

Scan, file + Upload  
14/02/19

IN THE MAGISTRATE COURT

CRIMINAL JURISDICTION

CR 346/18

REX v TONGA BROADCOM

PUIPUITU'A.

Koe faka'ilo 'oe faka'iloa, ki he maumau'l 'oe kupu 23(1)(g) Lao ki he Filifalealea. 'Aia koe fakamafola 'oe fakamatala he 'ho 16<sup>th</sup> /11/2018, ka koe 'aho l a na'e fakahoko ai e fili falealea 'ae Pule'anga Tonga.

Lao

Kupu 23

"Quote"

FAKAMO'ONI

Na'e ui 'ehe talatalaaki 'ae fakamo'oni 'e 3

- Sione Fonua.

Fakamatala 'a Sione, koe tokotaha kanititeiti ia he vahefonua Tongatapu 2. Ongoorigo he letio 87.5 'ae faka'iloa he pongipongi 'aho 16/11/2017, ;oku manako he fanongo ongoongo he letio ko 'eni. Na'e 'alu atu pe ongoongo ia 'one ongo'l 'eia 'oku fakaloto'l 'ehe fakamatala ia 'ae 'ae kau fanonga ke nau fili 'ia Semisi Sika. Na'ane ta leva 'o lipooti ki he 87.5 moe ngaahi 'ofisi kehe.

- Sione 'Ilokava Tuopou

Koe 'ofisa hiki tepi ia 'ae Falealea 'o Tonga, pea na'ane hiki e ongoongo 'ae 87.5 'ihe fekau 'ehe Kalake 'oe Falealea

- Sione Fatanitavake Vikilani

Koe tokoni kalake ia 'ae Falealea, pea koi a na'ane fekau ke hiki e ongoongo

Na'e ta e tepi 'oe ongoongo pea 'omi moe transcript. Na'e tali pe 'Anau Taufu koe me'a ia na'e fakamafola he ongoongo.

Ma'ae faka'ioa

- Katalina Maka Tohi.

rec'd 14/01/19

Koe talekita ia 'oe Tonga Broadcom, 'aia 'oku 'a'ana moe hoa 'a e 87.5. Na'e 'ikai ha fakamafola campaign he 'aho koia koe ongoongo pe. Koe a'u ange pe launga pea na'e 'ikai leva toe fakamafola e ongoongo koi a.

#### Anau Taufa

Koe taha ia e kau faiongoongo na'a nau tukumai e ongoongo he pongipongi ko 'eni. Koe ngaahi fakamatala 'a Semisi Sika, na'e hiki ia he 'aho ki mu'a he 'aho fili ka ko honotukumai pe koe ongoongo, 'ikai ko ha tu'uaki pe campaign.

'I hono fakama'opo'opo 'oe fakamatala fakamo'c ni

- 'oku 'ikai ke kikihi'l koe me'a koi a na'e hiki tepi 'e Sione I Tupou mo hiki transcript 'o fakahu mai koe me'a mo'oni pe ia na'e fakamafola meihe 87.5 he vaha'a taimi 7 am – 8 am 'aho 16/11/2017. Koe taimi fakamafola ongoongo anga maheni pe 'eni 'ae 87.5
- Koe 'aho 16/11/2017 koe 'aho fili Falealea ia 'oe pule'anga Tonga. Ko Semisi Sika, koe Minisita, ka koe kanititeiti filifalealea 'o Tongatapu 2. Na'e fakamafola he fakamatala 'ene ngaahi gaue kuo lava, naahi palani ngaue, 'oku te'eki ke lava, mo 'ene faka'amu ke foki 'o fakaa'u e ngaahi palani ngaue koi a. fakamatala mo 'ene kaunga ki he timi liiki Mate Ma'a Tonga, 'aia na'e lolotonga fiefia ai e fonua he taimi koi a.
- Fakatatau kia Sione Fonua na'e uesia hono loto 'ehe fakamafola na'e fai he ongoongo.
- Koe fakama'opo'op 'a'aku ki he 'eku ongo'l 'a'aku 'oku fakaloto'l au 'ehe me'a 'oku ha he fakamafola ko 'eni, koe tama lelei 'a Semisi Sika ke 'ave ki Falealea.

#### Koe taukapo.

Neongo e ngali loloa e taukapo 'oku 'omai ma'ae faka'iloa, 'oku pipiki 'ae taukapo ki he poini pe 'e ua.

