

# NEW ZEALAND, THE LEAGUE OF NATIONS, AND THE MANDATE OVER WESTERN SAMOA: THE EARLY YEARS

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*At the commencement of the First World War, New Zealand military forces took control of Western Samoa which had been under German colonial administration since 1900. From December 1920, in accordance with the provisions of the charter of the League of Nations which was established post-war to foster international security, New Zealand administered Western Samoa as a "Class C Mandate". This paper draws on records in the League of Nations Archive in Geneva to examine interactions between the League's Permanent Mandates Commission (PMC) and the New Zealand government concerning the administration of Western Samoa. Far from delivering perfunctory oversight of annual reports submitted by the "Mandatory Power" (ie New Zealand), the Commission scrutinised all aspects of New Zealand's administration of Western Samoa's government and society. Indeed, under this close scrutiny New Zealand's attitude toward its responsibilities under the Mandate seems to have become increasingly diligent. The accountability mechanisms developed by the Permanent Mandates Commission can be regarded as an early step in the emergence of international governance.*

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## **I THE LEAGUE OF NATIONS MANDATE IN SAMOA**

Late in the 19th century Germany, Great Britain and the United States jostled for influence in the Samoan archipelago. The 1878 Treaty of Berlin transformed this competition into collusion, and culminated in the 1900 partitioning of the islands between the United States of America and Germany, with Britain taking sole possession of colonies elsewhere. At the commencement of the First World War New Zealand military forces altered this arrangement by seizing the islands of Western Samoa from Germany. From December 1920, in accordance with the provisions of the charter of the League of Nations established post-war to foster international security, New Zealand administered Western Samoa as a "Class C

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Mandate", and reported on an annual basis to the League's Permanent Mandates Commission (PMC). Far from delivering perfunctory oversight of Mandatory Power reports, the PMC scrutinised all aspects of New Zealand's policy and practice in regard to Samoan land, labour, education, health, and public affairs. These were early steps toward international governance in the sense that an intergovernmental body, comprising national representatives with no particular strategic or commercial interests in the territory under examination, called to account a mandatory power's efforts to develop its economy and society toward some form of autonomy or self-governance. On the one hand the articles of the League's Covenant forbade outright exploitation of mandate resources as occurred in colonial practice, whilst on the other they lacked the express commitment to working toward self-determination in the language adopted by the later United Nations Charter and Trusteeship Council.

Article 22 of the Covenant set out the intention of Mandated territories and their administration in the following terms:

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation and that securities for the performance of this trust should be embodied in this Covenant.

The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances... .

The Permanent Mandates Commission was constituted on 1 December 1920, but did not meet in session until October 4-8 1921. President of the Council of the League of Nations, Wellington Koo, presided over the assembled representatives of Belgium, the British Empire, Spain, France, Italy, Japan, Netherlands, Portugal, and Sweden (Mme Bugge-Wicksell, from Sweden the only female amongst them). In an attempt to ensure that the PMC approached its task "with the most independence", a majority of the PMC's member states did not have Mandates of their own.<sup>1</sup> President

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1 League of Nations. Permanent Mandates Commission, "Minutes of the First Session Held in Geneva, 4-8 October 1921," (Geneva, 1921) p 4.

Koo commenced by stating that the authors of the Covenant, in art 22, were attempting a "very bold, wise, and generous experiment in colonial administration". The overseas territories, which as a result of the Great War now ceased to come under their previous arrangements, "were to be administered by advanced nations which, by reason of their resources, their experience and their geographical position could best undertake this responsibility as Mandatories on behalf of the League".<sup>2</sup> Mandate territories in the Pacific islands were mentioned in the sixth paragraph of Covenant art 22:

There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilisation, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.

The Director of the Mandates Commission, Swiss scholar and diplomat William Rappard, commented on this paragraph at the Commission's inaugural meeting:<sup>3</sup>

The treatment to be applied to the populations of these territories varied according to the degree of their civilisation. The Arab populations had been considered to have reached a sufficiently high degree of civilization to be recognized as independent nations, provided that their administration was guided by a Mandatory until they were able to govern themselves. The populations of Central Africa were placed under a system of guardianship which was intended to protect them from well-known abuses; in territories of this class, all the Members of the League of Nations enjoyed the same economic rights. In this matter alone did they differ from the territories under Class C, which were administered as an integral part of the territory of the Mandatory Power ... As regards the Pacific, Australia received New Guinea, New Zealand received Samoa; and the islands north of the Equator, including the Islands of Yap, were allotted to Japan ... .

Boyd suggests that at the Versailles Peace conference in Paris in 1919 the New Zealand government of Prime Minister Massey accepted Mandatory responsibility for Western Samoan only reluctantly. New Zealand itself was but a British Dominion, whose fragile post-war economy was placed at some risk through the added burden of administering the islands in a manner dictated through international

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2 Ibid.

