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**BETWEEN :** METUISELA TALAKAI - **Plaintiff;**

**AND :** 1. SIONE PUKEMO'UI 'AIPOLO - **Defendants.**  
2. NIUTONI TOE'API

**BEFORE THE HON. CHIEF JUSTICE WARD**

**Counsel:** Mr Tu'utafaiva for the Plaintiff  
Ms Palelei for the Defendants

**Date of hearing:** 8-11 March, 1,6-9 April 1999.

**Date of Judgment:** 11 June 1999.

**JUDGMENT**

The plaintiff is a member of the Assemblies of God of Tonga, which, according to the Constitution, is "a co-operative fellowship of Pentecostal assemblies of like faith", which first started in Tonga in 1967. It is based on mutual agreements voluntarily entered into by the membership.

The year that it started here, the plaintiff became a member of the fellowship and a deacon of the first Vava'u Congregation. He held the various credentials issued by the church; Christian worker's permit, licence to preach and, finally, ordination. It is not denied by the plaintiff that he was suspended more than once and, in about 1987, he finally retired from the position of pastor but continued to preach as a lay preacher.

The Tonga church has its own Constitution and By-laws which set out the manner in which it is to be administered. By the terms of the Constitution, the supreme authority is vested in the General Conference and, subject to that authority, the church is to be governed by the Executive Committee.

Apart from the power to summon a special session, the General Conference is held once a year, the time being determined by the Executive Committee. All decisions are decided by a simple majority and the members entitled to vote are all the missionaries and ordained or licenced ministers and delegates from each "set-in-order" assembly; the number of delegates depending on the number of members in the assembly they represent.

The officers of the Executive Committee are the Superintendent, Assistant Superintendent and the Secretary-treasurer. The Executive Committee also has the duty to act as Credentials Committee as which it establishes standards and examinations of, and grants credentials to, members. The discipline of ministers is also a matter for the Credentials Committee subject to a right of appeal to the General Conference.

In 1995, the first defendant was the Superintendent and the second defendant the Assistant Superintendent. Originally other members of the committee were also named as defendants but the plaintiff is no longer pursuing the claim against them. As superintendent, the first defendant presided at all meetings of the Executive Committee, Credentials Committee and all sessions of the General Conference.

By that year, the Nuku'alofa assembly, the First Church, had already achieved the status of a Sovereign Assembly with the right of self-government. It was able to choose its own pastor, elect its own church board and carry out the normal business of running its own affairs. It also had the right to administer discipline to its members according to the Scriptures and its constitution and by-laws. There is no evidence before the Court of the nature of its constitution and by-laws or whether either has been drafted. The board of the First Church was the Board of Deacons one of whom was the plaintiff. The first defendant was pastor of the First Church and, as such, he was a member of the Board and presided at its meetings.

As pastor of the First Church, he was entitled to a monthly monetary support of \$600.00 and, on or about 21 April 1995, he withdrew \$1,200.00 as his support for the months of May and June because he was to travel to the United States during those months. The plaintiff alleges he was travelling on leave and was to attend his son's ordination. The first defendant claims he was travelling on church business because he was also the chairman of the World Association of Tongan Assemblies of God and he was to attend a special meeting in the United States. Whilst there, he was taking the opportunity to attend his son's ordination. I do not think it is necessary to resolve that issue but, if it is, I accept the first defendant's account of the reason for that visit.

One of the critical facts of the plaintiff's claim relates to the support the first defendant withdrew for the trip. The plaintiff maintains that it is against the rules of the church to withdraw the support in advance in this way. No evidence has been lead of the nature or extent of the rules. On 7 May, while the plaintiff was away, there was a meeting of the Board of Deacons during which this was discussed and it was decided to discipline the Superintendent on his return. It was also decided that he must pay back that money and give it to the Assistant Superintendent who, incidentally, was chairing the Board meeting at the time.

When the first defendant returned to Tonga in June, he was summoned to another meeting of the Board on 9 June. The purpose of the meeting was to inform the Superintendent of the Board's earlier decision. It was not, it appears, to give him an opportunity to state his side. There is dispute about what happened at that meeting and at

almost every stage thereafter. I shall set out the events and then deal separately with each party's case.

