

J. B. WATKINS AND ORS. v. S. MANU AND ORS.

(Land Court. Scott J. 'Ahome'e assessor. Nuku'alofa, 10th, 11th, 12th, 13th and 24th June, 1924.)

This was a claim by the Free Church of Tonga to certain church lands which had been seized by the Free Wesleyan Church of Tonga. The plaintiffs' particulars of claim were as follows:

PARTICULARS OF CLAIM.

The Plaintiffs claim the following:

- (1) The Court to rule that: The Land in Ma'ufanga on which the Church and the Minister's residence are situated and are known as the Ma'ufanga branch and are occupied by the one Zion Pulu — are owned by the members of the Free Church of Tonga (The said church was founded by His Majesty King George Tupou I in the year 1885).
 - (a) They (members of the said church) did not and will not ratify the constitution of the Free Wesleyan Church of Tonga which was drawn up on the 24.4.24 or thereabout.
 - (b) They did not and will not agree to the amalgamation of the Free Church of Tonga and the Free Wesleyan Church of Tonga or any other church.
- (2) The Court to rule that anyone who ratified or would eventually ratify the constitution stated on paragraph (1) (a) or anyone who agreed or would eventually agree to the amalgamation mentioned in paragraph (1) (b) is to have no right or claim whatever to the land and property mentioned on paragraph (1).
- (3) The Court to rule that Kisione Fakafanua in his capacity as noble is to have no power or right to the land mentioned on paragraph 1.
- (4) And any other satisfactory solution that the Court might find.

The matter arose in this way: George Tupou I was dissatisfied that large amounts of money collected from the people of Tonga by the Wesleyan Church, which was controlled by the Wesleyan Church in Australia, were being sent to Australia. In 1880, His Majesty said in the Legislative Assembly, "My mind is still the same for the Church of Tonga to be an independent Church; and the words I uttered I still utter — I and my family will not again contribute to the foreign missions until Tonga is a Church". In 1885, he established a new church called The Free Church of Tonga. The plaintiff J. B. Watkins was appointed life President of this Church. Their doctrines were practically the same as the Wesleyan Church. Grants of lands were made by the King and the Nobles to the new Church, and Churches and church buildings were erected. The new body took none of the property of the existing church.

In 1924 efforts were made to amalgamate the two bodies, and in February, 1924, a meeting was held at the Palace, Nuku'alofa when a document called the "Constitution of the Free Wesleyan Church" was signed.

Many of the members of the Free Church of Tonga were opposed to the amalgamation and refused to join the new body. Mr. J. B. Watkins was dismissed from his office of President by the Queen and many of the Ministers of the Free Church were dismissed by the Conference. The contention of the Plaintiffs was

that the assets of the Free Church of Tonga (said by Mr. J. B. Watkins in evidence to amount to about £70,000) still belonged to the Free Church and did not vest in the Free Wesleyan Church when some of the Free Church members had joined the new body styled The Free Wesleyan Church.

Mr. Moody : appeared for the Plaintiffs.

M. Finau and Mr. Wood : appeared for the Defendants.

C.A.V.

On the 21st June, 1924 the Court gave judgment for the plaintiffs (unfortunately the terms of the judgment are no longer available) and made the following order :

- (1) An Order that the land situated at Ma'ufanga whereon there are erected the church known as Ma'ufanga branch of the Free Church of Tonga and the Minister's house now occupied by one Sione Pulu is owned by such members of the Free Church of Tonga (founded in the year 1885 by His Majesty King George Tupou I. As :—
 - (a) have not assented to or do not hereafter assent to a certain constitution of the Wesleyan Free Church of Tonga dated on or about the 30th day of May, 1924; or
 - (b) have not assented to or do not hereafter assent to any amalgamation of the Free Church of Tonga (founded as above mentioned) with the Wesleyan Church or any other Church.
- (2) Also that no person who has assented to or shall hereafter assent to the constitution referred to in paragraph 1 (a) hereof or who has assented to or shall hereafter assent to any such amalgamation as is referred to in 1 (b) hereof has any right title or interest in the land referred to in paragraph (1) hereof.
- (3) Also that the defendant K. Fakafanua as noble of Ma'ufanga has a reversionary interest in the said land at Ma'ufanga to come into operation only when the Free Church ceases to exist or require the lands for the object for which they were given.
- (4) The Court also orders costs £42 and Court Fees £2/17/-

EDITOR'S NOTE : The defendants appealed and on the 11th September, 1924 the Privy Council (Stronge C.J.) upheld the appeal. See page 136.
