ORIGINAL

4. Contested Issue (v) (Whether an Affirmative Defense of Truth or Justification Can Be Constituted).

If an act of tortious defamation is a statement of events which involve the public interest, the objectives of the act were solely for an objective of benefit to the public, and it is proven that the events as claimed were truthful in their essential elements, then this act of defamation is not unlawful. Even if the stated events cannot be proven to be true, if the person committing the act had sufficient reason to believe that the stated events were true, then any willful intent or negligence on the part of the tortfeasor would be denied. Consequently the following issues have been examined.

(i) Contested Issue (v)(1) (Whether the Stated Events Involved the Public Interest).

The first issue to examine is whether the events as claimed in the First Article Series and in the Speech (iv) (hereinafter referred to collectively as "the First Article Series and Speech" were events that involved the public interest.

As discussed in 2. and 3. above, the First Article Series and Speech should be recognized of claiming a course of events in which while Abe was traveling in the United States to conduct the first overseas Gojukai tour during March 1963, as the head of the study department of Nichiren Shoshu, Abe sought to take nude photographs of a prostitute in Seattle late in the evening between March 19 and 20 of the same year, and after engaging in sexual acts with a prostitute, had gotten into an altercation with prostitutes over payment for services rendered, and wound up involved with the police (see (iii) below). As stated above, the course of events as claimed in the First Article Series and Speech did constitute events that involved the public interest since they constituted information of relevance in judging Abe's suitability to be the supreme religious leader of Plaintiffs, when consideration is given to the fact that the events claimed that this late night incident in Seattle occurred when Abe was traveling in the United States to conduct the first overseas Gojukai tour of Defendant Nichiren Shoshu, as the head of the study department of Nichiren Shoshu, that at the time of the First Article Series and Speech Abe was the the Representative Officer and the High Priest of Nichiren Shoshu, that Abe received the highest reverence from all priests of Nichiren Shoshu, the highest ranking member of the priesthood

of Nichiren Shoshu with special privileges and authority, and was the center of faith and the highest religious leader of the sect.

Plaintiffs have stated that the events as claimed in the First Article Series and Speech referred to an incident that is alleged to have occurred in 1963, or approximately thirty years prior to 1992 and 1993 when the First Article Series and Speech were reported. Moreover, this involved a private incident that would have been outside of Abe's duties, and consequently should not be considered as incidents that involved the public interest.

As stated above, however, the Seattle Incident was an incident which took place when Abe, as head of the study department of Nichiren Shoshu, was conducting the first overseas Gojukai tour of Nichiren Shoshu. Moreover Abe is the center of faith of Nichiren Shoshu and its supreme leader. Consequently, whether the Seattle Incident did or did not occur is closely intertwined with the suitability of Abe as the supreme leader. Moreover, according to the evidence (Defendants' Exhibits 21, 206-2, and Abe, Representative of the Plaintiffs), Abe himself said that if the Seattle Incident was true, he would immediately resign. It can also be recognized that some priests within Nichiren Shoshu stated they would resign as priests if the Seattle Incident were true. Based on circumstances such as these the Seattle Incident constitutes events involving the public interest, even if they occurred thirty some years ago.

Consequently, the Court cannot accept Plaintiffs' assertion as set forth above.

(ii) Contested Issue (v)(2) (Objective of Benefit of the Public).

(1) As stated in (i) above, Abe is the High Priest of Nichiren Shoshu, and is said to receive the highest reverence from all priests of Nichiren Shoshu, to receive special privileges and authority as the highest ranking member of the priesthood of Nichiren Shoshu, and to be the center of faith and the highest religious leader of the sect. Thus the events alleged in the First Article Series and Speech can be recognized to constitute information of relevance in judging Abe's suitability to be the supreme religious leader of Plaintiffs. Moreover, according to the evidence (Defendants' Exhibit 123 through 126, 197, Witness Isao Nozaki, (hereinafter "Nozaki")) as well as the entirety of the purport of the arguments presented, the Soka Gakkai made the reporting of the First Article Series because the Soka Gakkai

believed that the Seattle Incident in which Abe had an altercation with prostitutes was extremely important in judging Abe's suitability as a religious leader and qualification as high priest, and in order to demonstrate that Abe was unqualified either to be a high priest or a man of religion or a man of faith. Defendant Ikeda also can be recognized to have given his Speech, etc. (see (iv)) for the same purpose, and therefore the reporting, etc., of the First Article Series and Speech constitutes reporting that was solely for the benefit of the public.

(2) With respect to this issue, Plaintiffs have argued that the First Article Series and Speech consisted solely of reporting, etc., of baseless testimony by Clow, that there was no real investigation of the alleged events, and consequently that the reporting, etc., was not for the objective of benefit to the public. Nevertheless, in view of the facts set forth in I.ii. which are not in dispute, the evidence (Defendants' Exhibits 1, 7, 8, 48, 196, 216, Witness Clow and Witness Nozaki) as well as the entirety of the purport of the arguments presented in the proceedings, the following facts can be found.

(a) From the end of 1990 a disagreement occurred between Nichiren Shoshu and the Soka Gakkai, which subsequently grew into a religious dispute. Nichiren Shoshu then broke relations with the Soka Gakkai on November 28, 1991, and furthermore excommunicated Ikeda on August 11, 1992.

(b) Masao Yokota (hereinafter "Yokota") served as a reporter stationed in Los Angeles for Seikyo Press from 1982. At the end of April and early May 1992 Yokota came to Japan, and attended lecture courses concerning the Temple Issue from the Soka Gakkai. These courses concerning the Temple Issue were for the purpose of understanding the true essence of the dispute between Nichiren Shoshu and Soka Gakkai. At this time Yokota brought up the question of whether or not it would not be possible to prove who was correct between Nichiren Shoshu and the Soka Gakkai from a perspective which included the history of propagation within the USA. These discussions brought up topics including the stories of hard struggles in connection with the first overseas Gojukai tour which took place in 1963. Whereupon Williams mentioned that he had heard directly from Abe that after the end of the Gojukai ceremony in Seattle, he got lost in the streets at night after leaving his hotel alone, and was rescued by Clow.

It was then decided that when Yokota returned home he would demonstrate the

true history of propagation in America by directly interviewing the leaders of the pioneer days and covering the struggles that Soka Gakkai members underwent.

(c) While returning from Japan, Yokota stopped in Hawaii, and conducted interviews. Subsequently, on May 10, 1992 he placed a telephone call to Clow who was at that time living in Gardena California, USA, and mentioned the incident of her helping Abe after Abe had gotten lost at the time of the first overseas Gojukai tour. After a brief silence, Clow replied "Mr. Yokota, that is not what happened. I did not assist him after he got lost. In fact he had a trouble with prostitutes in a place like a house of prostitution. I was called by the police and asked to come down." And from there she began her story.

Yokota then decided that the interview could not be completed over the phone, and promised to meet with her directly to conduct an interview.

(d) On May 11, 1992, Yokota met with Clow in the presence of Williams, and conducted an interview. Whereupon Clow stated a summary of the Seattle Incident. During her speech she stated "I have been troubled by this for a long time, and it is something that I absolutely could not discuss with anyone else. My husband died in December 1962, before the overseas Gojukai tour. Even though my first son had just been born and I had a young daughter to take care of, I was devoting my life to preparing for this event as the person in charge of the Seattle Chapter, and I looked forward to the day of the Gojukai. Even though the Soka Gakkai members of the Seattle Chapter were struggling just with their daily lives, they were praying for the success of the Gojukai ceremony. They brought donations and sincerely welcomed Abe. Abe, however, caused this incident, and completely trampled on their sincerity. I have worried that if I talked to someone about this, it might irreparably damage the history of Kosen Rofu. I also thought of Abe's future, and until today I had decided to keep this incident to myself. Nevertheless, when I see Abe as he is demonstrating himself today, throwing around his authority as the high priest and having expelled the Soka Gakkai, I have now come to worry that keeping silent about this incident was a mistake. And when I had finally come to feel that my mission as a believer was indeed to show the true character of Abe, I took the opportunity of the interview from Mr. Yokota to break my silence of 29 years."

(e) Yokota then made a report to the Office of Special Projects of the Editorial

Division of Seikyo Press (hereinafter "Special Projects Office"). Subsequently the reported contents was sent to the Editorial Division of Soka Shimpo in mid-May, 1992 after being compiled in the form of a memo from Williams.

(f) Isao Nozaki, who is a vice-president of the Soka Gakkai and the director of the Special Projects Office, read the draft sent by Yokota. He then directed Yoshitaka Kimura, deputy director of the Special Projects Office, and Takahiro Okabe, a reporter with the office to be in charge of the case, and instructed them to collect supporting information in cooperation with Yokota. Yokota conducted the following supporting research:

(a) Kimura first reviewed internal publications and the like such as the Seikyo Shimbun. He confirmed that the first overseas Gojukai tour had been conducted in the United States in March 1963, and that two priests, Abe and Omura had been sent. He further confirmed that they had each traveled separate routes, one in the south and one in the north, with Abe traveling alone to Seattle, with the Seattle Gojukai being conducted on March 19.

(b) Kimura researched Clow's history and background. He verified that at the time she was the Chapter Chief for Seattle, and had responsibility for the Gojukai ceremony in Seattle; that she was a leader in the pioneer days of the Soka Gakkai in Seattle, and that at the time of the coverage she was one of the leaders for the Los Angeles area, and was sincerely devoted to her faith. Yokota also met with Clow many times. He verified that she was not a person who would make up lies, and reported this to Kimura.

(c) Kimura et. Al. instructed the local staff in Seattle to study the downtown area of Seattle as it was at the time, whereupon he confirmed that one area of downtown Seattle had been rife with prostitutes.

(d) Kimura et. al. interviewed Williams, who had accompanied Omura in the southern tour at the time of the overseas Gojukai tour. Williams stated that he separated from Abe in Los Angeles, and traveled the southern part of the United States with Omura, and then joined Abe in New York, where he heard directly from Abe that "I lost my way at night in Seattle and Clow came to my assistance."

