

TOKELAU ISLANDS

1870 - 1899

(For original see List 19 - Copies of Despatches from the Deputy Commissioner, or Agent, Tonga, to the High Commissioner. 1919).

Diary for 1856-7-8-9. 1860-1-2-3-4-5-6.

Eli Jennings

Olosenga

1865

Diary kept at Olosenga. Quiros Island by Eli Jennings
1856.

Left Lefaga Samoa with my family on board the schr. "Maria" Capt Jos. Delany for Quiros intending to settle there. Arrived at the island Oct. 13. 1856. Left Samoa Oct. 11. 1856.

Monday 13th Oct.

Commenced getting our baggage on shore. We found a few natives here who had been drifted here from Tokelau, they were very glad to see us come, as they were very miserable by themselves for they made no attempt to cultivate anything at all but simply living on cocoanuts.

Tuesday 14th.

Finished landing our goods and the schr. "Maria" left for Bowditch island.

.....

May 1866. Thursday 31st.

Pleasant wind south east. Natives at work clearing bush and other jobs. Women sewing thatch for the church. Boken and myself blacksmithing.

End of the book. This book kept for Eli Jennings by J.E.V. Alvord.

The above extracts were made by me from a diary which is at present in the possession of Miss Nellie Skeen of Nukualofa, Tonga, and which purports to be the diary of Eli Jennings who

landed at Quiros Island on the 31st May, 1866. The extracts are made from the first and last pages of the diary, which contains 290 pages.

The British Consulate,
Tonga.

I. McOwan
H.B.M.'s Agent and Consul
Tonga.

19th September, 1919.

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Copy sent by P.D. Macdonald - see his letter of 2.5.75 (File F/6)

FAKAOFU: SALE OF LAND TO PEREIRA.

4.8.74.

In the Archives of Her Britannic Majesty's
Consulate for Samoa. Printed Record Register No.108.

THIS INDENTURE made the Fourth day of August in the year of our Lord one thousand eight hundred and seventy four between Siva and No, natives of Tokilau of the first part and Antonio Pereira of Cape Virde Island of the second part. Whereas the parties hereto of the first part having full right and power to sell the lands hereditaments and tenements hereinafter described have agreed to sell, and the said party of the second part hath agreed to purchase the same NOW THIS INDENTURE WITNESSETH that the said part of the first part for and in consideration of the sum of One Hundred (\$100.00) dollars to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged hath bargained and sold and by these presents doth bargain and sell unto the said party of the second part and to his heirs and assigns for ever Two Islands in Tokilau Group and called Nukumatau and Fanualoa together with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining: and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, claim or demand whatsoever of them the said parties of the first part, either in law or equity of, in and to, the above bargained premises and every part and parcel thereof.

In Witness whereof the said parties of the first part have hereunto set their hands and seals the day and year first written, the nature of this Indenture having been fully explained to the parties of the first part.

Signed Sealed and delivered
in the presence of
Francis D. Milfred
Wm. Allen

his
Siva X Latia
mark
No X his mark

I hereby certify that the foregoing Deed has been duly recorded in the Archives of Her Britannic Majesty's Consulate this Fourth day of August 1874 and designated.

Register No. 108. Folio 108
S.V. Williams
H.B.M. Actg. Consul

Apia Upolu, Samoa.

I hereby certify that the foregoing is a true and verbatim copy of Register No. 108 Printed Record in the Archives of H.B.M. Consulate at Samoa in witness whereof I have hereunto set my hand and Consular Seal this second day of November, 1891 at Apia Samoa.

T.B. Cusack Smith
Her Majesty's Consul.

Fakaofu: Jose's land on

DC, Samoa, Churchward, to HC, 25.3.84: Churchward informs HC that although personally he had no powers beyond his own District, he was forwarding letter from Rev. Powell re Jose.

In Br Consul's letter to chiefs and rulers of Fakaofu, no.190 of 18.11.80, it is said "I must request you will not any further interfere with Jose who is under British protection".

King and Chiefs do not dispute the formal sale of the lands by ~~Siva~~ Siva and Pou but do dispute their right to sell them. The long-standing complaint could scarcely have been maintained by such a people had Siva and Pou been the rightful owners with right of sale.

P. Paulsen, trader, of Fakaofu, urges that all guns shd be removed. Jose sells guns and ammunition to Catholics while Paulsen, being trader for English firm, cannot sell: Protestants are therefore left defenceless.