3 Ibid, p 4.

control.<sup>4</sup> To reject this role, on the other hand, would imply allowing another power to grow in influence in the region. The characteristics of a "C" category of Mandate therefore suited both the League and New Zealand. To the former, it signified territories which lacked sufficient indigenous institutions and law to allow for self-government, and to the latter, it implied the ability to govern through domestic laws and institutions without an expectation of rapid cultivation of local autonomy. In explaining that Mandates implied "...relations between a Mandatory and the authority which conferred the Mandate".<sup>5</sup>

Rappard appears to have overlooked the important relationship between subject peoples and either the League or the Mandatory power – an attitude that reflected the degree of subordination of the rights of subject peoples during that period. Because the terms of C mandates had few provisions concerning such matters as, for instance, the regulation of labour, Rappard believed that the League of Nations actually had "less responsibility" for them than for other categories.<sup>6</sup> The New Zealand administration, for its part, underestimated – or failed to understand - the strength of *Faa Samoa*, including the continuing role of the matai (chiefly) system, and the desire of the Samoan people to embed their traditions and customs in new constitutional arrangements as they evolved.

During its first week of meetings, in October 1921, the Permanent Mandates Commission explored the extent of its powers and the range of its responsibilities. It passed a resolution stating that, in accordance with the last paragraph of art 22 of the Covenant, it did not see it as its duty "to express any opinion concerning the terms of the Mandates", thus limiting its powers to receiving and examining annual reports and advising the Council on matters relating to observance of the Mandates.<sup>7</sup> On 7 October the PMC deliberated on the method of procedure for dealing with appeals and protest raised by inhabitants concerning the decisions and actions of the Mandatory power. Some feared that establishing a precedent for receiving such appeals could lead to their being "submitted in considerable numbers" – and, indeed, appeals concerning affairs in Samoa were to be amongst the many that later arrived.

In order to accomplish its primary task of making an annual review of the administration of Mandated Territories, the Commission devised a questionnaire to

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4 Mary Boyd "The Record in Western Samoa to 1945" in Angus Ross (ed) *New Zealand's Record in the Pacific* (Longman Paul for the New Zealand Institute of International Affairs, Wellington, 1969) p 123.

5 League of Nations. Permanent Mandates Commission, "Minutes of the First Session Held in Geneva, 4-8 October 1921", p 5.

6 Ibid, p 30.

7 Ibid, p 16.

guide the Mandatory powers in preparation of their annual reports (see Annex 1). Following receipt of these reports the Commission interviewed in person the Mandatory Power's representative to the League, following which a Commission report, together with the Mandatory Power's report, was submitted to the Council of the League. After the first year of the scheme's operation, the Commission thanked the Australian, New Zealand and Japanese representatives for their cooperation with this procedure, through which "numerous obscure points and misunderstandings have been cleared up in connection with the administration of Samoa, New Guinea, the Island of Nauru and the former German possessions situated north of the Equator"<sup>8</sup> – praise intended for the ears of the South African Union, which refused to give such cooperation. After the first year or so of operation, the PMC decided that 100 copies of each Annual Report were to be printed, for circulation to each member country of the League. Praise of New Zealand's cooperation with the PMC continued in subsequent years. The PMC's Chair stated, for example, that New Zealand's report concerning Samoa for the year 1923-1924 was one of the "best and most comprehensive reports" which had as yet been laid before the Commission.<sup>9</sup>

The Permanent Mandates Commission issued its questionnaire with serious intent. When the *Wellington Evening Post* for 29 June 1927 reported Prime Minister Gordon Coates question time quip "Who would answer such a silly thing as that? It contains some 500 questions", the Commission Chairman made clear to New Zealand's representative the desirability of clarifying the government's attitude: "Was it the opinion of the mandatory Power", the Chair asked Sir James Parr, "...that statements of this kind contributed to that cordial collaboration between the Mandates Commission and the mandatory Powers, which was generally realised to be necessary for the successful operation of the mandates system and which the Commission tried always to attain?"<sup>10</sup>

Apart from such occasional mis-steps, New Zealand settled into an annual routine of preparing its responses to the Mandate's questionnaire, then sending to Geneva its London-based High Commissioner to respond in person to supplementary questions posed by its members. On 28 June 1924, Sir James Allen attended the ninth meeting of the PMC's 4<sup>th</sup> session, at which New Zealand's Annual Report on Samoa for 1923 was considered: under what terms, one Commission member asked, did an Observatory, established in Samoa in 1902 by the German Government in

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8 "Minutes of the Second Session Held in Geneva, 1-11 August 1922" (Geneva, 1922) p 54.

9 "Minutes of the Fifth Session Held at Geneva from 23 October to 6 November 1924" (Geneva 1924) p 49.

10 "Minutes of the Twelfth Session Held at Geneva from 24 October to 11 November 1927" (Geneva 1927) p 104.

partnership with the University of Göttingen, now belong to the New Zealand Government? Did various butchers' shops, factories, laundries, and the Central Hotel, now belong to the Government? This line of questioning was driven by the Commission's concern that private property which formerly belonged to German citizens had come to be possessed by the state of New Zealand, rather than the Mandate administration for Samoa, and that no compensation had as yet been paid to the Reparations Commission.<sup>11</sup>

### ***A The Reporting Process***

The PMC took its responsibilities seriously and readily queried how the various Mandatory powers were conducting government in the territories under their administration. In the case of New Zealand's administration of Samoa, the Commission asked searching questions about the disposition of land seized from German owners at the time of occupation, about labour conditions, public finances; could future reports provide more precise information on acreage (for all nine islands, not just the largest two, Upolu and Savaii);<sup>12</sup> could they provide more accurate data on population (there were discrepancies between figures on pages 9 and 25 of the 1925-1926 report (registration of births and deaths was not yet compulsory); what were the powers of district councils and village committees? Sir James Parr explained that reports and regulations adopted in Samoa were approved by the Administrator and then by the Minister for External Affairs, but that "purely local" measures did not need to traverse this same administrative path. Sir James reminded the Commission that "...it was a notorious fact that natives were never in a hurry". Q: How long would it take to visit each of the islands, and how frequently were they visited? (A: They could be visited in one and a half days of sailing – but the smaller islands sometimes waited six months between such visits).