(e) Kimura then went to Seattle to cover the incident, and confirmed with Kawada,

who at the time was the Women's Division Chapter Chief for Seattle, that the Gojukai was conducted at her house, that Clow slept at her house that night, and that during the night the telephone rang, Mrs. Clow answered the telephone, and then left alone in the night. Kawada further remembered that Clow told her the following morning that Abe had gotten lost in the streets.

(f) The Special Projects Office of the Soka Gakkai conducted the aforementioned supporting coverage and research from June 5, 1992, and during the latter part of that month held a final planning meeting based on the materials and information that they had obtained in the course of this coverage.

As a result of this conference, the Special Projects Office determined that Clow's statements were highly reliable, and that there was no doubt that the Seattle Incident had in fact occurred. Whereupon they determined that they would print this as an article.

On the basis of the above, it can be concluded that Defendants obtained testimony from Clow concerning the case at the time of engaging in the reporting, etc., concerning the First Article Series and Speech, Defendants obtained Clow's statement and on the basis of this statement conducted supporting research and coverage. Consequently the Court cannot accept Plaintiffs' aforementioned assertion that there was no real investigation of the alleged events, and consequently that the reporting, etc., was not for the objective of benefit to the public.

(3) Plaintiffs have also alleged that the reporting in the First Article Series was vulgar, was full of personal attacks using insulting language, and was for the objective of causing harm, and thus could not have been for the objective of benefit to the public.

According to the evidences (Defendants' Exhibit No. 196 and Witness Nozaki), however, as well as the entirety of the purport of the arguments presented, Defendant Soka Gakkai can be recognized to have adopted expressions such as "an absolutely disgraceful act" which appeared in the First Article Series because they were aware that religious debate normally involves exchanges of strong language and in the course of a religious debate the participants must stridently claim what is true and what is false, particularly when the content discussed on the reported page involves

teachnings of the founder of the sect and of the head temple, or the doctrines of Nichiren Shoshu. In these circumstances the expressions become more severe, and when criticizing the degeneracy of a religious leader the language will turn to criticism and anger which springs from faith, resulting in scathing expressions. The reporting of the Seattle Incident in the First Article Series, i.e., that Abe had caused a dispute involving money with prostitutes in Seattle, was a criticism based on faith which was made by believers, and stated that Abe was unqualified as high priest or as a religious leader, and consequently was in their judgment inappropriate under the teachings and pursuant to the spirit of Nichiren Daishonin, the founder of Nichiren Shoshu as a religion, and Nikko Shonin the founder of the head temple, who severely criticized the degeneracy of the priesthood.

Moreover, as shown by the evidences (Defendants' Exhibit 185-2, 187-2, and 197 through 201), Nichiren Shoshu also used expressions in publications such as Myokan and Emyo, which can be recognized as criticizing Defendants. These statements included the following:

Usoka Shimpo (Lying Shimpo)2

The Devil of Daisaku Heaven3 Is Reduced Completely to Ashes

Look at Ikeda! Behaving Like a Swindler

"Ikeda's head is that of a religious huckster, his torso is that of a politician and below the waist he is a pervert." To this deceitful man the world says "Forever No"!!

There was a Gakkai Song Praising Ikeda as the Pillar of Japan. In Fact He is the Shame of Japan. A National Insult

Do Not Let this Abnormal Being Out of Japan!

Has Daisaku Ikeda Gone Mad???

Violent Speech Which Disqualifies Him as a Man of Religion

A Disgraceful Statement That Desecrates Peace

Abnormal Statement of Daisaku Ikeda

Disgraceful Daisaku. Go Away!

A Merchant of Fraud (Kaizan Shonin4). This Insult Fits Ikeda to the T.

The Laugh of the Falsified History of the Lying Ikeda and Soka Gakkai

(from these statements it may be surmised that Plaintiffs and Defendants understood that they were each disputing the justness of their positions and those of the other side by criticizing the opposing side's supreme leader). Consequently the Court cannot find that acts in question lacked an objective of benefit to the public on the basis of the means of expression within the First Article Series of the Soka Gakkai who was a party to the debate, and cannot accept Plaintiff's assertion as stated above.

(iii) Contested Issue (v)(3) (Truth).

(1) Events Requiring a Proving of Truth.

As stated in 2(ii) and 3(ii)(2) above, the First Article Series and Speech conveyed the impression as discussed, and alleged the events set forth above. Consequently the events that Defendants must prove to be true would be the events alleged in the First Article Series and Speech, i.e., that while Abe was traveling in the United States in March of 1963 to conduct the first overseas Gojukai tour, as the head of the study department of Nichiren Shoshu, Abe sought to take nude photographs of a prostitutes in Seattle late in the evening between March 19 and 20, 1963, and after engaging in sexual acts with a prostitute, caused an altercation with the prostitutes concerning their charges, and wound up involved with the police.

With respect to this issue Defendants have claimed that the essential portion of the reporting and the like of the First Article Series and Speech was that "Abe was wandering alone late at night in a red light district of Seattle, Washington, USA between March 19 and 20, 1963, which he was visiting to perform the first overseas Gojukai tour, and at this time committed an extremely disgraceful act in which he

caused a monetary dispute with a prostitute, concerning her fees, and wound up involved with the police."

As stated above, however, the First Article Series and Speech clearly alleged that Abe had asked a prostitute if he could take nude photographs of her, and had engaged in sexual acts with a prostitute. These alleged events would clearly be material facts which undermined the reputation of Plaintiffs in society, and these allegations clearly defamed Plaintiffs. It is not appropriate to eliminate these alleged events from Defendants' burden of proof and to summarize Defendants allegations in an abstract manner as Defendants assert. Consequently, the Court cannot accept Defendants' assertions as stated above.

(2) Events as Found by the Court.

On the basis of the evidences (Plaintiffs' Exhibit 61-1 through 63-2, 110-1 through 111-2, 156-1 through 157, 160-1 through 160-22, and 162; and Defendants' Exhibit 1 through 4-1, 5-1 through 8, 26-1 through 27-2, 29-2, 30-4, 31-4, 32-1, 33-1, 34-1, 35-1 through 36-2, 38-1 and 38-2, 48 through 50, 53-1 thorugh 56-2, 109, 111-1 and 111-2, 113-1 and 113-2, 211-1 and 211-2, 216, 218-1 through 222-2, 225 through 226-2, 233-1, 238-1 and 238-2, 240-1 thorugh 241-2, 243-1 and 243-2, 245-1 through 246-2, 248-1 and 248-2, 267-1 and 267-2, 276-1 and 276-2, 296-1 and 296-2, Witness Clow; Witness Ronald C. Sprinkle (hereinafter "Sprinkle"); and Abe, representative of Plaintiffs, and result of examination of evidentiary physical materials) the Court recognizes the following facts to have occurred (for the sake of convenience, the quotations for evidentiary purposes of the statements made by Sprinkle in the course of the deposition in the United States, which has been examined as evidentiary physical materials, indicate only Defendants' Exhibits 54-1 through 56-2):

(a) Gojukai is a ceremony that new believers receive to become members of Nichiren Shoshu. In principle this ceremony is conducted at a temple of Nichiren Shoshu. A "Gojukai tour" means that a priest of Nichiren Shoshu travels to a location where there is no temple, and conducts a Gojukai at the house of a member or other facility.

The desire to host a Gojukai tour had grown in the US as well, and consequently the first overseas Gojukai tour of Nichiren Shoshu was conducted from March 16 through 30, 1963.

For this Gojukai tour Nichiren Shoshu sent Abe, who at the time was the head of the study department for Nichiren Shoshu, and Omura, who at the time was chief priest of Myokaiji. Abe and Omura left Japan on March 16, and parted company after performing Gojukai in Hawaii and Los Angeles, with Abe taking a northern route through locations such as Seattle and Chicago and Omura taking the southern route through locations such as Colorado. The two met again in New York.

(b) Operations for the Gojukai were handled entirely by Soka Gakkai in America. At the time Clow was the Chapter Chief for Seattle, and took responsibility for the Gojukai tour in Seattle. She traveled with Abe to his next Gojukai destination in Chicago, and assisted with handling the Gojukai in Chicago as well.

At the time Williams was the General Chapter Chief of the North American General Chapter of Soka Gakkai, and accompanied Omura on the Gojukai tour of the southern part of the United States.

(c) Abe parted from Omura and left Los Angeles, arriving at Seattle airport on the afternoon of March 19. Thereafter Abe traveled to the Olympic Hotel in downtown Seattle, where he would be staying for the evening, and after leaving his luggage at the hotel, left for the house of Kawada, where the Gojukai was to be held.

At the time Kawada was the women's division Chapter Chief of the Seattle Chapter of the Soka Gakkai.

(d) Abe and Clow arrived at the Kawada residence, whereupon Abe changed from his suit to his clerical robes and then gave Gojukai to 98 people in the evening. The Gojukai ceremony ended at around 8:00 or 9:00 p.m.

(e) Clow was to meet Abe at his hotel the next day and travel with Abe to Chicago. Since her residence was far from the hotel, and not convenient, she arranged to stay that night at the Kawada residence.

After the Gojukai Clow told Abe that she would not be going back to her house that night and handed him a small scrap of paper with the name "CLOW" written on it in roman letters, with Japanese phonetic script written above the letters, as well

as the telephone number for the Kawada residence in case Abe needed anything from Clow.

Abe took this from Clow and said to her "Mrs. Clow you have truly been very thoughtful with everything."

At this time Clow asked Abe about what he would like for breakfast and Abe replied "the dinner tonight was very good." Whereupon it was decided that Clow would bring Japanese food to the hotel for the next morning's breakfast.

(f) Clow and the accompanying drivers then took Abe to the Olympic Hotel, where Abe was to stay that night. Clow, Abe and the accompanying members arrived at the hotel at around 10:00 p.m. that evening. Clow accompanied Abe to his room, and left a pot with hot water, a small teapot, a teacup, some tea and some confections in the room so that Abe could make tea, told him good night and left the room.

After this Clow returned to the Kawada residence, discussed some matters with Kawada, and once these matters were settled lay down on the carpet to rest.

(g) Shortly after returning to the Olymic Hotel, Abe went out alone, and entered the Carousel Room in the Mayflower Hotel. Waitresses in the Carousel Room worked wearing bathing suit style uniforms with their shoulders and thighs showing, and at the time in question, prostitutes would on occasion come to the Carousel Room.

