

THE *TONGA MA'A TONGA KAUTAHA*:
A WATERSHED IN BRITISH-TONGAN RELATIONS

by Penny Lavaka

In late 1910, an extremely popular Tongan cooperative society, the *Tonga Ma'a Tonga Kautaha* (The Tonga for the Tongans Company) was closed at the instigation of the British Agent in Tonga. The incident demonstrated the extent to which the British government, through its Agent, had usurped political responsibility in Tonga; it also provided the Tongan government with an opportunity to win back some of the autonomy it had lost during the previous decade. By early 1912, as a result of the *Kautaha* crisis, the British-Tongan relationship had been redefined to Tonga's advantage, and the authority of King Tupou II within his own kingdom had been reestablished.

Although Tonga was officially proclaimed a British Protectorate in 1900, its colonial status was unique in the Pacific. Its national coherence under a strong monarchy and organized central government had given the kingdom the machinery to resist formal domination. Under the 1900 Treaty of Friendship, the British government controlled Tonga's foreign relations and exercised jurisdiction over British and foreign residents, but possessed no authority to intervene in Tonga's domestic affairs.¹ In 1905 however, this latter provision had been overruled by an agreement, signed by Tupou II under threat of annexation and deportation, which specified in part that the British Agent was "to be consulted and his advice taken."² Thus empowered, British officials began force-feeding advice into an administration which they viewed as inefficient and often corrupt. Tupou II, who ruled Tonga from 1893-1918, fought unsuccessfully against this intrusion on his sovereignty, arguing that it contravened not only the 1900 treaty but also his kingdom's own 1875 constitution.

With the appointment in September 1909 of William Telfer Campbell as British Agent in Tonga, British interference in the kingdom's affairs reached new heights. An Ulster man of imposing stature and irascible

¹Treaty of Friendship Between Great Britain and Tonga, 18 May 1900, *Laws of Tonga* (revised 1948), Government Printer, Wellington, 1951.

²Article II, "Supplementary Agreement" Between Great Britain and Tonga, (or "Note of Points Accepted by the King"), 18 January 1905, *ibid.*

temper, Campbell was by nature an autocrat and regarded himself as "Administrator of Tonga."³ His record as Resident Commissioner in the Gilbert and Ellice Islands Protectorate over the previous twelve years, coupled with "idiosyncracies of temper and tact" made his appointment to Tonga a "dangerous experiment" even in the eyes of interventionist-minded British officials.⁴ Campbell epitomized the paternalistic attitude which had underlain all the more recent dealings of the British with Tonga. He saw no worth in the Tongan way of life or of government and believed it was his duty to save the Tongans from their "conceit and Constitution"--the two principal stumbling blocks which in his opinion prevented Tongans from deriving full benefit from the Protectorate.⁵ Given Campbell's attitudes and the Tongans' desire for independence, the situation in Tonga was ripe for political crisis, and the *Kautaha* provided the catalyst.

The *Tonga Ma'a Tonga Kautaha* was established in May 1909 by a local European resident, Alexander D. Cameron. Within a few months, it had become a very important organization, both commercially and symbolically, for a great many Tongans. The *Kautaha* provided an avenue for Tongans to participate in the European commercial trading system and so usurp the role and profits of foreign traders. Through it, Tongan producers were able to sell their copra to the best advantage, bypassing the European middleman. Initially, the *Kautaha* was simply a "commission agency" which exported its members' copra and gave them the exact overseas price less duty, freight and 6 d. a sack (approximately 8/- a ton) commission which went to the president. It also handled the direct importation of goods in wholesale quantities; members could obtain flour, cabin biscuits, tinned beef or fish or other necessaries at cost price, plus the expenses incurred in importation and five percent commission. Plans to expand into the retail business had little time to come to fruition.

Set against the normal profits which the European traders expected--£3 to £4 a ton on copra and 15 to 20 percent on imported goods--the *Kautaha* idea meant real savings for its members. The difference in prices may well have been greater than is reflected by these figures; it seems to have been common enough for traders to charge Tongans twice what they

³Campbell to im Thurn, 19 November 1909, Western Pacific High Commission, Inwards Correspondence General (WPHC 4), MP 1720/09; I am also indebted to Dr. Barrie Macdonald for information on Campbell.

⁴im Thurn to Secretary of State (S/S), 11 March 1908, Public Records Office, London, Original Correspondence, Western Pacific (CO225), 81.

⁵Campbell, Trade Report for 1910, WPHC 4, 2032/11. This remark was omitted from the published Report.

charged Europeans, an issue which intensified resentment against the traders.⁶ There were some drawbacks to shipping through the *Kautaha*, though. Payment was sometimes subject to a two-month delay 'so that when members needed ready money, they would still sell to European traders. Members also contributed towards the *Kautaha's* working expenses. Apart from the membership fee of 12/- and annual payments of 4/-, there were collections, usually in the form of a sack of copra, towards new ventures such as the purchase of a schooner or building of a copra shed. From the evidence available, it seems certain, however, that through the *Kautaha*, Tongans could and did save money.

But it was not the commercial advantage alone which attracted members. As the name *Tonga Ma'a Tonga* signified, the *Kautaha* served as a vehicle for Tongan aspirations, a means of regaining some of that prized Tongan independence which had been eroded in the economic as well as the political field. The business skills of the white man would provide the key not merely to economic improvement, but to a new kind of existence in which foreigners would no longer be needed. Although four of the key posts in the *Kautaha*--president, accountant, and branch managers in Ha'apai and Vava'u--were occupied by Europeans, it was the avowed aim of this "progressive movement" to lift the Tongans out of the "sticky mud of ignorance" and throw "the whole light of day on the business habits of the *pāpālangi*."⁷ The *Kautaha* bore resemblance to a cult movement and members looked towards their association and its president, Cameron, with almost mystical reverence. According to the Premier, Mateialona, Cameron was spoken of generally among *Kautaha* members as "an angel descended from Heaven to deliver them from the bondage of the White traders."⁸

With its nationalistic overtones and economic advantages, it is little wonder that the *Kautaha* rapidly took hold throughout Tonga. Its mass membership was testimony to its popularity: by February 1910, the *Kautaha* boasted 3,280 members (1,280 in Tongatapu, 1,200 in Vava'u and 800 in Ha'apai), some 60 percent of all taxpayers.⁹ Included in this number were many of Tonga's most influential chiefs and nobles. Although real control of the organization lay with the president, the *Kautaha's* formal constitution (drawn up by a friend of Cameron and colorful local figure,

⁶May to S/S, confidential (conf), 23 September 1911, and enclosures (encls), CO 225/97.