Following that Board meeting, the Executive Committee, chaired by the first defendant, met on 11 June and the plaintiff was called to that meeting. At some stage, but certainly after the plaintiff left, the meeting continued as a Credentials Committee meeting. It was resolved then or at the next meeting to remove the plaintiff's credentials. He tells the Court that the question of his credentials was never mentioned whilst he was present.

The next meeting of the Executive Committee was 6 July and following that 8 August. The Credentials Committee decision to strip him of his credentials was communicated to the plaintiff by the secretary over the telephone after either the meeting of June or July. The plaintiff continued to try and raise the matter of the withdrawal of the support money and also the fact that the first defendant had appointed his own son as assistant pastor of the First Church.

As a result of these activities, the Credentials Committee then excommunicated him.

On 2 August the plaintiff wrote to "the Chairman and Executive Committee" referring to the decision and setting out his "answer" which took the form of a proposal the terms of which were largely a restatement of his allegations but also included the demand that the Superintendent should settle the \$1,200.00 and resign from his ministry. He finished by giving the committee seven days "to settle this up within the church, enabling the Board to seek legal advice of misusing of authority on the church's fund".

On 14 August he wrote two letters. One was to the Executive Committee and set out, once again, his complaints against the first defendant and enclosing a minute of the motions that had been considered by the Board of Deacons on 7 May. The letter is signed by four of the five members of the Board and the effect of and manner in which that happened is again an issue in the case. The letter starts with the following paragraph:

"The reason for this letter is to put forward these complaints in accordance with the By-laws of Assemblies of God of Tonga Article IV, Section 8, for the Credentials Committee to do something about, and if it could not be done before the General Conference, then submit them to this year's General Conference because these concern the Superintendent S.P. 'Aipolo, who is Chairman of the Committees."

The other letter of that date was from the plaintiff alone to the Secretary, Assemblies of God, and was a clear notice of appeal to the General Conference. I set it out in full:

"I respectfully put forward this matter in the name of our Lord. The reason for this letter is to submit to the upcoming General Conference of the Church this appeal pursuant to By-Laws, Article IV, Section 8 (b).

I have been advised by telephone of the following matters:

- i) I have been excommunicated from the Church;

- ii) My credentials, eg. Licence to Preach, etc, have been taken off me;
- iii) To prohibit me from contacting fellow members of the Church.

I am very concerned about these matters as they affect my rights physically, naturally, spiritually, conscientiously, legally, etc. The grounds of this appeal are:

1. I have apparently been punished. I do not know what I have been punished for. I am not aware of any complaints or allegations against me in accordance with the By-Laws Article IV, section 8.
2. I have not been given an opportunity to defend any allegation against me. I have the right to know the allegation against me and to defend myself.
3. The decision against me is serious one but it was communicated to me by telephone. A respectable way should have been adopted and advise me in writing with the details of what happened.
4. The procedure adopted against me is exactly the same with man returning to the law of the jungle where lions and strong rule which is totally improper in our communion in Jesus Christ our Lord.

This letter is given so that you please submit this appeal to the General Conference, and that you notify me of the time and date this matter is to be discussed so that I will be there to defend my rights.

At the general conference, on 23 August, his appeal was heard and was dismissed by a ballot of the members present. The Plaintiff challenges the manner in which that part of the conference was conducted.

The plaintiff's case is that, in April before the first defendant was due to go abroad, he went directly to the treasurer of the First Church and asked to be paid the two months support in advance. As a result the Board decided to discipline him. When he returned from abroad, the plaintiff gave him a letter setting out the decision of the Board. The first defendant then attended the next meeting on 9 June and there was a discussion of what had happened. The pastor normally chairs the board but, because of the allegation he did not do so that day. According to the plaintiff's evidence, the first defendant gave no explanation and said he would leave.

Both these meetings of the Board of Deacons, in which the plaintiff played a dominant role, were conducted with as little regard for natural justice as were the subsequent meetings of the Executive Committee, criticism of which is a fundamental part of the plaintiff's claim.

The first defendant then summoned the plaintiff to an Executive Committee meeting two days later. At that meeting the plaintiff again raised the matter of the support money and asked that the pastor be made to pay it back. He told the Court that, instead of saying why he was not being told to do so, he was asked by the pastor to stand together with the others. The plaintiff said that he would but made it clear that he would not back down

about the \$1,200.00. He then apologised to the meeting for anything he might have said or done that was not good and left.

It was shortly afterwards the secretary told him over the telephone that his credentials had been taken.