(h) After leaving the Carousel Room, Abe then asked a prostitute to allow him to take a nude photograph, and engaged in a sexual act with a prostitute, either at the McKay Apartment, which was located on the southeast corner of Seventh Avenue and Pike Street, or a nearby hotel or the like. McKay Apartment was at the time known as a hotel that prostitutes used to commit acts of prostitution.

Following this, around 2:00 a.m., Abe got involved in an altercation with the prostitutes concerning payment for taking the nude photographs and/or the sexual act, near the street on the southeast corner of Seventh Avenue and Pike Street.

(i) Sprinkle of the Seattle Police Department was riding in his patrol car and patrolling together with his partner Victor Mayhle (hereinafter "Mayhle"), and

noticed prostitutes waving their arms and shouting fiercely at Abe, who was standing with his back to the McKay Apartment, on the street of the southeast corner of Seventh Avenue and Pike Street. At the time the area around Seventh Avenue and Pike Street was a location that was frequented by prostitutes.

Sprinkle and Mayhle got out of the patrol car and attempted to talk to Abe. They were unable to talk to him, however, as they couldn't speak his language. The prostitutes were yelling at Abe, saying things which included that he owed them money. Sprinkle and Mayhle heard from the prostitutes that the problem with Abe involved payment for taking nude photographs or engaging in sexual activity.

Abe handed Sprinkle a memo on which was written the telephone number of the Kawada residence, which Clow had given Abe. Sprinkle discussed the matter with Mayhle, and decided to call the telephone number that was written on the piece of paper.

Sprinkle put Abe into the patrol car and told the prostitutes to leave the place. Sprinkle then drove the patrol car to the southwest corner of Eighth Avenue and Pike Street, and stopped the car in front of Larry's Greenland Cafe.

(j) Sprinkle got out of the car, entered the cafe, and telephoned the Kawada residence.

Clow was lying on the floor as stated in (f) above, but heard the phone ringing and answered the phone. The phone call was from Sprinkle.

Sprinkle said to Clow that he was with the Seattle Police department, and that he had called because he had a memo from a Japanese man who could not speak English. This Japanese man had caused an altercation with prostitutes in front of a house of prostitution, but could not speak English, and Sprinkle could not obtain information from him. Consequently he (Sprinkle) wanted her to come to the scene on Seventh Avenue. Clow asked Sprinkle where the location was. She then said she would come immediately and hung up the telephone. Clow was surprised because Seventh Avenue was a location that was frequented by prostitutes from broad daylight, but she told Kawada that Abe had apparently gotten lost outside of the Hotel. Whereupon Clow left the Kawada residence, and drove by car to the scene. Clow drove north on Boren6 Avenue, turned left when she got to Pine Street7 and then turned left on Seventh Avenue, and left

again on Pike Street, whereupon she saw the patrol car and stopped her vehicle.

(k) Sprinkle or Mayhle got out of the patrol car and approached Clow, telling her while gesturing that Abe had asked the prostitutes to allow him to take nude photographs of them, indicating that he would pay them money, and had entered a room with the prostitutes. Sprinkle or Mayhle further explained to Clow that Abe had been with prostitutes in their room, and had gotten into an altercation with the prostitutes over money.

Then Sprinkle or Mayhle told Clow that they wanted her to come with Abe to the police station. Clow, sought to avoid having Abe taken away by the police, and explained that Abe was a person who had come to America as a representative of the priesthood. Sprinkle or Mayhle then told Clow that they would release Abe, but would like for Clow to come to the police station in order to have some documents drawn up for her to take custody of Abe. They then asked her to sign a document stating that she would take custody of Abe, and would appear at the police station, and asked Abe's name. Clow responded "Nobuo Abe", and gave the spelling. Clow also signed this document.

(l) Subsequently Clow had Abe get into the passenger's seat of her car, and drove to the Olympic Hotel. Abe expressed his gratitude to Clow while they were in the car. Clow explained that she would have to go to the police station after taking Abe back to his hotel, and sign some forms. She then asked Abe what happened.

Abe responded saying that he had got lost. Clow then asked Abe what had happened with the women. Abe remained silent.

(m) After taking Abe to the Olympic Hotel, Clow implored with Abe not to leave his room at all, and then headed to the police station.

Clow arrived at the police station at around 3:00 a.m., and entered a room with Sprinkle, Mayhle where there were two of their superior officers. She then signed a document stating that she had appeared at the request of the police. Moreover Sprinkle or Mayhle told Clow that Abe had engaged in a sexual act with a prostitute and had gotten into an altercation with the prostitute over her fee. Clow also signed a document in which the taking of nude photographs and the altercation over money with the

prostitute were stated.

(n) Clow left the police station at around 4:00 a.m., and returned to the Kawada residence. Clow told Kawada that Abe had gotten lost.

On the morning of the same day Clow went to Abe's room at the Olympic Hotel, and at that time told Abe quietly that everything had been taken care of with the police. Whereupon Abe silently bowed his head. After this Clow left the Olympic Hotel with Abe, and went to the Seattle airport to travel to Chicago.

(3) Credibility of Clow's Testimony.

(a) Motive, Etc., of Clow.

According to the Events found by the Court as set forth in (ii)(2)(d), as well as the evidence (Witness Clow), Clow's only thought as the person responsible for the Seattle Chapter was to carry off the memorable occasion of the first overseas Gojukai tour without any problems, even though Clow had lost her husband in December 1962, and had her newborn son and a small daughter to take care of. She was deeply shocked that Abe, the head of the study department of Nichiren Shoshu, had caused this incident at the time of this Gojukai, which should have been a memorable occasion. She struggled with herself wondering about whether she should talk to someone about the incident, but decided that she should keep this matter to herself. She made this decision because the incident took place during the historical occasion of the first Gojukai tour and if it were to be revealed to the public it would leave a great stain on the name of this event, and would damage both Nichiren Shoshu and the Soka Gakkai, because as a believer of Nichiren Shoshu she was taught above all else to defend Nichiren Shoshu, and also out of consideration for Abe's future. Nevertheless, Clow has since come to reflect on Abe's current behavior in abusing his authority as high priest and expelling the Soka Gakkai. She came to believe that maybe it was indeed her mission as a believer to reveal Abe's true nature, and for this reason she used this opportunity of being asked by Yokota for an interview in May 1992 to reveal the incident.

Based on the above facts as found, Clow's motivation for revealing the incident should be accepted as being a natural motivation.

Moreover, according to the above facts found by the Court, Clow had a deep wish to carry off the memorable occasion of the first overseas Gojukai tour without any problems, and during this occasion Abe caused the Seattle Incident. She was deeply shocked. For her this was an extremely troubling incident and one which left her with a deep impression. Consequently it is in no way unnatural and there is reasonable cause for her to have remembered the specific events of the Seattle Incident as it occurred in March 1963 until she discussed it with Yokota in May 1992, or until she gave her testimony in this case.

(b) Extent of Detail in Clow's Testimony, Etc.

In the course of being questioned as a witness, Clow gave precise and detailed testimony which included the course of the first overseas Gojukai tour, the situation surrounding her giving Abe a memo on which was written the telephone number of the Kawada residence, her having engaged in small talk after taking Abe to the Olympic Hotel following the Gojukai ceremony and returning to the Kawada residence, the situation in which the police officer called her, her traveling to the scene of the incident, her discussions with the police officers, her having had Abe released and taking Abe back to the hotel, her appearing at the police station and her discussions with the police officers at that time. Her testimony was very realistic, and her responses can be understood as responses which could not have been given unless she had actually experienced them. Her statements were consistent, and there were no unusual contradictions or changes or the like to these statements.

(c) Consistency Between Testimony and Objective Circumstances.

According to the testimony (Defendants' Exhibit 3, 29-2, 30-4, 31-4, 32-1, and 33-1) the conditions of the roads on which Clow testified she traveled from the time that she received the telephone call from the police to the scene of the incident can be recognized to be consistent with the objective conditions of the roads and the topographical maps as of March 1963. Plaintiffs have submitted evidences (Plaintiffs' Exhibit 45 through 52) that the highway at that time was under construction, and that Clow could not have arrived at the scene of the Seattle Incident using the route that she testified that she had traveled. In view of each of the above evidences, however, the Court cannot give credence to Plaintiffs' evidences.

Clow's testimony that at the time the area around the intersection of Seventh Avenue and Pike Street was rife with prostitutes should be viewed as being consistent with the objective conditions at the time. Plaintiffs have claimed that at the time the area around this intersection was not frequented by prostitutes, and have submitted evidences which appear to support their claim (Plaintiffs' Exhibit 247-1 through 249-2, 268-1, 268-2, 273-1, 273-2, 275-1, 275-2, 279-1, 279-2, and 289-1 through 294-2). In view of the evidences set forth in (2) above, however, the Court cannot give credence to Plaintiffs' evidences.

(d) Supporting Testimony.

As stated in (3) and (4) below, Clow's testimony can be recognized to be supported by the statements of Sprinkle and Mayhle who were the police officers present on the scene of the incident (Witness Sprinkle has made statement that denies that he told Clow that Abe had asked a prostitutes to allow him to take nude photographs. With respect to this issue, however, Clow's testimony should be viewed as being more credible, as discussed in (3) below).

Kawada also stated in her sworn affidavit (Defendants' Exhibit 48) that during the night of the day in which the Gojukai ceremony was performed, Clow went out at night, and after Clow returned she told Kawada that the priest had gotten lost at night. She also testified that Clow put miso soup in a jar when preparing breakfast for Abe the next morning. This statement also supports Clow's testimony.

Clow has stated in her sworn declaration (Defendants' Exhibit 8) that she received a telephone call from Williams when she was in Chicago, and at that time told Williams that Abe had gotten lost in the streets at night. Williams testified in his sworn declaration (Defendants' Exhibit 216) that he telephoned Clow in Chicago, and at that time heard from Clow that Abe had lost his way in the streets of Seattle. This testimony by Williams supports the testimony as stated in Clow's sworn declaration, and undermines the credibility of the statements of Abe stated in (6) below.

Plaintiffs have claimed that Chapter Chief Liebman was the first person from whom Williams heard about Abe's condition after Williams separated from Abe, and have submitted evidence which appears to support this (Plaintiffs' Exhibit 208).