⁷Document "C," Appendix to *Tonga Government Gazette Extraordinary*, No. 8, 1911.

⁸Interview with Premier, 9 September 1911, encl 6 in May to S/S, conf, 23 September 1911, CO 225/97.

⁹Document "M" Appendix to *Tonga Government Gazette Extraordinary*, No. 8 1911.

Robert Hanslip) provided the Tongans with a system of trustees and representatives; the former to collaborate on important decisions and safeguard the Tongans' interests, the latter to convey information back to the villages. On Cameron's advice, the organization of the *Kautaha* was based on that of the Free Church,¹⁰ and it seems likely that this was also a base for membership. After all, the *Kautaha's* concern for autonomy was the same force that had provoked the formation of the Free Church in 1885.¹¹

The popularity of Cameron and the *Kautaha* contrasts strongly with the official condemnation heaped upon them by Campbell and other European officials. As the colonial office later noted, the officials involved made a crucial mistake in failing to appreciate early enough just how firmly the *Kautaha* as an idea and Cameron as its apostle had gripped the people of Tonga.¹² Far removed from the villages and the attitudes of *Kautaha* members, Campbell seemed to find the whole attempt to bypass European traders contemptible. There can be little conjecture as to where his sympathies, and those of his superiors in the High Commission, lay. British and German merchants were definitely feeling the effects of the *Kautaha* trade. For individual small traders in particular, the *Kautaha* threatened ruin.¹³

While these conditions lay in the background, the decision to close the *Kautaha* was not taken in this context. It was the character and financial operations of the president, Cameron, on which the justification for the closure was to hinge. Cameron, a thirty-seven year old Englishman, had spent four years in Ceylon, India, and Australia before being appointed manager of the Tongan branch of Bums Philp in 1901. When his business ventures on their behalf failed, Cameron took to drink and apparently banished himself to "a distant island" for fifteen months to regain "moral control." In 1903, he married Kelela Cocker, the daughter of a European trader and a Tongan woman and for a time worked lands belonging to her family.¹⁴ Cameron's local marriage, together with his style of life, made him anathema to Campbell. The fact that Cameron had been declared a bankrupt shortly before the *Kautaha* opened and that, within a year of its operation, he had earned between £1,300 to £1,500, was not overlooked by Campbell. There was, no doubt, at all in the latter's mind

¹⁰Cameron, Memoirs (unpublished manuscript in writer's possession).

¹¹For an account of this struggle see Noel Rutherford, *Shirley Baker and the King of Tonga*, Melbourne, 1971.

¹²Minute, 25 November 1911, on May to S/S, conf, 23 September 1911, CO 225/97.

¹³May to S/S, conf, 23 September 1911 and encls, CO 225/97.

¹⁴Petition of A. D. Cameron, 10 November 1910, WPHC 4, 1278/10.

that Cameron was a rogue who was shamefully exploiting “ignorant and trustful natives.”¹⁵ It was a view shared by nearly every other British official involved.

Campbell's first official involvement with the *Kautaha* occurred in August 1910, when he presided over a libel suit which Cameron brought against R. G. M. Denny, a former employee who was now promoting a rival *Kautaha*. After giving judgement against Cameron, Campbell impounded the *Kautaha's* books (an action which Cameron claimed was illegal) and handed them over to the Tongan government, declaring that the Tongans were being exploited “in a scandalous manner.”¹⁶ On Campbell's urging and with Cameron's blessing, an audit was made by T. V. Roberts, the Auditor-General, and G. B. Humphries, a Sydney accountant who happened to be passing through. Their report, published on the Premier's sole authority in a *Tonga Government Gazette Extraordinary* on 26 August 1910 was, as an editorial in the *Fiji Times* commented, certainly extraordinary.¹⁷ It began its indictment with the statement:

That all the assets appearing in the Balance Sheet do not exist; and that liabilities incurred by the *Kautaha* before the date of balance do not appear on the sheet, and the whole of the books are without a doubt faked.¹⁸

Nowhere in the report was there any admissible evidence to prove this claim. While it showed that the *Kautaha* had not been run very efficiently and was subject to chiefly appropriation, the report contained inconsistencies and was obviously the result of prejudices running deeper than a mere perusal of the books.

It was on the strength of this report that the *Kautaha* was closed. But the decision did not come from the Tongan Privy Council. In a move which reflected the extent of *Kautaha* support, the Council ruled that the Premier and Roberts should meet *Kautaha* members, read them the report, and seek their opinion regarding the *Kautaha's* closure. The meeting took place on 25 August and, although members and trustees were present, Cameron was not invited. After the report was read, the Premier, Mateialona, on his subsequent admission, merely notified the meeting that the government would close the *Kautaha*. In response to objections from

¹⁵Campbell to Major, 26 August 1910.

¹⁶Campbell to Mateialona, 18 August 1910, encl 1 in Campbell to Major, 12 September 1910.

¹⁷*Fiji Times*, 12 October 1910.

¹⁸*Tonga Government Gazette Extraordinary*, No. 25, 1910.

those present, he directed the Minister of Police, Polutele Kaho, to guard the *Kautaha* premises and to seize its assets.¹⁹

Mateialona's action, taken in open opposition to the Privy Council and the wishes of the *Kautaha* members, was clearly the result of Campbell's influence and backing, and reflected the Premier's political allegiance. An illegitimate grandson of Tupou I, Mateialona's Wesleyan affiliation had long marked him out as a member of a dissident political minority--those who suffered exile under Tupou I rather than join the State Free Church. In 1905, Mateialona had been prominent among a number of high-born Tongans who had courted British support against the paramountcy of Tupou II; and in the wake of the deportation of the previous Premier, Sateki Veikune, Mateialona had been foisted onto the government by the British High Commissioner for the Western Pacific, Sir Everard im Thurn.²⁰ It was hardly surprising that Mateialona heeded advice from the British Agent rather than the King.

