



CONTENTS

	<u>Page</u>
Examination of conditions in the Trust Territory of Western Samoa (<u>continued</u>):	
(i) Annual report of the Administering Authority for the year 1957;	
(ii) Petitions raising general questions	
Questions concerning the Trust Territory and replies of the representative and special representatives of the Administering Authority (<u>continued</u>)	171

President: Mr. Alfred CLAEYS BOUUAERT (Belgium).

Present:

The representatives of the following States: Australia, Belgium, Burma, China, France, Guatemala, Haiti, India, Italy, New Zealand, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America.

The representatives of the following specialized agencies: International Labour Organisation; Food and Agriculture Organization of the United Nations; United Nations Educational, Scientific and Cultural Organization; World Health Organization.

Examination of conditions in the Trust Territory of Western Samoa (continued):

- (i) Annual report of the Administering Authority for the year 1957 (T/1387, T/1394, T/L.857);
- (ii) Petitions raising general questions (T/PET. 1/L.4 and Add.1)

[Agenda items 3 (f) and 4]

At the invitation of the President, Mr. Powles and Mr. Tamasese, special representatives of the Administering Authority for the Trust Territory of Western Samoa, took places at the Council table.

QUESTIONS CONCERNING THE TRUST TERRITORY AND REPLIES OF THE REPRESENTATIVE AND SPECIAL REPRESENTATIVES OF THE ADMINISTERING AUTHORITY (continued)

Political advancement (continued)

1. Sir Leslie MUNRO (New Zealand), amplifying his reply to the Guatemalan representative's question at the previous meeting concerning the steps to be taken before the Trusteeship Agreement could be terminated, said that the discussions on the matter were still in the initial stages and he therefore could not give specific information about their progress. Professor C. C. Aikman, whom he had mentioned in his opening statement (910th meeting), had begun his studies early in the year and the ground had been prepared during the visit of the Minister of Island Territories in May, but no substantive decisions on matters of interest to the Council had been taken. It was expected, however,

that by the time the next United Nations visiting mission arrived it would be possible to have a useful exchange of views. His delegation felt that the visiting mission would function most effectively if its terms of reference were neither specific nor restrictive but gave it authority to examine and report on all matters which it considered to be related to the termination of the Trusteeship Agreement.

2. Mr. ROLZ BENNETT (Guatemala), requested the views of Mr. Tamasese and his colleagues on the suggestion that the future relationship between Western Samoa and New Zealand might be similar to that between the United Kingdom and Tonga.

3. Mr. TAMASESE (Special Representative) said that there might be a similar relationship with regard to such matters as external affairs, defence and the recruitment of officials from abroad to fill posts for which no Samoans were qualified; Western Samoa would, however, work out with New Zealand an arrangement suiting its own requirements rather than necessarily adhering to the Tonga pattern.

4. Mr. POWLES (Special Representative) recalled that, as far back as 1947, the petition from the Samoan leaders included in the report of the United Nations Visiting Mission to Western Samoa ^{1/} had expressed the desire that New Zealand should act in the capacity of adviser and protector to Samoa as the United Kingdom did in relation to Tonga. Thus the idea was not new.

5. Mr. ROLZ BENNETT (Guatemala) noted that the New Zealand Government had appointed Professor Aikman as its adviser in connexion with future constitutional developments in Western Samoa, whereas the High Commissioner had said in his statement at the opening meeting of the new Legislative Assembly that consideration was also being given to the possible appointment of a constitutional adviser by the Territorial Government itself. He would like to know if there had been any further developments in that direction,

6. Sir Leslie MUNRO (New Zealand) said that Professor Aikman could be regarded for the present as constitutional adviser not only to the Administering Authority but also to the Territorial Government.

7. Mr. TAMASESE (Special Representative) explained that it was he who had first brought the matter up and that he had done so not because the Samoans were in any way dissatisfied with Professor Aikman but simply because they felt that if in the future they should wish to appoint their own constitutional adviser they should have the right to do so.

8. Mr. ROLZ BENNETT (Guatemala) noted that the special representative's remark at the 910th meeting about the political instability resulting from the fact that the Samoan ministers lacked a substantial ma-

^{1/} See Official Records of the Trusteeship Council, Second Session, Special Supplement No. 1, pp. 1-2.

majority in the Legislative Assembly had been illustrated by that body's decision to postpone consideration of two bills which the ministers considered important and its subsequent rejection of one of them. While he recognized that the situation which had developed between the Executive Council and the Legislative Assembly was due in part to the latter's lack of experience, he would like to ask whether it might not also be due to the fact that a parliamentary structure was being superimposed on a traditional foundation quite alien to it. In the absence of universal suffrage and political parties would it not be difficult, or indeed impossible, for a parliamentary system to operate satisfactorily?