According to Williams' sworn declaration (Defendants' Exhibit 218), however, it can be recognized that Williams did not discuss Abe's getting lost in the streets of Seattle, solely because he did not feel that it was appropriate to print in a newspaper article. Consequently the aforementioned evidence submitted by Plaintiff is not sufficient to undermine the credibility of the statements made in Clow's declaration or the aforementioned statements made by Williams.

(e) Concerning the Lack of an Opportunity to Cross-Examine Clow.

Plaintiffs have noted that Clow only received a direct examination as a witness on the oral argument dates for this case of October 2 and 9, 1995, with cross-examination limited to questions about her background and introductory sections on the oral argument date of February 7, 1996, and passed away on March 23, 1996 before the full cross-examination, which was scheduled to take place on or after April of that year. Plaintiff's have asserted on this basis that Clow's testimony lacks credibility.

However, Clow's testimony and the declaration she prepared should be taken as being highly credible in consideration of the circumstances set forth in (a) through (e) above, even when the Court takes into consideration that there was no cross-examination with respect to the significant portions of the Seattle Incident.

(4) Credibility of Sprinkle's Testimony.

(a) Discovering Sprinkle and Sprinkle's Motivation for Testifying.

According to the evidences (Plaintiffs' Exhibit 85-1 through 86-2, 88-1 through 89-2, Defendants' Exhibit 36-1, 36-2, 55-1 through 56-2, 266-1, 266-2, 274-1, 274-2, and Witness Sprinkle) as well as the entire tenor of oral proceedings, the Court recognizes the facts as set forth in (a) and (b) below to be the case:

(a) At the time the First Article Series was reported, the two police officers who witnessed the Seattle Incident had not been found. In September 1992 Clow filed a suit for libel against Plaintiffs in the United States, and retained Attorney-at-Law Langberg for these proceedings. As part of the preparation Langberg investigated matters relating to the Seattle Incident and retained the private

investigating firm Palladino & Sutherland. This firm had Paul Palladino (hereinafter "Paul") conduct the investigation. Paul and others examined and investigated registries of police officers and the like in order to find the police officers who handled the case. They also placed an advertisement in "The Guardian", the monthly magazine of the Seattle Policemen's Union. Sprinkle did not subscribe to this magazine.

Paul also found more than 100 police officers who were currently serving or who had retired from the force and had been with the Seattle Police Department in the 1960s. On conducting their interviews it was revealed that Patrol Car 123 would have been responsible for the area of the incident at the time that it occurred. Paul also obtained information that Sprinkle might have been assigned to Patrol Car 123 around the time of 1963.

(b) Paul then contacted Sprinkle by telephone on July 6, 1993 and explained to Sprinkle that he was looking for a police officer with the Seattle Police Department who had handled an altercation between a bald Asian man and some prostitutes that occurred near the corner of Seventh Avenue and Pike Street in 1963.

Sprinkle said that he remembered this incident, that the man did not speak English, that he had told the women to leave. He further stated that the incident had occurred near Larry's Greenland Cafe, and that he had telephoned a person that the Asian man knew because the man did not speak English. Sprinkle then said that he did not wish to speak any further about the incident and did not wish to be involved in any litigation.

Subsequently, however, Attorney Langberg explained the circumstances to Sprinkle, whereupon Sprinkle understood that he was of vital importance for Clow to prove the truth, and that he was important for Clow to restore her good name, and decided to testify concerning the Seattle Incident.

(c) From the above the course by which Sprinkle was discovered and Sprinkle's motive for testifying in this case can be said to be natural. Moreover, Sprinkle's initial attitude towards testifying in this case, including that he was hesitant in discussing the Seattle Incident, also leads to the presumption that Sprinkle was testifying and stating on the basis of his own memory.

(b) Testimony of Sprinkle Concerning the Seattle Incident.

(a) Witness Sprinkle described the man as being not very tall, and that he was wearing a dark suit, a deep gray colored overcoat, a dark hat, and eyeglasses. He stated that the man's head was shaved or close cropped. According to the evidence (Plaintiffs' Exhibit 8-3 and 119, and Defendants' Exhibit 48) the features of the male as testified by Sprinkle matched almost exactly the features of Abe as of the time of the first overseas Gojukai tour.

(b) Witness Sprinkle also testified that he met with Clow at around 2:00 a.m. on March 20 at the scene of the Seattle Incident, which was the corner of Seventh Avenue and Pike Street. This matches with Clow's testimony that she received a telephone call from a police officer at around 2:00 a.m. on March 20, and arrived at the scene of the Seattle Incident which was at this intersection, around 10 minutes thereafter. The location and time of around 2:00 a.m. as testified by Witness Sprinkle matches Clow's statement almost exactly.

(c) According to Witness Sprinkle's testimony, it can be recognized that Sprinkle quickly recognized Clow as the woman he had met at the time of the Seattle Incident when he met with Clow in March 1995 for the first time after the incident in question.

(d) From the above it should be recognized that Witness Sprinkle's testimony was about the Seattle Incident, and that the man who allegedly caused the altercation with prostitutes was Abe.

(c) Recollections, Etc. of Sprinkle.

According to the evidence (each of Defendants' Exhibit 26, 36-1 and 36-2), Sprinkle remembered this case because it was rare for Sprinkle to see a well-dressed Asian man in the region of Pike Street, and that it was a rare case to involve a Japanese man. Consequently it is in no way unnatural and there is reasonable cause for Sprinkle to have remembered the Seattle Incident which occurred in March 1963. This is also supported by Sprinkle's statement in his deposition (Defendants' Exhibit 56-1 and 56-2) that this incident was very memorable for him because it was not normal to see a Japanese or Asian male at around 2:00 a.m. in the region that the incident occurred, that this man had his back to the wall, while the prostitutes were waving their arms

around, and that the man was completely terrified and could not put up any resistance.

Witness Sprinkle stated that he remembered that the prostitutes were yelling at Abe claiming that he had not paid them for their services, but that he did not remember exactly what statements or the like that the prostitutes made to Abe.

In view of the facts found as stated in (2) above, however, given that it was rare for a person being beset by prostitutes to be a Japanese male, the fact that Sprinkle remembered only the conclusion that this was a dispute over failure to pay the prostitutes for services rendered, and did not remember the precise statements, etc., cannot be held to indicate anything unnatural in the above testimony, since the events did occur in March 1963, and constituted a case that Sprinkle encountered while on normal patrol duty.

(d) Inconsistencies With Clow's Testimony, Etc.

In Sprinkle's testimony as a witness and in his deposition in the US (Defendants' Exhibit 54-1 and 56-2), Sprinkle did not make any clear statement concerning whether Abe had asked the prostitutes to allow him to take nude photographs. He further stated that he did not remember asking Clow to appear at the police station or preparing any documents or the like. These points would appear to contradict Clow's testimony.

Nevertheless, as stated in (c) above, there is nothing unusual about Sprinkle's not remembering the details of the interactions. The fact that he only remembered the conclusion that this was an argument in connection with failure to pay for services, and that he had no memory concerning the taking of nude photographs is fully understandable. Moreover, preparing documents and the like would be a particularly standard procedure of police duty. Sprinkle as a police officer would have prepared many of these on a daily basis, and thus it would be natural for him not to have a clear recollection of this point. Consequently the circumstances under which Sprinkle did not remember the above matters cannot be said to undermine the credibility of Sprinkle's testimony. To the contrary, because this failure to remember would be natural, it in fact increases the credibility of his testimony.

In the significant elements of Sprinkle's testimony, including the time, place,

the circumstances under which he placed the telephone call, that there were two or three prostitutes and not just one, and that this was a dispute concerning a fee for services provided, Sprinkle's testimony agrees with Clow's testimony, and is thus highly credible.

It should be recognized as possible to determine the specific circumstances of the Seattle Incident (including that Abe asked prostitutes to allow him to take nude photographs) from Clow's testimony, since as stated in (3) above, Clow was deeply shocked by the Seattle Incident and remembered the incident in detail including the specific words and actions.

(e) Support with Marion's Testimony.

Edwin Curtis Marion (hereinafter "Marion") stated in his sworn declaration (Defendants' Exhibit 211-1 and 211-2, 234-1 and 234-2, 296-1 and 296-2) that several months after he had been assigned to the patrol division, he heard a story from Sprinkle about a Buddhist priest having been involved in an altercation surrounding money with several prostitutes. This statement by Marion support's Sprinkle's testimony.

(f) Given the above, Sprinkle's testimony should be viewed as being highly credible.

Plaintiffs have asserted that Sprinkle was on military leave from October 30, 1962 through May 6, 1963, and was not at the scene of the Seattle Incident, which is said to have taken place in March of that year. Plaintiffs have submitted evidences which would appear to support this (Plaintiffs' Exhibit 212-1 through 244-2, 256-1 through 264-2, 273-1, 273-2, 275-1, 275-2, 276-1 through 278-2).

According to the evidences (Defendants' Exhibit 227-1 through 231-2, 238-1, 238-2, 249-1 through 258-2, 276-1, 276-2, 269-1 through 273-2, 297-1, and 297-2) it can be found that Sprinkle at the time of said month was on military leave, but was stationed in Painfield, in the State of Washington, as a member of the reserves, and except for during the hours on which he was on duty in the reserves, he was not required to be on base, that many reservists held jobs in addition to their military duties, and Sprinkle as well wanted to return to working as a police officer with the Seattle Police Department as soon as possible because the pay for members of the

military reserve was low, and Sprinkle was given responsibility in the patrol division of the Seattle Police Department at the time of the Seattle Incident, and that in view of circumstances such as the facts found as set forth in (2) above, as well as the high credibility of Sprinkle's testimony, Plaintiffs' assertion cannot be accepted and it cannot be said that Sprinkle was not onsite merely because he was on military leave.

(5) Credibility of Mayhle's Testimony.

(a) Discovering Mayhle, Etc.

According to the evidence (Defendants' Exhibit 235 and 278, and Witness Sprinkle), it can be recognized that at the beginning of 1995 Sprinkle prepared a list of the people he remembered working with at the time of the Seattle Incident, which he prepared with the assistance of Meredith Brubeck, a private investigator with Palladino and Sutherland investigation firm. They then called the telephone numbers of these individuals one at a time, and in May of the same year telephoned Mayhle. Sprinkle asked Mayhle if he remembered working with Sprinkle in connection with an incident involving an Asian male, and Mayhle answered that he did. Consequently the course of discovering Mayhle was entirely natural.

