

## J. KAHO (TAX CLERK) v. TEVITA TAHOLO.

(Rehearing after dismissal of case by Magistrate. Skeen C. J. Nuku'alofa 12th February, 1909.)

Non-payment of Tax — Doctor's Certificate — No exemption certificate — s. 589 of 1903 Laws.

A rehearing from the decision of a Magistrate, ordered by Cabinet — s. 256.

The defendant was prosecuted for non-payment of tax for the June quarter 1908. The Magistrate dismissed the case on the ground that the defendant had been ill during the quarter and at the trial he had produced a doctor's certificate stating that he was ill.

Held: The Magistrate has no power to dismiss the charge unless an exemption certificate in accordance with s. 598 is issued.

J. Kaho (Tax Clerk) for the Prosecution.  
Defendant in person.

SKEEN C. J. : The Magistrate did wrong. He has no power to dismiss a case for non-payment of tax unless an exemption paper is held. (The C. J. then read s. 172 and continued.) It is compulsory for the Supreme Court to hold an annual enquiry for exemptions. A Magistrate may do so under s. 598. The Defendant did not apply to either the Supreme Court or the Magistrate but goes to a doctor. A doctor's certificate is only a foundation to grant exemption. Sickness itself is not a ground of exemption, it must be sickness coupled with poverty.

Judgment of the Police Court quashed. Defendant ordered to pay 9/- and 4/- costs of summons in all 13/- within two weeks.