9. Mr. POWLES (Special Representative) said that although it was true that the traditional and parliamentary systems were quite different, universal suffrage did not seem to him indispensable to the effective functioning of a parliamentary system. While some form of party system would be desirable as a stabilizing factor, it would not necessarily have to be the same as other party systems. He anticipated that in time the Samoans would work out some form of party system suited to their country's needs.

10. Mr. ROLZ BENNETT (Guatemala) asked the special representative how he would explain the alignment of some of the Samoan members of the Legislative Assembly with the European members who had formed the Progressive Citizens League and what its implications might be in view of the fact that the Samoans had not in the past had a party system.

11. Mr. POWLES (Special Representative) replied that the development illustrated the natural tendency of members of such an assembly to align themselves either in support of or in opposition to the Government, a tendency which might well give rise to the formation of some kind of Samoan party system in the future. It should be understood, however, that the support given by some of the Samoan members to the Progressive Citizens League did not mean that they had formally joined that group. He thought the alignment was an occasional one based on coincidence of views with regard to a particular issue rather than a lasting association springing from support of the League's business and trade policies.

12. Mr. ROLZ BENNETT (Guatemala) asked whether there were any groups which could not be called political parties but which had been politically active in the recent elections.

13. Mr. POWLES (Special Representative) cited the example of the Chinese who had acquired European status and yet retained a feeling of solidarity among themselves. For that reason the European candidates had made a point of addressing meetings of the local Chinese community.

14. Mr. TAMASESE (Special Representative) said that there were various professional and trade associations in the Territory, such as the Public Service Association, consisting of people in government service, the Chamber of Commerce and nurses' and teachers' organizations. He did not think, however, that they had engaged in any sort of political activity.

15. In reply to a further question by the Guatemalan representative he said that there were more Samoans than non-Samoans in the Public Service Association.

16. Mr. ROLZ BENNETT (Guatemala) asked why the Legislative Assembly had sought its first Speaker outside the ranks of its own members.

17. Mr. POWLES (Special Representative) replied that the Samoa Amendment Act 1957 provided that the Assembly should have freedom to appoint an outsider as Speaker if it saw fit. When the time came to fill that post it had been felt that the person elected should be familiar with parliamentary procedures and have a good command of English and Samoan, since both languages were used in the Assembly. The result was that a substantial majority had voted in favour of the person who had held the post of chief translator and interpreter to the Territorial Government and had served the Legislative Assembly in that capacity ever since its establishment nearly ten years earlier.

18. In reply to further questions from Mr. ROLZ BENNETT (Guatemala), Mr. POWLES (Special Representative) said that the reserved enactments were set out in the second schedule to the Samoa Amendment Act 1957, and in so far as any of them contained powers given to the High Commissioner, those powers would be reserved powers. The reserved powers were only those associated with the normal constitutional powers exercised by a Head of State under a parliamentary system. Moreover, under section 13 of the Amendment Act the High Commissioner was required to consult the Executive Council in all cases except those involving powers contained in a reserved enactment, and even there, certain powers concerning land matters and the interests of the Government of Western Samoa, although appearing in a reserved part of the Act, had to be exercised in consultation with and on the advice of the Council.

19. He explained that an enactment was reserved not for the purpose of classifying any particular power of the High Commissioner but so that there might be a correct application of the section in the Act prescribing that the Legislative Assembly might not pass any ordinances which conflicted with reserved enactments.

20. With regard to the apparent length of the list of reserved enactments, it comprised three distinct series of enactments. The first were constitutional in nature, setting forth certain rules that might not be altered by the Legislative Assembly; any powers given to the High Commissioner under them were reserved powers on which he did not have to consult the Executive Council. The second series concerned foreign affairs. Since Western Samoa was not considered as yet to have the necessary status to alter them, they had been reserved. The third group comprised the Atomic Energy Act of 1945, the Civil Aviation Act and the Superannuation Act. It was not considered desirable to give the Legislative Assembly power to alter those Acts, since the former entailed certain duties and responsibilities of citizens which had to apply in Western Samoa as they did in New Zealand, and the latter two concerned matters over which the New Zealand Government had to have sole power of decision.

21. He confirmed that at the final stage of constitutional development of Western Samoa the reserved enactments would have to be revised to determine exactly the powers that the local government and the Legislative Assembly would have.

