Commander Meade evidently greatly impressed the Samoans: several months after he negotiated the treaty with Chief Mauga, a large number of the paramount chiefs of Samoa convened in Apia and drafted a letter to President Grant begging him "to annex these our islands to the United States of America."^{55/}

^{51/} Ibid., p. 12-44; Tansill, Charles C. *The Foreign Policy of Thomas F. Bayard, 1885-1897*. New York, Fordham Univ. Press, 1940, p. 3-5.

^{52/} Ryden, George Herbert. *The Foreign Policy of the United States in Relation to Samoa*, p. 42-48.

^{53/} Ibid., p. 60-61.

^{54/} U. S. Congress. House. Message from the President transmitting a report from the Secretary of State and accompanying papers; A. B. Steinberger. [Washington, U. S. Govt. Print. Off., 1876] (44th Congress, 1st session. House. Executive document no. 161) p. 6-7.

^{55/} Ibid., p. 4.

On May 22, 1872, some four months before receiving the Samoan chiefs' request for annexation (delivery of trans-Pacific mail sometimes took several months), Grant submitted the Meade treaty to the U. S. Senate for consent. Having been stung in 1870 by the Senate's rebuff of the treaty he had engineered to annex the Dominican Republic, Grant was somewhat diffident in his recommendation that the agreement with Chief Mauga be "favorably" considered. The Foreign Relations Committee, to which the treaty was immediately referred, promptly shelved the measure. The committee was mindful that the Nation was preoccupied with such weighty matters as Reconstruction and would not take kindly to American involvement with a far distant and exotically alien people. So the rights in Pago Pago so willingly surrendered by Chief Mauga were allowed to lapse.^{56/}

The committee's negative reaction to the Meade treaty was especially discomfiting to William H. Webb, a prominent shipbuilder out of New York who owned a steamer line operating between San Francisco and Australasia. Webb had anticipated an American subsidy for his line to supplement the one he had obtained from the New Zealand government, and fully expected to utilize the unrivaled facilities in Pago Pago harbor that the Meade treaty had provided exclusively for the use of Americans. As a last resort, Webb induced President Grant to appoint, in March of 1873, a mutual friend, one Colonel A. B. Steinberger, as special commissioner, or agent, to Samoa. Steinberger would assess conditions both political and commercial and, it was hoped, would return with an "official" report that would so impress the Senate that its Foreign Relations Committee would be persuaded to report out the Meade treaty, pigeonholed since May of 1872.

Steinberger arrived in the islands in August 1873. He was quickly apprised that the high chiefs on both Tutuila and Upolu greatly desired that "'Amerika' would extend its protection over them and instruct them in law-making." The plea for self-subjugation to Washington was prompted, largely, by the extensive loss of lands to foreigners during the terrible civil war that had raged in two stages—from April 1869 to

^{56/} Ibid., p. 6; Tansill, Charles C. The Foreign Policy of Thomas F. Bayard, p. 9.

August 1870 and from February 1872 to May of 1873—among paramount chiefs vying for inter-island supremacy. Ironically, Americans had been among the principal perpetrators of thinly disguised thefts of Samoan lands: e. g., agents of the Polynesian Land Co., out of San Francisco and Hawaii, would persuade naive and/or desperate Samoans to trade tracts of their own families' ancestral lands for arms, ammunition, and firewater.^{57/}

Having finally tired of fighting among themselves, the Samoan chiefs promulgated, on August 21, 1872, the first general constitution for the islands. The head of the government, to be based on Mulinu'u on the island of Upolu, was to consist of a council of seven paramount chiefs called the "Ta'imua," which was to be presided over by a different one of these chiefs each year and who, in turn, was to be assisted by four chiefs chosen by the Ta'imua from among the Pule, a group of high "orators" who, among other functions, were to "see that the laws were executed."

Although proud of their "constitution," the chiefs of the Ta'imua and Pule still preferred to be placed under the hegemony of the United States; and in another letter to President Grant—this one drafted in October 1873—strongly endorsed Special Agent Steinberger's objective, which they assumed to be, actually, "the union between the government of Samoa and America."

It was more than a year later before Grant replied and then did so in ambiguous terms. It was his "prayer" that Samoan "unity and independence . . . may ever remain inviolable, except by the general consent of your people."^{58/}

^{57/} Tansill, p. 9; Gilson, R. P. Samoa 1830 to 1900; the Politics of a Multicultural Community. Melbourne, 1970. p. 281; U. S. Congress. Senate. Message from the President of the United States, transmitting a communication from the Secretary of State, and the report by which it is accompanied upon Samoa or the Navigator's Islands. [Washington, U. S. Govt. Print. Off., 1874] (43d Congress, 1st session. Senate. Executive Document no. 45) p. 2, 34-41.

^{58/} Ryden, p. 46-48; House Exec. Doc. no. 161, 44th Cong., 1st sess., p. 77. Emphasis supplied.

Steinberger's mission of "investigation" accomplished, the special agent returned to the States in December 1873. Sixteen months later he was back in the islands on a second mission, to report on any changes in conditions and to convey, not a pledge of support for eventual union with the United States, but rather, in the words of Secretary of State Hamilton Fish, Washington's "lively interest . . . in the happiness and welfare" of the Samoan people. The colonel himself had hoped to bring the Samoan leaders assurances of America's willingness to answer their prayers for a protectorate, if not outright annexation. He was to do much more than Grant or Fish expected, or anyone could imagine.

Upon his return to Samoa in April 1875, Steinberger found that the political picture in the islands had undergone radical change. The Ta'imua oligarchy had fallen into disfavor, and the "Faipules"—the chiefs of the various Samoan districts—had decided to establish a dual kingship. Unable to choose a single king between the leaders of the house of Malietoa and the house of Tupua, they determined that Laupepa of the former family and Pulepule of the latter should reign jointly.

The chiefs then asked the foreign consuls to help them draft a new constitution (the first one had provided for the oligarchy); but when Steinberger returned to Apia on his second mission, the chiefs dismissed the consuls and turned exclusively to the American charmer for advice. Wildly exceeding his instructions from Secretary Fish, Steinberger devised an entirely new and utterly unique scheme of government. Drawing upon both the British and American systems and from his own unlimited imagination, Special Agent Steinberger proposed a constitutional monarchy severely limited by a premier, who shortly turned out to be Steinberger himself.

The chiefs accepted Steinberger's advice to abandon the idea of twin kings, and agreed to set up a throne rotating, for four-year periods, between the houses of Malietoa and Tupua. Laupepa was chosen to begin the cycle.

All legislative powers under the Steinberger constitution theoretically were to be vested in a "House of Chiefs" (or "Nobles") and a "House of Representatives." The former chamber, to be known as the "Ta'imua"

(meaning leader) was to consist of 15 chiefs nominated in open meeting and approved by the king; they would constitute an advisory body and assist in the making and maintaining of laws. The lower house (the "Faipule," meaning to 'do or make and to order) would have a membership not exceeding one representative for every 2,000 persons, to be elected by ballot by the people in each district. No measure could become law without the approval of a majority of the representatives.

Together, the houses of this "parliament" were authorized, among other powers, to levy and collect taxes, to pay debts, to provide for the common defense; to borrow and coin money; to regulate foreign commerce; and to build post offices and roads.

The king, theoretically, was to be far more than a figurehead. He was to control the "army," have "direction" of the public lands and the poll and land taxes, be the chief judge of the supreme court, and the executer of laws and treaties. But the king would hardly mean a thing without the "Premier of the Kingdom," one of his own appointees but without whose knowledge he was incapable of acting in any official capacity. The premier, indeed, had a large hand in every phase of government. He had the right, among other prerogatives, to participate in floor debates in both Houses, and was presiding officer of the upper chamber.

King Laupepa unhesitatingly offered the premiership to Steinberger, still an American citizen and still a special agent of the U. S. State Department. Steinberger accepted, with alacrity and with only the slightest qualm (the fact of his American citizenship did bother him a bit), and the Samoan government became, in effect, his government.^{59/}

But the American adventurer was to remain suzerain of a foreign kingdom for only half a year. His power and influence soon aroused the jealousy of the American and British consuls at Apia, and they conspired with Captain Stevens of the British warship Barracouta to put great

^{59/} Tansill, p. 10; Hyden, p. 122; U. S. Congress. House. Message from the President of the United States in response to the resolution of the House of Representatives in relation to affairs in Samoa. [Washington, U. S. Govt. Print. Off., 1888] (50th Congress, 1st session. House. Executive Document no. 236) p. 141, 194-198, 233.

pressure on King Laupepa by presenting, in concert, charges that Steinberger had arrogated unseemly power unto himself and had, indeed, betrayed Samoan interests. Laupepa reluctantly sanctioned Steinberger's arrest, whereupon the premier, on February 8, 1876, was apprehended by Captain Stevens and American Consul Foster and imprisoned aboard the Barracouta before being transported, a month later, to the Fiji Islands.

Steinberger's fall pleased most of the foreigners in Apia, although initially they had been favorably impressed by his institution of law and order. But his crackdown on booze consumption soon had the non-prohibitionists allied with the missionaries against him; the latter group regarded him as a hypocrite, hurling unsubstantiated charges that he was morally unfit, having developed, they claimed, excessive fondness for both gin and girls. A factor of even greater importance in his decline from grace was the fear on the part of German and British residents that he was bringing the islands to some kind of a rapprochement with the United States.

Even today the verdict on Steinberger the man remains in abeyance. To some, he was an amoral opportunist who was so venal as to become a secret employee of the German firm of Cesar Godeffroy & Son. (Steinberger later admitted to being under contract to Godeffroy, but swore that the relationship was ephemeral.) Others point out that he was revered, unanimously, by the Samoan people. And certainly, if he really had had plans for an American protectorate and they had been realized, Samoa would have been spared a quarter century of revolution and war; and the German, American, and British Governments would have avoided confrontations that, at times, nearly resulted in war among themselves.

The Samoan legislature—the Ta'imua and Faipule (hereafter referred to as the Ta'imua)—was so incensed over Laupepa's surrender of Steinberger that they forced the king to resign that same day, February 8, 1876.^{60/}

For the next three years the Ta'imua served as Samoa's collective executive as well as legislature. It was to prove a troubled time.

^{60/} Tansill, p. 11; Ellison, J. W. The Adventures of an American Premier in Samoa, 1874-1876. Pacific Northwest Quarterly, v. 27, Oct. 1936: 324-335, 343-346.

B. Samoa seeks protection against Germany

Fearful that imposition of a German protectorate over the islands was imminent in view of the commercial ascendancy of German merchants, represented particularly by the Hamburg firm of Cesar Godeffroy and Son, the manager of which was the consul for the German Empire and who had succeeded in greatly expanding his company's land holdings, the Ta'imua sought American protection (the Americans as a group were much less arrogant—and contemptuous—than the Germans) through outright annexation or under a protectorate, whichever Washington preferred. President Hayes was inclined to be accommodating, but the Senate would accept only a treaty of "friendship and commerce."

