

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION

Criminal Case No.: HAC 140 of 2015

STATE

V

1. **RATU INOKE TASERE**
2. **JIMI KOROIBETE**
3. **SERU KUNALAGI**
4. **ADI CUVU GAVIDI ATAMA**
5. **ULAIASI RABUA TUIVOMO**
6. **PENIASI NAQAU**
7. **SEMI TANIKILI**
8. **RATU OSEA BOLAWAQATABU**
9. **RATU TEVITA K MAKUTU**
10. **MOSESE NAVACI**
11. **ERONI RIKORIKO**
12. **ALIFERETI NAKUINIVOU**
13. **ALIFERETI GONEWAI**
14. **JORAMA RATULEVU**

Counsel : Mr. L. J. Burney and Mr. S. Babitu for the State.
: Mr. A. R. Singh for the 1st to 3rd, 5th, 7th to 14th Accused.
Ms. S. Kunatuba for the 4th Accused.
Mr. F. Vosarogo for the 6th Accused.

Dates of Hearing : 3, 4, 6, 9, 16, 23 to 25 October, 2017
Closing Speeches : 26 October, 2017
Date of Summing Up : 2 November, 2017
Date of Judgment : 9 November, 2017

JUDGMENT

- [1] The Director of Public Prosecutions charged the accused persons by filing the following amended information:

COUNT ONE

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

RATU INOKE TASERE, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT TWO

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

RATU INOKE TASERE, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

COUNT THREE

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

JIMI KOROIBETE, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT FOUR

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

JIMI KOROIBETE, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-

NAVOSA SOVEREIGN CHRISTIAN STATE” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

COUNT FIVE

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

SERU KUNALAGI, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT SIX

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

SERU KUNALAGI, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

COUNT SEVEN

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

ADI CUVU GAVIDI ATAMA, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT EIGHT

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

ADI CUVU GAVIDI ATAMA, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

COUNT NINE

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

ULIASI RABUA TUIVOMO, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT TEN

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

ULIASI RABUA TUIVOMO, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

COUNT ELEVEN

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

PENIASI NAQAU, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT TWELVE

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

PENIASI NAQAU, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

COUNT THIRTEEN

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

SEMI TANIKILI, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self- Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT FOURTEEN

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

SEMI TANIKILI, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

COUNT FIFTEEN

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

RATU OSEA BOLAWAQATABU, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT SIXTEEN

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

RATU OSEA BOLAWAQATABU, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

COUNT SEVENTEEN

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

RATU TEVITA KHAIKHAINABOKOLAWALE MAKUTU, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT EIGHTEEN

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

RATU TEVITA KHAIKHAINABOKOLAWALE MAKUTU, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

COUNT NINETEEN

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

MOSESE NAVACI, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT TWENTY

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

MOSESE NAVACI, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

COUNT TWENTY ONE

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

ERONI RIKORIKO, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT TWENTY TWO

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

ERONI RIKORIKO, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

COUNT TWENTY THREE

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

ALIFERETI NAKUINIVOU, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT TWENTY FOUR

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

ALIFERETI NAKUINIVOU, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

COUNT TWENTY FIVE

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

ALIFERETI GONEWAI, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT TWENTY SIX

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

ALIFERETI GONEWAI, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE” with a

sedition intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

COUNT TWENTY SEVEN

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

JORAMA RATULEVU, on the 4th day of November, 2014, at Sigatoka in the Western Division, did sign a document headed “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

COUNT TWENTY EIGHT

Statement of Offence

SEDITION: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

Particulars of Offence

JORAMA RATULEVU, on the 4th day of November, 2014, at Sigatoka in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

2. The four assessors (after one assessor was discharged during the trial) returned with mixed opinion that the majority of the accused persons were guilty of the offence of Sedition as charged.
3. I adjourned to consider my judgment. I direct myself in accordance with my summing up and the evidence adduced at trial.
4. The prosecution called six witnesses whilst the 4th accused gave evidence and called a witness. The 6th accused gave evidence but did not call any witness, the other accused persons namely 1st to 3rd, 5th, 7th to 14th exercised their right to remain silent.

Background Information

5. There are 14 accused persons who are each charged with two (2) counts of the offence of Sedition making a total of 28 counts as per the amended information.
6. Since the assessors returned with a mixed opinion after their deliberations and there being multiple accused persons, I intend to firstly deal with those accused persons where the assessors returned with unanimous opinion on both counts followed by the other accused persons where the assessors returned mixed opinions on either of the counts.

