IN THE SUPREME COURT OF TONGA
CRIMINAL JURISDICTION
NUKU'ALOFA REGISTRY **CR 249/01**

BETWEEN : ***REX*** - **Prosecution**

A N D : ***KELEKOLIO TAPUELUELU*** - **Accused**

BEFORE THE HON CHIEF JUSTICE WARD

Ruling

At the close of the prosecution case, defence counsel has submitted no case to answer on the first two counts of this indictment. Those counts relate to the publication of a letter purportedly from the accused in the Kele'a and a report in the Taimi 'o Tonga of a programme on television in New Zealand, respectively.

The first count is based on a letter, which appeared in the March/April 2001 edition of Kele'a. It is printed but has the words faka'apa'apa atu Kelekolio Tapueluelu in manuscript at the end. The contents of the letter suggest it was written by the accused and is in the first person.

Mr Tu'utafaiva submits that there in no evidence to connect the accused with it. Mr Kefu can only point to the handwritten name at the end.

There is clearly absolutely no evidence to establish prima facie that the accused, as opposed to anyone else, wrote the letter. The prosecution has produced no evidence that the handwriting is that of the accused and, in fact, the admitted signature of the accused on the record of the police interview is plainly totally different.

The jury will be directed to enter a verdict of not guilty to count one.

Count two relates to a report, in the Taimi of 13 March 2001, of part of the contents of a programme, which had apparently been broadcast in New Zealand. It appears to be an edited account of some of the statements on the