He complains to the court that he was not asked to attend the Committee again to be heard on the matter of his excommunication. He wrote the letter of 14 August and handed both to the Secretary at the same time. He told the court that he had written the letter signed by the other members of the Board at their request.

The defence case is that the withdrawal of money in advance is normal practice when the pastor needs it and would certainly be done when he was going abroad. The first defendant said he was travelling on church business but would take the chance to attend his son's ordination. He decided he should take his wife for such an important event and that was why he felt he needed the money in advance. As it was close to the date of his departure, he spoke to the treasurer directly and then sought the approval of the Board by approaching individual members, a practice which, he said, was common.

When he returned and attended the meeting of the Board on 9 June, he explained this and said that he would take the case to the highest authority of the First Church, the meeting of the members. One of the members of the Board then moved a motion that was passed that they should withdraw the allegations against him. That was the position, as he understood it when he held the Executive Committee meeting on 11 June.

At that meeting he asked the Committee to settle the matter between the plaintiff and himself with regard to the support and the appointment of his son as assistant pastor. The plaintiff was present and was crying and apologising for what he had done and asked the Committee not to remove his credentials. The first defendant told the Court that, in such a case, the plaintiff would have known only too well that this was a likely consequence of his accusations. The minutes of that meeting as with those of other meetings are totally inadequate and inaccurate. They refer to the fact that the plaintiff admitted he did wrong and apologised but say the Committee required time to reach a decision.

Under the By-laws of the church, the decision regarding the credentials of the plaintiff was a matter for the Credentials Committee. That Committee is the same as the Executive Committee and the Court was told that, after the plaintiff left, the meeting changed to the Credentials Committee to consider that issue. The minutes make no mention of that. A similar change from the Executive Committee to the Credentials Committee apparently occurred on 6 July and 8 August and the minutes give no indication of that having happened. The secretary, who wrote the minutes, suggested at one time that the letters "NB" are marked in the margin of the minutes at the point when the Committee changed. It appears from the content that may be the case but the letters have been added subsequently by someone else and the original had no reference to the change. This carelessness to the rules of procedure appears at almost every stage of the events related to this action.

The removal of a minister's credentials in the church is a most important matter and a decision to excommunicate him is even more extreme. Yet it is impossible to ascertain from the church documents exactly when either of these decision was actually made and even the members of the Committee are unsure and gave conflicting accounts. As a result, although the plaintiff accepts he was in fact excommunicated, there is no actual written record of the fact.

The plaintiff attended the General Conference for the hearing of his appeal. The first defendant chaired the meeting and, when the appeal was reached, the plaintiff was called upon to present it. It is his case that he was hardly able to speak before the chairman stopped him and told the Conference that the plaintiff was a bad person and set out a number of allegations against him. The plaintiff's appeal was not circulated to the members in advance by the secretary and it was not read out at the Conference. The plaintiff said he tried to read it out but was stopped by the first defendant from the chair. After the chairman had made his comments one of the delegates spoke in support of the plaintiff by trying to raise a motion about the support money but he was ruled out of order and prevented from speaking further.

After the conference the plaintiff left the church never to return. He felt hurt, depressed and embarrassed to appear anywhere in the company of Assembly of God members and his family felt the same. The whole family walked, as the plaintiff put it, with bowed heads.

The first defendant's version of events at the conference was that the plaintiff was given the freedom to speak as he liked. No one stopped him. His appeal was not circulated before hand or read out. The first defendant knew the plaintiff had been circulating a document before the conference but that was the other document dated 14 August which contained the allegations against the first defendant. He agreed that one member had tried to present a motion about the support money but was stopped because that was not the matter before the meeting.

Both parties called a number of witnesses and I shall not set out their evidence in any detail except where it is necessary to explain the view I have taken on any particular aspect of the case.

This is not an easy matter to decide. All the witnesses are devout believers and most have given their lives to the preaching of the gospel. In such circumstances, it might be reasonable to expect the events would demonstrate the virtues of tolerance, forgiveness and humility. I regret to have to say that they have been marked far more by intolerance, vindictiveness and pride in the principals who gave evidence.