Approved by the Senate on January 30 and ratified by the President on February 8, 1878, the treaty guaranteed to the United States the right to establish a coaling and supply station in and on the shores of Pago Pago harbor (but it was not to be an exclusive right such as that granted in the Meade treaty of 1872), and all American vessels and citizens were to have full freedom of commerce in all other Samoan ports. The United States, in return, promised to use "its good offices" to adjust any differences that might arise between the Samoan government and that of any other nation on friendly terms with the United States. This latter provision was to prove especially significant; all subsequent interventions by the United States to protect Samoan sovereignty were to be based on this promise of assistance.^{61/}

But assistance from "Amerika" (there is no "c" in the Samoan language) was too little, too late, or altogether absent. It was not at all evident when Germany, with the show of a warship in Samoan waters, forced a treaty of commerce upon the Ta'imua. Ever suspicious of German designs and thoroughly disliking Germans as individuals, the Samoans for

^{61/} Ryden, p. 153-154, 166-167, 191-192, 194-196, 198-199; Richardson, James D., comp. Messages and Papers of the Presidents. New York, Bureau of National Literature [1897] v. IX: 4421; Malloy, William M., comp. Treaties, Conventions, International Acts, Protocols and Agreements between the United States of America and Other Powers, 1776-1909. Washington, U. S. Govt. Print. Off., 1910. (61st Congress, 2d session. Senate. Document no. 357) v. 2: 1574-1576.

years had rebuffed demands from Berlin for a treaty, having reason to suspect that any commercial convention would be one sided. Their suspicions were confirmed. The Germano-Samoan treaty, signed on January 24, 1879, contained a number of onerous provisions. One stipulated that the Samoan government had to guarantee possession to Germans of all the lands they had "bought" through the years from Samoans; actually, most of such lands had been traded, under duress or guile, for guns and gin. Another article exempted German ships from the payment of tonnage duties and freed them, indeed, from "any restrictions." An article of special interest to Americans was that granting Germans exclusive use of Saluafata harbor (east of Apia) for a naval station. It will be recalled that the American treaty of the preceding year accorded the United States the right to establish a naval station in Pago Pago harbor, but it was not an exclusive right.^{62/}

After the Ta'imua was forced to the bush by dissident chiefs, Laupepa's uncle Talavou established himself as king. Washington did not recognize the "usurper" but London did; and on August 28, 1879 the British negotiated their own treaty with Talavou's representatives. With the United States having continually spurned Samoan pleas for some kind of union with America, the Samoans now looked to Queen Victoria for protection against Germany. Not surprisingly, the treaty proclaimed that no protectorate by a single power would be established over Samoa unless that power were Britain itself. The British were favored further in that no Samoan officer would be permitted to sit as an associate judge in trials, civil or criminal, wherein British subjects were defendants against Samoan plaintiffs. The American and German treaties contained no such provisions. Another major provision in the Anglo-Samoan treaty granted Britain the right to establish a naval station and coaling depot at any harbor except Apia and Saluafata, which meant that the British had the right—if they chose to exercise the option—to share Pago Pago harbor with the Americans, although the latter had first choice of site.^{63/}

^{62/} Ryden, p. 160, 215, 217; House Executive Document no. 238, 50th Congress, 1st session, p. 128.

^{63/} Ryden, p. 216, 230; House Executive Document no. 238, 50th Congress, 1st session, p. 130-132.

Fully cognizant that domestic tranquility was a tenuous, almost ephemeral phenomenon, the American, British, and German consuls in Apia signed, on September 2, 1879, a convention among themselves, which was designed to neutralize the district and municipality of Apia. A board consisting of the three consuls was set up to govern the area. It alone was to have responsibility for making and enforcing regulations concerning such diversified matters as peace, public works, sanitation, and taxation. At the further cost of Samoan autonomy, some beneficial results were soon evident. Once known as the "Hell of the Pacific," the Apia district under the consuls' administration was transformed into a relatively placid community. Somewhat more significantly, the consular convention presaged the tripartite control of Samoa formalized and expanded in the 1889 Treaty of Berlin.

Although the convention was never officially recognized by the United States, it served as a "working arrangement" and Washington made use of it until its dissolution resulting from the German consul's withdrawal in 1887.

In March 1880 the three consuls induced King Talavou to agree that the tripartite foreign "supervision" of peace, public works, etc. be extended to all of Samoa, and that an executive council composed of three foreigners be instituted to devise and enforce requisite regulations. As compensation, the consuls pledged lifelong support and "protection" of the king. After his death, the consuls' home governments would determine his successor.^{64/}

When Talavou died, on November 8, 1880, the houses of Tupua and Malietoa, led by Tamasese and Laupepa, respectively, once again vied for the throne. The German consul favored Tamasese, on the ground that the Malietoa family had shown excessive partiality to the Americans, but the American and British consuls stood firm in demanding that Talavou's nephew, Laupepa, who had been serving as regent since December 23, 1879, be restored to the kingship that the Ta'imua had forced him to abandon in February of that year. On March 19, 1881 Laupepa was proclaimed king

^{64/} Tansill, p. 16, fn. 59; House Executive Document no. 238, 50th Congress, 1st session, p. 132-134, 207-208.

by his adherents. But Tamasese's followers hailed their own leader as the rightful ruler. The impasse was not resolved until the American and British consuls persuaded chiefs of the rival houses to meet aboard the American warship Lackawanna and work out an accommodation. On July 21, 1881 the "Lackawanna Agreement" was proclaimed, whereby Laupepa was to be generally recognized as king and Tamasese as vice king. About a year and a half later, the "operating" organs of the Samoan government—the executive council (created as a result of the 1880 agreement with Talavou and consisting of an American, a German, and a Briton) and the Ta'imua—agreed that Laupepa could remain as king for another seven years, but at the end of that period someone else might be elected to replace him.

Washington not only recognized Laupepa as the de jure king, but also implied that whereas the United States would not dispatch military forces to help him maintain his throne, it would not be overly exercised if the other powers were ever actively to intervene for that purpose. At the same time, the Department of State made it quite clear that it would object strenuously to any move by any power to annex Samoa, with or without the Samoans' consent.^{65/}

In November 1883, after being badgered by one John Landon, a New Zealander who had come to Samoa to stir up sentiment among the natives for incorporation within the British Empire, and perhaps fearful that civil war might rend his kingdom anew if compliance with Landon's demands were not forthcoming, Laupepa sent off a petition to Queen Victoria praying for British annexation. "I and three-fourths of the chiefs and people of Samoa," he wrote, "wish to see put up the flag of Great Britain at once."^{66/}

Learning of the petition, the American consul at Apia immediately sent off a despatch to Washington, which just as quickly gave an unequivocal response to a less than breathless world: "This Government would object to the destruction of the independent existence of any insular community

^{65/} Tansill, p. 15-17; Hyden, p. 270; House Executive Document no. 238, p. 207-208.

^{66/} House Executive Document no. 238, p. 159-160.

to which we are bound by treaty."^{67/} American apprehension was allayed after the British Foreign Office did not bother even to answer the petition. The Queen's ministers, at that time, could not have cared less about Samoa; with German commercial interests firmly entrenched in the islands and overshadowing both the holdings and pretensions of all other nationals, London was not about to challenge either Berlin or Washington over an archipelago whose attractions, to the British, were largely scenic. It was not long, however, before the guardians of the Empire felt obliged to present at least a facade of concern over the fate of Samoa if only to placate the governments of Australia and New Zealand, whose own ministers looked with increasingly covetous eyes upon the islands both as a potential area for settlement and as a bastion against German expansion in the Pacific.

Fears in Australasia that Germany expected to make Samoa the first of her colonies were not unwarranted. By 1884 Bismarck had become wedded to an imperialistic policy, and Samoa was singled out as the initial prize to be acquired.

Harassed throughout 1884 by the German consul, Dr. Stübel, who demanded concessions that would lead to a protectorate, Laupepa, on November 5, 1884, dispatched another petition—via the Governor of New Zealand—to Queen Victoria beseeching her protection, as well as assumption of Samoan sovereignty. It was "entirely at the disposal of your Majesty," he submitted, "as to whether it is better for us to become an English colony or be connected with the Government of New Zealand." Samoan "hearts are grieved and our fear is very great indeed with regard to other Governments [Germany] who desire to take possession of our Government, which is not according to our wish; therefore we entreat your Majesty that you will speedily come to our assistance, in order that you may save us"^{68/}

Just five days after he sent his plaintive note to Victoria, Laupepa was forced by Dr. Stübel—backed up by the appearance of two German

^{67/} Tansill, p. 17.

^{68/} Ibid., p. 17-22; Ryden, p. 252, 408-409; House Executive Document no. 238, p. 159-160.

warships—to sign an agreement which reduced Samoa virtually to a German satellite. Humiliated, Laupepa sent off still another appeal to Victoria, but the petition, like all its predecessors, was ignored. The beleaguered monarch then wrote a letter to the German Emperor, complaining of the actions of Dr. Stübel and announcing that his government was "withdrawing" from the convention imposed by the German consul on November 10, 1884, an agreement which had been "brought about" by "very improper" methods.

Enraged when he got wind of Laupepa's letter-writing, Dr. Stübel, on January 23, 1885, hoisted the German flag at Mulinuu, the Samoan seat of government, and informed Laupepa that inasmuch as Germans had been treated with "unkindness and injury" and Germany slandered as a nation of robbers, slaves, and atheists, he had decided to "take possession" of the entire municipality of Apia as security until such time as the Samoan government agreed to make "German interests secure."^{69/}

Early in February 1885 Bismarck promised to disavow Dr. Stübel's arrogation of Samoan sovereignty; but in the meantime, the German consul had helped to foment a revolution against Laupepa. The rebels at once named Tamasese, the vice king, as sole king and were to continue to support him against Laupepa until the latter was forcibly deposed by the Germans—in 1887. The American and British consuls reacted by reaffirming their continued support of Laupepa.

It was at this juncture—March of 1885—that Thomas F. Bayard became the American Secretary of State. Bayard immediately cautioned the American consul at Apia not to give even the appearance of working against Germany, or to interfere in the revolution headed by Tamasese, but, at the same time, he made it clear to both London and Berlin that the United States would take umbrage at any attempt by any foreign power to annex Samoa.

German-American relations had already become strained. Germany had cut off imports of American pork, alleging that it was loaded with trichinae, and tariff disputes threatened to turn the mutual irritation into an international feud. In 1884 relations had so worsened that the American Minister to Berlin was recalled. Anxious to dispel the clouds,

^{69/} House Executive Document no. 238, p. 5-7, 210, 225, 212-213.

Bayard went out of his way to be friendly, and Bismarck responded in kind. But Bayard was never to lose his suspicion of the Iron Chancellor's intentions relative to lands and islands not already nailed down.

His mistrust was well founded. After Bismarck learned from British spokesmen in 1884-85 that London was not interested in acquiring Samoa and had received hints in responsible quarters that Britain would not be seriously offended were Germany to grab the islands for herself, the Chancellor began seriously to think of doing just that. But he soon learned from Bayard that the United States was implacably opposed to annexation of Samoa by any power.

Despite indications of British indifference to German aspirations toward Samoa, London's policy in the middle 1880s was not crystal clear. There was, in fact, no consensus in the British Colonial Office. Mindful of Russian threats against India and consequently of the need for Germany's neutrality if not friendship, policymakers were loath to give Berlin offense. They wondered whether it would be worthwhile even to resist German annexation if Britain and her colonies were assured by Germany that, in such event, they would receive most-favored-nation treatment in the islands. (But they could not appear to support Germany; New Zealand and Australia would be outraged.) On the other hand, they were aware that the United States probably would be willing to join in efforts to maintain Samoan independence while securing unfettered commercial privileges for all nations. No clear-cut decision was reached until just prior to the Washington Conference of 1887, when Britain, for the price of German acquiescence in British designs and operations elsewhere, sided with the Reich in the latter's demand for a German protectorate over Samoa.

The consequences to the United States of Britain's early indecision and subsequent collaboration with Germany were incalculable. With the British, in effect, giving Berlin a free hand in the South Pacific from March 1885 (particularly after June 1887) up to the summer of 1898, rivalry between Germany and the United States over Samoa became progressively bitter; and with the press in both nations fanning the coals of mutual suspicion and hostility up to the partition of the islands in 1899, the legacy of dislike left by contentions over Samoa constituted a not

insignificant step along the road to war in 1917.

