

**TEVITA FINAU v. SIONE TU'IONO AND 'ANA  
TU'IONO.**

(Application in Chambers for Declaration of validity of marriage :  
Hamlyn Harris A. J. Nuku'alofa, 15th and 29th July, 1957).

**Marriage by girl under 18 years of age — No written consent of guardian — Validity of Marriage — Court's power to pronounce on validity of Marriage — The marriage and Registration Act 1926....(Cap. 20) ss. 5, 10, 15.**

This was an application by Tevita Finau for a declaration by the Court that his marriage to the respondent ('Ana Tu'iono) was valid. The girl's father, Sione Tu'iono was also made a respondent.

The facts, which were not in dispute, were as follows. The parties were married on the 15th April, 1957. The girl was born on 20th October, 1940. The girl declared her age as 18. Her mother was present at the application for the marriage license and remained outside the Church. No consent in writing of the father, as required by Section 5 of Cap. 20, was obtained.

**HELD.** Marriage null and void.

Koloamatangi for the Applicant.

Tupou for both Respondents.

**HAMLIN HARRIS A. J. :** In view of admissions no question that marriage invalid, the parties or some of them made false statements. However this was not an application for annulment and the Court thought it was up to the Respondents whether they would make such an application. In any case there has been a marriage and if the father thought it was up to his daughter he should take into account her marriage vows. However I do not wish to make a snap decision today. Parties should get together and try to talk it out. Furthermore circumstances of the Marriage. Application adjourned until 29. 7. 57.

(The matter came on again on 29. 7. 57 and the Court heard further argument. The only fresh fact which appears to have been established was that the marriage had not been consummated).

**HAMLIN HARRIS A. J. :** Must be machinery for annulment specially in case where no prosecution is possible, or verdict of not guilty recorded. Court dictated to by necessity. Must make an order to right the position. Only a gross injustice would be caused by allowing the marriage to continue. Court's power is to declare a voidable marriage void, this marriage is voidable — incapacity of party — marriage has not been consummated.

Declare marriage null as from today.

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