The plaintiff seeks:

- “(a) a declaration that the first defendant is an unfit and improper person to be Superintendent of the Fellowship

- (b) an order directing the first defendant not to accept any nomination by the Fellowship to continue as Superintendent
- (c) a declaration that the decision of the General conference of 1995 declining the appeal of the plaintiff was unfairly and improperly reached and therefore null and void.
- (d) a declaration that the decision of the Credentials Committee to remove the plaintiff's credentials and also drop him from the Fellowship is unfair, capricious, arbitrary and unlawful
- (f) a declaration the defendants are unfit and improper persons to hold the position of Superintendent and assistant Superintendent.
- (g) an order for the return of the plaintiff's credentials.
- (h) damages in the amount of more than \$2,000.00 for the plaintiff's suffering mental distress and injured feelings."

At the close of the plaintiff's case I considered whether the Court had jurisdiction in a case such as this to enquire into and rule on the internal administration of a church. I decided that it would be better to consider that matter at the conclusion of the case as a whole and I now do so.

In July 1997, Lewis J was asked to consider an application to strike out the action on the grounds that it should have been brought as an application for judicial review. He ruled that it was not such a case and it was right to proceed on summons. I consider I am bound by that decision in this case but much of the authority for the examination of the proceedings of a church comes from cases of judicial review.

There have been previous cases in which this Court has clearly considered it had such jurisdiction. In *Fotu and others v Fonua* (1961) II Tonga LR 216 Hammett J giving the opinion of the Privy Council warned of the limitations of the court's power:

"In our view the Civil courts should be reluctant to interfere with the internal affairs of a Church unless it is first clearly shown that its members or officers are acting contrary to the terms of its Constitution."

Authorities in England give a limited right to the courts to enquire into such matters and those authorities guide me. However, it is important to distinguish those cases involving the Church of England and many other churches which have become established there by specific acts of Parliament sanctioning by law the church's organisation and system.

The church in this case is an unincorporated body and the limits of its rights and powers are determined by the terms of its Constitution and By-laws.

It has long been the position that any church may constitute a tribunal to determine whether or not its rules have been broken by its members. In *Long v The Bishop of Cape Town* in 1863 it was held that the civil courts will enquire into the manner in which it has exercised its power. I have only the summary of the report in 19 Dig Repl 242 in which it is stated:

"The Church of England when not established in the colonies, is in the same position there as any other religious body and rules of discipline adopted by members will be binding on all who expressly or by implication have assented to them. If the religious body constitute a tribunal to determine disputes as to such rules, the decision of such tribunal will be binding when it has acted within the scope of its authority, has observed such forms as the rules require, if any forms be prescribed and, if not has proceeded in a manner consonant with the principles of justice. But such tribunal is not in any sense a court and the civil courts will give effect to its decisions as they give effect to the decisions of arbitrators whose jurisdiction rests entirely upon the agreement of the parties."

I accept that this Court has the authority to enquire into the internal affairs of a church to the extent shown by those authorities. My examination is limited to a consideration of whether any actions of the church or its members have been in accordance with its own rules and have observed the rules of natural justice. On that basis, I now pass to the various limbs of the claim.

Paragraph (a) – Under Article III of the By-laws of the church, the qualifications for Superintendent and Assistant Superintendent are that they:

"shall be ordained ministers of the Assemblies of God of Tonga in good standing who have shown sound Christian character and leadership ability, who have manifested a genuine interest in and co-operation with the work of encouraging and promoting the spread of the Full Gospel testimony in Tonga". The evidence shows that the first defendant is an ordained minister of the church.

It has long been a principle that the courts will not rule on purely spiritual matters. Whether or not the first defendant has sound Christian character in the terms of the tenets of the Pentecostal assemblies is a matter of spiritual belief and interpretation that this court cannot decide.

I have no evidence upon which I can sufficiently judge the remainder of the qualifications under Article III. I shall not make the declaration sought in paragraph (a).

Paragraph (f) – I refuse to make such a declaration as is sought in this paragraph on the same ground.

Paragraph (b) – This is an extension of the previous paragraphs. I have been shown no power under which this Court could make such a declaration. I have considered the judgment of Williams J in the case of Latu and others v Fonua and others (civil case 132/79) when he ruled on application 297/83. In that case he ordered the defendant should no longer stand as President of the church and directed a fresh election. That



decision was based on the dishonesty of the defendant in his financial dealings in the church and his continuing contempt of court. I do not consider that established any general power.