Late in December 1885, the German Minister to Washington, von Alvensleben, remarked pleasantly to Bayard that Germany hoped to establish a protectorate over Samoa. Appalled, the Secretary emphatically rejected the idea, even though Alvensleben promised that all American rights in the islands would be protected. Only a month before, Bayard had formally enunciated the essence of America's Samoan policy to the British Minister to Washington, and that intelligence, presumably, had been transmitted with little delay to the German legation. The United States would not "allow" any one nation to acquire commercial "preference" and accordingly wanted independence "assured" for the archipelago. In furtherance of this policy, the United States expected to act in cooperation with both Britain and Germany.^{70/}

Meanwhile, in that same month of December 1885, King Laupepa had dared^u to leave Mulinuu, the "capital," and take up residence in Apia proper, where, with equal effrontery, he raised the Samoan flag without the German consul's permission. Dr. Stübel promptly had a sailor from a German warship lower it. Immediately upon hearing of this latest outrage to Samoan sovereignty, Bayard cabled the American Minister to Berlin to inform the Germans that the United States expected that its rights under the 1878 treaty with Samoa would suffer no impairment. Bismarck at once disavowed his consul's action and gave assurance that the status quo ante Stübel would be maintained.

By the end of March 1886 the British Foreign Secretary, Lord Rosebery, had become so alarmed by the unrest in Samoa, and the threat it posed for British missionaries and merchants, that he suggested a three-power investigation of Samoan conditions be made with the view of ascertaining how the islands could best be governed. Bayard quickly complied, but Bismarck, probably hoping that the German-hated Laupepa would soon be supplanted by the Samoans themselves in favor of the German puppet Tanasese, politely demurred.^{71/}

^{70/} Tansill, p. 21-30, 46-47.

^{71/} Ibiq., p. 31-32; Ryden, p. 300.

Two months later Bayard received the shock of his life when he learned that the American consul at Apia, Berthold Greenebaum, had, on May 16, 1886, raised the American flag over the Samoan ensign at Apia to indicate that the United States had assumed a protectorate over all of Samoa. Bayard had cautioned Greenebaum specifically against taking sides in the unpleas- antries prevailing between the Samoan government and the German consul.

Greenebaum's extraordinary, and seemingly defiant, behavior was prompted by Laupepa's written appeal to the American consul for "assistance and protection" in the face of mounting pressure from the rebel Tamasese. Greenebaum responded immediately with a proclamation in which he ordered, in "obedience" to Laupepa's request and in the name both of the king and the United States, "all the people within this Kingdom to live peaceably and quietly, and [that] all persons who may have assembled for the purpose of opposing the government of King Malietoa forthwith to disperse . . ."^{72/}

Encouraged by Greenebaum's friendly—and unneutral—attitude, Laupepa readied his forces for all-out war against Tamasese, but was restrained, at first, by Greenebaum and the British consul, both of whom promised to contact Tamasese and try to induce him to agree to a reconciliation or, at the very least, to promise to keep the peace. The rebel chieftain, however, spurned all overtures; and Laupepa prepared to advance upon his rival.

Realizing that his own interference in Samoan affairs had gotten out of hand and that a generally disastrous, full-scale war was about to erupt, Stübel reversed his policy. He lowered the Imperial flag at Apia, announced the revocation of Germany's sovereignty over the municipality, and, for the first time, began to cooperate with his consular colleagues. But his change of heart was also prompted by instructions from Berlin, whose backtracking "was due no doubt to the fact that both Great Britain and the United States were opposing the German encroachments [the threat of civil war, enhanced by German excesses, had made the British a bit less tolerant of German aggressions in Samoa], and until Prince Bismarok could win over Great Britain the status quo would be maintained. A year later when Great Britain and Germany were aligned [during and after the Washington

^{72/} Ryden, p. 298, 306-307; House Executive Document no. 238, p. 274-275, 291.

Conference] against the United States, Prince Bismarck made another bid for German ascendancy in Samoa."^{73/}

On May 27, 1886 Stubel joined Greenebaum and the British consul in issuing a proclamation designed to show a united big-power front for peace:

We, the consuls of Germany, Great Britain, and the United States of America, hereby give notice that we and our Governments do not, and never have, in any way ever recognized Tamasese as King of Samoa [this was not altogether true: Stubel for months had been encouraging Tamasese], and order all Samoans to return to their homes, and remain quiet and peaceable.

And we further demand the continued enforcement of the convention [of September 2, 1879], especially with regard to the neutral territory of Apia.^{74/} [Note the imperative, as though the consuls constituted the ultimate authority in Samoa rather than the king and the parliament]

C. Prelude to a joint protectorate

When Bayard learned, on June 1, 1886, that Consul Greenebaum had pursued a foreign policy of his own in proclaiming an American protectorate over Samoa, the Secretary immediately disavowed the consul's actions, and then suggested to Berlin and London that their Ministers in Washington convene with Bayard to try to work out a plan for ensuring stability in the islands. The indispensable provisions underlying any agreement, the Secretary insisted, would be support by the three powers of a competent chief (or king) elected by the "natives," and a joint declaration by the powers in favor of neutralization and against annexation or the imposition of a protectorate by any one of them. This, of course, would, in effect, mean tripartite control, and would constitute an aberration from the long-standing American policy of no entangling alliances. From this proposal was to develop the inconclusive Washington Conference of 1887.

London immediately agreed to Bayard's suggestion provided that Berlin also assent. After delaying his response for several weeks, Bismarck

^{73/} Ryden, p. 317; House Executive Document no. 238, p. 275.

^{74/} House Executive Document no. 238, p. 292.

posed no objection other than to propose that before the convening of a three-power conference in Washington, commissioners from all three nations be sent to Samoa to secure "full information" on conditions there and report back to their respective governments. The proposal was accepted, and by late August 1886 the three commissioners had been chosen.^{75/}

The British commissioner, John B. Thurston, was the first to submit a report, doing so on October 1, 1886. Highly critical of the Samoan people, he nevertheless did not recommend the assignment of a mandate to any of the powers. He proposed, instead, that the Samoan government include "three foreign members," as well as a foreign magistrate"; with such assistance, it was "possible that a native government might in time be established on a satisfactory footing."^{76/}

The German commissioner, Herr Travers, submitted his report to Bismarck on December 8, 1886. As could be expected, it supported the Chancellor's contention that Samoa should be mandated to Germany. More than one half of all the foreigners in Apia were either German nationals or spoke German; and the business statistics were impressively in Germany's favor:

The business done in Samoa by English firms in the year 1885 amounted to \$90,000; that done by American firms amounted to \$123,000; while the business of the colonies of New Zealand and New South Wales amounted to \$48,000, making a total of \$261,000. The trade carried on by the German firms with the Samoan group alone amounted to \$576,413, being considerably more than double the rest of the entire foreign trade with Samoa, while if we include the trade carried on by the German firms at Apia with the other South Sea Islands, which amounted to \$1,005,175, it was equal to nearly four times the trade of all the other foreign firms in Samoa.^{77/}

The American commissioner, George H. Bates, who submitted his report on December 10, 1886, called for an American mandate, asserting that Germany's economic predominance in Samoa actually constituted a

^{75/} Tansill, p. 33-36.

^{76/} House Executive Document no. 238, p. 276,286.

^{77/} Ibid., p. 261-262.

compelling reason for denying Berlin control over the islands. Britain, too, should be barred from hegemony inasmuch as her own policy was one of "annexation and acquisition" in the South Pacific. The "only solution" was for the United States, which had no "disposition to absorb territory in that region," to be selected as the single power with oversight control.^{78/}

The opposition to German control expressed by Mr. Thurston, the British commissioner, was not endorsed by his home government. In August 1887 Count Herbert Bismarck, the Chancellor's son, reported on a most significant colloquy that had just occurred in London between him and Lord Salisbury, the British Prime Minister:

I [Count Bismarck] . . . expressed the hope that the British would continue to support us in Samoa as loyally as we had supported it in Egypt [the British, with considerable difficulty and some embarrassment, had occupied that strategic crossroads]. Lord Salisbury replied with a hearty 'certainly,' and merely added that he hoped we should not make war on Samoa. He was quite pleased when I said-'No, not against Malitoa [sic] personally, but we wish to see our interests insured against civil war and robbery.'^{79/}

On June 11, 1887, just two weeks before the Washington Conference opened, the British Minister to Washington, Lord Sackville-West, afforded Bayard a clear premonition of the secret Anglo-German alliance. When von Alvensleben, the German Minister, suggested that any new Samoan government should have a prime minister appointed by Germany, Sackville-West supported him.^{80/}

A few days before the Conference began (on June 25, 1887), Bayard submitted his own plan for a Samoan government. Although he had stressed in nearly every conversation his devotion to the concept of Samoan independence, several of his proposals seriously impinged upon Samoan sovereignty. He conceded the chief secretary and minister of foreign affairs, the treasurer, and the minister of the interior should be nominated by the three powers. Then, in the second meeting of the

^{78/} Ibid., p. 190.

^{79/} Tansill, p. 46-47.

^{80/} Ibid., p. 58.

Conference, Bayard no longer demanded retention of a Samoan legislature but would consent to a government solely of king and council. Again in the interest of harmony, he would also abandon Laupepa in favor of a new election provided it were completely free and not subject to confirmation by the powers.^{81/}

But when the German and British Ministers, working virtually as a team, insisted that Germany be given "temporary" control over Samoa, Bayard, fearful that such power would evolve into permanent German hegemony, objected vigorously, asserting that the imposition of any kind of control would constitute a direct violation of the principle of Samoan neutralization upon which they all had originally agreed. The dispute became the rock upon which the Washington Conference, after a total of six sessions, finally foundered on July 26, 1887. Bayard then proposed that the Conference adjourn until autumn. The British and German Ministers agreed, and the Samoan problem was left simmering until the tripartite treaty of 1889 was approved.^{82/}

Meanwhile, the pressure on Malietoa Laupepa grew ever more onerous. On August 24, 1887 German marines landed at Apia and took over the town. The American consul at once protested to his German counterpart, but the complaint was rejected: Germany had declared war on Laupepa, and Tamasese was to be recognized as king. Laupepa immediately took flight, but soon surrendered to the German consul, and in September 1887 was shipped into exile by the Germans to an undisclosed island.^{83/}

Contemning King Tamasese as a mere vassal, the German consul, Dr. Becker (who had succeeded Dr. Stübel) proceeded to take over control of

^{81/} U. S. Congress. Senate. Message from the President of the United States, transmitting information relative to affairs in Samoa. [Washington, U. S. Govt. Print. Off., 1889] (50th Congress, 2d session. Senate. Executive Document no. 102) p. 6-7, 10-11.

^{82/} Tansill, p. 62-67.

^{83/} Ibid., p. 71-72.

the islands. On October 14, 1887 he raised the German flag over Tamasese's headquarters in Apia; and told the American consul, H. M. Sewall, that the municipal government of Apia, originally established under the tripartite convention of September 2, 1879, was "provisionally in abeyance." Sewall, of course, protested, but could only fire off another dispatch to Washington, by way of Sydney, which would be received weeks later.

In the succeeding weeks and months complaints were exchanged between Berlin and Washington over Sewall's "unneutral" behavior in Apia and German interference with Sewall's consular duties. Bismarck found the unpleasanties difficult to understand; Samoa was "'such an inconsiderable out-of-the-way place.'" Alvey A. Adee, Second Assistant Secretary of State, knew the Chancellor was being disingenuous. "'Samoa,'" he said, "'offsets Pearl Harbor, and Bismarck so intends it.'"

To Sewall's entreaties for prompt action to halt German aggression, which by November 1887 had encompassed a burdensome taxation system for all Samoans as well as a threat to force Tamasese not to renew the Samoan-American treaty of 1878 (scheduled to expire in 1888), Bayard gave a cold and very practical response: ". . . it appears to me that to follow your suggestions would lead to a departure from our position as a neutral, and place this government as an ally of Samoa in an attitude of belligerency to Germany. Of the gravity of such action I need not speak, because it is not within the Executive function to make war."^{84/}

Germany, though, was finding Samoa a reluctant "colony." In the summer of 1888 Chief Mataafa—Laupepa's kinsman—led a revolt against Tamasese and by September 12, 1888 had thoroughly defeated the latter's forces. The rebels then proclaimed the premier warrior in all Samoa King Malietoa Mataafa. By this time Bismarck had grown weary of trying to keep Samoa within the German orbit, and announced that he did not care who was king of Samoa provided only that German lives and property were protected.^{85/}

^{84/} Ibid., p. 72-81, 86.