At the 10<sup>th</sup> session, in November 1926, Sir James Parr, New Zealand's accredited representative to the League, took over the role of appearing before the PMC from Sir James Allen. He commenced by stating that the past year (1925-1926) had been "a most successful one from every point of view. An increase in the numbers of the natives was to be noted, together with an improvement in their health. Education had made great strides. ... a very large programme of public works was being carried out, including the construction of new roads, the building of lighthouses and the

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11 "Minutes of the Fourth Session Held at Geneva from 24 June to 8 July 1924" (Geneva, 1924) p 72-73.

12 "Minutes of the Tenth Session Held at Geneva from 4-19 November 1926" (Geneva, 1926) p 22.

extension of the water supply. As a general conclusion, he could state that matters in Western Samoa were as satisfactory as could be expected...".<sup>13</sup>

During this tenth session F Lugard made the point that PMC questions to New Zealand's representatives were not made in a critical spirit. To the contrary, the accredited representatives had assured the Commission of their value, and "for the Commission to confine itself to ... a perfunctory examination lasting an hour or so.... would hardly seem courteous to representatives who had often travelled great distances to be present at Geneva".<sup>14</sup> However Lugard did make the point that he had now been waiting for more than a year for a bound set of laws in force in Samoa, which had been promised but not yet received. In addition the Commission had requested information in regard to the operation of district councils, village committees, native regulations, reparation estate lands, plus annual estimates of revenue and expenditure accounts for the previous year – none of which appeared in the Mandates subsequent annual report.

### ***B Nationality***

Western Samoa's constitutional status was not necessarily clear in the first post-war years, and this lack of clarity also affected the precise legal status of its inhabitants. At the Commission's 13<sup>th</sup> meeting, 8 August 1922, in which the matter of the national status of inhabitants of B and C Mandated Territories was considered, the PMC noted that art 22 of the Covenant stipulated that "native inhabitants" of these territories were to be "granted a national status distinct from that of the national or subjects of the mandatory power"<sup>15</sup> and sought a resolution on the topic to present to the Council of the League. The British member of the Commission, Ormsby-Gore, shared an opinion (dated 11 May 1920) offered to the British Colonial office by New Zealand's Solicitor-General, concerning the status of Samoan natives:<sup>16</sup>

The natives of Samoa are not British subjects, inasmuch as Samoa has not been annexed as part of the British Empire. Its connection with the Crown cannot be put higher than that of a British protectorate. The natives of a protectorate are not British subjects; they occupy an anomalous position under the title of British protected persons, and, although they are not entitled to the full rights of a British subject, they are entitled to British diplomatic protection when in foreign countries. This right is expressly recognized by the Treaty of Peace in respect of the territories under mandate.

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13 Ibid, p 22.

14 Ibid, p 25.

15 "Minutes of the Second Session Held in Geneva, 1-11 August 1922" p 56.

16 Ibid, p 55.

The Natives of the Cook Islands, on the other hand, are British subjects. There is some practical advantage in retaining this distinction, since it affords the Samoans an additional motive for exercising the right conferred upon them by the Peace Treaty to become incorporated within the British Empire if they so desire. Then and not until then will they acquire the full status of British citizenship.

The Commission's final resolution proceeded in three parts:<sup>17</sup>

I. It is important, in order that the principles laid down in Article 22 of the Covenant may be respected and subject to the provision in paragraph III below, that the native inhabitants of Band C mandated territories should be granted a national status wholly distinct from that of the nationals of the mandatory Power.

II. A special law of the mandatory Power should determine the status; of these native inhabitants, who might be given a designation such as 'administered persons under mandate' or 'protected persons under mandate' of the mandatory Power.

III. It is open to mandatory Powers to which Band C mandated territories have been entrusted to make arrangements, in conformity with their own laws, for the individual and purely voluntary acquisition of their nationality by inhabitants of these territories.

The allocation of rights and duties to Samoan residents on the basis of their race was an ongoing issue for the Commission. In October 1925 High Commissioner Allen was accompanied to the Geneva hearings by New Zealand's Secretary for External affairs Sir James Gray, who began his remarks by emphasising that New Zealand "...construed the articles of the mandate as placing the interest of the indigenous population above any other consideration", and assuring the Commission that as a consequence all legislation and administrative policies were framed so as to further "...to the greatest possible extent the moral, physical and material well-being of the Samoan people".<sup>18</sup>

The PMC again asked, during its tenth session of November 1926, about the number of Samoans who were naturalised British subjects and the process of naturalisation, to which Sir James Parr responded that he thought it unlikely that any Samoans had become British subjects, "...as there was no advantage to be gained from being naturalised."<sup>19</sup> The PMC continued to quiz the New Zealand representative on the exact status of the Mandate: whereas New Zealand's Governor-General had remarked during a visit to Apia, that "Western Samoa is not an integral part of the British Empire but a child of which we have assumed the

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<sup>17</sup> Ibid, p 55.

<sup>18</sup> "Minutes of the Seventh Session Held at Geneva from 19-30 October 1925" (Geneva, 1925) p 18.