In Privy Council, Mateialona had apparently argued strongly against closing the *Kautaha*, and in view of this, the Minister of Police questioned on whose authority the instructions were given. Kaho later reported to the High Commissioner:

The Premier told me he had instructions from the Consul and that these instructions were more powerful than the Privy Council. . . . The Premier told me to close it or I might get into trouble.²¹

This report of Campbell's attitude was subsequently confirmed from a number of sources, including Campbell himself. In his memoirs (written in old age but not published), Cameron claimed the existence of a letter from Campbell to the Premier, instructing him to close the *Kautaha*.²² No other mention of such a letter has been found, however, and it may well have been no more than a Cameronian literary device.

Subsequent to the closure, Cameron was charged in the High Commissioner's court with having "unlawfully, wilfully and with intent to defraud" published a false balance sheet, and with a further charge that he "did use moneys of the *Tonga Ma'a Tonga Kautaha* for his own personal

¹⁹Evidence of Mateialona in *Cameron et al v Campbell et al*, unsorted papers in the possession of Mrs 'E. Fusitu'a, Canberra.

²⁰Sir Everard im Thurn, Report on Tongan Affairs (December 1904-January 1905), encl in im Thurn to S/S, 15 March 1905, printed copy, Western Pacific Archives, Suva.

²¹Interview with Minister of Police, 9 September 1911, encl 7 in May to S/S, conf, 23 September 1911, CO 225/97.

²²Cameron, Memoirs.

use without the authority of the trustees of the said *Kautaha*.”²³ The embezzlement charge was thrown out at the preliminary examination before Campbell on 26 and 27 October 1910. And at the trial, from 27 to 29 December, Honorable A. Ehrhardt, the acting Chief Judicial Commissioner for the Western Pacific, acquitted Cameron of falsifying the balance sheet. No evidence of deliberate falsity could be produced. Moreover, as Ehrhardt pointed out in his judgement, Humphries, the liquidator, had been forced to admit that though the *Kautaha* was not being run for profit, he had realized more than the book debts for most of the assets and with prudent management there would be sufficient funds to pay the creditors in full.²⁴

Ehrhardt’s judgement, delivered on 29 December, was openly and severely critical of the authorities actions. Of Humphries he declared: “His evident bias, and prejudice, amounting to animosity against the accused, and his want of candor, left a very bad impression on my mind.” As for the closure itself, Ehrhardt concluded that it had been carried out by the “very high-handed and I cannot but think ill-advised action of the authorities.” While noting that it would be a matter of some surprise if those in power did *not* regard the formation of such a large and important association with some uneasiness, he pointed out:

I need hardly say that they should take measures to secure that such associations are conducted in a proper and business-like manner. . . . They should not, by indirect and high-handed action, attempt to wreck them or without just cause which can be upheld in a court of law stop their operation.²⁵

Ehrhardt’s judgement weighed heavily on Campbell; he complained to the acting High Commissioner of the criticisms made in court and argued that the Tongan government had never attempted to wreck the *Kautaha*. Rather, “On my recommendation, steps were taken to prevent, if possible, the *Kautaha* becoming bankrupt.” If they had wanted to destroy it, he claimed, the best way would have been to take no action at all, in which case the *Kautaha* would have ended up “hopelessly bankrupt and irrevocably wrecked.”²⁶ The assistant High Commissioner, Arthur Mahaffy, who was in Tonga during the trial, was also upset at the

²³Copy of Information, encl in Campbell to Major, 9 November 1910, WPHC 4, 1278/10.

²⁴Copy of Judgement in *Rex v Cameron*, encl in May to S/S, 13 April 1911, CO 225/95.

²⁵Ibid.

²⁶Campbell to Major, 6 January 1911, WPHC 4, 102/11.

outcome. In a personal letter to Ehrhardt, which the latter saw as serious contempt of court, he wrote: "I am very sorry indeed that this prosecution failed to prove that Cameron is the swindler that he most certainly is."²⁷

Although the court had failed to implicate Cameron in any fraudulent dealings and despite Ehrhardt's remarks, the campaign against Cameron and the *Kautaha* continued. Not long after the trial, a move was afoot to exclude from Tonga not only Cameron but also his former Auckland agent, Ambrose Millar, who was building a flourishing business out of the wreck of the *Kautaha* with the support of Cameron and his disappointed followers. The proposal was put before the acting High Commissioner in Fiji by two lawyers--Lancelot Indermaur, a recent arrival in Tonga who had been counsel for the prosecution at Cameron's trial, and Humphrey Berkeley, a somewhat notorious Suva lawyer whose retention by the Premier (with the Consul's connivance) as adviser to the government at the exorbitant fee of 2,000 guineas was to become yet another nail in the official coffin of W. T. Campbell. Campbell vigorously supported the prohibition of Cameron from the entire western Pacific, although he felt Millar's exclusion premature.²⁸ His views on Cameron were shared by a number of European merchants and traders who, in January 1911, petitioned the High Commissioner to the effect that "such a state of affairs as conducted by the said A. D. Cameron is calculated to seriously prejudice the whole community as a whole in the eyes of the natives."²⁹

By this time the acting High Commissioner, Sir Charles Major, was becoming wary of the goings-on, It seems he realized that the situation was rapidly becoming explosive, especially in view of Cameron's acquittal. He wanted no part at all in the decision and instructed Campbell to be particularly careful not to involve the High Commissioner, even by implication, in any step to be taken by the Tongan government:

The matter at present solely concerns the Government of Tonga and your position as adviser to that Government does not imply that the High Commissioner is in any way concerned in the matter. . . . I sincerely urge upon you the absolute necessity of regarding the matter in its present stage as wholly a Tongan one to the absolute exclusion of the High Commissioner.³⁰

²⁷Mahaffy to Ehrhardt, 20 January 1911, WPHC 4, 1278/10.

²⁸Campbell to Major, tel, 26 January 1911.

²⁹Petition of Merchants and Traders of Tonga, encl in Campbell to Major, 7 January 1911.

³⁰Draft telegram to Campbell, in Minutes, 26 January 1911.

Major's words highlighted a somewhat anomalous position: Campbell's advice as British Agent to the Tongan government should no longer be regarded as British advice. Was it then to be merely the advice of an individual? If so, was the Tongan government still bound by the treaty to take it? Although Major's confusion may in part be attributed to the temporary nature of his appointment, it also reflects the uncertainty of the British position in Tonga.