Paulsen had been there 7 years in 1884. Originally people had been peaceful - have highest opinion of their character and habits; and their chiefs are most respectable men, honest and ~~the~~ truthful; and when they went to Samoa some years ago they did so in the hope of regaining their property they had been swindled out of; instead of this, however, they obtained nothing but fair promises, which, afterwards turned into threatening reproofs.

Has never been peace since the last fight in which the King was shot dead and several people badly wounded and P's own life endangered.

Letter of complaint re Jose and the Catholics by Iapesa, Samoan Pastor, to Rev. Phillips says that this fight was on 7.5.81.

Letter from Pere E Didier, Apia, ~~blames/all/the~~ dated 5.9.86, blames all the troubles on the island on the Protestants and in particular Iapesa. The dead king named Vaopuka.

.....

JOSE OF FAKAOFU

Consul Churchward, Apia, to HC, no.14 of 8.7.84: re HC's desp no.8 of 7.5.84 enc letter to Jose re complaints ag him, find on enquiry that Jose is a son of Antonio Periera, a native of the Cape de Verde Islands whose name appears in the Consular records signed to a proclamation issued by Consul Williams (see below).

Jose's name does not appear at all. He is 43 years old and trades for the principal German firm here. Mother was a Samoan.

Proclamation - In accordance with paragraph V of Proclamation issued January 13th 1876 viz:

V Foreigners in Samoa belonging to any nation which has no representatives in the country shall be entitled to obtain protection from any Consul in Samoa that they may choose provided always consent to such protection be obtained from such representative, but under such circumstances it is to be distinctly understood that they the said Foreign Subjects seeking the protection of another flag shall forthwith register themselves in the Consulate of the nation that the flag represents, and shall thenceforth be subject to and governed by the decision of the Consular Representative of the said nation.

We the undersigned according to the above paragraph have claimed British Protection.

(Signatures)

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FAKAOFU: DISPUTES ON

Consul Henry Symonds to HC, no.53 of 15.12.86: re HC's no.32 of 9.11.86 have communicated with LMS and recd assurance that a strict enquiry will be made into charges against their teacher Tapesa. LMS have given up all claim to the land, the right to which was disputed by the RC Mission.

As this land was one of the chief causes of the troubles, believe that Mons Didier's wish will be accomplished and that "le cours ancien des choses reviendrait et serait rétabli".

Trading schooner leaves Apia for Fakaofu about every 3 months & return passage costs £6.

In reply HC authorises visit to Fak if necessary and can be spared from Samoa.

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UNION GROUP

HC to SS, no.33 of 23.10.89: Having been informed that HMS 'Egeria' has estab protectorate over Union Group recommends that "in the establishment of a recognized supervision and jurisdiction such islands be made a dependency of the Colony of Fiji".

Unions to Fiji 800 miles, while Saychelles to Mauritious 930.

No establishment or expenditure necessary - chief of each is should be apptd chief in name of Queen to administer island under Regulations analogous to those operating among the native communities of Fiji.

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TOKELAU ISLANDS

SS to HC, No.42, of 28.12.92: approves appt of Cusack-Smith as DC for Union Islands but no increase of salary - ~~to be conveyed~~ and have requested Adm to convey him once a year there. HM Govt have recognized proprietary rights of the Deutsche Handels und Plantagen Gesellschaft in the islet of Fanu Fala on understanding that it remains under Br prot as part of Unions.

Enc. FO to Count Hatzfeldt, (?) Dec., 1892: "It appears ... that the original deed of sale from King Litaa to Hughes, dated 1863 is a genuine one, and that first Hughes and afterwards the German Company have been in uninterrupted and ~~undisturbed~~ undisputed possession of the islet/since 1863 the natives not having visited or taken nuts or water from the Island since the sale took place except by permission of the Resident Agent.

Previous corres re Fanua Fala is enc with SS to HC, No.34 of 10.10.92: This encloses FO print "Pacific Islands. Confidential. 160 of September 19" which contains doc prepared by Herr Giese, Capt of one of the German co's boats, and M. Pereira, their agent resident at ~~Fakafu~~ island. P can hardly read or write - no English warship since 1889.

to
Island sold ~~by~~ Benjamin Hughes by King, who always asked Pereira if he wanted to take anything from island. Pereira has been 22 years there ~~since~~ in 1892 making copra on is for German firm.

.....

FANUAFALA: SALE OF, TO PEREIRA

CusackSmith (signing as Ag. Resident for the Tokelau Group) to H.C., 6.9.94: I have the honour to inform you that, though the disorder in Samoa has unhappily prevented my visiting the Union Group since 1892, I have communicated frequently both with Mr. Paulsen the white trader on Fakaafo and with the King and Faipule of each island in the Group.