I have seen no evidence to suggest the first defendant should be prevented from allowing his name to be put forward to continue as Superintendent. I refuse to make the declaration sought in paragraph (b)

Paragraph (d) – There is a dispute between the plaintiff and the defence about the events at the meetings of the Executive Committee/Credentials Committee when the decision was taken to remove the plaintiff's credentials and to expel him from the fellowship.

I have already commented on the poor state of the minutes of those meetings. They assist very little in resolving the conflicts between the parties. Had proper minutes been taken, much of the dispute in this case would be easily settled. The manner in which the meetings were conducted and the minutes recorded gives some support to the plaintiff's claim that there was a general disregard for the rules by the authorities of the Church. Those who stand for office in such organisations owe it to the members who elect them to carry out the duties for which they have been elected strictly in accordance with the rules. Careless and slovenly practices such as were followed in these meeting are effectively a betrayal of the trust placed in the officers.

However, I must decide, on the evidence I have, what happened at those meetings bearing in mind that the burden rests on the plaintiff to prove the matters he asserts on a balance of probabilities. On the evidence of the people present, I am not satisfied the plaintiff's account is an accurate account of what happened on 11 June. It was clearly an emotional meeting. The plaintiff took the role of an accuser. He came to the meeting to repeat yet again his accusations of impropriety against the first defendant who, in his turn, felt that he had been harshly and wrongly treated by the Board of Deacons in his absence. I also accept the evidence that, at the meeting of the Board on June 9 and despite the signatures on the letter of 14 August to the Executive Committee, the majority of members no longer wished to pursue the first defendant over these allegations.

I accept that the plaintiff not only knew that he was likely to lose his credentials but that it was discussed. Exactly when the meeting turned into a Credentials Committee meeting is not clear save that I accept it was after the plaintiff had left. I cannot accept the plaintiff has demonstrated that the decision was arbitrary or capricious. The plaintiff had made a number of serious allegations against the first defendant. He had chaired a meeting that condemned the first defendant in his absence and the plaintiff had continued to air his views. The committee had grounds upon which to make the decision it did.

The suggestion it was unfair or unlawful must be read against the Constitution and By-laws. Article IV section 8 of the By-laws is headed "Discipline of members". Paragraph a. sets out the basis upon which the Credentials Committee must act. I set it out in full;

"Ministers affiliated with the Assemblies of God of Tonga, who may be charged with unscriptural conduct or doctrine, shall be subject to discipline by the Credentials Committee. Such discipline shall be determined upon the basis of information filed in writing with the Secretary and signed by at least three persons of good standing. The Superintendent and Assistant Superintendent shall make any investigation, and if, in their judgment, the case seems to require a judicial action, the accused shall be given an opportunity to have a proper hearing before the Credentials Committee. If found guilty, the accused may be dropped from the fellowship, removed from office, or otherwise disciplined."

The plaintiff alleges a failure to follow those procedures. The defence can do little to counter that allegation. There was no evidence of an information in writing appropriately signed. There was no evidence of a decision by the Superintendent and Assistant Superintendent whether the allegations required a judicial decision and although the plaintiff was given a opportunity to speak in the Executive Committee, no interpretation of the By-laws could describe the events of that day as a proper hearing and he was certainly not present at the meeting of the Credentials Committee. There was no formal finding of guilt and there was no evidence, if it was found, of the determination of the appropriate disciplinary action. Nothing in the evidence has shown the Court whether the committee considered the actions of the plaintiff amounted to unscriptural conduct or doctrine.

Such a failure to follow the rules makes the decision unlawful and unfair and to that extent I make the declaration sought in paragraph (d)

Before leaving this part of the case, I would comment that the unfortunate attitude of the Executive Committee is further shown by the way in which, having failed totally to follow the correct procedures in relation to the plaintiff's credentials, they then ignored the letter of the plaintiff on 14 August. That was an information in writing and signed by at least three people of good standing filed with the secretary and the Superintendent and the Assistant Superintendent had a duty to investigate – a duty they failed to carry out.

Paragraph (c) - Article IV section 8 b. provides;

"If a member has been found guilty and disciplined by the Credentials Committee, he may appeal to the General Conference where a majority vote shall be required to confirm action already taken by the Credentials committee."

Section 8 c. begins with the exhortation;

"In order to render effective the decisions made in the interest of proper discipline, and for the protection of the assemblies, such decision shall be considered by all to be just and final."