(b) Statements of Mayhle in Connection With the Incident.

Mayhle described the male involved in the incident as being well dressed, to have been wearing an overcoat, and to have cut his hair extremely short (Defendants' Exhibit 27-1, 27-2, 225 through 226-2). As stated in (4)(a)(a) above, the features of the male as described by Mayhle matched the features of Abe at the time of the first overseas Gojukai tour almost exactly.

Mayhle also stated that the location of the Seattle Incident was Seventh Avenue and Pike Street, and that the time of the incident was after 1:00 a.m. (Defendants' Exhibit 27-1, 27-2, and 225 through 226-2).

This testimony is almost the same as that of Clow and Sprinkle as discussed in (4)(a)(a) above.

According to Mayhle's further statements (Defendants' Exhibit 27-1, 27-2, 225 through 226-2), Mayhle can be accepted to have recognized Clow as the woman he had met at the time of the Seattle Incident when he first met again with her in September 1995. From the above it should be recognized that Mayhle's statements were about the Seattle Incident, and that the man he stated as having caused the altercation with prostitutes indicates Abe.

(c) Recollections, Etc., of Mayhle

According to the evidence (Defendant's Exhibit 27-1 and 27-2), Mayhle can be accepted to have remembered the incident because it was rare to find an Asian male at the intersection of Seventh Avenue and Pike Street. Consequently there is nothing unnatural about and reasonable cause exists for Mayhle's recollection of the Seattle Incident as it occurred during March 1963.

Mayhle also did not make any clear statement in particular about the taking of nude photographs, and testified that he did not remember preparing any documents (Defendants' Exhibit 27-1, 27-2, and 225 through 226-2). Nevertheless, there is nothing unnatural about this lack of recollection, as previously stated with respect to Sprinkle in (4)(e).

(e) Consistency Between Clow and Sprinkle's Testimony.

Mayhle's statements (Defendants' Exhibit and 27-1, 27-2, 225 through 226-2) are consistent in their main elements with the testimony of Clow and Sprinkle, including the time and place of the incident and that there were two or three prostitutes and not just one, and consequently can be believed to be highly credible.

(f) As stated above, the credibility of Mayhle's testimony can be viewed to be highly credible.

(6) Credibility of Abe's Testimony.

In Abe's testimony, Abe denied that the Seattle Incident occurred. For this reason we have examined Abe's testimony, as set forth below.

(a) The Change to Abe's Statements and Assertions That He Did Not Leave the Hotel at All.

(a) According to the evidence (Defendants' Exhibit 20, 22 through 24, and Plaintiff itself), as well as the entire tenor of oral proceedings, Abe stated at the ***General Meeting of Lecturers9*** held at the Head Temple on August 28, 1992 that he did not leave the hotel at all from the time that he returned to the hotel after presiding over the Gojukai ceremony at the Kawada residence, until the following morning. The brief dated June 25, 1993 filed in the case for Demand for an Apology, etc., Case 1992 (wa) 21032 also asserted that Abe had not left the hotel at which he stayed in Seattle. Plaintiffs' counsel also stated that Abe did not leave the hotel during the oral arguments held on May 23, 1994 and June 26, 1995.

Plaintiffs stated, however, in their brief dated September 29, 1995 (deemed stated on the date of oral arguments of June 12, 1996) that Abe completed the Gojukai ceremony that was held at the Kawada residence and then returned to his room at the Olympic Hotel, following which he went for a walk alone, and went to sleep at 1:00 a.m. and that subsequently he did not leave the hotel room at all, and got up at 10:00 a.m. the following morning. This presents a change to Abe's former statements and the assertions of Plaintiffs. Moreover, the document titled "Notification" dated September 29, 1997 which was addressed to all members of Nichiren Shoshu, also stated the same content.

(b) With respect to this issue, Abe stated in his testimony that the reason he came to accept that he had been outside in Seattle was that his tour outside the hotel in Chicago had left a deep impression on him, that he had discussed this with Williams when he met up with Williams again in New York, that he had discussed this with his fellow priests when he returned to Japan, but that he had not discussed having been outside in Seattle and eventually forgot about walking outside in Seattle, that he also forgot about the existence of his diary, which he discovered in March 1995 and which stated that he had been outside in Seattle, which triggered his recollection.

According to the evidence, however (Plaintiffs' Exhibit 1, and Abe, Representative of Plaintiffs), reporting concerning the Seattle Incident had already been made in the First Article Series (1) as of June 17, 1992, and Abe read the First Article Series (1) shortly after the reporting was made. Plaintiff Nichiren Shoshu

also began its investigation in connection with said article, and it can be recognized that Abe was repeatedly asked about the circumstances. In the normal course of events he would have remembered that he had been outside in Seattle when he read the article, or when he was interviewed about it. Moreover, according to the evidence (Defendants' Exhibit 177-1 through 177-3), Takudo Hosoi, the Chief Priest of Jisshuji Temple (hereinafter "Hosoi") sent a letter to Abe titled "Towards Pursuing Reforms of Religious Practice" and dated October 18, 1992, which was delivered to Abe on October 20, 1992. This document stated that "with respect to the 'Seattle Incident' as referred to by the Gakkai, I have no idea and am not in a position to know if your holiness engaged in an act of prostitution as claimed. Nevertheless when your holiness returned to Japan, didn't you tell others that you had gone out at night in Seattle, had a few drinks, gotten lost in the street, and had benefited from the assistance of a member of the women's division? Even so you are stridently claiming that you never left the hotel, and saying that Clow is deranged. If you had accepted the facts as facts and had then responded sincerely, I would not have been suspicious. Your response however, has made it impossible for me to suppress the growing suspicions in my heart. I am extremely disappointed." Abe can be recognized to have read this document. It can thus be stated that Abe's normal reaction after reading this letter would have been to remember that he had indeed left the hotel when he was in Seattle.

Consequently Abe's statement that he first remembered he had been out of the hotel in Seattle only when he discovered his diary is neither natural, nor is it reasonable, and the Court cannot give credence to the same.

Abe stated that his tour outside of the hotel in Chicago left him with a strong impression. According to the evidence (Plaintiffs' Exhibit 156-1 through 157, as well as Abe, representative of Plaintiffs), however, there is no entry in the diary concerning his tour outside of the hotel in Chicago. Instead there is an entry in his diary about having been outside of the hotel in Seattle. Moreover the Carousel Room is stated in this diary. It can therefore be recognized that the first time Abe left his hotel to go drinking on the occasion of the first overseas Gojukai tour was in Seattle and not Chicago. In view of these facts, Abe's statement that his tour of the streets of Chicago left a much stronger impression on him than his tour of Seattle is neither reasonable nor is it natural.

Moreover, Abe stated that he did not talk to anyone other than Clow about having

left the hotel in Seattle. According to the evidence (Defendant's Exhibit 216), however, when Abe met up with Williams in New York during the first overseas Gojukai tour, Abe mentioned to Williams that he had gone out in Seattle, had some drinks, gotten lost in the streets and had been assisted by Clow. Williams can be recognized to have mentioned this on several occasions to the leaders and of the Gakkai membership, and their members. The aforementioned document written by Hosoi (Defendants' Exhibit 77-1 through 77-3) also supports this statement (furthermore it can be surmised from the aforementioned document prepared by Hosoi that Abe mentioned having been out in Seattle directly to Hosoi).

Consequently the Court cannot give credence to the sections of Abe's statements in which he claims that he did not discuss having left the hotel in Seattle with anyone other than Clow.

(c) Based on the above, the change in Abe's statement from claiming that he did not leave the hotel in Seattle to a statement that he left the hotel in Seattle to have a few drinks does not have any reasonable cause and is unnatural.

(b) Change of Statement or Assertion That the Hotel at Which Abe Stayed Was the Olympic Hotel.

(a) Plaintiffs claimed in their brief of April 8, 1994 (stated at the date of oral argument on May 23 of the same year) that the First Article Series was false in its entirety except for Abe's having visited Seattle and having checked into the Olympic Hotel at which he was staying. In their brief of September 29, 1995 (stated at the date of oral argument on June 12, 1996) Abe stated that after completing the Gojukai ceremony held at the Kawada residence he returned to his room at the Olympic Hotel where he was staying, went for a walk alone and returned to his room, where he then went to sleep at 1:00 a.m. and that subsequently he did not leave the hotel until he got up at 10:00 a.m. the following morning. Abe thus asserted and himself accepted that he was staying at the Olympic Hotel.

During Abe's testimony on the oral argument date of December 22, 1997, however, when he was examined Abe stated that the hotel he stayed in Seattle was not the Olympic Hotel, and Plaintiffs withdrew their prior assertions in their brief of June 30, 1998 (stated at the date of oral argument on September 28, 1999) and denied that the lodging

in Seattle had been at the Olympic Hotel.

(b) With respect to this issue Abe testified that he only realized that the Olympic Hotel was not where he stayed when he was shown a photograph of the hotel in February 1996.

According to the evidence (Plaintiffs' Exhibit No. 1; and Abe, representative of Plaintiffs), however, the First Article Series (1) which reported the incident, i.e., the front page of Soka Shimpo on June 17, 1992, stated "the Olympic Hotel, the lodging facility from which Abe snuck off alone late at night" and printed a photograph of the Olympic Hotel. Since Abe can be accepted to have seen these reports shortly after they were made, the normal reaction if the Olympic Hotel had not been the hotel that Abe stayed would have been for Abe to claim this from the start of the litigation. With respect to this issue Abe has made vague statements that are not reasonable, such as that he believed that (the article) was completely made up, or that he believed that (the article) was a complete lie, or that he simply believed what had been announced by the Soka Gakkai.

Abe also gave only a vague description of the hotel in his testimony, describing it as a very small inn of around two or three floors, and that a portion of the room immediately after entering was fitted with something similar to tatami mat flooring.

(c) In view of the above, Abe should be held to have denied without reasonable cause that the Olympic Hotel was the hotel in Seattle at which he stayed, not withstanding that he himself had believed and admitted from the start of the litigation of this case that the Olympic Hotel was where he stayed.