Major's determination that the High Commissioner should in no way be identified with the matter at this stage was also reflected in his instructions to Mahaffy to proceed to Tonga "to assist Mr Campbell in a difficult position in which he was faced owing to the anticipated resuscitation [*sic*] of the *Kautaha* and the return of Mr Cameron from Fiji"³¹ (where he had gone to seek legal advice). It seems that Major did not trust Campbell's ability to keep aloof from the crisis in Tonga, and so Mahaffy was sent to watch events, *not* to interfere in any way, but to impress upon Campbell the necessity of leaving the matter to the Tongan government. Mahaffy's brief visit in February/March 1911 earned him the name "picnicing Mahaffy" because the *Fiji Times* correspondent could not discover what else he did;³² he certainly did nothing to alleviate the situation. Mahaffy's sympathies decidedly lay the same place as Campbell's, and the latter was already too far embroiled to extricate himself easily. Besides, the *Kautaha* battle had developed its own momentum, provoked by Berkeley and Humphries on one side and the *Kautaha* lawyer, George Scott, together with the Chief Justice, Robert Skeen, on the other.

By the time of Mahaffy's visit, the forces of the *Kautaha* had begun to rally; and, taking strength from Cameron's acquittal, they prepared for an assault on the authorities who had deprived them of their association and property. On 8 February 1911, Scott, acting under instructions from the *Kautaha* trustees, asked Campbell to issue summonses against Roberts, Humphries, and himself as British Agent, for illegally entering the *Kautaha's* premises and carrying off its assets. The *Kautaha* trustees claimed a total of £11,500 (£4,500 for the value of the assets and £7,000 damages).³³ Campbell refused to issue the summonses, informing Scott that he would not be a party to "farcical proceedings."³⁴ The *Kautaha* promptly took out the summonses in Suva and the hearing was set down for mid-June, although it was subsequently delayed until August.

³¹Minute by Mahaffy, 1 April 1911.

³²*Fiji Times*, 15 June 1911.

³³Writ of Summons and Particulars of Claim, WPHC 4, 1278/10.

³⁴Campbell to Major, 17 February 1911.

In addition to seeking legal redress, Scott proposed to the Premier in mid-January that a meeting between Cabinet and Council might settle the matter amicably, but the offer was declined,³⁵ and in mid-March, the *Kautaha* solicitors in Fiji, William Scott and Co. (no relation to George Scott) called on Sir Francis May, the new High Commissioner, asking him to appoint a Commission of Inquiry, or to go himself to Tonga and inquire into the circumstances of the *Kautaha's* suppression. But May, who at that stage had been in Fiji only about two weeks, followed Major's example of not getting involved. He told Scott that the Tongan government had taken legal action in the matter and that he could not interfere.³⁶

The threatened action by *Kautaha* trustees, together with rumors that the *Kautaha* was soon to be revived, created what Mahaffy described as "a big stir" among Tongans.³⁷ According to Campbell, the unrest was so considerable that "strong measures" might be needed if it continued.³⁸ This unrest, together with the completion of two further official reports on the affairs of the *Kautaha*, apparently convinced the Tongan government, or at least its advisers, that the immediate suppression of *Kautaha* activities was desirable. The reports--one by the liquidator, Humphries, and one supplied by the Fiji government auditor at the request of the acting High Commissioner--were published as a *Tonga Government Gazette Extraordinary* (No. 8/11), on 3 March. Humphries' report concentrated particularly on what he called the exploitation by Cameron of the religious and nationalistic feelings of the Tongans, and repeated many of the charges already thrown out of court. The reports did prove that the Tongans themselves had very little idea of the financial workings of the *Kautaha*, and that the financial side had not been managed very efficiently, but their authors continued to overlook the fact that the *Kautaha* had never been intended to run for a profit.

Subsequently, the Tongan Privy Council--on the advice of Berkeley and in the absence of the King--passed two ordinances directed at the *Kautaha*. There can be little doubt that both Mahaffy and Campbell supported the legislation--Mahaffy reported that they both believed the government to be "perfectly justified."³⁹ One of the ordinances (No. 5/11), gave the King in council wide powers to issue an order of prohibition against any non-Tongan believed to be disaffected to the King or govern-

³⁵Evidence of Mateialona in *Cameron et al v Campbell et al.*, unsorted papers.

³⁶Minute by May, 31 March 1911, WPHC 4, 1278/10.

³⁷Mahaffy to May, 28 March 1911, encl in May to S/S, 13 April 1911, CO 225/95.

³⁸Campbell to May, 18 April 1911, WPHC 4, 1278/10.

³⁹Mahaffy to May, 28 March 1911, encl in May to S/S, 13 April 1911, CO 225/95.

ment “or otherwise dangerous to the peace or good order of the kingdom.”⁴⁰ Obviously designed for use against Cameron, the ordinance was criticized by European church leaders as abrogating the right of non-Tongans to the jurisdiction of the High Commission’s court, as provided in Section V of the 1900 treaty.⁴¹ Perhaps because of this, and because the support of the High Commissioner could not be guaranteed in the event of a deportation, the ordinance was never invoked. The other ordinance (No. 4/11), was an even more remarkable piece of legislation, revealing “a control and restriction of the liberties of private individuals . . . that can only be described as amazing.”⁴² Aptly labelled “panic-stricken,”⁴³ it was designed to replace an earlier ordinance, 17/10,⁴⁴ until proper company legislation could be introduced. Sections 4 and 5 had the effect of forbidding associations between Tongans and non-Tongans for the purpose of trading on the grounds that such associations were “likely to be to the loss and damage of the natives of Tonga” and more significantly, were “likely to lead to exclusive dealing or boycotting and hence . . . likely to cause loss and damage to non-native persons occupied in the legitimate conduct of trading operations with His Majesty’s Tongan subjects.” Section 3 amounted to an indemnity for the authorities who had closed the *Kautaha*, and was obviously designed to forestall the threatened court action:

It shall be unlawful for any Tongan to bring any action at law in any court against any member of the Tongan Government or against any officer or officers employed by the said Government or acting by the authority of the said Government on its behalf for any act done by them or any of them in the suppression, winding up or liquidation of . . . The *Tonga Ma'a Tonga Kautaha*.

This section of the ordinance was made effective retrospectively to August 1910, thus coming into conflict with clause 20 of the constitution which forbade retrospective legislation. As a final touch, a further section hit directly at Cameron’s connections with the Tongan people. It was made unlawful for any Tongan

⁴⁰Ordinance No. 5, 1911.