<sup>19</sup> "Minutes of the Tenth Session Held at Geneva from 4-19 November 1926" p 27.



guardianship... ",<sup>20</sup> the Mandate's Administrator was quoted in the *Samoa Times* for 10 June 1927 as saying on the occasion of King George's birthday celebration "...for nearly 13 years you have been under the British flag, but only for the past eight years have you been part of the British Empire" – remarks which Sir James Parr begged the Commission "not to take ... at all seriously".<sup>21</sup>

### ***C Education***

Progress in education was assessed on an annual basis. In 1925 Mme Bugge-Wicksell noted that an Education Board had been set up to control the education system, comprising representatives of some missions and the Government, plus one Samoan member, and asked: "Was it possible to increase, in the interests of the Samoans themselves, the number of the members on the Board?" In reply, Gray suggested that the report might be "...somewhat misleading to one unacquainted with the territory", before elucidating:<sup>22</sup>

The Samoan representative was not a native Samoan but a half-caste, who was registered as a European. He represented the European population. The native interests were most fully safeguarded by the missionary representatives themselves. There was at the moment no native whom he could call to mind who might be capable usefully of serving on such a Board, for the natives had not yet reached a sufficient degree of civilization. The native interests were most adequately safeguarded by the missionary representatives and by the Administrator and Secretary for Native Affairs, who had succeeded in obtaining the entire confidence of the natives.

Mme Bugge-Wicksell continued to show interest in the development of education in Western Samoa in subsequent sessions. In November 1926 she noted that an education conference held in Wellington in 1926 recommended adoption of policies put forward by the PMC, and was keen to know if the government was able to speed implementation, since most of the schools were run by missions which were not under government control. She also noted that there were just 45 teachers for 1800 second-grade schools, a ratio of one teacher for every 40 students.<sup>23</sup> The satisfaction with the situation that Sir James Parr had communicated to the Commission was

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<sup>20</sup> Ibid, p 23.

<sup>21</sup> "Minutes of the Eleventh Session Held at Geneva from 20 June to 6 July 1927" (Geneva, 1927) p 103.

<sup>22</sup> "Minutes of the Seventh Session Held at Geneva from 19-30 October 1925" p 25.

<sup>23</sup> "Minutes of the Tenth Session Held at Geneva from 4-19 November 1926" p 31.

noted,<sup>24</sup> but critical questions about curriculum, class size, and overall intent of the education system continued to be raised.

### ***D Labour Conditions***

Labour laws and practices in Western Samoa were at the centre of New Zealand-PMC deliberations from the PMC's first meeting, in October 1921, and throughout the 1920s. On Friday 8 October, when the Commission was devising the questionnaire for the C Mandates, the International Labour Organization's representative provided advice on the subtle and important distinctions between "slave", "forced", and "indentured" labour. The Commission wanted to ask each Mandatory power, on an annual basis, about labour conditions in their Territories. It was aware of such instances as Chinese labourers brought to Samoa by the Germans, which the New Zealand government "had found it necessary to continue",<sup>25</sup> and sought to understand how "forced" labour was to be distinguished from unforced. The issue of indentured labour was sensitive for the New Zealand government, which believed at that time that the economic viability of Western Samoa depended on Chinese indentured labour.<sup>26</sup>

The query remained on hold until consideration of New Zealand's first Report,<sup>27</sup> which reached the PMC secretariat on 25 April 1922, and which was scrutinised in Committee the following August. On Saturday 5 August 1922, the PMC interviewed Sir James Allen, New Zealand's London-based High Commissioner, on the basis of the C Mandates' questionnaire. Did slavery exist in the Territory? Had New Zealand considered applying the Washington Conventions in Samoa? In the matter of Chinese labour, Sir James produced copies of contracts showing a scheme of indentured labour, signed in Hong Kong.<sup>28</sup>

Experience had shown that special disciplinary measures for inducing a native population to work were impracticable. An endeavour had been made in the Cook Islands to induce the natives, in their own interests, to work on the roads, but it had been found quite impossible to carry out the programme. In Samoa, the authorities

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24 Ibid, p 22.

25 "Minutes of the First Session Held in Geneva, 4-8 October 1921" p 36.

26 Boyd "The Record in Western Samoa to 1945", above n 4, p 124.

27 New Zealand Government, "Report on the Administration of Samoa, May 1920 - March 1921" (1921).

28 League of Nations. Permanent Mandates Commission, "Minutes of the Second Session Held in Geneva, 1-11 August 1922" p 42.

were unable to persuade the natives to do the work necessary to maintain the island in its present state of cultivation.

Justification of the use of foreign indentured labour was then provided at length:<sup>29</sup>

In all the mandated territories in the Pacific, tropical conditions prevail, which, by reducing the needs of the natives to a minimum, and by favouring the growth of plants whose abundant fruits are sufficient for the wants of the native population, render them inapt and disinclined for any physical exertion, and in this way lead to a serious shortage of labour. But mankind cannot be indefinitely deprived in this way of the invaluable resources which it might secure by the wise exploitation of these territories. Fully alive to this self-evident truth, but thwarted by the innate indolence of the inhabitants, in their desire to improve the territories whose administration they have assumed, the mandatory Powers have very naturally been induced to have recourse to foreign labour. They would appear to have experienced no difficulty in finding such labour, especially in China.