I regret that I have received further complaints of the conduct of Pereira, and had hoped to have personally enquired into them on the spot this year.

Last month I received from the King and Faipule of Fakaafo a written protest dated August 4th against Jose Pereira being permitted to purchase the Islet of Fanuafala the property of the German Trading and Plantation Company of Hamburg.

In the end of August two Chiefs were sent by the King and Faipule of Takafo to lay before me more fully their rooted objections to the proposed sale of Fanuafala.

I had several interviews with the Chiefs and strongly advised them to become themselves the purchasers of the islet and suggested terms which I may say have proved acceptable to both natives and Mr. Beckmann the Manager of the German firm aforesaid here in Samoa - Mr. Beckman verbally informed me that the offer was a good one.

I hope shortly to be able to report to your Excellency that the islet is once more the property of the natives. The correspondence which I enclose gives the details of my proceedings which I trust will meet with Your Excellency's approval.

The natives of Fakaafo sound peaceable, orderly and except in this matter very contented. I sent King Tavita one of my Flags at his request.

I have &c.

T.B. Cusack Smith
Acting as Resident Tokelau Group.

FANUAFALA: SALE OF, TO PEREIRA (Contd)

Cusack Smith to J.Beckmann, 29.8.1894: I etc. inform you that I have received from the King and Faipule of Fakaafu in the Tokelau Group a strong protest in writing against the proposed sale of the islet of Fanuafala owned by the German Trading and Plantation Company of Hamburg to Jose Pereira.

The natives of Fakaafu have frequently made complaints as I think you know of the behaviour and conduct of Pereira, and when I visited Fakaafu in 1892 I was instructed to enquire into those complaints and found it necessary to strongly warn Pereira as to his behaviour for the future. Since then I regret to say I have received further complaints against Pereira and should have visited Fakaafu to enquire into them both in 1893 and this year but for the war in Samoa which has prevented my leaving this Group.

A deputation of two Chiefs has been sent to Samoa by the King and Faipule of Fakaafu to make their earnest protest against any sale of Fanuafala to Jose Pereira. I am by the first opportunity forwarding their protest both to the High Commissioner and to my Government.

At my interview with you on the 27th I informed you that I had advised the natives to become if possible the purchasers of the islet in question and I asked you to kindly delay the sale to Pereira at least until I had time to confer further with the Chiefs now in Samoa and also to report the matter to my Government. With that ready courtesy and consideration which I have always received at your hands you consented to the delay I asked for.

I have seen the Chiefs and have advised them to make the following offer for the islet of Fanuafala, and which they authorised me to make on their behalf - viz. One hundred pounds (£100) in cash to be paid at once and one hundred tons of copra to be paid within two years.

The Chiefs return today to Tokelau but the Mission steamer will go to Tokalau later on. I should be greatly obliged if you could let me know if this offer, which I think is a good one, is likely to be entertained by your firm.

Thanking you etc.

T.B.Cusack Smith

H.M. Deputy Commissioner & Act. Resident
for the Tokelau Group.

FANUAFALA: SALE OF, TO PEREIRA (Contd)

J. Beckmann to T.B.Cusack Smith, 29.8.94: I etc. acknowledge receipt of your esteemed favour of today's date and in reply beg to say that Mr. J. Pereira has planted the islet of Fanuafala with coconuts. I have to ask the figure of Mr. Pereira at which he is willing to dispose of his claim to the just named islet. Several houses have also been erected on Fanuafala by Mr. Pereira and our firm has to buy those before a sale of the Islet can take place. I have written to Mr. Pereira to visit Apia as soon as possible and as soon as I have seen him I shall refer again to the matter.

For your offer I beg to thank you and I hope that a sale can be arranged at mutual satisfaction.

I etc.

J. Beckmann.

"OLOSENGA ISLAND"

H.C. Tokelau, No.49, Samoa D.C. (E.G.B.Maxse) Apia to

H.C. (O'Brien), 25.6.98: I have the honour to report that I left Apia on June 18th in HMS "Ringdove" for the Island of Fakaofu in the Tokelau Group; on my way I stopped for a few hours off the Island of Quiros (Gente Hermosa) and landed accompanied by Lieut.Comm. Ayscough. We were met by Mr. Eli Jennings who was much pleased at the visit, and who drove us over the island. He informed me that the population was 75 all told, that he ~~exports~~ exported 200 tons of copra annually to Sydney and Samoa and that he fully expected soon to be exporting a greater quantity as all his trees were not yet in full yield. I was much struck by the excellent state of cultivation the island was in, the good roads and the clean well-built houses. Mr. Eli Jennings deserves great credit for the way in which he has developed the resources of the island for the way in which he has carried on his father's improvements. I might mention that the American flag flies over the island and that Mr. Jennings fully acknowledges the jurisdiction of the American Consul General at Apia.