^{85/} Ibid., p. 92; U. S. Congress. Senate. Message from the President of the United States, transmitting documents relative to the condition of affairs in Samoa. Washington, U. S. Govt. Print. Off., 1888/(50th Congress, 2d session. Senate. Executive Document no. 31) p. 124.

German forces in Samoa, though, apparently missed the message. On December 18, 1888 German marines tried to ambush a Mataafa detachment, but were mauled and driven off with considerable casualties.^{86/}

Shocked and enraged, the Germans had their warships launch an indiscriminate shelling, which affected even the "neutral" zone of Apia. Bayard at once conferred with the new German Minister to Washington, Count von Arco-Valley, who agreed, on January 10, 1889, to cooperate in a fresh attempt to find a formula for lasting peace.^{87/}

The Secretary's proposal was prompted by a feeling akin to desperation. The American press was sharply critical of German actions in Samoa, with such journals as the New York Herald actually anticipating—gleefully—the outbreak of firefights between American and German warships; and Bayard's own chief—President Cleveland—had exacerbated the tension between Berlin and Washington with his assertion in a special message to Congress on January 15, 1889 that Germany's "propositions" relative to Samoa were "inconsistent with every prior agreement or understanding, while her recent conduct as between native warring factions gives rise to the suspicion that she is not content with a neutral position."^{88/}

Bayard was realist enough not even to entertain the thought of war: the faster and generally superior German cruisers would have blown their American counterparts out of the water. Providentially, Bismarck had soured on Samoa and, despite his declaring that a state of war—as of January 13, 1889—existed between Germany and the impudent Mataafa, he had no desire to antagonize Washington unduly. The Chancellor, who by this time had lost much of his iron, had indeed hoped to acquire Samoa; but, as the German archives indicate, he not only had become sick of Samoa but also had never seriously countenanced the annexation of the

^{86/} U. S. Congress. House. Message from the President of the United States, in relation to affairs in the Samoan Islands. Washington, U. S. Govt. Print. Off., 1889 (50th Congress, 2d session. House. Executive Document no. 118) p. 3.

^{87/} Tansill, p. 97-98.

^{88/} Ibid., p. 99-100; Richardson, James D. Messages and Papers of the Presidents, v. XI, p. 5389-5390.

islands without the unqualified acquiescence of both Britain and the United States. Lacking that, he would be content to share control.^{89/}

Believing his reputation as both bully and cynic, Bismarck, in January 1889, had vetoed the suggestion of his consul at Apia that Germany be done with the troublesome business of Samoa and simply annex the islands. Such a drastic solution, the Chancellor replied, was "out of the question. This seems objectionable to me in the face of increasing American chauvinism and existing agreements. We plodged our word to Great Britain and the United States not to annex Samoa."^{90/}

He soon proved, in this regard, at least, that his word was his bond. Twice in the month of January 1889 he invited United States representatives to attend another three-power conference on Samoa, this one to be held in Berlin and constituting, in effect, a resumption of the Washington Conference of 1887. While Secretary of State Bayard and President Cleveland pondered the proposal, it was learned in Washington that the German consul in Apia had placed all of Samoa under martial law. The next morning, February 1, 1889, Bayard was informed by Arco-Valley that Bismarck had disavowed the declaration of martial law.^{91/}

Three days later the German Minister to Washington extended to Bayard still another invitation to have American representatives meet with German and British commissioners in a Berlin Conference on Samoa.

After a day's delay, Bayard accepted, while expressing the hope that Germany would suspend military operations against Mataafa. Before the end of February 1889 Arco-Valley was able to assure Bayard that although Germany still was determined "to punish criminals," it had suspended belligerent action.^{92/}

The way was now cleared for the resumption of the Conference of 1887, and on March 18, 1889 President Harrison appointed three commissioners to represent the United States in Berlin. There were to be,

^{89/} House Executive Document no. 118, 50th Congress, 2d session, p. 15; Tansill, p. 106, 108.

^{90/} Tansill, p. 108, fn. 140.

^{91/} Ibid., p. 107-108.

^{92/} Ibid., p. 111-113, 117.

somewhat incidentally, no Samoans or their representatives at the conference.^{93/}

It had been something of a near miss with general disaster. The German public had reacted bitterly to press reports of the "massacre" of their troops by the "rebel" Mataafa the preceding December, and they did not take kindly to American protests over German retaliation. By March 11, 1889, when Admiral Kimberly arrived at Apia harbor aboard the U. S. S. Trenton with instructions to protect American lives and property and to try to "bring about a peaceful settlement," he found two American and three German warships already anchored there and spoiling for a fight, with their captains ignorant of the plans for a new international conference.

Kimberly's tact had a moderating effect; but the situation was still explosive when a uniquely devastating hurricane descended upon the inner harbor on March 15-16, 1889 and cooled all hands, about 150 permanently. The Germans lost about 100 men; the Americans, about 50; and many more from both sides were injured and maimed. So appalling was the havoc that "enmities disappeared upon the beach at Apia."

The supposition that Poseidon had intervened to prevent a war is questionable. Even if the opposing warships had exchanged fire, it is doubtful that war would have resulted. Bismarck had already made concessions and disavowals, and agreements had been reached on the convening of a new tripartite conference.^{94/}

The Berlin Conference opened on April 29, 1889. About a week before, Lord Salisbury, the British Prime Minister, admitted to one of the three American commissioners, John H. Kasson, that Germany's interest in Samoa

^{93/} Ryden, p. 429.

^{94/} Ibid., p. 420, 428, 443-444; Gray, Captain J. A. C. Amerika Samoa, a History of American Samoa and Its United States Naval Administration. Annapolis, Md., United States Naval Institute [1960] p. 88-90; U. S. Congress. Senate. Message from the President of the United States, transmitting information touching affairs in Samoa. [Washington, U. S. Govt. Print. Off., 1889] (50th Congress, 2d session. Senate. Executive Document no. 68) p. 21-22.

was greater than Britain's, that he himself had no confidence in divided control over the islands (as Bayard had demanded), that he supported a German mandate but, in view of America's implacable opposition to German control, he "'supposed'" it would have to be abandoned. A sensible solution to the problem, Salisbury suggested, would be to divide the three largest islands among the three powers.

Germany, however, was to prove even more tractable than Salisbury had predicted. Shortly before the Conference got underway, Bismarck not only dropped the long-standing demand for a mandate, but even agreed to release Laupepa from his two-year "custody" so that he could return to Samoa and be a candidate in a free election for the throne from which the Germans had "temporarily" deposed him. Then Count Herbert Bismarck, the Chancellor's son, opened the first plenary session of the Conference with a listing of his Government's basic proposals. They were surprisingly moderate: maintenance of the existing treaties, of the equality of rights for the three powers, and of the independence and neutrality of Samoa. He suggested, moreover, that the conferees not try to fashion a government according to Samoan desires, but, rather, confine their labors to safeguarding the lives, property, and commerce of their nationals; and to interfere in domestic Samoan affairs only in pursuance of their primary objective—the protection of foreign persons and property. The natives, in other words, should be allowed to have a government of their own choosing and to operate it without big-power interference so long as foreign rights were not adversely affected.

The new American Secretary of State, James G. Blaine, cabled Commissioner Kasson that the United States did not share Germany's noninterference posture, and that Washington was committed to a tripartite system whereby "protection" for Samoa would be guaranteed and joint intervention in the islands could be effected if the need arose. Like the Democrat Bayard before him, the Republican Blaine was calling for an "entangling alliance"—and defying American tradition. Germany, long before the end of the Conference, was to accept both of these basic American propositions: (1) the return in Samoa of the status quo ante Tamasese and (2) the imposition of some kind of tripartite foreign

authority over any Samoan government to be established under a new and freely chosen king.^{95/}

In a subsequent telegram to Kasson, Blaine revealed the primary purpose behind American participation in both the Washington and Berlin Conferences. It was not to restore peace to the islands, or to help the natives get back the lands stolen from them years ago by the Americans, Germans, and Britons. It was, rather, "to [try to] obtain if possible full recognition by treaty of our exclusive right to the great harbor [Pago Pago], the concession of which is already so nearly complete." And this time, in 1889, the United States was prepared to pay up to \$20,000 for sole control of the harbor. Kasson wired back immediately, protesting that it would be unwise to mention Pago Pago inasmuch as the United States already had "actual possession" and the English and Germans, who had not been barred by treaty from Pago Pago, might insist on a spelling out of their rights in the harbor area. Blaine agreed to drop the matter.^{96/}

One of the conferees' final decisions was to provide for the re-installation of Laupepa; and a provision that he again be recognized as king by the three powers was incorporated in Article I of the final form of the General Act of Berlin as signed on June 14, 1889. But no time was given the Samoans to decide whether or not they wanted Laupepa back; the Article stated merely that he was to be recognized as king "hereafter" by the three powers unless they, "by common accord," were to decide otherwise. It was not until November 8, 1889 that the Samoan people got the official word. In a joint proclamation by the German, British, and American consuls, notice was given, at Apia, that Laupepa had been recognized by the powers and that the people of Samoa were "invite[d]" to take without delay such measures as according to Samoan custom are necessary to reinstate the High Chief Laupepa as King of Samoa."^{97/}

^{95/} Ryden, p. 446-458.

^{96/} Ibid., p. 465. Emphasis supplied.

^{97/} Ibid., p. 493-496; Malloy, William, comp. Treaties, Conventions, International Acts. . . , v. 2, p. 1577-1578; U. S. Congress, Senate. Message from the President transmitting [the General Act of Berlin] . . . [Washington, U. S. Govt. Print. Off., 1890] (51st Congress, 1st session. Senate. Miscellaneous Document no. 81) p. 43, 72-73.

On December 4, 1889 chiefs from all over Samoa met at Apia and formally elected Laupepa king.^{98/}

President Harrison submitted the treaty (the General Act Providing for the Neutrality and Autonomous Government of the Samoan Islands) to the Senate on January 6, 1890. Exactly a month later that body gave its consent, and President Harrison ratified the treaty on February 21, 1890. The exchange of ratifications, however, was slow, and it was not until May 21, 1890 that the President proclaimed the treaty in force.^{99/}

D. The Condominium

The Berlin Treaty (or General Act of Berlin) of 1889 consisted of eight articles and numerous sections.^{100/} After declaring the neutrality and independence of the Samoan islands and recognizing Malietoa Laupepa as king, the treaty hardly mentioned the native Samoan government. It comprised, essentially, a pattern by which the Big Three could protect their own interests and, it must be conceded, the interests of the Samoans as well. And although the pattern was based upon a government, it was a novel kind of government, quite beyond the previous ken of either Samoan, European, or American.

The most important elements in this phenomenon were, in order, the Supreme Court and the Municipal Council of Apia. The former consisted of a single judge, called the Chief Justice of Samoa, who was to be nominated by the three treaty powers or, in case of disagreement among them, by the King of Sweden and Norway. He was to have jurisdiction both original and appellate, with all decisions final. His authority, indeed, approached the infinite: it embraced all questions arising under the General Act, any question concerning the election or appointment of a King, or any other Chief claiming ultimate authority, and any question

^{98/} Senate Miscellaneous Document no. 81, 51st Congress, 1st session, p. 74-75.

^{99/} Kalloy, William, comp. *Treaties . . .*, p. 1576.