This view-point again in New Zealand's report on Samoa for the year 1921-1922, was challenged by ILO representative Grimshaw, who noted in the tenth meeting, 23 July:<sup>30</sup>

It had been alleged that the Samoans were unwilling workers; various passages in the report, however, seemed to show that this was not always the case and that where it was clear to them that their interests were involved, they seemed capable of notable effort.

The issue of Chinese indentured labourers was examined once again in 1924, with the Commission concerned about the conditions of indenture. A great proportion of the 1500 labours in the country had required some degree of hospitalisation in the previous year, and very few had been able to bring their wives for the period of their contract. The Chinese Free Labour Ordinance of 1923 had removed a number of problems. It had abolished the indenture system and freed labourers to quit employment if dissatisfied, and seek employment elsewhere. Incidences of sickness and of breaches of contract declined rapidly in the following year.<sup>31</sup>

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29 Ibid, p 55.

30 "Minutes of the Third Session Held at Geneva from 20 July to 10 August 1923" (Geneva, 1923).

31 "Minutes of the Fifth Session Held at Geneva from 23 October to 6 November 1924" p 49.

At the same time, New Zealand authorities were aware of the risks associated with the current labour practise. Gray referred to the occasional tensions that emerged in Samoa between European and Samoan interests:<sup>32</sup>

The mandated territory of Western Samoa has not only a considerable European population actively engaged in trading and planting but also a large body of alien (Chinese) labourers, whose civilization, mode of living and outlook on life are entirely different from those of the Samoans. The New Zealand Government frankly recognizes the inherent dangers of the imported labour system and is anxious to end it at the earliest possible moment.

The Commission was concerned about the appearance of forced labour, which would have been against the terms of the Covenant. Sharp exchanges took place during successive Geneva hearings on the topic of forced, unpaid labour that were embedded in the Administration's policies on road maintenance by Samoan villages.<sup>33</sup> Commission member Van Rees cited arts 35 to 38 of the Native Regulations (Samoa) Order 1925, which made district councils responsible for construction of main roads and tracks passing through their districts free of charge, with failure to perform this unpaid labour subject to a fine not exceeding £2, which did indeed give an appearance of being forced labour.<sup>34</sup> Sir James admitted to the existence of compulsory work maintaining and cleaning roads, destroying beetles, but asserted that some of these conditions were imposed by the Samoans' own district councils.<sup>35</sup>

### ***E Land Tenure***

Contention over land ownership and usage had been a feature of public administration during the German period and before,<sup>36</sup> and it was one that the Permanent Mandates Commission observed closely. Through responses to the PMC's questions about land tenure, the Commission learnt that the New Zealand authorities, after seizing Samoa from the Germans, converted all German-owned land to Crown land. "They had not been sold, and there was nothing to indicate that

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32 "Minutes of the Seventh Session Held at Geneva from 19-30 October 1925" p 18.

33 "Minutes of the Twelfth Session Held at Geneva from 24 October to 11 November 1927" p 118.

34 "Minutes of the Tenth Session Held at Geneva from 4-19 November 1926" p 29.

35 Ibid, p 29.

36 In 1903 the German administration introduced in the Upolu, Savaii and several smaller islands, a Land and Titles Commission to decide disputes relating to customary land and chiefly titles – an institution which exists to the current time as the Land and Titles Court.

their value had been paid over to the reparations account."<sup>37</sup> The PMC also noted that under ss 278 and 20 of the Samoa Act, all native land was considered vested in the Crown "as trustee of the beneficial owners".<sup>38</sup> The Commission came back to this issue in subsequent years, trying to understand why, as expressed in s 278 of the Samoa Act, all land in Samoa held by Samoans by native title was vested in the Crown "as the trustee of the beneficial owners thereof".<sup>39</sup> Through explanations of New Zealand's representative the Commission came to understand that there were two categories of land acquired at the time of Samoa's annexation: land which had formerly belonged to private persons of German nationality, for which the New Zealand government had paid into a reparations account, and "public property" which had belonged to Germany, which the New Zealand government had no right of possession over except in its capacity as the Mandatory power.<sup>40</sup>

The November 1926 session revealed that New Zealand had established an experimental land allocation system, by which previously uncultivated land was given to individual Samoan males on condition that they cultivated a specified quantity of coconuts per year. Failure to deliver would result in loss of the land. "The object of the scheme", Sir James Parr informed the Commission, "...was to induce the native to cultivate his own land by giving him individual ownership coupled with the obligation to work up on it". It was not yet clear whether this project would succeed, as "... it was extremely difficult to get the natives to respect individual ownership." "No Polynesian", offered Merlin, "... had any conception of the importance and dignity of work. It was very difficult to instil this idea in their minds by any other method than compelling them to cultivate at least their own lands for their own support."<sup>41</sup>

### ***F Public Finances***

The topic of public finances was always delicate, but direct questions were nonetheless asked: Were Samoa's public finances administered separately to those for New Zealand? Did New Zealand have sufficient resources to administer the territory? Why was so little spent on education? Why were some funds expended in Samoa treated as loans, which attracted interest that had to be paid by native Samoans? (New Zealand had gifted £25,000 for public works, but lent another

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37 League of Nations. Permanent Mandates Commission, "Minutes of the Third Session Held at Geneva from 20 July to 10 August 1923" p 58.

38 *Ibid*, p 59.

39 "Minutes of the Fifth Session Held at Geneva from 23 October to 6 November 1924" p 52.