2. At present a claim to the island is being put forward by a Tokelau Woman, who married the son of a French halfcaste (since deceased) on the ground of prior occupation by the French father before the landing of Jennings' father 44 years ago. But as the Frenchman abandoned the island (even if he had previously occupied it) before Jennings arrival, and as the Jennings family has been in undisputed possession for so many years, I do not think the claim admissable and I advised the King and Councillors of Fakaofu, who brought the case before me on my arrival, to drop the matter and told them that in my opinion they had no case.

NUKONONO: ANTI-BRITISH FEELING.

H.C.Tokalau, No. 49, Samoa D.C. (E.G.B.Maxse) Apia to
H.C. (O'Brien), 25.6.98: (Paras 8 - 13):

8. I arrived at Nukunono on June the 22nd and found a decidedly hostile spirit to British Protection. Lieut. Comm. Ayscough and I were not met on arrival. The natives kept to their huts and the King and Councillors were not even in the Council hut. A private flag (presumably a Missionary one) was flying from the Govt. flagstaff and the chiefs told my clerk that they expected a French man-of-war. After waiting for more than an hour without any Councillors except three coming, I felt that I was bound to take measures to show the natives that the hoisting of the British flag in 1889 was not a mere form that they could discard whenever it pleased them. I therefore, after consultation with Lt. Comm. Ayscough, decided to land an armed party with blank cartridge, to lower the private flag and to hoist the Union Jack in its place, saluting it with three rounds of blank cartridge. This programme was carried out after I had fully assured myself that the flagstaff was a Govt. one and not a Missionary one and after I had addressed the three Councillors and King Tusingitino and pointed out to them that no disrespect to their religion was intended and that they might hoist as many private flags as they liked provided that on formal official occasions the British flag was hoisted on the Government flagstaff. I also told them that as they had refused to lower their private flag, which they declared to be the only one they would have flying over the island, or to hoist the British flag I would propose to do so for them to prove to them that British Protection accepted in 1889 could not be rejected subsequently and that their island would continue under British Protection "as long as the sun shines or water runs". I subsequently caused the old Union Jack which had been hidden away to be returned to me and I told the King that I held him and the Councillors personally responsible for the safe custody of the new Union Jack which had been hoisted.

9. At a meeting later on in the Council hut I once more addressed them pointing out the advantages of British Protection and telling them that there was no intention on the part of the British Govt. to interfere with their internal affairs or with the power of the King and Councillors but that once a year I would be sent by Your Excellency to enquire into complaints and see if they wanted anything.

10. The King on leaving asked the Surgeon to examine him and seemed very grateful for some medicine which he gave him.

11. I then proceeded on board with the officers and men.

12. I trust Your Excellency will approve my action in the matter as I feel sure that it will have a beneficial effect and finally stop the political intrigues of the French Catholic Mission in the Island. I may here mention that apparently the lagoon could be transformed into an excellent land-locked harbour by the excavation of a channel between two of the islands on the outer reef and the work required would not be very heavy or very expensive. This is the only island of the three where this could be done as the other lagoons are shallower. I do not know whether this fact has anything to do with the above mentioned intrigues.

NUKUNONO: ANTI-BRITISH FEELING (contd.)

13. I venture to ask Your Excellency for permission to deport the Prime Minister, named Falekie and the King's son, named Malosi to the Island of Fakaofu if I am met with the same difficulty next year though I feel practically certain that no such action will be required. The Govt. Sect. of Fakaofu informs me that his island has always claimed the overlordship of Nukunono and that the latter island has acknowledged it. On my stopping off Fakaofu on my return he promised me to proceed to Nukunono with the first fair wind, to point out to the inhabitants the error of their ways. The island of Nukunono numbers 138 inhabitants. It exports about 60 tons of copra a year half to Samoa and half to Sydney (Henderson & Macfarlane). The general health is very good and there is very little skin disease. The other productions of the island and the diet of the inhabitants are similar to those of the other islands.

x x x x x

I have &c.

E.G.B.M.

Copy

SAN DIEGO STATE UNIVERSITY

San Diego, California 92115.
July 14, 1975.

Department of Telecommuni-
cations and Film

Mr. Mark Seidenberg
Young Americans for Freedom
UCLA. P.O. Box 48601,
LOS ANGELES, CA 90048.

Dear Mr. Seidenberg:

In your recent letter you asked me for a note of confirmation regarding the visit of a number of chiefs from the Tokela Islands to my office in Pago Pago.