(c) Abe's Statements Regarding Carousel Room

Even though the establishment to which Abe went and drank can be recognized to be the Carousel Room (Plaintiffs' Exhibit 162) pursuant to the facts as found in (2) above as well as the evidence (Plaintiffs' Exhibit 156-1 through 157, 162, and Defendants' Exhibit 92-1 through 95, 111-1 and 111-2), Abe made statements when Plaintiffs' counsel questioned Abe during his testimony which appeared to deny that the Carousel Room was where he drank, while being shown Plaintiffs Exhibit 162 which was submitted as proof of the "existence of a premise which would appear to be the 'house where I drank whiskey' as stated in Abe's diary" which was submitted by

Plaintiffs. These statements included the comment "this appears a little different from my recollection, and I cannot state definitively whether this was the place," and the statements were extremely vague.

Abe also stated during his direct examination that the appearance of the establishment in which he drank in Seattle "appeared to be bright and light overall, and on entering there was a counter which of course had chairs in front of it, and I sat in one of these chairs." During cross-examination, however, he was shown a pamphlet of the Carousel Room in which photographs were printed showing women dressed with bare shoulders and thighs showing (Defendants' Exhibit 111-1), Abe suddenly said "I didn't go into a place like that when I drank," and when he was shown an enlarged photograph (Defendants' Exhibit 111-2) during cross examination he stated "I just told you I did not go into that establishment," stridently denying that he had entered the facility. Thus the content of his testimony changed, and a reasonable cause for this change in testimony cannot be recognized to exist.

(d) In view of the above, the statements of Abe denying the existence of the Seattle Incident have changed in significant portions of their content, and reasonable cause cannot be recognized to exist for this change. Moreover, his statements have contained many vague, unnatural and unreasonable sections. When compared with the aforementioned statements of Clow, Sprinkle and Mayhle (particularly Clow's testimony), the credibility of Abe's testimony is extremely low. Consequently the Court cannot give credence to Abe's testimony.

(7) Concerning the Diary.

Plaintiffs have submitted the diary prepared by Abe (156-1 through 157). This diary states "now I'll go to sleep. 1:00 p.m." (1:00 p.m. is stated to be a mistake for 1:00 a.m.), which Plaintiffs have claimed indicates that Abe was not at the scene of the Seattle Incident at 2:00 a.m. when the incident occurred.

Nevertheless Abe has stated that the above entry "1:00 p.m." (1:00 a.m.) indicates that he returned from outside, slept for a brief period, woke up in the night, and at this time made this entry together with the entry "Mrs. Clow, Hiroe's case" below the 1:00 p.m. note. During cross-examination Abe was asked about whether he had any recollection concerning this issue, and responded vaguely concerning the "1:00 p.m."

(1:00 a.m.) entry including statements such as he did not recall clearly. Consequently these statements cannot be given credence by the Court. Thus the doubts should be held to exist about the accuracy of the aforementioned diary entries.

Furthermore, according to the evidence (Defendants' Exhibit 120-1, 122-2 and 237), the statement "1:00 p.m." was written after the entry concerning the following date, or the 20th, on the reverse side, and the ink used at the time of entering "1:00 p.m." was different from that used for the entry "Mrs. Clow, Hiroe's case." This also increases suspicions about the accuracy of the entry "1:00 p.m." (1:00 a.m.). Given the above, the Court cannot give any credence to the entry to the entry "1:00 p.m." (1:00 a.m.), and cannot hold that Abe was not at the scene of the Seattle Incident on the basis of this entry.

Plaintiffs do not accept that the characters "1:00 p.m." were written after the entries on the reverse page, and have submitted an evaluation and opinion prepared by Yutaka Okuda stating that the same ink was used for the entry "1:00 p.m." as was used for the characters underneath (Plaintiffs Exhibit 255 and 308). From the various circumstances and evidence (Defendants' Exhibit 280-1 and 283), however, credence cannot be given to the evaluation and opinion prepared by Yutaka Okuda.

(8) As stated above, Abe can be recognized to have asked a prostitute to allow him to take nude photographs in Seattle late at night between March 19 and 20 on the occasion of carrying out the first overseas Gojukai tour in the United States as the head of the study department of Nichiren Shoshu during March 1963, to have committed a sexual act with a prostitute on this occasion, to have caused an altercation with the prostitutes surrounding their fees, and wound up involved with the police. Consequently the events claimed by the First Article Series and the Speech, etc., (iv) should be recognized as being the truth.

(iv) That being the case, the reporting of the First Article Series and Speech, etc. (iv) involved events which concerned the public interest, and the objective of said reporting was solely that of benefit of the public. Moreover the claimed events can be recognized to be the truth and consequently said reporting is not unlawful.

5. Consequently Plaintiffs 1st claim in this case is without reason.

ii. Case B and Case C.

1. Contested Issue (i) (Content of Second Article Series and Defamation of Plaintiffs and Abe).

Determining if an article has defamed another person is to be made through interpreting the meaning and content of the article, etc., on the basis of the care and reading style of the average reader, and whether the content undermines the reputation of said other person in society. Plaintiffs have alleged that the Second Article Series defamed Plaintiffs and Abe, and consequently this has been examined below.

The following facts are recognized to exist pursuant to the evidence (Plaintiffs' Exhibit 5 through 8):

(i) Article (i) in the Second Article Series.

(1) Article (i) in the Second Article Series consists of the first page of the Soka Shimpo dated January 8, 1995. This article contains the headlines "Definitive Proof of Nichiren's10 Seattle Incident," "Attorney-at-Law Langberg Discloses Important Information in his World Tribune Interview," "Seattle Police Investigation of March 1963 Is a Fact," and "Nikken Denies All But Faces His Ultimate Predicament," as well as an introductory paragraph as follows:

"New and definitive proof has been revealed which shows the immutable "fact" of Nikken's "Seattle Incident" which shocked the world as an unprecedented disgraceful incident for a religious leader. This was published in the SGI-USA newspaper World Tribune (issue date January 9) on January 6 (local time) and at the same time in the SGI-USA Newsletter, and was revealed in an interview with Mr. Langberg (Mrs. Hiroe Clow's counsel). According to the article, the Seattle Police Department investigated a man named Nobuo Abe on 'suspicion of solicitation of prostitution.' Nikken's name at the time was Shinnol1 Abe, and a record of the inquiry or stating the facts of the investigation has been discovered to be on file with the US government. This places Nikken in his ultimate predicament as he has completely denied the incident.

The (SGI-USA) Newsletter article itself further published an impressive series of facts, stating "this new evidence completely supports the absolute truth as testified by SGI-USA member Hiroe Clow," as well as "(Langberg) emphasized that clear evidence has been obtained which proves the incident of 32 years ago," and "after retaining the law firm of Steel, Hector & Davis and as a result of their investigation, it has been confirmed that the 1963 case resides in a file kept by the government under the name of Nobuo Abe, as Mrs. Clow reported to the police. (The SGI Newsletter) has published a portion of the contents of the report by the office in question, stating that the event is reflected in a file that is "based on a written record that must have been made at the time by the police officers reflecting Nobuo Abe's involvement with prostitutes," and went on to state that a "source within the US government in Washington DC" has confirmed that there is a record which states the following:

Suspicion of Solicitation of Prostitution
Seattle Police Department
March 1963

Mr. Langberg went on to say that in addition to Mrs. Clow's testimony, additional investigation has revealed the truthfulness of the Seattle Incident, and that the uncovering of this record kept by the US government is further evidence of the truth. The "Seattle Incident" is a disgraceful incident that occurred in 1963 in which Nikken, who was traveling to the US as the head of the study department to conduct the first overseas Gojukai tour, caused an altercation with prostitutes which resulted in police involvement, and was saved by Mrs. Hiroe Clow, a member in the USA.

Further sections of the article stated:

The present new evidence reveals even more clearly that the Seattle Incident is a fact. There is no longer any possibility of an excuse. Nikken is now almost at the point of being required to resign, and all eyes are on him to see what future action he will take. The clergy have claimed that the Seattle Incident is a baseless fabrication, and in their arrogance have retaliated by suing the Gakkai for defamation. The present revelation of new evidence, however, will no doubt have a major impact on the suit in Japan as well.

(2) The second page of this issue contained the following headlines "Nikken Resign

Immediately," "We are the ones standing in the majesty of justice" and "the truth of the Seattle Incident has been proven." The article further stated the following on the basis of statements made by Einosuke Akiya at the 6th Saitama General Meeting:

(a) I have the following significant development to report to you concerning the evil Nikken's Seattle Incident.

The SGI-USA newspaper World Tribune has recently interviewed Mr. Langberg, who is the attorney for Mrs. Hiroe Clow, and has reported on the Seattle Incident. In this interview Mr. Langberg stated that Mrs. Clow was not a person who would lie, and that there was no need for her to lie. He said she was a trustworthy person, and in fact definitive evidence had been revealed which supports Mrs. Clow's testimony of Nikken's disgraceful behavior. This is stated in the SGI-USA newspaper World Tribune, and attached to this is a newsletter. This newsletter has printed the entire text of the interview. The newsletter reports on the progress of the Court proceedings concerning the Seattle Incident and presents a report of discoveries by the law firm which Mr. Langberg has retained to carry out investigations. This report is stated as follows:

(b) Dear Ms. Clow:

You requested us to investigate whether the United States government has maintained any records of an investigation concerning an individual known as Nobuo Abe, a foreign national, born December 19, 1922. Subsequent to this request, we engaged . . . a highly-prestigious private investigative firm.

[The investigation firm] reported to us on November 17, 1994, that a source within the U.S. Government in Washington, D.C. was contacted and the source confirmed to the firm that there is a record on Nobuo Abe. According to the firm's report to us, the record refers to:

Suspicion of Solicitation of Prostitution
Seattle Police Department
March 1963

From 1974 to 1979, I served as an Assistant United States Attorney and Special Attorney

with the United States Department of Justice. Following my government service, I have been practicing law primarily in the area of criminal defense. Based on my experience, the contents of the record on Nobuo Abe, as revealed to us by [the firm] indicate to me that some type of inquiry or investigation regarding suspicion of solicitation of prostitution was conducted in March, 1963, by the Seattle Police Department on Nobuo Abe.