40 *Ibid*, p 54.

41 "Minutes of the Tenth Session Held at Geneva from 4-19 November 1926" p 28

£100,000 at an interest rate of 5%). Was this not against the Covenant's stipulation that Mandatory powers were not to use Mandates for profit? Where in the budget were the revenues received from sale of "ex-enemy property"?<sup>42</sup> Did the circumstances of New Zealand's loan to the Samoan administration set a precedent within the League? What would happen should a Mandated territory prove unable to repay such a loan? How could Mandated territories be expected to progress without the assistance of external resources? Sir James promised to submit at the next session fuller details concerning loans, unallocated stores, and the "New Zealand Treasury Settling Account".<sup>43</sup>

### ***G Representation***

The Permanent Mandates Commission was very concerned about the development of a system of government in Western Samoa, and much interested in the method of selecting native representatives to the Fono, and the method by which the Administrator received advice on native affairs.<sup>44</sup> It was unsure whether the public servants sourced from New Zealand were sufficient in number, or suitably trained and directed. It was unsure, furthermore, as to how Samoan aspirations were being communicated to the government, given the lack of Samoan representation. The Commission's session on 3 August 1923, with Sir James Allen present, put a series of questions: Could New Zealand provide copies of the pamphlet *Duties of Officials*? Was there an official Gazette for Samoa? Could New Zealand provide a map of Samoa, and "a statement on the Administration, and an account of that administration's relations with the native authorities"?<sup>45</sup> Could "full copies of all legislation concerning natives" be provided, or at least annexed to the annual report? Did New Zealand still intend to establish a Legislative Council? Sir James responded to the latter query by stating not only that the Council had been established, but that the interests of Samoans were protected by having two chiefs in advisory positions to the Administrator "on all native questions".<sup>46</sup>

A year later, at its 5<sup>th</sup> Session of November 1924, the Commission continued this line of questions. Now better informed about the powers and composition of Legislative Council, it noted that whereas it had six official members and six unofficial members, with three of these being elected, "natives were not allowed to

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42 "Minutes of the Third Session Held at Geneva from 20 July to 10 August 1923" p 59.

43 Ibid, p 176.

44 "Minutes of the Twelfth Session Held at Geneva from 24 October to 11 November 1927" p 112.

45 "Minutes of the Third Session Held at Geneva from 20 July to 10 August 1923" p 176.

46 Ibid, p 173.

sit nor were they allowed to elect members":<sup>47</sup> Why was this the case when the Australian representative to the League Sir Joseph Cook had called Samoans "the intellectuals of the Pacific"?<sup>48</sup> In reply, Sir James Allen noted that Samoans would be "...admitted to a share in the legislative government when the New Zealand Government thought it wise to do so."<sup>49</sup> The Samoans already had Fonos of Faipules (local councils of chiefs) which met up to three times per year and gave advice to the Administrator, but the average Samoan, said Sir James, did not as yet understand the principle of democracy. The New Zealand Administration was seeking to get them interested in managing their affairs at local level before opening up the possibility of participation in the Legislative Council.<sup>50</sup>

The theme of Samoan inability to grasp modern government continued into 1926, when Sir James Parr explained to the PMC at its sessions in Geneva in November that the New Zealand government was:<sup>51</sup>

... most anxious gradually to educate the natives of Western Samoa in order that one day they might be able to stand alone. The difficulties of such a task were enormous, as anyone who knew the native would easily realize. The Administration was trying to instil into them the British idea of local government. Its efforts had been rather hopeless at first but were now gradually meeting with success, and the natives were slowing acquiring the idea that they should act for themselves and largely manage their own affairs... .

This was, after all, the period described by Pacific historian JW Davidson, as "Colonial paternalism".<sup>52</sup>

By this time, just a few years after the establishment of the Mandates system, the Permanent Mandates Commission had begun receiving press articles about their operation, "...some more and some less unfavourable to the administration of the

47 "Minutes of the Fifth Session Held at Geneva from 23 October to 6 November 1924" p 48.

48 Ibid, p 48.

49 Ibid, p 48.

50 Davidson suggests there were no Samoans in the Legislative Council because this was opposed by the Fono of Faipule, seeking to guard its own status with the Mandate's administrator, Richardson: JW Davidson *Samoa Mo Samoa: The Emergence of the Independant State of Western Samoa* (Oxford University Press, Melbourne, 1967) p 108.

51 League of Nations. Permanent Mandates Commission, "Minutes of the Tenth Session Held at Geneva from 4-19 November 1926" p 23.

52 Davidson *Samoa Mo Samoa: The Emergence of the Independant State of Western Samoa*, above n 50.

mandatory power". PMC member Van Rees raised with his fellow Commissioners the need to find some way to address the situation:<sup>53</sup>

...in view of the accusations made in such articles, he thought that it would be useful for the mandatory Power, the Commission and the League, if some means could be found whereby they could be refuted. Although the members of the Commission were only too well aware of how inaccurate and exaggerated articles of this kind were, they could not blind themselves to the fact that such articles had a certain very regrettable influence on public opinion, which was naturally not so well informed.

Did the mandatory power or the PMC hold responsibility for refuting media attacks? And did refutation give such attacks the very status and importance that they would otherwise be without?<sup>54</sup> Some of the first protests against the New Zealand mandate were by Europeans rather than Samoans, and related to the liquor restrictions. By late 1927 the extent of dissatisfaction with the administration in Western Samoa was well-known to the Commission and, during its annual session in Geneva in November, the New Zealand delegation had no option but to address the issue.