Some time during the year 1962 or 1963 (I do not have my files so I can not confirm the exact date) a group of chiefs from the Tokela Islands showed up at my office unannounced and asked for an audience. To the best of my recollection there were some eight to twelve chiefs. I immediately granted them an interview and they told me that they had been visiting Tokelan friends in American Samoa for the past week or ten days. Their spokesman simply stated they were sent there by their people to find out the truth about the rumors of the wonderful things that had taken place in American Samoa for the past year. Their spokesman continued by saying that they liked what they saw and as a result, they would like to cede all of the Tokela Islands to the United States.

I advised the chiefs that I did not have the authority to accept cession. They were under the impression that I could, as they had heard that I had complete authority in all matters pertaining to American Samoa. They were very disappointed and said that they did not know how to go back and tell their people that they had failed in their mission to immediately cede the islands to American Samoa. They were then advised that any formal move along those lines would have to take place through our State Department and I advised that they should discuss the matter carefully with New Zealand who had immediate responsibility for their administration.

I am sorry that I do not have exact dates and names and numbers, but you understand that the files, if they still exist are in American Samoa. I trust the above will be adequate for your purpose.

Sincerely yours,
(Signed) H. Rex Lee
H. Rex Lee

CHAPTER XIV

SWAINS ISLAND

*Provenance unknown
See also Appendix 17 in
File D/1*

212. DISCOVERY

Olosega, Swains Island, or Gente Hermosa was discovered on March 2, 1606 by the Spanish navigator Pedro Fernandez de Quiros who had been a pilot with Mendana. The New Hebrides and another island identified by Espinosa as Tahiti were discovered during this voyage of Quiros. Quiros named the islands La Peregrina, but Espinosa called it Isla de Gente Hermosa from the beauty of its inhabitants.

213. THE WILKES EXPEDITION

Captain Hudson, U.S. Navy, with the USS PEACOCK and the USS FLYING FISH of the Wilkes Exploring Expedition searched for Espinosa's Gente Hermosa, but was unable to find it in the position given by the Spanish. Two days' search, and a coral island about four and three-tenths miles in circumference was picked up in latitude 11 degrees 5 minutes south and 170 degrees 50 minutes and 15 seconds west longitude. The island had an elevation of fifteen to twenty-five feet above sea level, and was wooded with coconut trees and pandanas. Except for the coconut trees it bore no evidence of ever having been inhabited. Because of the discrepancy between the position given by Quiros and that observed by the PEACOCK, Captain Hudson named the island Swains Island after the name of the master of the whaler who informed him of its existence.

214. FIRST OWNER OF THE ISLAND

The first owner of Swains Island was a Captain Turnbull who located the island and landed on it. Captain Turnbull resided at Apia, and is believed to have died between the years 1882 and 1889. If any descendants of Captain Turnbull are alive, they are not known in the South Seas.

215. JENNINGS FAMILY SETTLE ON SWAINS ISLAND

Eli Jennings (the first), American citizen, settled on Swains Island on or about October 15, 1856, with his wife Maria, the daughter of a Samoan chief. The records of the Apia Consulate show that Eli Jennings in 1879 claimed to have come from Sagg Harbor, Long Island, New York. The stone over his grave on the island gives his birthplace as Rockhampton, New York. Mr. Jennings recorded his marriage and his will in the archives of the Apia Consulate.

Descendants of the original Jennings claimed that Swains Island was acquired as a gift from Captain Turnbull. No consideration appears to have

been given, but the Jennings family remained in unchallenged possession of the island until 1917. Eli Hutchinson Jennings, son of the original settler, in 1878 saw Captain Turnbull, who confirmed the gift of Swains Island and advised Jennings to proceed immediately to the island and protect the property.

216. TYRELL CLAIMS SWAINS ISLAND

In 1917 Captain E.F. Allen, a British subject, brought forward the claims of the Tyrell family to the island. According to a letter written July 6, 1917, by Charlie Tyrell to his mother, Mary Tyrell, resident on Swains Island, Captain Allen sought out Charlie Tyrell and drew from his information about the Tyrell claim. The information was sent to the British High Commissioner for the Western Pacific. The Tyrell claim is based upon the alleged occupation of the island prior to the arrival of the Jennings family. This claim as stated by Edwin Tyrell, one of the heirs, is:

"My grandfather, Sula Tyrell, a purser on a boat, lived on Swains Island. He left the island for another island for the purpose of gathering copra. His son of eight years (my father) and workmen were left in charge of a native. My grandfather left the following instructions with the native: 'Should any person visit this island (Swains Island) tell him there is a white man who owns it, and show him my son.' My grandfather died on the other island without returning to Swains Island.