There is little guidance in the Constitution or By-laws as to the manner in which an appeal to the General Conference is to be heard. Article IA is expressed in wide terms;

“In order to expedite the work of the General Conference of the Assemblies of God of Tonga, and its committees and to avoid confusion in their deliberations, the business at all such meetings shall be conducted by accepted rules of parliamentary procedure, in keeping with the spirit of Christian love, courtesy, and fellowship.”

Apart from Article VII which simply determines the regular order of business for the annual General Conference there is nothing else to assist.

In deciding whether the rules of procedure have been followed, the Court will also consider whether the procedures have complied with the rules of natural justice.

The evidence of exactly what occurred at the 1995 General Conference is not at all clear. Again the burden is on the plaintiff to prove his assertion that the decision to dismiss his appeal was unfairly and improperly reached.

What is shown is that the meeting was conducted in a confused manner in relation to the plaintiff's appeal. There is no dispute that at least one delegate was prevented from speaking although, having heard his evidence, I accept he was speaking about the plaintiff's allegations against the first defendant rather than to the appeal itself.

It was extremely unfortunate that the first defendant continued to chair the meeting when the basis of the decision to take the plaintiff's credentials had been the allegations he had made against the first defendant. The decision whether to confirm the decision of the Credentials Committee was not his but one for Conference as a whole and so he only had the same right to vote as all the members. As the chairman of the Credentials Committee, he clearly had right to be heard but it would have been fairer to have done that from the floor of the Conference rather than with the authority of the chair.

I accept on the evidence that the plaintiff was invited to present his appeal but I am satisfied on balance that he was not allowed to make the arguments he wished. The Executive Committee had taken no steps to circulate his notice of appeal and I accept that when he tried to read it to the Conference, he was stopped. The minutes support the plaintiff's evidence that the first defendant launched into an attack on him and, on the evidence as a whole, I accept the hearing was conducted by the first defendant in a manner that was far from the ordered and considered debate to which the plaintiff was entitled.

On balance, I consider the decision of the Conference was unfairly reached and I make the declaration sought in paragraph (c) to that extent. I am not satisfied that the decision was necessarily improperly reached. I am unsure the basis of that claim. The fact the meeting was conducted in such a manner that the decision was unfairly reached does not

inevitably mean it was improperly reached. There is no evidence it was reached in any way other than a ballot of the members present as required in the By-laws.

Paragraph (g) - Despite my finding that the decision to remove the plaintiff's credentials was unlawful, I do not consider I can make the order sought in Paragraph (g). My declaration is based on the procedures followed and does not deal with the merits of the case. I would require far more evidence than the plaintiff has produced to the Court to decide whether to make such an order. It is clear the plaintiff made a number of accusations against the first defendant that could be described as a personal campaign against him. I do not accept that the first defendant acted in any dishonest or improper way when he drew the support money for the two months he was abroad. I accept his evidence that he was travelling to a large extent on church business and I am not satisfied he broke any rules. Had the Executive and Credentials Committees followed the correct procedures, I am not satisfied they would necessarily have come to a different conclusion. The decision whether to order them to return credentials to the plaintiff involves considerations that I do not consider I am able to make on the evidence before me.

Paragraph (h) - I accept that the decision to expel the plaintiff caused him and his family considerable pain and suffering. No evidence has been brought to try and quantify this and I am uncertain how it should be assessed. I shall, at this stage, confine my order to the matters I have dealt with above and hear counsel on the question of damages if that part of the claim is still to be pursued.

The plaintiff claims his costs. He has had a degree of success and the declarations I have made represent the major thrust of his claim. In the circumstances he should have his costs. However, both the length and costs of these proceedings have been increased by the manner in which the plaintiff has cast his net so wide both in terms of the declarations sought and the people sued. In the circumstances I shall also hear counsel on the question of costs before I make such an order.

Therefore my Order is that I give judgment to the plaintiff to the following extent;

1. I declare that the decision of the Credentials Committee to remove the plaintiff's credentials and to drop him from the fellowship is unfair and unlawful
2. I declare that the decision of the general Conference in 1995 declining the plaintiff's appeal was unfairly reached.
3. The questions of damages and costs are adjourned to a date to be fixed.



A handwritten signature in black ink, appearing to be "S. S. S.", is written over the seal.

**NUKU'ALOFA:** 11 June, 1999.

**CHIEF JUSTICE**