^{100/} *Ibid.*, p. 1576-1589.

pertaining to the validity of the powers claimed by the King or Chief, as well as any difference arising between any of the protecting nations and Samoa. By making him the final arbiter in all such kinds of disputes, the three nations had, in hope if not effect, outlawed war in Samoa.

The authority of the Chief Justice was equally comprehensive in several other areas. He had exclusive jurisdiction of all suits in real property; of all civil suits between natives and foreigners and between foreigners of different nationalities; and of most major crimes and offenses committed by natives against foreigners or vice versa. He could also recommend to the Government of Samoa passage of any law considered just and helpful in maintaining law and order outside the Municipal District or in collecting taxes outside that same district.

The other paramount feature of the General Act was the local government that was provided for the Municipal District of Apia. Dominating this area was the Municipal Council, consisting of six members and a President of the Council, who had voting rights. The Council, in effect, was a government within a government. It was to write its own laws, provide all the essential services, and levy and collect its own taxes, which were to be kept entirely separate from taxes assessed and collected by the general Samoan government.

The President of the Council, next to the Chief Justice, was to be endowed with more authority than any other man in the kingdom. He was to be nominated by the three powers; but if they disagreed, he was to be selected from among nationals of Sweden, The Netherlands, Switzerland, Mexico, or Brazil. He was to be the chief executive of the District of Apia and adviser to the king, and the receiver and custodian of all revenues, including those assigned to the general, or native, government.

But the Council and its President were not altogether autonomous in their insularity. Before becoming law, all proposed ordinances and regulations had to be submitted to a Consular Board, composed of the Big Three's consular representatives. Should the Board members disagree

among themselves, or the Council reject the Board's suggestions, the proposals were to be referred to the Chief Justice for final determination.

Conscious of the sins their countrymen had committed during the frenzied acquisition of Samoan lands while the islands were rent by the civil wars of the 1870s, the conferees at Berlin had tried to make amends by establishing a three-man Land Commission—with each member to be named by a different treaty power—to settle all alien claims to land titles or interests. And the Commission did right many wrongs.^{101/}

Despite the high hope held by the treaty powers for their condominium, peace and quiet prevailed in Samoa for only a few months following the signing of the Berlin Act. A primary reason for the short season of content lay in the natives' seemingly inborn aversion to a centralized government—with its detailed provisions for their welfare appearing as so many means of oppression—as well as in their resentment over the enforced paying of the capitation tax.

It was not until January 2, 1891 that the first Chief Justice under the Berlin Act took office. The delay was occasioned by failure of the powers to agree on a name; and the King of Sweden and Norway—as was his prerogative under the Act—finally had to step in. He chose a Swedish jurist, Conrad Cedercrantz. But Cedercrantz was not a very tactful fellow and he immediately got involved in acrimonious disputes with the Land Commission. On four different occasions the powers intervened to overrule Cedercrantz in his rulings relative to the Commission, and they also overturned his decision that revenues from export and import duties were to be assigned to the general Samoan Government rather than to the municipality of Apia.^{102/}

^{101/} U. S. Congress. Senate. Message from the President of the United States, in response to Senate resolution of January 29, 1895, transmitting a report from the Secretary of State . . . touching Samoan affairs. [Washington, U. S. Govt. Print. Off., 1895] (53d Congress, 3d session. Senate. Executive Document no. 97) p. 471.

^{102/} Ryden, p. 522-527.

The first President of the Municipal Council, Baron Senfft von Pilsach, did not assume office until the spring of 1891. He soon rivaled the Chief Justice in unpopularity, quarreling with the Councillors, with the Samoan Government, and with the three consuls, including his compatriot.

Meanwhile, Chief Mataafa, who apparently was born to fight and didn't much care whom he fought, had determined to defy Laupepa; and in the summer of 1891 initiated a campaign of constant harassment against his kinsman. The three powers responded affirmatively to Laupepa's pleas for assistance in tracking down the outlaw chief; but it/^{was}not until the summer of 1893 that Mataafa was captured—and exiled to one of the Marshall Islands.^{103/}

Late in 1893, after Cederorantz had retired and von Pilsach resigned, Henry C. Ide, an American and formerly a member of the Land Commission, and one E. Schmidt, who had served as German vice consul at Apia, became Chief Justice and President of the Council, respectively. But their administrations were troubled too. Ide insisted on attending consular meetings when political matters were to be discussed, but the consuls, including the American, objected, on the reasonable ground that Ide's province embraced only judicial issues. Schmidt made himself obnoxious to Laupepa by constantly offering unsolicited advice.

Despite the almost incessant bickerings and differing interpretations of the Berlin Act among top officials serving the condominium, and between them and the consuls and the foreign offices of the treaty powers, not to mention the slighting of Laupepa, the six-headed government—consisting of the Chief Justice, the President of the Council, the three consuls, and the king—gave Samoa an unprecedented if relative measure of stability for about four years. And during this time relations between the United States and its two partners in the condominium were marked by harmony and cordiality, with even the consuls behaving decently toward one another.^{104/}

^{103/} Ibid., p. 527-540.

^{104/} Ibid., p. 541-547.

By the autumn of 1894 the era of good feelings began to fade. The American consul general refused, time and again, to cooperate with his consular colleagues in ratifying resolutions approved by the Municipal Council, with his conduct provoking an admonition from Washington. Then, frequently during the next year, Berlin and Washington disagreed sharply over the control of Samoan finances and the suppression of arms smuggling.^{105/}

In the spring of 1898 revolution against Laupepa erupted anew. The three powers eventually agreed to have Mataafa brought back from exile in the hope that he, in return for his release, would end his long-standing feud with cousin Laupepa and, with his great prestige as a warrior, prevail upon the dissidents to lay down their arms. But Laupepa died—on August 22, 1898—before Mataafa's release could be arranged. Something of a hassle then developed between the powers as to who should succeed Laupepa. The British and Germans wanted the consuls at Apia to have a voice in the choice of a new king. American Secretary of State John Hay strongly demurred, asserting on January 10, 1899 that the three powers "should maintain an absolutely impartial attitude," with the consuls serving only to help keep order and protect lives and property.^{106/}

Events in Samoa meanwhile had made the diplomatic dialogue rather academic. (It should always be remembered that the foreign capitals, lacking direct cable connection with Samoa, were often unaware for weeks of developments in the islands.) Mataafa had returned to Samoa on September 19, 1898; on November 12, 1898 one party of Samoan chiefs informed the Chief Justice and the consuls that Mataafa had been properly elected king by themselves. Two days later another group proclaimed Malietoa Tanumafili ("Tanu" for short), son of the late Laupepa, to be the new and rightful ruler. Both parties then appealed to the Chief Justice.

^{105/} Papers Relating to the Foreign Relations of the United States . . . 1895. Washington, U. S. Govt. Print. Off., 1896. (54th Congress, 1st session. House. Document no. 1, pt. 2) p. 1126-1137.

^{106/} Papers Relating to the Foreign Relations of the United States . . . 1899. Washington, U. S. Govt. Print. Off., 1901. (56th Congress, 1st session. House. Document no. 1) p. 609-612.

William L. Chambers (an American, like his predecessor, Henry C. Ido), to choose between the claimants, as was his obligation under the Berlin Act.

After Chambers, on December 31, 1898, decided in Tanu's favor, another in the long list of civil wars exploded; and Justice Chambers as well as the boy king took off without ceremony to the safety of a British warship. Four days later, on January 4, 1899, the three consuls, acting in patent violation of the Act of 1889, recognized a provisional government headed by the Mataafa party and featuring Dr. Raffel, the German president of the Municipal Council, as executive officer. Justice Chambers, having recovered his wits, denounced the provisional government, whereupon Dr. Raffel closed Chambers' court, whereupon the British consul declared Raffel's action in contempt of the Berlin Act. Then Chambers, supported by the British and American consuls (and the same British warship), forcibly reopened the court.

When Washington and London got wind of these proceedings, additional American and British warships were dispatched to seething Samoa. (For the first significant time the British were cooperating with the Americans.) Shortly after the American admiral arrived in Apia, he declared, on March 6, 1899, the end of the provisional government. Mataafa ignored the pronouncement. A week later American and British marines disembarked together, shortly before a joint Anglo-American bombardment of the Mataafa forces in and around Apia damaged the German consulate and blew away some Samoan structures. But Mataafa was unchastened and continued fighting even after Tanu was crowned king on March 23, 1899, scoring another victory over the king's men on April 1.

But as the civil war continued throughout April of 1899, and tempers shortened in Samoa between the Americans and the British, who supported Tanu, on the one hand, and the Germans, who sided with their old enemy, Mataafa, on the other, the home governments of the three powers were determined, in concert, to restore order and try to effect a permanent solution to the Samoan problem. To that end they already had agreed to send a joint commission to Samoa. The commissioners were authorized to

utilize any means to establish a cease-fire, and then to recommend remedial measures.^{107/}

By common agreement, the days of the condominium were numbered and demands for radical solutions—perhaps even partition—were heard in the foreign offices and recorded in the press of the interested nations.

The condominium had never been popular in the United States, being commonly regarded as an "entangling alliance," that snare about which our Fathers had so wisely warned. President Cleveland expressed his deep distrust of the arrangement in his first three annual messages to Congress during his second administration. His attack in the third message was especially bitter. "[O]ur situation in this matter," he maintained, "was inconsistent with the mission and traditions of our Government, in violation of the principles we profess, and in all its phases mischievous and vexatious." He hoped for legislation "or expression" that would "lead the way to our relief from obligations both irksome and unnatural."^{108/}

Perhaps the best balanced analysis of the condominium's failings and its limited but nonetheless significant positive effects was that offered by Henry C. Ide, an American who had been both a Land Commissioner and a Chief Justice of Samoa:

. . . . The weak point of the treaty has always been its complicated character, a wheel within a wheel, a native government theoretically autonomous, a President to advise it, and try to control it, a Chief Justice, to recommend legislation to the native government and to be the final legislator in the municipality of Apia, as well as a court of last resort, and three Consuls with ill defined boundaries of power. Thus instead of one King there were six. With such a subdivision of authority it has been extremely difficult to locate responsibility and for anyone to secure efficient and progressive action without finding some fatal clog or brake in another part of the machine. Then, too, the utmost tact and discretion and due respect to national prejudices and customs of others are requisite to any degree of success. A single act of impatience or disregard of the rights or dignity of another official, or contempt of native form and politeness, may create conditions destructive of all usefulness on the part of an official.

^{107/} Ryden, p. 560-561.

^{108/} Submitted December 2, 1895. Richardson, James D., comp. Messages and Papers of the Presidents, v. 12, p. 6067.

Any act of injustice or oppression is sure to be quickly resented.

. . . . In spite of drawbacks, fighting, difficulties and embarrassments, the Berlin Treaty can justly claim not to have satisfied the sanguine hopes of its distinguished authors, but yet to have given a better government to Samoa than ever existed there before, to have made Apia as well governed a municipality as is often found, to have created more miles of good roads than had been there made in all time before, to have effectually prevented the sale of destructive intoxicating liquors to natives, to have settled finally all land titles and established an efficient system of registration, to have created a government that paid its own bills, to have secured equal rights, in all respects, to residents of all nationalities, to have established an international court of last resort that has earned the respect of all, and, what is more important than all else, to have established a rule of law to govern all the high contracting parties in their relations to Samoa. Before the treaty constant friction arose, but there was nothing to define the rights of either nation, and the troubles in Samoa were a constant menace to the peace of nations. . . . ^{109/}

As Ide indicated, under the Berlin Act the long-festering land-claims mess was wiped out. Germans had claimed 134,419 acres; 75,000, or about 56 percent, were allowed by the Land Commission. English claims amounted to 1,250,270 acres, but only 36,000, or about 3 percent, were confirmed. And of American claims to 302,746 acres, only 21,000, or about 7 percent, were validated. ^{110/}

And those who deny that the condominium provided any measure of self-government handle the truth carelessly:

In matters affecting the Samoans alone, and not the subject of specific provisions of the Berlin Act, the government was actually free to do much as it pleased, always allowing for the readiness of the President and Chief Justice to recommend what should be done. Moreover, the Samoans were left to determine the form of the government, exclusive of the institutions established or recognized by the Act and of the articulation required between the Samoan administration and that of the condominium. It was thus on the responsibility of Samoans that the new Mulinu'u regime, though otherwise similar to previous ones, had no Ta'imua [Legislature]. ^{111/}

^{109/} Ide, Henry C. Samoa. Independent, v. 51, Feb. 2, 1899: 323-326.