⁴¹Page, Watkin, Willis, Petition to Sir Francis May, 26 June 1911, WPHC 4, 1152/11.

⁴²Ibid.

⁴³Ibid.

⁴⁴Ordinance No. 17, 1910, forbade the connection of a European with a *Kautaha* without Cabinet consent.

to give, subscribe, collect, or to aid, assist or abet in the subscription or collection of any money or produce for the purpose of helping any non-native who in the past may have been associated with natives of Tonga for the purpose of trading or in any *Kautaha*.^{4 5}

These strenuous efforts to disarm the *Kautaha* had little effect other than to make martyrs of its members and supporters. The court action went ahead because the case was to be tried in the High Commission court and not under Tongan law. Thus the case of *Cameron and the Kautaha Trustees v Campbell, Roberts and Humphries* was heard in Tonga before packed houses from 9 to 18 August 1911. The court was presided over by none other than Sir Charles Major, who had now returned to his substantive post of Chief Judicial Commissioner for the Western Pacific. After three days, Major dismissed the charge against Campbell on the grounds of insufficient evidence. The case against the other two defendants continued, and Major finally found for the defendants with costs, on the grounds that their acts were acts of state into which he could not inquire.⁴⁶

Major's judgement was, to say the least, open to attack. In a private letter to Sir Francis May, Major himself admitted that his judgement had been given "not however without some doubt."⁴⁷ Legal officials in the colonial office had little doubt that it would be reversed on appeal.⁴⁸ The case was also suspect from another point of view. Few officials doubted that the evidence given by Mateialona was perjurious. He claimed that he had received no instructions to close the *Kautaha*-that he had read the reports and come to his own conclusions. This, as the *Fiji Times* acidly commented, was rather strange when the Premier could not read English.⁴⁹

The *Kautaha* had lost the battle but not the war. Just a week after the trial, Skeen facilitated the reformation of the *Kautaha* when, in response to an application from Cameron and the trustees, he suspended the ordinance which prohibited it. That Skeen had good grounds for doing so cannot be refuted. Even Major, in the course of his judgement, had expressed himself in agreement with the *Kautaha* lawyer's contention that the ordi-

⁴⁵Ordinance No. 4, 1911.

⁴⁶May to S/S, 1 September 1911 and encls, WPHC 4, 1278/10.

⁴⁷Major to May, private, 18 August 1911, WPHC 4, 753/11.

⁴⁸Minutes on May to S/S, conf, 2 September 1911, CO 225/97.

^{4 9}*Fiji Times*, 31 August 1911; see also minute by A. B. Keith, 2 February 1912, on May to S/S, 21 December 1911, CO 225/98.

nance “was and is null and void, as being contrary to the Constitution of Tonga and not enacted as an amendment to that Constitution in valid manner.”⁵⁰ However, Campbell, who had no legal qualifications, was not really interested in legal considerations. As far as he was concerned, Skeen’s action would have the effect of “nullifying all the endeavours made by the Government of Tonga and myself to protect the interests of the people of Tonga.”⁵¹ He reacted by going immediately to the King in company of Humphrey Berkeley and demanding that the suspension be withdrawn and that Skeen himself be suspended.

This interview, which took place on 25 August 1911, represented the climax of Campbell’s attempts to force his advice onto an unwilling King. Tupou II had already fought hard to retain Skeen and had no intention of losing him now. He based his stand entirely on the constitution, arguing that the advice now tendered conflicted with the constitution, while the action of the Chief Justice was in accordance with that revered document. But to Campbell the constitution was nothing more than a hindrance to be relegated to second place behind the agreement under which the King was pledged to take British advice. Campbell and Berkeley demanded a simple “Yes” or “No” answer to their “advice” before they would leave the room. If the answer was no, Campbell told the King, “By this one act you are cutting the halliards of your own flag, and sooner or later it must come down.” With a characteristic lack of diplomacy, he chided the King: “I object to being sent by His Majesty’s British Government to deal with children, I want to deal with men.”⁵² But the King remained adamant. He refused to sign a document agreeing to Skeen’s immediate suspension from office, and the ordinance remained in abeyance.

Campbell’s bluff had been called. Berkeley declared that the agent should himself suspend Skeen, but Campbell was not prepared to go this far. He turned initially to the cabinet, hoping to use his influence there to obtain a vote against Skeen with which he might then override the King’s resistance. But the cabinet was no longer with him--loyalties were beginning to change. Even the Minister of Police, Polutele Kaho, who had once courted British support to get rid of the King, refused to cast his vote against Skeen despite Campbell’s threats of dismissal.⁵³ Polutele’s change

⁵⁰Judgement in *Cameron et al v Campbell et al.*, 18 August 1918, WPHC 4, 1278/10.

⁵¹Campbell to May, 28 August 1911, WPHC 4, 1489/11.

⁵²Interview with His Majesty the King, 25 August 1911, sub-encl (b) in encl, May to S/S, 2 September 1911, CO 225/97.

⁵³Interview with Minister of Police, 9 September 1911, encl 7 in May to S/S, conf, 23 September 1911, CO 225/97.

of allegiance indicated the extent to which Campbell had alienated himself from Tongan opinion.

Finding no support in Tonga, Campbell then turned to the High Commissioner, sending the new government auditor, H. Harcourt, to Suva to lay the situation before May. Campbell's own recommendation was that the King be removed from Tonga, for a time at least, and that two or three foreigners be deported. But for the Premier, he felt himself to be alone against a formidable array of enemies. The only way he could see to improve the situation was by force. He was prepared "to adjust matters and to maintain my position here as far as circumstances will admit" but, ominously, he wanted to be supplied with a small number of reliable police in order to carry out the strong measures he believed necessary.⁵⁴

May judged the situation serious enough to warrant his immediate personal intervention and visited Tonga from 7 to 16 September 1911. Because of the time-lag involved in communication with the colonial office, he was without his superiors' advice throughout the visit, but the outcome accorded closely with the views which officials in London had been advocating all along in connection with Tonga. May immediately saw the extent of political turmoil and unrest amongst the Tongans which Campbell's policy of intervention had provoked, particularly in regard to the *Kautaha*. Ironically, Campbell's meddling had strengthened the Tongans' position. Having usurped political responsibility in Tonga, he could not now escape accountability. He had given bad advice on a number of occasions and had insisted that it be taken. His attitude was also partly responsible for the fact that the King's fight to regain some of his lost independence was now supported by a more united group of Tongans.

