

FIFITA 'ATELEA v. 'ATONIO MAFI, TEVITA MAFI,  
MATELINO MAFI.

(Criminal Appeal. Higginson J. Nuku'alofa, 13th September,  
1951)

Conspiracy — Abetment of Conspiracy — Section 14 Cap. 10.

The three accused were charged before the Magistrate with abetting a conspiracy to assault the Complainant and with assault.

The Magistrate dismissed the complaint.

The Complainant Appealed.

HELD. No reason to upset the Magistrate's decision: Appeal dismissed.

Finau appeared for the Appellant (Complainant).

Tu'akoi appeared for Respondents (Defendants).

HIGGINSON J. The three accused have been charged together with abetting the conspiracy of four others to assault the Appellant and with assaulting him.

According to English law conspiracy is an indicatable misdemeanour consisting in the agreement of two or more persons to do an unlawful act or to do a lawful act by unlawful means. Unless two or more persons are found to have combined there can be no conviction.

Section 14 of Cap. 10, although the marginal note is "conspiracy", goes further and includes those who, without any previous agreement, together commit an offence.

The question to be proved in the present case is: Did the three accused or any of them take part in this assault by the other four on the appellant?

(His Honour then went on to examine the evidence, and said that he saw no grounds for interfering with the decision of the Lower Court and dismissed the appeal).