22. He could not say what procedure would be followed if the High Commissioner decided to exercise his power to remove ministers from the Executive Council.
23. Mr. ROLZ BENNETT (Guatemala) inquired whether the right of veto set forth in articles 36 and 39 of the Samoa Amendment Act was final, or whether the Assembly could annul it by a new vote ratifying the law. He also wished for further clarification concerning the powers of certain officials to withhold consent to a law enacted by the Legislative Assembly.
24. Mr. POWLES (Special Representative) said that the veto was final but had so far never been used.
25. Sir Leslie MUNRO (New Zealand) explained that the Governor-General in New Zealand could veto an Act that had been passed by the Assembly with the consent of the High Commissioner. It was more a disallowance than a veto and might be applied if the High Commissioner had assented to a measure by mistake, which was unlikely.
26. Mr. ROLZ BENNETT (Guatemala), referring to the power of the High Commissioner to settle differences between the permanent staff of the ministry and the minister concerned, asked who appointed the officials in question, who removed them from office and what was their present nationality.
27. Mr. POWLES (Special Representative) replied that the officials were appointed by the Samoan Public Service Commissioner usually for a term of three years. There was a wide difference of national origins among the officials. The senior technical officers in the large departments such as the Department of Education were all recruited from outside Samoa, and a number of other Departments were headed by local officials. The Ministers were superior to senior departmental heads and had full authority over them. The procedure regarding differences of opinion was prescribed by the Western Samoa Executive Council Regulations 1957. A senior departmental officer differing from his minister could state his views in writing to the minister and send a copy to the High Commissioner. Under the normal cabinet-government system a senior departmental officer normally had no such redress. Moreover, the procedure had not so far had to be used; all differences had been settled amicably.
28. Mr. ROLZ BENNETT (Guatemala) recalled that at the previous meeting reference had been made to suggestions put forward by the delegation of Guatemala at the eighteenth session of the Council (729th meeting). At that time his delegation had suggested that a popular consultation might be held by universal suffrage to determine whether the Samoan population wished to elect its representatives through the votes of the matai or by universal suffrage. He now wished to know whether that consultation would take the form of a plebiscite and if so who would participate in it.
29. Sir Leslie MUNRO (New Zealand) said that he did not doubt that that was one of many matters which were under consideration between New Zealand and Samoa and would be discussed also with the United Nations. He expected that the 1959 visiting mission would wish to pay special attention to the question of consultation.
30. Mr. POWLES (Special Representative) added that while considerable thought was being given to the ques-
- tion, no decision could be taken until the interim report from the constitutional adviser and the views of the next visiting mission were received.
31. Mr. TAMASESE (Special Representative) said that the wish of the Samoans in the matter was recorded in the resolution of the Constitutional Convention of 1954. 2/
32. In reply to a question by Mr. ROLZ BENNETT (Guatemala) concerning the 1957 elections to the Legislative Assembly, Mr. POWLES (Special Representative) stated that of the twenty-five Samoan members who had been nominated unopposed, he believed that in one case the member had been nominated by only the prescribed minimum of two. In almost all the other cases they had been nominated by a larger number and certainly in many cases the nomination had been signed by a majority. He felt sure that the lack of opposition meant consent rather than respect for tradition, since, as explained by Mr. Tamasese, the Samoans had a method of discussion which was protracted until final agreement was reached. On arriving at a majority agreement, the remainder would withdraw their objections.
33. Mr. ROLZ BENNETT (Guatemala), observing that a large number of Samoans lived and worked in Apia and formed a large portion of the total population, wished to know whether it was proposed to establish an electoral district for those inhabitants who had been cut off from their traditional form of life and environment. If not, he would like to know whether they participated in the election of their representatives within their particular family or clan, and how.
34. Mr. POWLES (Special Representative) said that the Samoa Amendment Act 1957 gave the Legislative Assembly authority to increase its total membership from forty-one to forty-five, and that the four extra seats thus gained were intended to be used primarily for redressing the balance in the representation of the population.
35. Mr. TORNETTA (Italy) referred to the Register of Matai mentioned on page 25 of the annual report, 3/ and asked what the procedure was for drawing up that Register.
36. Mr. POWLES (Special Representative) said that under an ordinance of 1957, the Registrar of the Land and Titles Court was responsible for keeping the Register of Matai. Objections to the inclusion or omission of a name had to be submitted to the Registrar in the first instance, and an appeal could be made from his ruling to the Court.
37. In reply to further questions from Mr. TORNETTA (Italy), Mr. TAMASESE (Special Representative) said that the Land and Titles Court also dealt with disputes regarding succession to the title of matai. A matai
- 2/ See Report by the New Zealand Government to the General Assembly of the United Nations on the Administration of Western Samoa for the Calendar Year 1954 (Wellington, R. E. Owen, Government Printer, 1955), p. 229. This report was transmitted to members of the Trusteeship Council by a note of the Secretary-General (T/1190).
- 3/ Report by the New Zealand Government to the General Assembly of the United Nations on the Administration of Western Samoa for the Calendar Year 1957 (Wellington, R. E. Owen, Government Printer, 1958). Transmitted to members of the Trusteeship Council by a note of the Secretary-General (T/1394).

might be registered as head of several families in different districts but he could vote only once and he could be a candidate in only one district.