Before his visit, May noted that he was not impressed by the action Campbell had taken over Skeen, nor by the "singularly tactless language" he and Berkeley had used to the King in their 25 August interview.⁵⁵ During his first interview with the King, May even went so far as to disassociate himself from the demand for Skeen's immediate suspension which he described as "bad advice."⁵⁶ But instead of learning caution, the High Commissioner met the King on 8 September with a letter of demands based for the most part on Campbell's reports. It was even more unfortunate for May that the legal advice tendered to him in Fiji by Major also turned out to be "hopelessly wrong."⁵⁷ May's demands were three:

⁵⁴Campbell to May, 28 August 1911, WPHC 4, 1489/11.

⁵⁵May to S/S, 2 September 1911, CO 225/97.

⁵⁶Ibid; encl 1 in May to S/S, conf, 23 September 1911, CO 225/97.

⁵⁷Minute, 11 December 1911, on May to S/S, conf, 23 September 1911, CO 225/97.

that the King dispense with Skeen's services by 31 December; that a proclamation be issued declaring Skeen's suspension of the ordinances to be null and void; and that no *Kautaha* be permitted without certain stipulated safeguards. Although the last demand was eventually satisfied in principle, the first two were never met. As one official in the colonial office commented, May

... had to undergo the humiliation of having to withdraw every one of his demands, and to appear as a humble suitor before the King who was triumphed all along the line.⁵⁸

Obviously Tupou II had neither the legal knowledge nor the awareness of European political thinking to fight his own battle against the High Commissioner, and the quality of the advice he received was crucial. In the past he had used a variety of European advisers, including traders, minor officials, and resident lawyers. In 1905, he had employed an Auckland lawyer, Thomas Cotter, to plead his case; and now in 1911, he engaged another, R. N. Moody, whose ability and qualifications were of the highest.⁵⁹ Moody's connection with Tonga seems to have begun through A. D. Cameron, who engaged him in the *Rex v Cameron* case in December 1910, and he subsequently acted for the *Kautaha* in *Cameron et al. v Campbell et al.* But Moody was not only solicitor to the *Kautaha*. In early 1911, Tupou II, while on a three-month visit to New Zealand, engaged Moody as his legal adviser, instructing him

to take such steps and make such representations to such persons as may seem to you advisable, with a view to . . . secure the due observance of the Treaty (dated 18 May 1900 and ratified 16 February 1901) made between Great Britain and Tonga, and to remedy the grievances of which my subjects complain in connection with the present administration by the British Agent in Tonga.⁶⁰

To this end, Moody was responsible for nearly all of Tupou II's correspondences. Thanks to Moody, the King's letters were a great success--well framed and maintaining his zeal for the constitution and for his proper position as an independent sovereign. As one official in Fiji minuted on the receipt of one of Tupou II's adroit letters--"The voice is

⁵⁸Ibid.

⁵⁹Moody, the first Master of Laws in New Zealand, was Lecturer in Law at the Auckland University from 1908. He also worked as a barrister and solicitor in the firm Moody, Hackett and Moody. (Obituary, *Auckland Star*, 2 January 1937; Moody to Greene, 27 February 1911, WPHC 4, 388/11).

⁶⁰Tupou II to Moody, 25 March 1911, Palace Office, Tonga (PO), unsorted papers.

Tupou's voice, but the hands are the hands of Mr Moody."⁶¹ With Moody's capable advice, Tupou II acquitted himself extremely well throughout his negotiations with May.

With the law and constitution on his side, and Moody to argue them, the King had a strong case. It was doubtful, he contended, if he actually had the power to dismiss the Chief Justice even if he wanted to. According to clause 88 of the constitution, the Chief Justice held office "during good behaviour," and the only means provided for his removal seemed to be impeachment by the Legislative Assembly for improper conduct. Although Tupou II refused to dismiss Skeen arbitrarily, he was prepared, in proper legal form, to support a proposal to impeach Skeen at an early meeting of the Legislative Assembly, provided the High Commissioner would supply him with the necessary facts concerning Skeen's improper conduct.

Finding himself apparently without legal sanction, May decided to settle for the offer of impeachment. But when he attempted to find evidence, he was forced to back down. A charge of drunkenness could not be pressed, though it was considered, because there was no firm evidence that Skeen did habitually drink to excess, and even May conceded that he did not have the appearance of such a man. Other possible charges, relating to the taking of private practice and a failure to revise the statute books, were similarly based on shaky ground. Perhaps the only substantial charge against Skeen was that he was known to consort with "small traders and the lower class men on the beach," which might be undesirable in a Chief Justice but was hardly grounds for impeachment. Thus on the day of his departure from Tonga, May wrote to Tupou II, informing him that he did not wish to pursue further the matter of Skeen's removal and regretting that so much of the King's time should have been occupied by a question which he now found himself unable to press.⁶² Skeen continued as Chief Justice till his death in late 1915.

Of wider importance was the settlement of the future of the *Kautaha*. In all the turmoil surrounding the *Kautaha* up to this point, the King had taken no part. As he explained to Moody sometime later: "I had no interest in the *Kautaha*: but when I saw the unjust way they were treated by the Government, I stood by the *Kautaha*."⁶³ Tupou II made no attempt to deny his sympathy with the views of his people, and he took issue with the British officials' belief that such companies were inimical to the wel-

⁶¹Minute, 12 April 1912, on Tupou II to May, 1 April 1912, WPHC 4, 1855/11.

⁶²May to S/S, conf, 23 September 1911, and encls (especially 10 and 25), CO 225/97.