- 1. 'oku 'ikai fakamo'oni'l 'ehe ngaahi fakamo'oni 'oku 'omai 'ehe talatalaaki ha 'elemeniti 'e taha oe hia.
- 2. Koe fakamafola na'e fai koe ongoongo, 'ikai koha campaign pe taumu'a ke maumau'l e lao 'oe fonua.

Fakatatau ki he Kupu 23(1)(g), koe 'elemeniti 'eni oe hia,

- 1. Koe faka'iloa
- 2. He 'aho 16/11/2016, kimu'a he tapuni 'ae filifalealea
- 3. Na'a ne fakamafola fakaletio /broadcast, 'ae fakamatala
- 4. 'e ala uesia ai e fili 'ae kau fili



- (5) If any candidate is convicted of bribery, whether before or after the relevant election, and he is elected as a representative at that election, the Court shall declare the election of that representative to be void and if he has already taken his seat in the Legislative Assembly, he shall be unseated by the Assembly.
- (6) Any person who believes that an offence under this section has been committed, may report the circumstances to the Supervisor who shall —
  - (a) immediately call upon the alleged offender for an explanation;
  - (b) investigate the complaint;
  - (c) if satisfied that there are good grounds for complaint, notify the Attorney General who shall, if he considers that there are good grounds, prosecute the alleged offender.

## 22 Threats etc.

- (1) It is an offence to threaten in any way the person, family or property of any elector in an attempt to influence the elector's vote at an election or in an attempt to induce him to vote or refrain from voting.
- (2) A person guilty of an offence against this section is liable to a fine not exceeding \$5,000 or to imprisonment for any period not exceeding 3 years or to both such fine and imprisonment.<sup>56</sup>
- (3) If a person convicted under this section was elected at the election, the Court shall declare the candidate's election to be void and if he has already taken his seat in the Legislative Assembly he shall be unseated by the Assembly.

## 23 General offences <sup>57</sup>

- (1) Every person commits an offence who —
  - (a) In any way interferes with, hinders, obstructs, annoys or pesters any elector, either in the polling station or while the elector is on the way to the polling station, with the intention of influencing the elector or advising the elector as to the elector's vote;
  - (b) At any time on polling day before the close of the poll in or in view or hearing of any public place or polling station makes a speech having direct or indirect reference to the poll;
  - (c) At any time on polling day before the close of the poll or within 24 hours before the start of the poll makes any statement having direct or indirect reference to the poll by means of any loudspeaker or public address apparatus or cinematograph or television, video or radio apparatus:

Provided that this paragraph shall not restrict the publication by radio or television broadcast made by a broadcasting station of —

- (i) any public notice placed by the Supervisor or a Returning Officer; or
  - (ii) any news in relation to an election;<sup>58</sup>
- (d) At any time on polling day before the close of the poll maintains in any public place or in the vicinity of a polling station a kava booth, entertainment tent, or a vehicle whose primary purpose is to exhibit election campaign displays, for the purpose of influencing the elector as to the elector's vote;
- (e) At any time on polling day before the close of the poll, within, or at the entrance to, or in the vicinity of any polling station —
- (i) gives or offers to give any person any written or oral information as to any name or number on the final roll or any provisional roll being used at the election;
  - (ii) permits or offers to permit any person to examine any copy of the final roll or any provisional roll being used at the election:

Provided that nothing in this paragraph shall apply to Returning Officers carrying out their duties under this Act;

- (f) At any time, with intent to mislead or defraud electors, prints or distributes or delivers to any person anything being or purporting to be an imitation of any ballot paper to be used at a poll and having thereon the names of the candidates or any of them, together with any direction or indication as to the candidate for whom any person should vote, or in any way containing any such direction or indication, or having thereon any matter likely to influence any vote;<sup>59</sup>

23(1) g(i)

- (g) At any time on polling day before the close of the poll exhibits in or in view of any public place, or publishes, or distributes, or broadcasts, —
- (i) any statement advising or intended or likely to influence any elector as to the candidate for whom the elector should or should not vote; or
  - (ii) any statement advising or intended or likely to influence any elector to abstain from voting; or
  - (iii) any candidate's name, photograph, poster, emblem, slogan, or logo:

Provided that this paragraph shall not apply to any statement, name, photograph, emblem, slogan, or logo in a newspaper published before 6 p.m. on the day before polling day:

Provided also that this paragraph shall not restrict the publication of any candidate's name in any news which relates to an election and which is published in a newspaper or other periodical or in a radio or television broadcast:

Provided further that this paragraph shall not apply to any name, photograph, poster, emblem, slogan or logo, or items of a similar