The New Zealand government had established a Royal Commission comprising Chief Justice Sir Charles Skerrett and Judge MacCormack of the Native Lands Court, to look into the dissatisfactions that seemed to centre on Olaf Nelson, one of Western Samoa's wealthiest inhabitants. Sir James advised the PMC that the situation would be fully explained in the Royal Commission's report, which was regretfully not yet complete. However, to state the dispute in simple terms, he suggested that whereas Nelson was purporting to promote the transfer of native affairs into the hands of the Legislative Council, his true interests were in removing prohibition and controlling the copra market. In Parr's account, Nelson had formed an association called the "Mau".<sup>55</sup>

In seeking to understand New Zealand's official account of Nelson, the Commission put five questions for answer "in no prejudiced spirit":<sup>56</sup>

- (1) The commission took it that Nelson was the man who had previously stirred up trouble for the German Administration.

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53 League of Nations. Permanent Mandates Commission, "Minutes of the Tenth Session Held at Geneva from 4-19 November 1926" p 23.

54 Ibid, p 23.

55 "Minutes of the Twelfth Session Held at Geneva from 24 October to 11 November 1927" p 106.

56 Ibid, p 107.



- (2) How had it come about that he had been elected by the Europeans, although he was not popular with them?
- (3) How did Sir James Parr explain Nelson's influence with the natives, with whom he should, according to Sir James Parr's statement, have been the reverse of popular?
- (4) Were there any other reasons, such as internal politics in New Zealand, connected with the disturbance? There was the technical question of the price of copra, to which he had already referred.

In making reply, Sir James depicted the Samoans as a "simple and lovable race" who were "ready to listen to any tale, and hence were most susceptible to the wiles of the agitator."<sup>57</sup> Additional questioning from the Commission elicited more information about the grievances that had emerged, and about the demands being put. Just 230 of over 2,500 Europeans were on the electoral roll for the Legislative Council, and the Samoan population of 38,000 resided in 32 districts which each selected a representative to the Fono of Faipules. Sir James portrayed an option which, viewed in contemporary perspective, was laden with irony:<sup>58</sup>

The only electors to the Legislative Council were property owners. There was no other possible voting test. The only alternative would be complete manhood suffrage, and if that were enforced it would mean the end of all stable government in the territory and the end of the mandate. The cry was in short "Samoa for the Samoans", a very shrewd and misleading slogan.

## II CONCLUSIONS

In the period 1920-1926 the Permanent Mandates Commission established its methodology for oversight of League of Nations Mandates, of which Western Samoa was just one. Although the New Zealand administration complied with the Commission's annual reporting requirements, Commissioners invariably requested more detail than was provided, and desired more nuanced accounts of progress on the ground. Although this international and long-distance scrutiny of New Zealand's governance abilities carried few political or legal implications, it nonetheless influenced New Zealand's actions as a young country anxious to build its reputation in the community of nations. Under the watchful eye of the Permanent Mandates

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<sup>57</sup> Ibid, p 107.

<sup>58</sup> Ibid, p 111. The depth of knowledge of Samoan politics and history possessed by members of the Permanent Mandates Commission is unclear. Were they aware, for instance, of the fact that the Fono of Faipule had petitioned King George V in 1921 for self-government? This event is not noted in New Zealand's first report to the PMC, nor in any of the Commissioner's questions to the Mandatory Power's representative.

Commission, the attitude of New Zealand's administrators of Western Samoa shifted gradually from imperialist to trusteeship. New Zealand became increasingly conscious of its reputation for meeting its international obligations.<sup>59</sup> The context, however, remained one of race inequality, in which New Zealand administrators applied differential policies to Europeans, Samoans, and those of mixed race.<sup>60</sup> At the same time, the existence of the Commission's appeal mechanism provide a platform for non-government voices, whether of individuals or organizations, and this avenue was increasingly made use of in the late 1920s into the 1930s. In Boyd's summation:<sup>61</sup>

If more had been known about Samoan history in Wellington and Geneva, there might have been less consternation a year later, when the genesis of the Mau demonstrated that, far from being a brilliant success, Richardson's first term had been a tragedy of good intentions.

Davidson characterised the subsequent period, 1926-1946 "Rejection of Paternalist Control."<sup>62</sup> A detailed account of how this period of Samoan civil disobedience and formation by the Mau of an alternative form of government was presented to, and handled by, the Permanent Mandates Commission, will be provided in a subsequent article.

## *ANNEX*

### ***PERMANENT MANDATES COMMISSION QUESTIONNAIRE FOR C MANDATES***<sup>63</sup>

#### C MANDATES

#### QUESTIONNAIRE INTENDED TO FACILITATE THE PREPARATION OF THE ANNUAL REPORTS FROM THE MANDATORY POWERS

#### I. Slavery

- (a) 1. What measures are being taken with a view to ensuring the suppression of the slave trade?

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59 Boyd "The Record in Western Samoa to 1945", above n 4, p 125.

60 "Racial Attitudes of New Zealand Officials in Western Samoa" (1987) 21(2) The New Zealand Journal of History, 139.

61 "The Record in Western Samoa to 1945", above n 4, p 142.