⁶³Tupou II to Moody, 25 November 1911, PO, unsorted papers.

fare of Tongans.⁶⁴ Again with the support of the law, Tupou II refused to issue May's proclamation declaring ordinance 4/11 still in force, contending that Skeen's suspension of it was quite in order. May, having been handicapped by Major's advice to the contrary, wisely decided not to press the point. But he was not happy with Tupou II's proposal to leave to the Legislative Assembly the question of whether future *Kautahas* should be subject to restrictions. Well aware how the representatives, many of them outraged members of the *Kautaha*, would vote, May proposed, and was eventually successful in seeing passed, an ordinance placing minimal restrictions on future *Kautahas*. Provided that their rules of association were approved by His Majesty in Council and that the accounts were regularly audited by the Auditor General, *Kautahas* were free to conduct business.⁶⁵ An attempt to make the rules subject to the High Commissioner's approval was removed at the King's insistence.⁶⁶

Under this temporary ordinance and subsequent comprehensive and complex company legislation prepared by High Commission officials, the new *Tonga Ma'a Tonga Kautaha Ltd.*, was set up. Public opinion in Cameron's favor was so strong that May realized it was hopeless to try to induce the Tongan government to eliminate him from the management of the new *Kautaha*, but it seems Cameron's enthusiasm had waned.⁶⁷ The second *Kautaha* never regained the popularity of its predecessor and was not a commercial success. In 1918, it was finally wound up by the government Receiver.⁶⁸

The overall cost of the *Kautaha* episode to the Tongan government was considerable. A total of £7,742 was paid out, including over £4,000 in legal expenses.⁶⁹ Shortly after the trial, Scott announced the *Kautaha's* decision to appeal against Major's judgement unless a satisfactory settlement was achieved out of court. Tupou II had no wish to leave his subjects with such a grievance, and in December 1911, Privy Council voted £3,604 to restore the costs of liquidation. It seems that the liquidator's ledgers were even more suspect than the *Kautaha's* books. Further, the costs of the trial were never enforced against the *Kautaha*. Cameron also sought compensation from the Tongan government, and although he received only £200 of the £2,500 he claimed, all imputations on his character and con-

⁶⁴Tupou II to Campbell, 28 August 1911, WPHC 1489/11.

⁶⁵Ordinance No. 7, 1911.

⁶⁶Notes of an Interview on 11 September 1911, encl 17 in May to S/S, conf, 23 September 1911, CO 225/97.

⁶⁷Cameron's association with the new *Kautaha* was short-lived. (Cameron, Memoirs).

⁶⁸⁸ *Tonga Government Gazette*, No. 19, 1918.

⁶⁹Treasury Report for 1909--12, *Tonga Government Gazette*, No. 6, 1912.

duct were withdrawn from the *Gazettes* by order of Privy Council in September 1914.⁷⁰

Although the *Kautaha* closure resulted in heavy financial loss to the government, it also brought its own victories. Tupou II had been fighting for more than just the *Tonga Ma'a Tonga Kautaha* or for Skeen; his constitutional right to control his own kingdom, and his government's right to make its own decisions unfettered by British demands had been at stake. Tupou II had never acknowledged Britain's right to interfere in his kingdom, and he was now in a good position to capitalize on Britain's mistakes. Appealing to clause III of the 1900 treaty which precluded the British Agent from interfering in internal affairs, the King argued that Campbell's view of his own position was "totally erroneous."⁷¹ He claimed that the 1905 agreement did not give Campbell license to insist that his advice be "slavishly followed" when it was opposed to the best interests of the kingdom as perceived by the King. Such a course would rob Tonga of the slightest vestige of autonomy and

would lead to the absurd result that the King of Tonga is to have no voice in any matter which he believes affects the welfare of his subjects; in other words the King would not be the reigning monarch, but the British Agent.⁷²

In the course of demanding Skeen's suspension, Humphrey Berkeley had assured the King that if the British Agent gave bad advice, he alone would suffer.⁷³ But events had proved otherwise. It was not Campbell, but the Tongan government and the Tongan people who had suffered from his ill-conceived "advice." Tupou II had good reason to call the system into doubt; and with Moody's pen, he made an impassioned plea for Tonga's independence:

I am weary beyond measure of the existing condition of things. I have tried to preserve to my people their national existence, but there is a limit to my endurance. What does Great Britain want? Does she desire to further extend her dominions by adding to her wide empire the little kingdom of Tonga? No resistance can be offered. We can make no appeal to arms--our only appeal can be made to the justice which is supposed to characterise Great

⁷⁰ *Tonga Government Gazette*, No. 17, 1914; see also WPHC 4, 2408/14 and 2413/14.

⁷¹ Tupou II to May, 7 September 1911, encl 4 in May to S/S, conf, 23 September 1911, CO 225/97.

⁷² Tupou II to Campbell, 28 August 1911, WPHC 4, 1489/11.

⁷³ Interview with His Majesty the King, 25 August 1911, sub-encl (b) in encl, May to S/S, 2 September 1911, CO 225/97.

Britain's treatment of weaker nations. . . Does Great Britain desire to render the foreign traders richer, or does she truly desire to leave my people happy and contented? . . .

If we do not adopt the wisest course in managing our own concerns, that will be our affair. No nation has always seen clearly the right course to follow. If we are to make mistakes, then let us learn wisdom by experience, but as long as the interests of the few foreigners living in our midst are not endangered, no just cause can be found for robbing us of our independence, under the guise of giving us the 'advice' of the British Agent.⁷⁴

Tupou II's plea for a reexamination of the relationship between Britain and Tonga was accompanied by an official request for the recall of Campbell from Tonga. Not only was Campbell the embodiment of the British attitude of which the King complained, but he was also, the King contended, quite unfitted for his position. The language he had used to the King and the threats which were a regular feature of his repertoire made him "personally most distasteful" to the King and also, the latter surmised, to most of his subjects and to many foreign residents.⁷⁵ With point, Tupou II argued: "We are not deficient in intelligence--send us a wise and tactful man, to whom we can safely appeal for advice, and you will find that we are not slow to take advantage of wisdom."⁷⁶

The request was sympathetically received. By the end of his visit to Tonga, May was convinced that Campbell's removal was absolutely necessary. He considered Campbell "lacking in tact and dictatorial in his methods," and called on him to apologize to the King for the "truculent attitude" he had adopted during the interview on 25 August.⁷⁷ Colonial office officials agreed with May; they could see little in Campbell's favor and held him responsible for the problems arising from the closure of the *Kautaha*, including the heavy financial loss to the Tongan government. Although he was credited with having acted in what he believed to be the best interests of the people of Tonga, Campbell was censured for having "failed to realise the necessity of showing great tact in dealing with the King and to accept the limitations which have been imposed upon the action of the British Agent by His Majesty's Government."⁷⁸ That these limi-

⁷⁴Tupou II to May, 7 September 1911, encl 4 in May to S/S, conf, 23 September 1911, CO 225/97.

⁷⁵Ibid.

⁷⁶Ibid.

⁷⁷May to S/S, conf, 23 September 1911, CO 225/97.