After the departure of my grandfather, Eli Jennings, the captain of a boat, and another white man with a large party landed on Swains Island on October 18, 1856. Natives hidden on the island finally decided to send Kalofa Tyrell (son of Sula Tyrell, and my father) to meet the white men.

Eli Jennings was informed that Sula Tyrell, my grandfather, was owner of the island and that Faiva was in charge during the owner's absence. Eli went to Faiva and asked for a piece of land to use as a site for a house. This was refused, but Jennings proceeded to build his house without permission, even compelling the natives to bring his lumber ashore from the vessel. The natives were so frightened of the white man that they did as Jennings ordered.

When Jennings' daughter Mary was about fifteen years old, she married Kalofa Tyrell, and became my mother.

Eli Jennings did not purchase Swains Island from Sula Tyrell, the original owner, nor did he pay Kalofa Tyrell, my father, anything

"for the island. He simply assumed control, and he and his party did just as they pleased." (Summary of statement made by Edwin Tyrell and handed in at the American Consulate, Apia, Western Samoa, May 29m 1922.)

217. SWAINS ISLAND REGISTERED AS A GUANO ISLAND

The island under the name of Quiros appeared in the list of guano islands submitted by the First Comptroller to the Secretary of the Treasury, December 22, 1885 and September 16, 1893. According to these lists Quiros Island is placed in 10 degrees 32 minutes south and 170 degrees and 12 minutes west longitude. It was bonded February 8, 1860 under the rules governing the discovery of guano and the working of guano deposits by American citizens. The criminal jurisdiction of the United States was thus extended to Swains Island by Section 5576 of the Revised Statues of the United States.

218. ISLAND PASSES TO MARIA JENNINGS

Eli Jennings resided on the island until his death December 4, 1878. Under the terms of the will Maria Jennings, widow, acquired title to the island and all property. Her son-in-law, J.P. Ranzan, was to claim the estate for her.

The will was presented to the American Consular Court at Apia, Samoa, for probate, but the Consul expressed a doubt to the Department of State as to the jurisdiction of his court over Swains Island. (The American Consul, Apia, to Dept. of State, Despatch no. 96, August 23, 1879.) The Department of State concurred in this view and instructed the officer at Apia not to interfere in the estate and to let the widow take possession of the island without any formal action by the Apia office.

In 1881 Eli Hutchinson Jennings, son of Maria Jennings, petitioned the Consular Court of the United States at Apia to define Mr. J.P. Ranzan's powers under the Jennings' will. The Consul exercised jurisdiction and declared Mr. Ranzan's powers completed. This decision received the approval of the Department of State.

219. ELI HUTCHINSON JENNINGS ACQUIRES CONTROL

Maria Jennings died October 25, 1891 bequeathing the island and all property to her son, Eli Hutchinson Jennings, with the exception of certain legacies to the other children. These legacies were:

1. \$3,000 to Daniel Jennings, a son.
2. \$1,000 and one half the wearing apparel and jewellery to her daughter, Mary.

3. \$1,000 to the daughter Sarah.
4. \$1,000 and one half the wearing apparel and jewellery to her daughter, Ellen.
5. \$1,000 to son-in-law Charles (Kalofa) Tyrell.

It appears that the will was admitted to probate before the Consular Court at Apia, and letters of administration were granted to Eli Hutchinson Jennings as executor of the will.

220. BRITISH GOVERNMENT REFUNDS TAXES

In September, 1909 Captain Dixon, Resident Commissioner in the British Gilbert Islands, visited Swains Island and collected about \$85.00 in taxes from Eli Hutchinson Jennings. Mr. Jennings lodged a complaint with the American Consul at Apia, who reported the matter to the Department. (American Consul, Apia, to the Dept. of State, Despatch no. 40, December 20, 1909.) The Department of State, while instructing Mr. Jennings to file a diplomatic claim against the British Government, said:

"From the facts before the Department, it is not clear whether Quiros Island was in fact discovered and occupied with the sanction of the United States, and whether the United States has ever actually exercised jurisdiction over the Island. In the absence of further evidence on these points it is an unsettled question whether this Government could well maintain a claim to the sovereignty of this island based on the mere occupation thereof by a private citizen.' (Dept. of State to Amer. Consul, Apia, Instruction no. 33, Nov. 9, 1910.)