38. Mr. TORNETTA (Italy) asked whether it was generally considered necessary to hold the title of matai in order to fill a senior post in the Public Service.

39. Mr. POWLES (Special Representative) said that while it was true that most Samoan officers were matai, the title was not in itself a qualification for office; it was in fact by no means unusual for it to be conferred on persons who had distinguished themselves in public life. It was not easy to give figures for the number of Samoan officers in a senior position, because the line between senior officers and others was hard to draw. Six departments, however, were headed by Samoans, and a number of Samoan officers held responsible positions in the various departments.

40. Mr. RASGOTRA (India) wondered how many matai were among the 1,300 persons in the civil service. A situation might arise when there were some 1,000 matai officials who would constitute 20 or 25 per cent of the electorate. In that case the civil service would to a large extent elect the Legislative Assembly.

41. Mr. POWLES (Special Representative) said that he did not think there was any possibility of matai civil servants taking over the Government or exercising an undue influence on it. He could not, however, give any information on the number of matai who were civil servants, because the records did not show whether an official was a matai or not.

42. Mr. RASGOTRA (India) noted that under section 33 of the Samoa Amendment Act any future discrimination by ordinance of the Legislative Assembly on grounds of race was prohibited, but the provision did not affect the validity of existing legislation. He wondered whether after the attainment of self-government in 1960, the Legislative Assembly of Western Samoa would be free to remove all discrimination between Samoans and non-Samoans of European status.

43. Mr. POWLES (Special Representative) replied that he did not know whether a similar provision would be inserted in the constitution of the new Samoan State. In general, however, he felt that the very use of the term discrimination sometimes clouded the issue. It would be more correct to speak of differences in local status, some of which could with great advantage be removed, while others were fully justified by the present situation. The Administering Authority had to concern itself with the welfare not only of the Samoans but of the minority of persons known as part Samoans, or local Europeans. He referred to the population table at page 119 of the annual report, showing that there were 7,900 part Samoans. Under the existing law any person with 50 per cent or more of Samoan blood—and that applied to most of the minority group in question—could elect to take Samoan status. Some local Europeans would like to see the requirement reduced to 25 per cent, so that they could all join the Samoan community if they wished, while others were unwilling to give up the political rights which they held as Europeans in return for a share in the Samoan lands, to which they would be entitled if they obtained Samoan status. The Samoan community, on the other hand, was inclined to fear that some local Europeans

would be able to exercise an undue influence if they were admitted wholesale. Again, local Europeans feared, probably without cause, that if all minority protection were removed, the vast Samoan majority might discriminate against them. In view of those mutual fears, the existing provisions of the law might remain in being at least for some time.

44. Mr. TAMASESE (Special Representative) said that the Act was a protective measure welcomed by the Samoan people, who, not having had equal educational opportunities, were afraid of being dominated by a better-educated minority. Eventually, all persons of mixed blood or their descendants would become Samoans, and the problem would disappear.

45. Mr. RASGOTRA (India) asked how foreign missions had come to acquire 5,000 acres and Europeans 16,000 acres of Samoan land.

46. Mr. POWLES (Special Representative) said that some eighty years previously, to prevent the acquisition of land by unscrupulous foreigners, the United States, the United Kingdom and Germany had concluded a treaty setting up an international land court to hear and determine all claims to Samoan land. Under that treaty any claim was null and void where the purchase price consisted of or included alcoholic liquor or firearms. Out of claims amounting to many times the whole land area of Western Samoa, the court had approved claims to only 16,000 acres. The missions had acquired some of their land by the same process, but they could also obtain leases under the Land and Titles Court Ordinance if a village or district desired to cede land to them. In such cases there was a court hearing of the proposed transaction and, if the Court approved, an announcement was made in the monthly government publication. The High Commissioner was then empowered to grant a lease, which was valid only as long as the land was used for and on behalf of persons holding the mission's faith.

47. Mr. RASGOTRA (India) noted that according to the special representative the chief permanent official of each government department had the right to refer to the High Commissioner any important matter of policy on which he disagreed with his minister. Such a provision was hardly in keeping with the spirit of the cabinet system of government which the Council and the Administering Authority wished to develop in Western Samoa.