62 Davidson *Samoa Mo Samoa: The Emergence of the Independant State of Western Samoa*, above n 50.

63 League of Nations. Permanent Mandates Commission. "Minutes of the Second Session Held in Geneva, August 1st to 11th, 1922" pp 83-84.

2. What results have been obtained?

- (b) 1. Is slavery recognised legally?
- 2. Does domestic or other slavery still exist? Give statistics.
- 3. What are the principal causes of slavery (gambling, drink, etc.)?
- 4. Is the pledging of a person recognized legally?
- 5. Under what conditions can a slave get his freedom?
- 6. What measures have been taken, or are being taken, to provide for the emancipation of slaves and to put an end to all slavery, domestic or otherwise?
- 7. Is there any time limit fixed for the emancipation of slaves? If in the affirmative – how long is the period?

## II. Labour

- (a) 1. Have measures been taken to ensure, in accordance with Part XIII of the Treaty of Versailles the taking into consideration of conventions or recommendations of International Labour Conferences?
- 2. Are these conventions or recommendations being carried into effect?
- 3. By what other provisions is free labour protected?
- (b) 1. What are the measures intended to ensure the prohibition of forced labour for purposes other than essential public works and services and what are the effective results of these measures?
- 2. For what public works and services is forced native labour required? How is this regulated?
- 3. Are there any other forms of forced labour such as labour in lieu of taxation, maintenance of highways, etc? If in the affirmative, how are these regulated?
- (c) 1. How is the recruiting of labour required by private enterprise organised and regulated? Does the Administration participate in this recruiting?
- 2. Does the Administration allow recruiting in the mandated area of labour for another territory? If so, under what conditions?
- 3. Is there any system of indentured (Chinese or other) labour in the territory? If so, what are the conditions of indenture and what steps are

being taken to provide for the moral and material well-being of the natives of the territory, *vis-a-vis* the indentured labourers?

4. What compulsory and disciplinary measures are authorised with respect to native labour?

5. What powers has the Administration for controlling labour contracts in order to ensure their loyal fulfilment both on the part of employer and employed, and what powers does it possess to prevent any abuses in this respect?

### III. Arms Traffic

1. What measures are being adopted to control the traffic in arms and ammunition?

What are the statistics relating to imports of arms and ammunition of different categories?

### IV. Trade and Manufacture of Alcohol and Drugs

1. What steps are being taken to assure the prohibition of abuses of the liquor traffic?

2. How is the campaign against alcoholism organised?

3. What are the effects of these measures (statistics relative to the Import and to the local manufacture of alcoholic liquors, etc)?

4. What are the countries of origin of alcoholic liquor, other than wine and beer, imported into the territory?

5. What measures have been taken to assure the prohibition or regulation of the importation, production and consumption of dangerous drugs?

### V. Liberty of Conscience

1. What measures are being taken to guarantee liberty of conscience and religion?

2. What restrictions have been laid down for the maintenance of public order and morality?

3. Is there free exercise of religious worship and instruction?

4. If not, what restrictions are there to limit such exercises?

5. What are the results of such restrictions?

### VI. Military Clauses

1. Are there any fortresses or military or naval bases?
2. What are the forms of native military organisation and instruction?
3. Are there any police forces independent of the military charged with the defence of the territory? What is the respective importance of the two forces and the amount spent on each?
4. In what respect is the military organisation of the mandated territory different from that in force in the neighbouring possessions of the Mandatory Power?

## VII Economic Equality

1. What derogations are there to the principle of economic equality as regards:
  - (a) Concessions?
  - (b) Land tenure?
  - (c) Mining rights (in particular, prospecting)?
  - (d) Fiscal regime (direct and indirect taxation)?
  - (e) Customs regulations (imports, exports, transit)?
2. What immigration laws are there?

## VIII. Education

1. What steps are being taken for the elementary education of the natives of the territory (organization and statistics)? Is this education free to all natives and if not, in what cases is it free?
2. What steps are being taken to provide for higher education of the natives such as medical, veterinary and technical?
3. In what languages is instruction given in the different categories of schools?
4. Are Mission schools compelled to submit to certain conditions? If so, what?

## IX. Public Health

1. What steps are being taken in the territory to provide for public health, sanitation, and to combat endemic and epidemic diseases?
2. What provisions are made for medical assistance?
3. What is the actual situation as regards prostitution, and what steps are being taken in this matter?

## X. Land Tenure

1. What systems of land tenure and forest law exist? How are they legally recognised? What lands are considered as belonging to the State, and what are regarded as communally owned?
2. What measures are being adopted for the registration of landed property?
3. What are the regulations for the alienation of land in which natives or native communities exercise rights, by virtue of hereditary or use?
4. What other measures are being taken to protect the rights and interests of natives and native communities in respect to land (usury, forced sale, etc)?

#### XI. Moral, Social and Material Welfare

What are, generally speaking, the measures adopted to ensure the moral, social and material welfare of the natives? (Measures to maintain the interests, rights and customs of the natives, their participation in public service, native tribunals, etc).

#### XI. Public finances

The general schedule of receipts from, and expenditure on, the territory, budget system, indication of the nature and assessment of taxes.

#### XIII. Demographic statistics

Births, marriages (polygamy), deaths, emigration, immigration.

The Permanent Mandates Commission would be grateful to the Mandatory Powers if they would be good enough to add to the annual reports the text of all the legislative and administrative decisions taken with regard to each mandated territory in the course of the past year.