However, before the instruction from the Department was received, Arthur Mahaffy, British Assistant High Commissioner for the Western Pacific, informed the American Consul at Apia that the British Government considered Swains Island American territory and that the taxes collected from Mr. Jennings would be returned by the British Resident Commissioner in the Gilbert Islands. (Amer. Consul, Apia, to Dept. of State, Despatches nos. 57, 58, and 73, of Nov. 28 and Dec. 12, 1910, and Nov. 18, 1911.) No record of the return of the taxes can be found in the archives of the Apia consulate, but Captain E.F. Allen and Funafuti, Gilbert and Ellice Islands Colony informed the American Consul that under instructions from the British authorities he had paid back the money to Mr. Jennings.

221. BRITISH GOVERNMENT PREFERS CHARGES

About the middle of 1917 Edwin Tyrell, Harry Jennings, June Tyrell, Tava Tyrell, and Tautua made affidavits in Western Samoa charging Eli Hutchinson Jennings with cruel and inhuman treatment of laborers under his

care on Swains Island. The evidence was forwarded to the Department of State by the British Embassy at Washington with the comment:

"His Majesty's Government understands that the island in question is United States territory, and they therefore think it right to submit these documents to the United States as showing a situation which the United States Government may very probably wish to consider." (Brit. Embassy to the Dept. of State, communication no. 130, January 30, 1918.)

The evidence was submitted to the Navy Department with a request for any comments and suggestions the Navy Department might care to make.

222. NAVY DEPARTMENT'S INVESTIGATION

Lieutenant Commander L.W. Strum, U.S. Navy, under orders from the Governor of American Samoa, proceeded to Swains Island in the USS FORTUNE to investigate the conditions on the island and the treatment accorded the natives by Eli H. Jennings. Lieutenant Commander Strum arrived off Swains Island November 14, 1918 and examined Mr. Eli H. Jennings, Mr. Irving H. Carruthers, and twenty natives at random from the residents of the island. The owner of the island was exonerated of all charges brought against him by the complainants at Apia, Western Samoa. The investigator said:

"To sum up: As to food and clothing received and the personal treatment of the natives, I find the same to be entirely satisfactory, and that if anything these natives are happier, better content, and more pleased with life than the natives of many other islands of the South Seas. I am entirely satisfied that Mr. Jennings and Mr. Carruthers treat the natives well, feed and clothe them well, and that they are a very fortunate lot. I was impressed with the fact that many of these natives had been away from the island and voluntarily returned, and that they are now living in health and contentment. There is plenty of food, and there are no complaints of any nature." (Lt-Comdr. Strum's Report to the Governor of Amer. Samoa, Nov. 21, 1918.)

Lieutenant Commander Strum stated that he was convinced Edwin Tyrell's motive in preferring the charges against Mr. Jennings and Mr. Carruthers was that he might in some way obtain assistance in questioning the title of Eli H. Jennings. He concluded that Edwin Tyrell was prompted, aided, and abetted by Captain E.F. Allen, plantation owner and ship owner with interests in adjacent groups. He based this conclusion upon a letter written by Charlie Tyrell to his mother dated July 6, 1917, a copy of which was attached to the report. Captain Allen's motive was to drive out the Jennings family and gain control of the island through the Tyrell heirs.

223. NEW ZEALAND INCLUDES SWAINS IN THE TOKELAU GROUP

A New Zealand Order in Council dated September 25, 1923 declaring Apia, Western Samoa a port of entry for the Union (Tokelau) Islands include Gente Hermosa in the list of the Tokelau Islands. The American Consulate at Apia called the attention of the Administrator of Western Samoa to the inclusion of the American island in the British Tokelau Islands, and suggested that the New Zealand Government might like to correct the error in the Order in Council. The Administrator of Western Samoa made a careful study of the American claims to Gente Hermosa, and eventually an amended Order in Council was issued wherein Gente Hermosa was omitted from the list of islands of the Union Group.

224. THIRD JENNINGS WILL

Eli Hutchinson Jennings died October 24, 1920, leaving the Island to his son-in-law Irving H. Carruthers in trust for the daughter, Annie Eliza Carruthers, and the son, Alexander E. Jennings, as tenants in common. Mr. Carruthers attempted to probate the will in American Samoa, but the District Judge in Pago Pago was of the opinion that the Island Government established by the Navy Department could not assume jurisdiction over Swains Island.

225. HEIRS PETITION FOR ANNEXATION

All efforts to find a court with civil jurisdiction over Swains Island coming to naught, Mr. Alexander E. Jennings on November 10, 1922 petitioned the Governor of American Samoa to extend the jurisdiction of the Government of American Samoa to Swains Island. On December 11, 1922 Irving H. Carruthers, executor and administrator of the estate, on his own behalf and that of his minor children applied to the Department of State to have the jurisdiction of American Samoa extended to the Island.