I am able to testify as to the truthfulness and accuracy of my statements in this letter.

Very truly yours,

(signed by) Rebekah J. Poston
Of Counsel

(c) As I have just read you, this article states that a record has been confirmed to exist concerning the behavior of Nikken in Seattle, within the records stored by the federal government of the United States of America. The article mentions that Mr. Langberg retained the law firm of Steel Hector & Davis and had them conduct an investigation, to which they replied with a report that on the basis of their investigation, a record definitely exists. Thus a record definitely still remains which states that under the name of Nobuo Abe, Nikken was investigated by the Seattle Police Department in March 1963. No matter what explanations Nikken may attempt, irrefutable evidence has now been clearly revealed (Loud Applause).

As you are aware, the Seattle Incident is an outrageous incident in which Nikken sneaked out of his hotel in Seattle late at night and caused an altercation with prostitutes at the time of the first Gojukai tour in the United States. Mrs. Hiroe Clow has shown her bravery by revealing this incident to the public. She was called a liar and defamed by Nikken; she has consequently fought righteously in the present forum of the Seattle defamation case in the US.

The present documents constitute irrefutable evidence that a person known as Nobuo Abe was indeed investigated by the Seattle Police Department on suspicion of soliciting prostitution. Prior to becoming high priest Nikken did write his name "Abe Nobuo" and read it "Abe Shinno" (laughter). At the time Mrs. Clow did not know this

reading and read this to the police as "Nobuo Abe" as she was explaining to the best of her ability. Mrs. Clow has also stated this from the beginning (of her testimony). These documents support that the events revealed by Mrs. Clow are entirely the truth from beginning to end and are absolutely not mistaken.

(d) The Seattle Incident took place during the most significant occasion of the first overseas Gojukai tour that was held immediately after our mentor Ikeda was installed as president in 1960, and through his heartfelt desire opened the path for Kosen Rufu of America, as is chronicled in the novel New Human Revolution, of which you are all aware.

We cannot forgive this unprecedented act of betrayal of sneaking out of his hotel and causing an altercation with prostitutes, which took place during what should have been an event to have been remembered.

(ii) Article (ii) in the Second Article Series.

Article (ii) in the Second Article Series consists of the first page of Soka Shimpo dated January 18, 1995. This article contains the headlines "The Seattle Incident: Definitive Incident Deals Nikken a Mortal Blow," "Records Exist With the US Government," "'Suspicion of Solicitation of Prostitution' Concerning 'Nobuo Abe,' "Seattle Police Department" "March 1963'," and "'If this is true I will resign,' ([Nikken's] statement of August last year). His only choice is to leave the priesthood and return to secular life," as well as an introductory paragraph as follows:

Shocking new facts have been revealed in the Seattle Incident.The announcement of a record kept by the US federal government which supports the truth of Nikken's Seattle Incident, the unprecedented disgraceful behavior of a religious leader, have come like an electric shock to the world at the start of this year. Records are being kept by the federal government of the US which indicate that 'some type of inquiry or investigation regarding suspicion of solicitation of prostitution' was conducted in March, 1963, by the Seattle Police Department, on 'Nobuo Abe,' i.e., Nikken (whose name at the time was Shinnno Abe)." On receiving this shock Nikken frantically sent an internal notification titled "Notice," doing his utmost to explain. Nikken, you proclaimed 'if this is true I will resign.' This time you cannot run away. You must accept responsibility."

Furthermore, under the headline "new evidence that is overpowering" the following statement was made:

The interview with Attorney Langberg at which this shocking new evidence was revealed (see excerpt on page 2), was published in the SGI-USA Newsletter which was released at the same time as the January 9 edition of the "World Tribune." In this interview, Mr. Langberg commented that "there is strong evidence to establish that Mrs. Clow, and not Nikken, is telling the truth." He then continued to say "we retained the assistance of another law firm, a large firm in Miami by the name of Steel, Hector & Davis, and through their contacts and sources they were able to determine that a record exists in government files under the name "Nobuo Abe" reflecting the 1963 event." Thus a "record" is kept in the files of the US government which supports that the Seattle Incident which occurred thirty years ago, is the truth. And astonishingly this record refers to the disgraceful behavior committed by Nikken. It is "reflected in the file based on a written record that must have been made at the time by the police officers reflecting Nobuo Abe's involvement with prostitutes." Mr. Langberg went on to say that the following had been revealed in the report from Steel Hector & Davis concerning the actual content of the record:

Suspicion of Solicitation of Prostitution
Seattle Police Department
March, 1963

This record pierces to the heart of Nikken who has concealed his disgraceful behavior in Seattle and has attempted to avoid any pursuit of this matter. It truly is an overpowering blow. Astonishingly this record perfectly and without any deviation agrees with Mrs. Clow's testimony. From the beginning Mrs. Clow has claimed that the name she reported to the Seattle Police Department was "Nobuo Abe." The record with the federal government is also filed under this name. Even this minor point supports how accurate Mrs. Clow's testimony truly was.

And for Nikken, it is certain that he never dreamed that evidence as complete as this would be uncovered in this manner in connection with a case that occurred 30 years ago. The extent of his panic is being shown in his behavior.

With the present new evidence we have come closer to the instant that the ugly nature of Nikken will be revealed from behind his mask of being a religious leader. Nikken who has slandered Mrs. Clow and accused her of false testimony when she has told the truth since the time the incident was revealed. Nikken who has insistently denied the Seattle Incident and proclaimed "is my face the face of a man who would have acted this way in Seattle?" "It absolutely is not." Nikken who proclaimed before a full house at the Grand Lecture Hall in August last year in front of the first guidance meeting of lay leaders12 and vice-leaders,13 that "if this is true I will resign. And if it were to be true I never would have been in the position that I am" (Daibyakuho (September 1, 1994) p.1). This document record kept by the US federal government is definitive proof that the Seattle Incident did indeed occur. Nikken has no room left for explanation. His clinging to the holy seat at this time shows his abominable character that goes beyond being ugly. Nikken has been forced almost to the point of resigning. He should immediately remove his robes and honestly admit his true character of fraud and deceit, throw his body to the ground and apologize to all members.

Moreover, under a caption which states "What is the Seattle Incident," the following explanation is made of the Seattle Incident:

(The Seattle Incident) is an incident that occurred between late in the evening on March 19 and early morning March 20, 1963, in which Nikken, who at the time was the head of the study department, snuck out of his hotel in Seattle, which he was visiting to conduct the first overseas Gojukai tour, and committed a disgraceful act with a prostitute and then caused an altercation over money, resulting in police involvement.

(iii) Article (iii) in the Second Article Series.

Article (iii) in the Second Article Series appeared on page three of the February 1, 1995 edition of Soka Shimpo, and consists of headlines such as the following: "New Evidence Surrounding Seattle," "Nikken, your dissembling can no longer be accepted!," "it is too late now Nikken, despite your claim that "I swear to the Gohonzon," "doubt increases even among ranking priests 'we now see that it was a fact'," "How can a liar tell the truth?," "the 'Notice' backfired and encouraged suspicion," "fear increases among the clergy as they ask 'what's next'," "a ripple of wavering which cannot be concealed." Whereupon the introductory paragraph stated

the following:

The discovery of new evidence of the Seattle Incident that is being kept by the federal government of the United States has pushed Nikken into a fatal corner as he piles lies on top of lies. Two days after the shocking revelation of January 8, Nikken first appeared before the priesthood on January 10 and repeated his great lies, claiming "I swear before the Gohonzon that the Seattle Incident did not occur. And I do not care if the world misunderstands." Nevertheless his farcical acting has been betrayed. Until now the priesthood has been brainwashed into believing that nothing occurred. On seeing Nikken's desperate expression, however, they have begun to waver, and are asking 'well, it seems that Seattle was the truth, wasn't it?' Here we report on the increasing tension within the clergy.

The main text of this article further reported that "[Nikken claimed]14 that the new evidence of the Seattle Incident that has now been revealed, that the record stating Suspicion of Solicitation of Prostitution, Seattle Police Department, March, 1963, is a complete lie. And answered as follows."

(iv) According to Articles (i) through (iii) in the Second Series of Articles, and Clow's testimony (Articles (vii) and (viii) in the First Series of Articles), the Second Series of Articles, would convey the impression to the average reader that while Abe was traveling in the United States to conduct the first overseas Gojukai tour during March 1963, as the head of the study department of Nichiren Shoshu, Abe sought to take nude photographs of a prostitute in Seattle late in the evening between March 19 and 20 of the same year, and after engaging in sexual acts with a prostitute, caused a dispute with the prostitutes over their charges, and wound up involved with the police.

The statement that a record concerning Abe's Seattle Incident is on file with the federal government of the US would not defame Plaintiffs nor Abe in any way if it were to be considered as a separate incident from the case in question. Rather the Second Series of Articles should be considered as defaming Plaintiffs and Abe by conveying to the average reader that certain evidence (a record) is on file with the federal government of the US, which supports the Seattle Incident (i.e., the facts that Abe engaged in sexual acts with a prostitute, caused an altercation with prostitutes, and wound up involved with the police). Consequently any defamation of

Plaintiffs or Abe, or the impression conveyed to the average reader from the Second Series of Articles, would only be an impression of the incident in question. The statement that a record of Abe's Seattle Incident is on file with the federal government of the US would only reinforce the impression of the incident, and should not be viewed as conveying a different impression than that of the present case (moreover, factors such as the existence of said record and the extent of the investigation in connection therewith constitute one element of consideration of the objective of public interest and whether publication was justifiable, and the reporting that the record existed should be respectively considered on the strength of the impression that would be made on the average reader, meaning the extent of undermining of reputation in society, and the amount of damage).

(v) The Second Series of Articles which conveyed the impression in question to the average reader, clearly undermined Abe's reputation in society.

Moreover, as stated in i.2(iii) above, the Second Series of Articles not only undermined Abe's reputation in society, but also undermined that of Plaintiffs (according to the evidence (Plaintiffs' Exhibit A5 through 8), the Second Series of Articles also used the terms "clergy" and "Nikken Sect" to indicate Plaintiffs).