^{110/} Senate Executive Document no. 97, 53d Congress, 3d session, p. 471.

^{111/} Gilson, R. P. Samoa 1830 to 1900, p. 415.

E. Partition

With the cautious Bismarck having been forced to resign (in 1890), and the relatively impetuous Bernhard von Bülow in actual command of foreign policy as State Secretary for the Foreign Department, Germany became far more aggressive in her quest for "places in the sun." Covetous of Spain's possessions in the Pacific, she succeeded early in 1899 in purchasing from that disintegrating empire the Caroline and Mariana island groups, supplementing her protectorate over the Marshalls; and hoped to acquire, through bargaining with the United States and Britain, the larger of the Samoan islands after a common renunciation of the condominium. Rumors of impending improvements in the American coaling station at Pago Pago prompted an acceleration of her efforts toward a permanent division of the archipelago.

It was necessary, however, to reach a prior understanding with the British: the United States would then, no doubt, prove cooperative—if offered the entire island of Tutuila (under the 1878 treaty the U. S. had only the non-exclusive right to a coaling station at Pago Pago) as its share of the three-way bargain. Bülow was hopeful that London would acquiesce even though New Zealand and Australia were certain to oppose any further German expansion in the South Pacific. But the growing bitterness between Britain and France over the Sudan, as well as the worsening troubles between the British and the Boers in South Africa might make London, in dire need of German neutrality, amenable to the proposition.

Thus on August 31, 1898, and only nine days after King Malietoa Laupepa's death, the German Abassador to London was instructed to ask, confidentially, whether Britain would agree to a pact whereby the United States would receive Tutuila and the Manua group, while Germany got Upolu, Savaii, and, indeed, all the remaining islands. As her part of the bargain, Britain could proceed without German or American objection to annex the Tonga Islands, located south of Samoa. But British Foreign

Minister Balfour, acting for Prime Minister Salisbury, turned it down cold. Furthermore, the German Ambassador was given to understand that his premonition was warranted that neither Britain nor her colonies would object to the Americans' solidifying their hold on part of Pago Pago harbor: the Australians and New Zealanders could well tolerate having Americans as neighbors but not the Germans; and Britain was mindful of such sentiments.

Rebounding from the rebuff, Bülow sweetened the proposition by offering to revise in Britain's favor the boundaries between certain British and German territories in Africa and giving up Germany's extraterritorial rights in Zanzibar. But Salisbury, on September 8, 1898, again rejected the German overtures, this time on the ground that Australia would take umbrage.

Snubbed twice, Bülow shelved his plans for partition, and the condominium went its troubled way. But in March of 1899, while the civil war between Mataafa and Tanu was threatening to embroil the treaty powers, Bülow again broached the subject to American and British foreign officers, though indirectly through a proposal that a three-man commission comprising representatives of Britain, Germany, and the United States be created and sent to Samoa to stop the fighting and establish a provisional government pending recommendations for changes—which would be drastic—in the governing of Samoa. President McKinley, much to the Kaiser's expressed delight, at once accepted the suggestion. About a week later the hitherto uncooperative Lord Salisbury gave his assent.^{112/}

At first blush, Salisbury's coolness toward the Germans would appear surprising as one recalls that he sided repeatedly with them at the expense of the United States during the Washington Conference in 1887 and through much of the negotiations prior to the conclusion of the Act of 1889. The reasons, though, are not hard to find. Britain in the 1880s was apprehensive of Russian expansion and needed Germany's neutrality. Salisbury, moreover, rather liked the Bismarcks, father and son. But times and the cast of characters had changed. The Bismarcks had been

^{112/} Ryden, p. 558-564.

long gone by the time Germany formally proposed partitioning Samoa. Russian threats of encroachment upon the Empire had become muted; and after the French pulled out of Fashoda, the danger of an Anglo-French war lessened markedly and consequently so did need for German neutrality. There was still another factor in Salisbury's about-face, and it was of no small importance. He had developed a "very negative attitude" toward the Kaiser, who, besides lacking the charm and polish of the Bismarcks, had complained to Queen Victoria about her Prime Minister's policies and had also hurled thinly veiled threats against Britain should the latter not cooperate in Samoa. Salisbury properly considered these remonstrances "crude attempts at blackmail." But with the imminence of war with the Boers in South Africa he was forced to become "reasonable."^{113/}

By April 18, 1899 the appointments to the peace commission had been made by the respective governments. Given identical instructions by the three powers, the Commissioners were accorded the right to "exercise supreme authority in the islands" in pursuance of establishing a provisional government. But to be valid, every action taken by the Commissioners had to be unanimous.^{114/}

The Commission resolved early to:

preserve the best parts of the Berlin treaty, to have a governor or president sent here to take the place of the king, with a council having some legislative power so as to make the government somewhat more elastic than at present; to separate the municipality [of Apia] from the general government, making it purely local, and to give to the natives in their own districts the power of local self-government according to Samoan laws and customs. The Samoan makes a good chief, but is not broad enough to extend himself over numerous tribes and districts as king. It is believed here that this plan, when elaborated, will work harmoniously, and in theory it is even now popular with the natives. They say, 'We want chief, no king.' The question of kingship, in fact, seems to be popular

^{113/} Thacker, Jack W., Jr. The Partition of Samoa. [A doctoral dissertation submitted to the Dept. of History, University of South Carolina, 1966] p. 238, 242, 244.

^{114/} Ibid., p. 155-156; Foreign Relations Papers, 1899, p. 615.

only with those families who deem themselves eligible thereto. When we get our plan of government perfected we shall submit it to a great fonu or meeting of the leading chiefs for their approval before we present it to our own governments 115/

For several weeks the Commissioners toured the islands, interviewing people of high and low degree and holding numerous fonos in which they attempted to explain the proposed changes in government, especially the necessity for replacing the kingship with "some good white man." The Commissioners got an almost unanimously favorable response from the chiefs, who acknowledged to Bartlett Tripp, the American Commissioner, that "Samoans were born chiefs, not kings, but that kings had to be made by the chiefs; that all the great chiefs wanted to be king and war must always inevitably result, for only the chief who proved himself most powerful in war could finally be king." This was a persuasive explanation for the almost constant state of war in Samoa from 1870 to 1899. 116/

In its report to the respective powers, submitted July 18, 1899, the Commission listed four great "classes of evils" that had been responsible for the turbulence in Samoa: (1) the election of kings and the inevitable wars of rebellion inspired by jealous chiefs; (2) the rivalry among foreign nationals, which often resulted in divided loyalties and enduring disputes among the natives; (3) the absence of both law and government other than Samoan mores outside the municipality of Apia, often resulting in the chiefs' getting away with murder, literally; and (4) the management of customs being largely under foreign merchants, which made for easy smuggling: private companies were allowed to discharge goods directly into their own warehouses without the slightest examination.

To remedy these great "evils," the Commission proposed specific if sweeping changes. First, the kingship would be permanently abolished,

115/ Foreign Relations Papers, 1899, p. 626.

116/ Ibid., p. 635.

to be replaced by a system of native and foreign government—with a foreign administrator (chosen, presumably, from a disinterested nation) advised by both his own council and a native one. Secondly, consular jurisdiction would be abolished, with the Chief Justice assuming cognizance of all suits brought against foreigners. Thirdly, the Chief Justice's jurisdiction would be extended to include all cases between natives and foreigners on all the islands, as well as major crimes committed by the natives against one another. And, finally, the problem of arms smuggling would be more aggressively combated by putting the customs regulations under the government's foreign administrator.^{117/}

After completing the drafting of their proposed amendments to the Berlin Act, the Commissioners submitted the document to the chiefs of the more prominent families for their ratification, and on July 17, 1899 Tanu and Tamasese signed it. Thirteen Mataafa chiefs (but not Mataafa himself) and thirteen Tanu chiefs had affixed their signatures to it two days earlier.

Entitled "A Declaration Respecting the Neutrality of the Islands of Samoa and Assuring to the Respective Citizens and Subjects of the Signatory Powers Equality of Rights in Said Islands and Providing for the Immediate Restoration of Peace and Good Order Therein," the instrument was both comprehensive and detailed, embracing some ten Articles and covering, essentially, the same propositions as outlined above.^{118/}

The Commission's plan probably would have served the Samoans reasonably well had it gone fully into effect, but the three powers never implemented it. They soon were involved in serious consideration of a transcending concept—partition.

On August 31, 1899 Germany's special envoy in Washington had a confidential talk with Secretary of State John Hay in which he renewed von Bülow's plea that the islands be divided among the treaty powers, but under a somewhat different arrangement from that formerly proposed:

^{117/} Ibid., p. 636-640.

^{118/} Ibid., p. 640-648.

the United States would "retain Tutuila and adjacent islets, and England and Germany to divide the rest."^{119/}

May reported the conversation to President McKinley, who, as the Secretary immediately advised American Ambassador Joseph H. Choate in London, was "disposed to regard this proposition favorably if details can be satisfactorily arranged with due regard to the national interests and to the welfare of the inhabitants." The Ambassador was instructed to ascertain "discreetly" the views of the British Foreign Office. Choate replied on September 22, 1899 that Lord Salisbury "was inclined to favor the partition as the only means of securing good government there" and that the British and Germans had agreed, indeed, that if the United States were "entirely satisfied with Tutuila" they would have the King of Sweden and Norway arbitrate between them the division of the rest of the islands.^{120/}

Sometime later the British decided not to permit the question of Samoan partition to go under arbitration, fearing that the island of Upolu, which contained Apia, Samoa's most important commercial port, would be awarded to Germany and that they would get the larger but unacceptable island of Savaii. A mutually satisfactory agreement, however, was finally reached between Berlin and London on November 8, 1899.

In return for renouncing all her rights and claims in Samoa, Britain was to receive numerous compensations elsewhere, including: all German rights in the Tonga Islands, including that of establishing a naval station; all the German islands in the Solomons to the east and southeast of Bougainville; varied concessions in German territories in West Africa; and the eventual renunciation by Germany of extraterritorial rights in Zanzibar.^{121/}

The United States was officially apprised of the Anglo-German treaty on November 27, 1899; and now final and complete disposition

^{119/} Ibid., p. 663-664.

^{120/} Id.

^{121/} Ryden, p. 568-572.

of the Samoan problem awaited only the signing of a tripartite convention, the draft of which already had been largely completed. On December 2, 1899 Secretary Hay, British Ambassador Pauncefoot, and German Ambassador Holloben signed in Washington the "Convention between the United States, Germany, and Great Britain to adjust amicably the questions between the three Governments in respect to the Samoan group of islands."^{122/}

The Convention consisted of a preamble and four short articles. Article I provided for the annulment of the Berlin Act of 1889 and all prior treaties or agreements relating to Samoa. Under Article II Germany and Great Britain alike renounced "in favor of the United States of America all . . . rights and claims over and in respect to the Island of Tutuila and all other islands of the Samoan group east of Longitude 171° west of Greenwich." In return, the United States renounced "in favor of Germany all . . . rights and claims over and in respect to the Islands of Upolu and Savaii and all other Islands of the Samoan group west of Longitude 171° west of Greenwich."