The Governor of American Samoa in transmitting Mr. Alexander E. Jennings' petition to the Navy Department strongly recommended that it be granted, and saw no difficulty in extending his jurisdiction. The American Vice Consul at Apia in a despatch dated December 11, 1922 made the same recommendation, and stated that there were a number of claims brought forward by the members of the Tyrell family that should receive a hearing before some court.

226. NEGOTIATIONS BETWEEN THE DEPARTMENTS

Before the petitions begging for the extension of American Samoa to Swains Island /sic/ were received at Washington, the Department of State had already taken up the question of jurisdiction with the Navy Department. The Navy Department expressed a doubt whether the judicial authorities of

the government established by the Navy Department in American Samoa were vested with the requisite jurisdiction under the existing circumstances of undeclared American sovereignty over Swains Island to probate the will of Eli H. Jennings. It was recommended that, if it be in conformity with the views of the Department of State, steps be taken to issue an executive order extending the jurisdiction and control of the United States over the island. (Navy Dept. to the Secretary of State, communication of March 30, 1921.)

The Department of State in its reply to this communication was of the opinion that it would be desirable to have Congress indicate its desire or willingness to make Swains Island legally a part of the United States, rather than to try to accomplish the purpose by an executive order, and suggested that the Navy Department might consider it advisable to take the initiative in requesting the necessary legislation. (Dept. of State to Navy Dept., April 29, 1921.)

On June 4, 1921 the Navy Department replied that as it had no immediate interest in Swains Island, a small coral atoll in the Pacific Ocean, useless alike for naval or commercial purposes, it was not disposed to take the initiative in requesting Congress to enact any legislation in regard to the island. (Navy Dept. to the Dept of State, June 4, 1921.) These observations were confirmed by the Navy Department again on February 7, 1923 when correspondence from the Governor of American Samoa and a copy of Mr. Jennings' petition were forwarded by the Navy Department to the State Department. Captain Pollock, Governor of American Samoa, was informed that the Navy Department deemed the question at issue to be one for solution by the Department of State.

227. PRESIDENT PROPOSES ANNEXATION

The State Department then decided to lay the whole matter before Congress, and informed the American Vice Consul at Apia:

"The Department questions whether Swains Island may legally be made a part of the territory of the United States without the express or implied consent of Congress. However, when Congress reconvenes, the Department will recommend to the President that the facts be laid before that body for consideration whether the island should be given a definite status as American territory."

It is believed that the President sent the Swains Island case to Congress about May 19, 1924, but no action was taken that session.

228. SWAINS ISLAND FORMALLY ANNEXED

On March 4, 1925 the President approved Public Resolution No. 75 of the Sixty-eighth Congress whereby the sovereignty of the United States

was extended over Swains Island. The Act reads:

"JOINT RESOLUTION EXTENDING THE SOVEREIGNTY OF THE UNITED STATES OVER SWAINS ISLAND, AND MAKING THE ISLAND A PART OF AMERICAN SAMOA

"Whereas Swains Island (otherwise known as Quiros Island, Gente Hermosa, Ologega, and Jennings Island) is included in the list of guano islands appertaining to the United States, which have been bonded under the Act of Congress approved August 18, 1856; and Whereas the island has been in the continuous possession of American citizens for over fifty years, and no form of government therefor or for the inhabitants thereof has been provided by the United States: Therefore be it **RESOLVED** by the Senate and the House of Representatives in Congress Assembled, That the sovereignty of the United States over American Samoa is hereby extended over Swains Island, which is made a part of American Samoa and placed under the jurisdiction of the administrative and judicial authorities of the government established therein by the United States.
Approved, March 4, 1925."

229. OFFICIAL FLAG RAISING

As annexation in American Samoa was consummated by the official flag raising, the Governor of American Samoa sent Lieutenant Commander Edgar, U.S. Navy, in the USS ONTARIO to complete the formal annexation of the Island. The official party landing in the morning of May 13, 1925 completed arrangements for the official ceremonies at 3.00 p.m.

After the flat raising the Samoan pastor led the inhabitants of the new possession in a Samoan hymn, after which he made an appreciative speech telling the people that whereas before they had no mother and father and never knew where they stood, henceforth the American Government would take care of them, and they would have a father and mother.

For sixty-nine years the American flag had flown over Swains Island, but now for the first time the sovereignty of the United States was established by public act and the flag was placed there by the representatives of the United States. Residents of Swains Island no longer feared that some other government would come in and turn them out of their homes.