(vi) Consequently the Second Series of Articles should be viewed as defaming Plaintiffs and Abe, and the Court cannot accept Defendants assertion that the Second Series of Articles did not defame Plaintiffs.

2. Contested Issue (ii) (Whether the Third Series of Articles Was a Result of Defendant SGI's Involvement, and Whether Said Series Defamed Plaintiffs and Abe).

According to the uncontested facts as set forth in II.i.5 above, the Soka Gakkai International USA Newsletter (Third Series of Articles) can be recognized to have been published as a supplement or edition to the January 9, 1995 edition of the World Tribune. According to the evidence (Plaintiffs' Exhibit A9, Witness Fukushima), said newsletter can be recognized to have been published by SGI-USA, which is a separate corporation from Defendant SGI. The evidence is not sufficient to find that Defendant SGI was involved in the publication of said newsletter. Consequently, there is no reason to determine the other issues, and Plaintiffs' claim against Defendant SGI is without grounds.

3. Contested Issue (iii) (Whether Defendant Ikeda Instructed the Acts of Defamation by Defendant Soka Gakkai and Defendant SGI).

Plaintiffs have alleged that Defendant Ikeda instructed the acts of defamation by Defendant Soka Gakkai and Defendant SGI in connection with the Second Series of Articles and the Third Series of Articles. The evidence is not sufficient, however, to find that this is the case, and thus Plaintiffs' claim against Defendant Ikeda is without grounds.

4. Contested Issue (iv) (Whether Defendants Have Improperly Controlled or Interfered With Plaintiffs' Right to Operate Their Sect).

Plaintiffs have asserted that Defendants have improperly controlled or interfered with Plaintiffs' right to operate their sect. The reporting of the Second Series of Articles alone, however, cannot be found to constitute improper control of or interfering with Plaintiffs, and consequently the Court cannot accept Plaintiffs' assertion.

5. Contested Issue (vi) (Whether an Affirmative Defense Is Constituted on the Grounds of Truth or Justification).

If an act of tortious defamation is a statement of events which involve the public interest, the objectives of the act were solely for an objective of benefit to the public, and it is proven that the events as claimed were truthful in their essential elements, then this act of defamation is not unlawful. Even if the stated events cannot be proven to be true, if the person committing the act had sufficient reason to believe that the stated events were true, then any willful intent or negligence on the part of the tortfeasor would be denied. Consequently the following issues have been examined.

(i) Contested Issue (vi)(1) (Events Which Involve the Public Interest).

As regards the question whether the events claimed in the Second Series of Articles are events that involve the public interest, this Court takes the view that the Second Series of Articles convey the Impression of the Incident to the average

reader as discussed in 1. above, and that claimed events related to the Impression of the Incident (as discussed in (iii), below).

(ii) Contested Issue (vi)(2) (Objective of Benefit to the Public).

(1) According to the events as found in i.4(i) and (ii), as well as the events as found in (i) above, the evidence (Defendants' Exhibit A10, and Witness Fukushima), and the entire tenor of oral proceedings, Abe is the High Priest of Nichiren Shoshu, and is said to receive the highest reverence from all priests of Nichiren Shoshu, to the highest ranking member of the priesthood of Nichiren Shoshu with special privileges and authority, and to be the center of faith and the highest religious leader of the sect. Thus the events alleged in the Second Series of Articles can be recognized to constitute information of relevance in judging Abe's suitability to be the supreme religious leader of Plaintiffs. Defendant Soka Gakkai reported the Second Series of Articles because the Soka Gakkai believed that the Seattle Incident in which Abe caused an altercation with prostitutes was extremely important in judging Abe's suitability as a religious leader, and in order to demonstrate that Abe was unqualified either to be a man of religion or a man of faith.

Consequently the reporting of the Second Series of Articles should be viewed as being solely for the benefit of the public.

(2) As discussed in i.4(ii)(3), the reporting of the Second Series of Articles cannot be deemed to lack an objective of benefit to the public solely on the basis of the means of expression therein.

(3) Plaintiffs have claimed that Defendant Soka Gakkai reported the Second Series of Articles based solely on information obtained through three tier hearsay communications, without being able to identify particulars such as the location of the record with the US federal government, and moreover, have deliberately made their false reporting despite the fact that they had received the report that said record had been deleted. Nevertheless according to the evidence (Plaintiffs' Exhibit 211-1 and 211-2, Defendants' Exhibit A1-1 through A2-2, 5-1, 5-2, 8-1 through 8-10, and Witness Fukushima) as well as the overall tenor of the oral arguments, the following facts can be found.

(a) In the latter part of October 1994 information was sent to SGI-USA, in the form of information received from a source related to the federal government, that a record relating "Nobuo Abe"existed within the files of a US federal government institution and could be confirmed by computer terminal, which related to an incident which had occurred late at night in 1963 that was recorded by the Seattle Police Department, in which several women were pursuing a baldheaded Asian male, the police officers attempted to talk with said male but said Asian male was unable to speak English so the officers temporarily detained the Asian male, and questioned him about suspicion of prostitution and subsequently released him.

Defendant Soka Gakkai then requested that Langberg investigate this information.

(b) Langberg determined that there was a possibility of a record within the files of the federal government, including the well known database of the National Crime Information Center (NCIC) which is controlled by the FBI. Langberg retained the law firm of Steel Hector & Davis to investigate records of Abe's Seattle Incident.

Poston was the attorney at Steel Hector & Davis who was in charge of the matter in question. Poston retained the office of The Phillip Manuel Resources Group to conduct an investigation.

(c) The Phillip Manuel Resources Group responded to Poston on November 11, 1994 stating that they had given the name "Nobuo Abe" and his date of birth to a source in Chicago who then reported that there was a record stating "Solicitation of Prostitution, Seattle Police Department, March 1963."

Poston then requested further confirmation from The Phillip Manuel Resources Group since there was a difference in the quantity of the above information and the information as initially provided to the SGI-USA.

The Phillip Manuel Resources Group then responded to Poston that they had received information from a source within the US federal government in Washington DC, which stated that a record of Abe existed, which stated "Suspicion of Solicitation of Prostitution, Seattle Police Department, March 1963," and that according to the computer search system, there had been at least six inquiries concerning "Abe" from

various locations in the US over the past two weeks, that this had become a concern for the FBI in Washington DC, and that the information recorded should not have been entered in the first place. Consequently if the person involved were to make a formal request to delete the record, this information would be deleted. The report also stated that many third parties had shown interest in this record, and that deletion of the record was being considered because the case recorded was old and because it was an entry about which there were doubts.

(d) Langberg and Poston became concerned that the record would be deleted and asked the Phillip Manuel Resources Group to conduct a further investigation, whereupon The Phillip Manuel Resources Group reported to Poston that the previously existing record on "Abe" had been deleted. Langberg then consulted with a computer specialist with the FBI who stated that even if information that had been entered into the database had been deleted, there might be a record of the content of the information, who deleted it and when it was deleted and consequently it might be possible to trace the deletion.

(e) Since only the name and date of birth of "Abe" were provided to the information source with the federal government, and the information source was able to give a report "Solicitation of Prostitution, Seattle Police Department, March 1963," and since two different sources of information were confirmed in Washington DC and in Chicago, which contained almost the same content of information, Defendant Soka Gakkai determined that the report from The Phillip Manuel Resources Group was sufficiently reliable. Defendant Soka Gakkai also received confirmation from Langberg that even if the record had been deleted, there would have been no change in the fact that it existed at one point. Moreover, even if the record had been deleted, there was a strong possibility that its trace would remain, and that it should definitely be possible to find the record even if it was not possible to search for the record using a computer terminal. Consequently Defendant Soka Gakkai was convinced of the truth of the information, and made the reporting of the Second Series of Articles.

In view of the above, Defendant Soka Gakkai can be found to have made sufficient investigation as to the existence of a record concerning Abe's Seattle Incident at the time Soka Gakkai made the reporting of the Second Series of Articles, and thus the reporting cannot be viewed to be lacking in an objective of benefit to the public. Furthermore, according to the determined facts as stated above, Defendant Soka Gakkai received a report that the record had been deleted, but at the same time received

a report that there was a strong possibility of traces remaining. Consequently the reporting of the Second Series of Articles cannot be found to lack an objective of benefit to the public solely on the basis that the Soka Gakkai reported the Second Series of Articles after they had received a report that said record had been deleted.

Thus the Court cannot accept Plaintiffs' assertion as set forth above.

(iii) Contested Issue (vi)(3) (Truth).

(1) The Second Series of Articles conveys the Impression of the Incident on the average reader as discussed in 1. above, and claims events related to the Impression of the Incident. Thus the events which Defendants must prove to be true are that while Abe was traveling in the United States in March of 1963 to conduct the first overseas Gojukai tour, as the head of the study department of Nichiren Shoshu, Abe sought to take nude photographs of a prostitute in Seattle late in the evening between March 19 and 20, 1963, and after engaging in a sexual act with a prostitute, caused an altercation with the prostitutes surrounding their charges, and wound up involved with the police.

With respect to this issue Plaintiffs have claimed that the events claimed by Defendants are not those of the Seattle Incident in and of themselves, but rather the fact of a record of Abe's Seattle Incident being stored by the federal government of the US, and that it is these events or facts that Defendants should have a responsibility for proving. As discussed in 1.(iv) above and the preceding, however, the events claimed by Defendants in the Second Series of Articles consist only of events in connection with the Impression of the Incident, and consequently the Court cannot accept the above assertion by Plaintiffs.

(2) As stated in i.4.(iii), therefore, the events claimed pursuant to the Second Series of Articles (i.e., the events involving the Impression of the Incident in question) can be recognized to be truthful.

(iv) Consequently, the Court finds that the reporting of the Second Series of Articles concerned events involving the public interest, was solely for the objective of benefit to the public, and the events claimed were truthful. Therefore, said reporting can be held to have not been unlawful.

5. Thus Plaintiffs' claims in connection with Case B and Case C are without reason.

IV. Conclusion.

Pursuant to the above, the Court finds that Plaintiffs' claims are all without reason and consequently dismisses the same, and hereby renders its decision as stated in the Text of the Judgment.

Tokyo District Court Civil Section 12

Chief Judge Fumio Shimoda
Judge Masahiko Tashiro
Judge Satoshi Hiyama