48. Mr. POWLES (Special Representative) agreed. The provision was, however, an essential safeguard during the present formative stage and would no doubt be removed when a fully operative cabinet system was instituted at the end of 1960.

49. Replying to a series of questions put by Mr. RASGOTRA (India) concerning the Territory's Public Service, Mr. POWLES (Special Representative) said that the number of non-indigenous officers remaining was small; but it would be wholly impossible to undertake the complete Samoanization of the Service by 1960 because there was no prospect that Samoans fully qualified to replace them all would be available by that time. It had been decided, however, that the Samoan Government should be given greater authority over the Public Service and that the change should be made as soon as possible. The question of appointing a Samoan to the position of Public Service Commissioner was now under serious consideration, and

when the new constitution of the Samoan State was drawn up it would undoubtedly contain provisions giving the new Samoan State complete control over its own Public Service. The Territory's total expenditure on the salaries of Public Service officers amounted to between £500,000 to £550,000, of which imported officers received approximately £100,000 to £120,000. Some saving would be effected by the replacement of imported officers by Samoans, since imported officers were brought in at somewhat higher levels of the single salary scale applicable to all Public Service officers and received certain additional allowances; however, the savings were not likely to be substantial. The single salary scale posed a difficulty in that it was questionable whether the Samoan Government could afford to pay salaries to its employees which were in effect based on the salaries paid in New Zealand.

50. The post of Deputy High Commissioner created no additional strain on the Territory's finances since it was not a separate appointment but merely a function exercised by one of the senior government officers in the absence of the High Commissioner.

51. Mr. RASGOTRA (India) remarked that the situation in which the Samoan ministers could rely on only about nineteen votes in a Legislative Assembly made up of forty-eight members did not seem consonant with the concept of cabinet government, and asked what measures were contemplated or could be taken to rectify the situation.

52. Mr. POWLES (Special Representative) said that, for example, the High Commissioner could dissolve the legislature or dismiss the present ministers, while the Legislative Assembly could pass a resolution expressing a lack of confidence in the ministers or the Leader of Government Business. No such radical measures were being contemplated, however, and in his view the new and inexperienced Legislative Assembly should be treated with patience and sympathy. Moreover, he hoped that the situation would resolve itself naturally at the next session of the Legislative Assembly.

53. Sir Leslie MUNRO (New Zealand) said that the Administering Authority hoped to be in a position to put forward its suggestions concerning the lines which future Samoan development might follow while the visiting mission was in the Territory in 1959. The mission could then have an opportunity to discuss the subject with the Legislative Assembly.

54. In reply to further questions asked by Mr. RASGOTRA (India), Mr. POWLES (Special Representative) said it was true that any person of European

status was entitled to vote in elections after one year's continuous residence in the Territory, whether he intended to become a permanent resident or not. The matter had been the subject of some discussion but as yet no steps had actually been taken to change the one-year residence requirement. Non-Europeans living in European constituencies who had applied for and obtained European status were entitled to vote and run in elections to fill seats reserved for Europeans.

55. The present representation of the European part of the community in the Legislative Assembly was the result of a historical process, while the recent increase from one to two in the number of Europeans in the Executive Council had been agreed to in the belief that the proportion of men with the education and ability to assume ministerial responsibilities would be higher in the European community. It should be pointed out, in that connexion, that the present Leader of Government Business had been nominated by an Assembly which consisted of a very large majority of Samoans. He did not think that the Samoan people, when their new State was established, would wish to infringe the rights of the European minority; it might, however, be necessary to include certain safeguards for minorities in the new constitution of Western Samoa.

56. Mr. RASGOTRA (India) asked whether women could take part in the election of the matai and whether there was a minimum voting age for males.

57. Mr. TAMASESE (Special Representative) said that all members of the family took part in the discussion which led to election of the matai; there were no restrictions of any kind in that respect.

58. Replying to further questions from Mr. RASGOTRA (India), Mr. POWLES (Special Representative) said that it would undoubtedly be more economical to restrict the number of constituencies than to increase them, as was now being contemplated; it would, however, be very difficult to obtain public agreement to any decrease in popular representation.

59. Mr. TAMASESE (Special Representative) pointed out that some of the larger districts felt they were entitled to greater representation; he himself believed that other factors must be taken into account, but he agreed that the will of the population should prevail. With regard to the representation of the Samoans settled in Apia, he pointed out that the matai settled there always returned to their home constituencies to vote for their representatives in the Assembly.

The meeting rose at 1.15 p.m.