Article III provided that all three powers were to continue to enjoy equal commercial privileges in all ports opened to commerce anywhere within the Samoan archipelago. Article IV declared that the Convention would enter into effect immediately after exchange of ratifications, which occurred February 16, 1900.^{123/}

No Samoan participated in the formulation of either the General Act of Berlin of 1889 or the Washington Convention of 1899.

The United States might well have wished that it had never gotten involved either in the condominium or in the partition; and certainly Germany was to rue its role in Samoan affairs.

As a participant in the condominium, the United States for the first time since the Revolution got entangled in a foreign alliance. The arrangement not only proved unworkable but served, eventually, to worsen already deteriorating relations with Germany, one of its partners. And the "partition of Samoa was, on the whole, a diplomatic defeat for the United States, which had hoped for many years that

^{122/} 31 Stat. 1878.

^{123/} Ibid., p. 1878-1879.

Samoa would emerge as a small, independent nation, and when the United States government found itself responsible for an island dependency, it had no program and no machinery for its management."^{124/}

In German minds, the partition signified a triumph for German diplomacy. But it was a Pyrrhic victory. The British never forgot the pressures exerted by the Germans, particularly in 1898 and 1899, while they remembered American cooperation in the struggle to suppress Mataafa and restore order in Samoa in the spring of 1899. America, too, had disturbing memories, especially of the arrogance of a succession of German consuls and of the crises of 1889 and 1899 when armed clashes between German and American forces were barely averted. The growing distrust of "Kaiserism" made it all the easier for the United States to join Britain in 1917 and thereby ensure Germany's defeat in World War I.^{125/}

F. Ward of the U. S. Navy

Without bothering to ask the Samoans what they thought of the rather cavalier disposal of their homelands, President McKinley, by executive order of February 19, 1900, directed that

The Island of Tutuila of the Samoan Group, and all other islands of the group east of longitude one hundred and seventy-one degrees west of Greenwich, are hereby placed under the control of the Department of the Navy, for a naval station. The Secretary of the Navy will take such steps as may be necessary to establish the authority of the United States, and to give to the islands the necessary protection.^{126/}

The President's directive endowing the Navy with hegemony over American Samoa ignored the fact that the tripartite convention of 1899 did not afford title to the islands to the United States, but merely announced a renunciation of German and British "rights" in

^{124/} Gray, Captain J. A. C. Amerika Samoa . . . , p. 107.

^{125/} Thacker, Jack W., Jr. The Partition of Samoa, p. 246, 248.

^{126/} In Navy Department, February 19, 1900, Serial Order No. 540. General Records of the Department of the Navy, General Correspondence, 1897-1915, file no. 3931. National Archives, Record Group No. 80.

the eastern Samoan group. It must be acknowledged, however, that the Samoans were not outraged by Washington's flouting of their independence. (It will be recalled that they often had importuned both Britain and the United States to annex their islands, or at least to establish a protectorate over them.) In April of 1900 Samoan high chiefs formally ceded the islands of Tutuila and Aunu'u to the United States, and in July of 1904 the cession was expanded to include the islands of Ta'u, Olosega, Ofu, and Rose. (The seventh island, Swains, a privately owned coral atoll, was made part of American Samoa by a joint resolution of the Congress approved on March 4, 1925.)^{127/}

Strangely enough, the United States failed officially to recognize the cessions until 1929, when, by a joint resolution approved February 20, 1929, the cessions were "accepted, ratified, and confirmed, as of April 10, 1900, and July 16, 1904, respectively."^{128/} The resolution, at the same time, indirectly confirmed the validity of the Navy's jurisdiction, in effect since February of 1900, by asserting that "Until Congress shall provide for the government of such islands, all civil, judicial, and military powers shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned."^{129/}

The Congress never has picked up its option, and the President continues to be the final authority. From 1900 to 1951 he delegated his authority to the Secretary of the Navy, who subdelegated it to Naval Governors; since 1951 the delegated power has reposed in the Secretary of the Interior and in the latter's civilian appointees.

For many years all authority in American Samoa—executive, legislative, and judicial—was combined in the person of the Navy officer serving as Governor of the islands. (At first he was called Commandant, Naval Station, Tutuila; then Governor of Tutuila; and, finally, after 1912, Governor of American Samoa.) Some years before the end of Navy

^{127/} 43 Stat. 1357.

^{128/} 45 Stat. 1253.

^{129/} Id.

rule, though, the supreme judicial authority was transferred to an American civilian Chief Justice, appointed at first by the Governor but later, beginning in the early 1930s, by the Secretary of the Nav.^{130/}

Beginning in 1905, an annual "Fono," or assembly, of chiefs was convened annually; but it was simply a talking assembly. Although it did pass resolutions and petitions from time to time, it was in no sense a true legislature: the Governor was under no compulsion to accept any proposal of the assembly.^{131/}

In 1948 the Fono became a bicameral "legislature," but it was still only an advisory body; its resolutions were effectuated into law only if the Governor were so inclined. The new assembly consisted of a House of Ali'i containing 12 chiefs of the highest order and a House of Representatives comprising 54 members, only two of whom were elected by secret ballot.

The judiciary now consisted of a High Court, presided over by a Chief Justice appointed from Washington and assisted by from two to four associate judges selected by the Chief Justice from among the district judges; six district courts, each presided over by a Samoan judge except when the Chief Justice chose to sit also in that particular court; and numerous village courts, each consisting of a single Samoan magistrate.^{132/}

Since 1931 a Samoan Bill of Rights has been an integral part of the Code of American Samoa. It provides, among its major guarantees, freedom of religion, speech, press, assembly, and petition; protection against unreasonable searches and seizures; and no deprivation of life, liberty, or property without due process of law.^{133/} But there never

^{130/} Perkins, Whitney T. Denial of Empire. Leyden, A. W. Sythoff, 1962. p. 278; Gray, Captain J. A. C. Amerika Samoa, p. 232.

^{131/} Perkins, p. 277-280.

^{132/} U. S. Navy Department. American Samoa: Information on American Samoa Transmitted by the United States to the Secretary-General of the United Nations Pursuant to Article 73 (e) of the Charter. (OpNav-P22-100D). Washington, June 1948. p. 5-6.

^{133/} Ibid., p. 7-8.

has been provision for trial by jury.

G. Ward of the Department of the Interior

By Executive Order 10264, signed June 29, 1951, President Truman transferred the administration of American Samoa from the Secretary of the Navy to the Secretary of the Interior, effective July 1, 1951. Such transfer had been recommended four years earlier by a committee composed of the Secretaries of State, War, the Navy, and the Interior; and on September 23, 1949, the President approved a "memorandum of understanding" between the Departments of the Navy and the Interior which outlined plans for the orderly changeover of administration and which recommended that the transfer occur on or about July 1, 1951.^{134/}

In Secretarial Order No. 2657, signed on August 29, 1951, by R. D. Searles, Acting Secretary of the Interior, the limits of authority for the Government of American Samoa were outlined anew. Among the changes were the directive that initial contacts of substance by the island government with Federal agencies other than Interior were to go through the Office of Territories (now the Office of Territorial Affairs) of the Department of the Interior; and that communications of insular authorities with foreign governments were to be cleared through Interior for transmittal by the Secretary of State, "unless some other procedures [were] approved by the Secretary of the Interior."^{135/}

Early in 1953 both the legislature and the judiciary underwent extensive reorganization. The House of Ali'i now became a Senate of 15 chiefs chosen in open meeting according to Samoan custom; and the House of Representatives was reduced to a membership of 18 Samoans elected by secret ballot (in the first secret general election in Samoan history), with five elected from each of the three political districts, one from Swains Island, and two from those permanent residents not living under the matai system. The role of the legislature, however, remained advisory.

The judicial system under the reorganization consisted of a High Court with a Chief Justice assisted by four associate judges, and five

^{134/} Federal Register, v. 16, no. 128, July 3, 1951; 6417-6419.

^{135/} Federal Register, v. 16, no. 173, Sept. 6, 1951; 9052.

district courts, each presided over by an associate judge unless the Chief Justice chose to sit simultaneously with him. The Chief Justice, appointed by the Secretary of the Interior, was, as before, the only "statesider" serving on any of the courts. The associate judges were appointed by the Governor, upon recommendation by the Chief Justice.

The High Court had three divisions: trial, probate, and appellate. The trial court was composed of the Chief Justice and at least one associate judge from a district court; the probate court consisted of the Chief Justice only. The appellate court comprised the Chief Justice and at least two associate judges. The only appeal from the appellate division was from a decision affirming the death sentence; the appeal went to the Secretary of the Interior.^{136/}

In 1953 the Governor (Richard B. Lowe) suggested that the Samoan people consider the drafting of a constitution for the territory. The legislature welcomed the idea, and petitioned the Governor to send the proposal on to the Secretary of the Interior, who promptly approved it. A constitutional committee was then created, and in June of 1954 work began on the fashioning of Samoa's first constitution.^{137/}

After six years of stops and starts, the job was completed in 1960. Ratified and approved by Secretary of the Interior Fred A. Seaton on April 27, 1960, and adopted by the Constitutional Convention of the Samoan people that same day, the Constitution went into effect on October 17, 1960.^{138/}

^{136/} Governor of American Samoa. American Samoa; Information on the Territory of American Samoa for the Fiscal Year Ending June 30, 1954, Transmitted by the United States to the Secretary General of the United Nations Pursuant to Article 73 (e) of the Charter. Prepared in the Office of the Governor of American Samoa (no date). p. 6-8.

^{137/} Ibid., p. 2-3.

^{138/} U. S. Congress. House. Committee on Interior and Insular Affairs. Texts of the Organic Act of Guam (as amended to December 31, 1960), Revised Organic Act of the Virgin Islands (as amended to December 31, 1960), Constitution of American Samoa (Promulgated by the Secretary of the Interior, effective October 17, 1960). 87th Congress, 1st session. (Committee Print No. 1) March 6, 1961. Washington, U. S. Govt. Print. Off., 1961. p. 50.

Under this Constitution, the legislature could no longer be considered entirely an advisory body. Article II, Section 9 provided, among other changes, that

Every bill, having passed both Houses, shall be signed by the President of the Senate and the Speaker of the House, and shall, before it becomes a law, be presented to the Governor for his approval. If he approves it, he shall sign it and it shall become a law, and he shall deposit it in the office of the Secretary of American Samoa. But if it be not approved by him, he shall return it with his objections to the House in which it originated, which shall enter the same in their journal. Any bill not returned by the Governor within 20 days, after having been presented to him, shall become a law, whether signed by him or not, unless the Legislature by adjournment prevent such return, in which case it shall not become a law unless the Governor, within 45 days after adjournment shall sign it, in which case it shall become a law in like manner as if it had been signed by him before adjournment; and the Governor shall deposit it in the office of the Secretary of American Samoa.

Not later than 14 months after a bill has been vetoed by the Governor, it may be passed over his veto by a two-thirds majority of the entire membership of each House but may not be so re-passed at the same session at which originally passed.

A bill so repassed shall be re-presented to the Governor for his approval. If he does not approve it within 20 days, he shall send it together with his comment thereon to the Secretary of the Interior. If the Secretary of the Interior approves it within 90 days after its receipt by him, it shall become a law; otherwise it shall not.^{139/}

Should the Governor submit "to the Legislature proposed legislation which he [had] designated as urgent, and the Legislature [had] failed to pass the same in its original form or an amended form acceptable to the Governor at the session in which it was submitted, the Governor [might] himself, with the approval of the Secretary of the Interior, promulgate such proposed legislation as a law."^{140/}

^{139/} Ibid., p. 43. Emphasis supplied.

^{140/} Id. Emphasis supplied.