⁷⁸5/S to May, conf, 16 February 1912, WPHC 4, 1489/11.

tations had never been spelled out to Campbell, or that he had acted with the tacit support and more often the active encouragement of his superiors in the High Commission, was not permitted to cloud the decision to remove him.

Campbell's removal from Tonga was a sign that the colonial office had in large measure accepted the King's interpretation of Tonga's status. In fact, for the colonial office there was nothing new--it had always maintained that the King and his ministers should not be deprived of their lawful authority. One official minuted:

I do not understand the objection to the King being an active Ruler. I can find nothing in the Constitution to indicate that he was intended to be anything else; I can see no ground on which we can desire that he should be a figurehead.⁷⁹

But for the first time since the signing of the 1900 treaty, officials at the Western Pacific High Commission gained a new respect for the kingdom's autonomy. Early in his visit, May had demurred to Tupou II's statement that Tonga was an independent state. Rather, he claimed, it was "a state under the protection of Great Britain whose full liberty of independent Government is somewhat circumscribed by Treaty and by the Supplementary Agreement."⁸⁰ On the day he left, however, he addressed a letter to Campbell which amounted to a redefinition of High Commission policy and prescribed a much more limited role for the British Agent. May's letter, subsequently endorsed by the colonial office, stated that the 1905 agreement "does not mean that the agent and consul can insist on his advice on any matter being followed." All it implied was that the agent should be consulted on important issues, and could offer advice if he saw the administration being mismanaged. If he was not consulted, or if his advice on important issues (such as trade, administration or external relations) was ignored, then he could do no more than report the matter to the High Commissioner.⁸¹ This interpretation, which formed part of the instructions to the incoming agent, left much less room for initiatives by over-zealous British officials.

Tupou II welcomed these reappraisals, informing May that his "impartiality and tact" had reestablished his own faith, and that of his people, in Great Britain. But there was one further change which Tupou II

⁷⁹Minute by A. B. Keith, 2 February 1912, on May to S/S, conf, 21 December 1911, CO 225/98.

⁸⁰May to Tupou II, 8 September 1911, encl 5 in May to S/S, conf, 23 September 1911, CO 225/97.

⁸¹May to Campbell, 16 September 1911, encl 34.

planned before he could again call the kingdom his own. Since Mateialona's appointment as Premier in 1905, his presence had been a source of great irritation to the King. Mateialona had obviously become "completely subservient to the British Agent,"⁸² and with unforgivable indiscretion had publicly declared: "I tell you our country is protected, and if it is protected, it is (i.e. the country) the protector's, and it is right if the Consul says he is going to jump into the sea, [for] the King to follow him"⁸³

On 14 October 1911, Tupou II informed the High Commissioner that Mateialona had lost the confidence of the King, ministers and people, and that the interests of Tonga demanded his replacement. The Tongan constitution empowered the King to dismiss his Premier, and Tupou II wanted that unfettered authority. In this he met determined opposition from May and the colonial office who realized that Mateialona was being punished for his loyalty to the British Agent and for his belief that Tonga should be ruled in accordance with British advice. Weighed against their reluctance to see Mateialona removed, however, was the question of their legal right to prevent it. The High Commissioner was authorized to make "strong recommendations" to the King, but no more--annexation was not yet completely ruled out in the colonial office, but it had been threatened too often and too cheaply. The British were finally forced to admit that without the King's consent there were "no legal means of intervention."⁸⁴

On Moody's advice, however, Tupou II allowed himself to be persuaded. But he was not conceding anything; he had simply found a surer way to outwit the British. Relying on the Legislative Assembly's power of impeachment, Tupou II announced that he would wait and see whether any "spontaneous action" was taken against Mateialona during the next session.⁸⁵ This was a brilliant move, for it took the responsibility away from the King and was fully in accord with the fundamental British constitutional principle that a Premier should retain the confidence of the people. The colonial office had no answer. On 15 May 1912, Mateialona was charged in the Legislative Assembly with having closed the *Kautaha* "against the instructions of His Majesty and Privy Council" and with having acted without the authority of the Council on other specified occasions. With the outcome a foregone conclusion, the acting British Agent,

⁸²Tupou II to May, 7 September 1911, encl 4.

⁸³Ibid.

⁸⁴Minute by A. B. Keith, 4 October 1912, on Sweet-Escott to S/S, conf (3), 9 August 1912, CO 225/105.

⁸⁵Tupou II to May, 1 April 1912, WPHC 4, 1855/11.

Islay McOwan, arranged a last-minute honorable settlement for Mateialona. In return for the withdrawal of the charges, Mateialona agreed to resign from the Premiership.⁸⁶

One final touch completed the King's ascendancy over the British and over his own kingdom. At the same session of the Legislative Assembly the governors of Ha'apai and Vava'u, Sione Tu'itavake and Sione Tupou Faletau, were impeached and subsequently removed from office. The charges against them were not particularly grave--Tu'itavake was accused of preventing the collection of money for the *Kautaha* law suit, and Faletau was accused with supplying liquor to a Tongan woman.⁸⁷ But the real offense of each in the eyes of the King and the assembly was that he had been in the wrong camp. Both had supported Campbell and not the *Kautaha*, and, like Mateialona, both were Wesleyans and, therefore, permanently at odds with the officially-endorsed Free Church. Their impeachment and dismissal was, therefore, not without point. All who had opposed the King and supported Campbell had now paid the penalty. There could be no doubt that, as the Secretary to the Western Pacific High Commission minuted, "deference to the British power is unadvisable for Tongan officials."⁸⁸

Although the *Tonga Ma'a Tonga Kautaha* was not set up for any overt political objective, it became the occasion of an important turning point in British-Tongan relations. As an expression of the desire of many Tongan villagers to eliminate European middlemen from commerce, the *Kautaha* had its own intrinsic importance. But, ironically perhaps, it achieved even greater significance when closed down. Left to itself, the *Kautaha* may well have come to an inglorious end, as its successor did, but its arbitrary closure provided the Tongans with a genuine grievance against British encroachment. The *Kautaha* had set out to eliminate economic domination and ended up involved in the struggle against political domination. Henceforth the authority of the British Agent to intervene in Tonga's domestic affairs was carefully circumscribed.

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⁸⁶McOwan to May, 27 May 1912 and encls.

⁸⁷McOwan to May, 22 June 1912 and encls.

⁸⁸Minute by C. H. Hart-Davis, 8 July 1912.