The membership of the Legislature under the 1960 Constitution consisted of 16 Senators (15 plus an "additional" one elected every two years from different counties in the Western District), all of whom were to be "elected in accordance with Samoan custom by the county council of the county he is to represent"; and Representatives not to "exceed 24" in number and who were to be elected by secret ballot of the "qualified electors." Swains Island was accorded the option of having a Delegate in the House, elected in open meeting, who would^{be}/afforded all privileges save that of voting. Each Senator was to serve for a term of 4 years, except the additional Senator from the Western District, whose term, like that of the Representatives and any Delegate from Swains Island, was limited to 2 years.^{141/}

In 1966 a new constitutional convention of the Samoan people drafted a revision of the 1960 charter. It was ratified in the general election of that year, approved by the Secretary of the Interior on June 2, 1967, and went into effect on July 1, 1967.^{142/}

Among the more significant changes were those affecting the legislature. The Senate was now to consist of 18 members, "three from the Manu'a District, six from the Western District, and nine from the Eastern District." As before, they were to be chosen by county councils. House membership was fixed at 20, elected by secret ballot from 17 specified districts, plus any Delegate from Swains Island elected in "open meeting."^{143/}

Provisions concerning the Governor's veto powers were substantially revised, not only in terms of time limits but also with reference to repassage of vetoed bills—they now could be repassed at any session of the Legislature. The revised section reads:

Every bill, having passed both Houses, shall be signed by the President of the Senate and the Speaker of the House, and shall, before it becomes a law, be presented to the

^{141/} Ibid., p. 41-42 (Art. II, ~~§~~ 2, 4, 6).

^{142/} A. S. C., v. 1, p. 39.

^{143/} Art. II, § 2, Rev. Const., A. S. C., p. 26-27.

Governor for his approval. If he approves it, he shall sign it and it shall become a law, and he shall deposit it in the office of the Secretary of American Samoa. But if it be not approved by him, he shall return it with his objections to the House in which it originated which shall enter the same in their journal. Any bill not returned by the Governor within 10 days (Sundays excepted) after having been presented to him, shall become a law, whether signed by him or not, unless the Legislature by adjournment prevent such return, in which case it shall not become a law unless the Governor, within 30 days after adjournment shall sign it, in which case it shall become a law in like manner as if it had been signed by him before adjournment; and the Governor shall deposit it in the office of the Secretary of American Samoa.

Not later than 14 months after a bill has been vetoed by the Governor, it may be passed over his veto by a two-thirds majority of the entire membership of each House at any session of the Legislature, regular or special. A bill so repassed shall be re-presented to the Governor for his approval. If he does not approve it within 15 days, he shall send it together with his comment thereon to the Secretary of the Interior. If the Secretary of the Interior approves it within 90 days after its receipt by him, it shall become a law; otherwise it shall not.^{144/}

And no longer could the Governor promulgate into law any of his "urgent" proposals that the Legislature had ignored. Now he might merely "designate any such proposed legislation as urgent, if he so considers it."^{145/}

In July of 1971 the Legislature began operating under a constitutional change proposed in Senate Joint Resolution No. 5 of the Second Regular Session of the Eleventh Legislature and approved by the voters in the 1970 general election. The annual 40-day regular session was eliminated in favor of two 30-day regular sessions to be held each year, the first beginning on the second Monday in January each year and the second session to begin on the second Monday in July of each year.^{146/}

^{144/} Art. II, § 9, Rev. Const., A. S. C., v. 1, p. 30. Emphasis supplied.

^{145/} Id.

^{146/} State Government News, Aug. 1971, p. 3.

V. Some recent developments

In March 1970 several laws were enacted in Samoa expanding the judiciary. A traffic court, a small claims court, and a matai title court were created. And village magistrates were to be named in every village to handle minor infractions of the law. Two months later the High Court itself established a legal aid and lawyer referral system.^{147/} (For the current composition and operation of the judiciary, see *supra*, p.24)

In November 1970 High Chief Asuemu Ulufale Fuimaono, Director of Agriculture in American Samoa, was elected in the islands' first territory-wide election as American Samoa's first official representative in Washington. He was entrusted with representing "the view of the Samoan people before all branches and agencies of the Federal Government including the Interior Department and Congress."^{148/} Known officially as American Samoa Delegate-at-Large, his office is at 425 13th Street, N. W., Washington, D. C. His term is for four years.

In 1969 a Political Status Commission, consisting of legislators and "concerned citizens," was created by the Legislature. A year later it recommended in its report that American Samoa remain an unincorporated and unorganized territory for the present, but it also called for popular election of the Governor by 1976.^{149/}

Since 1972 the Samoan people on three different occasions have rejected, in referenda, proposals that they be allowed to elect their own Governor and Lieutenant Governor. Fearful that such a "progressive"

^{147/} United Nations. General Assembly. Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. American Samoa and Guam: Working Paper Prepared by the Secretariat, 1 July 1971. [New York] 1971. (United Nations. [Document] A/AS. 109/L. 717) p. 5.

^{148/} Washington Post, Nov. 16, 1970: A 9 and July 4, 1971: C 1-2.

^{149/} U. S. Congress. Senate. Subcommittee on Appropriations. Department of the Interior and Related Agencies Appropriations for Fiscal Year 1971. Hearings, 91st Congress, 2d session on H. R. 17619, pt. 1. Washington, U. S. Govt. Print. Off., 1970. p. 440; Washington Post, July 4, 1971: C 1-2.

change would be followed successively by organic legislation, blanket American citizenship, and the possible consequence of alienation of their lands, the majority of voters were induced to register disapproval. But the conviction of the voters waned with each referendum. In 1972 the proposition was defeated by a 4-to-1 margin.^{150/} In 1973 it was turned down by a vote of 2,097 against 1,097, out of 6,526 registered voters, with 154 votes voided.^{151/} In the last referendum, held on June 18, 1974, the affirmative vote was 2,112 against 2,265 in opposition, with the number of registered voters having declined to 5,665 and 140 votes declared invalid.^{152/}

Some observers maintain that these repeated defeats for popular election of the executive stemmed from three factors: (1) ignorance of what really was at stake; (2) inclement weather; and (3) anti-autonomy propagandizing by Governor Haydon.^{153/}

In September 1973, Governor Haydon was tried in American Samoa by Administrative Law Judge John J. McCarthy of Washington on charges of violating the Hatch Act prohibitions against political activity. Haydon was accused of urging the Samoans to turn down the 1972 referendum; and of importuning them not to elect a Caucasian—one Wilbur Rine—to the legislature. (How Mr. Rine could have been considered eligible to run for office has not been explained; the Samoan Constitution stipulates that only Samoan nationals are eligible to serve in either House.) Late in March 1974 Judge McCarthy finally ruled that Haydon had committed no violations of the Act, on the grounds that the referendum was not an election and that Haydon, although a Federal employee, was also a Governor and thus was not covered by the Act's proscription against politicking.^{154/}

^{150/} New York Times, Aug. 11, 1974: 18.

^{151/} Office of Samoan Information. Annual Report, 1973, p. IX.

^{152/} United Nations. Office of Public Information, Press Section. Sub-Committee II Begins General Debate on American Samoa and Guam. New York, United Nations, 24 June 1974. 2 p. (For Use of Information Media—Not an Official Record) (United Nations. Press Release GA/COL/1533)

^{153/} New York Times, Sept. 20, 1973: 19; Sept. 13, 1973: 40.

^{154/} New York Times, Aug. 11, 1974: 18; Washington Post, Mar. 27, 1974: A 2.

Appendix: Governors of American Samoa

Naval Governors^{155/}

Name	From	To
Commander B. F. Tilley [Commandant]	Feb. 17, 1900	Nov. 27, 1901
Captain U. Sebree [Commandant]	Nov. 27, 1901	Dec. 16, 1902
Lt. Cmdr. H. Minett (Acting) [Commandant]	Dec. 16, 1902	May 5, 1903
Commander E. B. Underwood [Commandant]	May 5, 1903	Jan. 30, 1905
Commander C. B. T. Moore [Governor]	Jan. 30, 1905	May 21, 1908
Captain John F. Parker	May 21, 1908	Nov. 10, 1910
Commander W. M. Crose	Nov. 10, 1910	Mar. 14, 1913
Lieutenant N. W. Post (Acting)	Mar. 14, 1913	July 14, 1913
Commander C. D. Stearns	July 14, 1913	Oct. 2, 1914
Lieutenant N. W. Post (Acting)	Oct. 2, 1914	Dec. 6, 1914
Lieutenant C. A. Woodruff (Acting)	Dec. 6, 1914	Mar. 1, 1915
Commander John M. Poyer	Mar. 1, 1915	June 10, 1919
Commander Warren J. Terhune	June 19, 1919	Nov. 3, 1920
Captain Waldo Evans	Nov. 11, 1920	Mar. 1, 1922
Captain Edwin T. Pollock	Mar. 1, 1922	Sep. 4, 1923
Captain Edward S. Kellogg	Sep. 4, 1923	Mar. 17, 1925
Captain Henry F. Bryan	Mar. 17, 1925	Sep. 9, 1927
Captain Stephen V. Graham	Sep. 9, 1927	Aug. 2, 1929
Captain Gatewood S. Lincoln	Aug. 2, 1929	Apr. 3, 1931
Commander James S. Spore (Acting)	Apr. 4, 1931	Apr. 22, 1931
Lt. Cmdr. Arthur T. Emerson (Acting)	Apr. 23, 1931	July 17, 1931
Captain Gatewood S. Lincoln	July 18, 1931	July 8, 1932
Captain George B. Landenberger	July 8, 1932	Apr. 10, 1934
Lt. Cmdr. Thomas C. Latimore (Acting)	Apr. 11, 1934	Apr. 13, 1934
Captain Otto Dowling	Apr. 14, 1934	Jan. 15, 1936
Lt. Cmdr. Thomas B. Fitzpatrick (Acting)	Jan. 15, 1936	Jan. 20, 1936
Captain MacGillivray Milne	Jan. 20, 1936	June 3, 1938
Captain Edward W. Hanson	June 6, 1938	July 30, 1940
Lt. Cmdr. Jesse R. Wallace (Acting)	July 31, 1940	Aug. 8, 1940
Captain Lawrence Wild	Aug. 9, 1940	June 5, 1942
Captain John G. Moyer	June 5, 1942	Feb. 8, 1944
Captain Allen Hobbs	Feb. 8, 1944	Jan. 27, 1945
Captain Ralph W. Hungerford	Jan. 27, 1945	Sep. 3, 1945
Commander Samuel W. Canan (Acting)	Sep. 3, 1945	Sep. 10, 1945
Captain Harold A. Houser	Sep. 10, 1945	Apr. 22, 1947
Captain Vernon Huber	Apr. 22, 1947	June 15, 1949
Captain Thomas F. Darden	July 7, 1949	Feb. 23, 1951

^{155/} Office of Samoan Information. Annual Report, 1973, p. 42-43.

(A few minor errors in regard to names were discovered in the table; these were corrected by resorting to U. S. Navy Dept. Register of Commissioned and Warrant Officers of the United States Navy and Marine Corps. Washington, U. S. Govt. Print. Off. Published semiannually and annually for more than a century.)

Civilian Governors^{156/}

Name	From	To
Phelps Phelps	Feb. 23, 1951	June 20, 1952
John C. Elliott	July 16, 1952	Nov. 25, 1952
James Arthur Ewing	Nov. 28, 1952	Mar. 4, 1953
Lawrence M. Judd	Mar. 4, 1953	Aug. 5, 1953
Richard Barrett Lowe	Oct. 1, 1953	Oct. 15, 1956
Peter Tali Coleman	Oct. 15, 1956	May 24, 1961
H. Rex Lee	May 24, 1961	July 31, 1967
Owen S. Aspinall	Aug. 1, 1967	July 31, 1969
John M. Haydon	Aug. 1, 1969	Oct. 15, 1974 ^{157/}

^{156/} Id.

^{157/} Washington Post, Aug. 7, 1974: B 7.

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