Allegation

7. The prosecution alleges that on 4th November, 2014 all the accused persons:
 - a) signed a document headed “Nadroga-Navosa Sovereign Christian State Provisional Institutions of Self-Government” with a Seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji; and
 - b) took an oath to serve as a Cabinet Minister /Secretary to Cabinet for the entity “Nadroga-Navosa Sovereign Christian State” with the Seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.
8. To prove the offence of Sedition the prosecution must prove the following elements (of the offence of Sedition) beyond reasonable doubt:
 - (a) The accused;
 - (b) did an act;

(c) with a seditious intention.

9. For the purposes of this trial the offence of Sedition is either the doing of an act with the intention to raise discontent or disaffection amongst the inhabitants of Fiji or bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

Law

10. Section 67(1) of the Crimes Act 2009 defines the offence of Sedition as follows:

A person commits the offence of Sedition if he or she —

- “(a) does or attempts to do, or makes any preparation to do, or conspires with any person to do any act with a seditious intention;*
- (b) utters any seditious words;*
- (c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication; or*
- (d) imports any seditious publication, unless he has no reason to believe that it is seditious. “*

11. A "seditious intention" is an intention defined in section 66 (1) of the Crimes Act as:

- (i) to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established; or*
- (ii) to excite the inhabitants of Fiji to attempt to procure the alteration, otherwise than by lawful means, of any matter in Fiji as by law established; or*

- (iii) *to bring into hatred or contempt or to excite disaffection against the administration of justice in Fiji; or*
- (iv) ***to raise discontent or disaffection amongst the inhabitants of Fiji; or***
- (v) *to promote feelings of ill-will and hostility between different classes of the population of Fiji.*

Deeming Provision

12. In determining whether the intention with which an act was done, was or was not seditious, every person shall be deemed to intend the consequences which would naturally flow from his or her conduct at the time and under the circumstances in which he or she so conducted himself or herself (section 66(2) of the Crimes Act).
13. However, words or actions may not demonstrate a seditious intention if done with the purpose of expressing legitimate disagreement with the Government of the day in terms of paragraphs (a)-(d) below as per section 66 of the Crimes Act.
14. This means an act, speech or publication is not seditious if it only intends—
 - (a) to show that the Government of Fiji has been misled or mistaken in any of its measures; or*
 - (b) to point out errors or defects in the government or Constitution of Fiji as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or*
 - (c) to persuade the inhabitants of Fiji to attempt to procure by lawful means the alteration of any matter in Fiji as by law established; or*
 - (d) to point out, with a view to their removal, any matters*

which are producing or having a tendency to produce feelings of ill-will and enmity between different classes of the population of Fiji.”

15. The charges against the accused persons in this case are framed on the basis that each accused did certain acts with seditious intentions defined under sections 66(1) (i) and (iv). According to section 66(1) (i), acts are "seditious" if they are done with the intention of bringing the Government of Fiji into hatred or contempt or done with an intention to excite disaffection against the Government of Fiji. According to Section 66(1) (iv) acts are seditious if they are intended to raise discontent or disaffection amongst the inhabitants of Fiji.

16. "Government established by law" means a Government as established under the Constitution of the Republic of Fiji 2013. In the year 2014 there was already in existence a Government of Fiji. At this point I would like to state that under section 2 (6) of the Constitution of the Republic of Fiji it is unlawful to form another Government if there is already in existence a lawful Government. Section 2(6) of the Constitution of the Republic of Fiji states:
"Any attempt to establish a Government other than in compliance with this Constitution shall be unlawful, and –
 - (a) *anything done to further that attempt is invalid and of no force or effect; and*
 - (b) *no immunities can lawfully be granted under any law to any person in respect of actions taken or omitted in furtherance of such an attempt."*

17. Taking an oath in whatever form to serve as a Cabinet Minister in an unconstitutional or unlawful government will no doubt undermine the authority of the legally elected Government of Fiji and its Ministers. Therefore, taking an oath to serve as a Cabinet Minister in an unlawful entity will be viewed by an informed reasonable observer

as an act having the tendency to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

18. I accept that the oath administered in this case was not uniform and was unknown to the Constitution of the Republic of Fiji. It is obvious from the evidence before this court that the purpose of the acts of all the accused persons was to form another government in the Province of Nadroga-Navosa.
19. In view of the above, I am not surprised that the accused persons were administered different forms and contents of oath. The accused persons cannot be expected to pay allegiance to and take an oath under the Constitution of the Republic of Fiji. What is important is not the form or the content of the oath taken but their intention at the time of taking the oath? In accepting to serve as Cabinet Ministers in an unlawful entity titled “Nadroga-Navosa Sovereign Christian State,” the accused persons have demonstrated their seditious intention.
20. Furthermore, there may have been good motives when the accused persons signed the document and took an oath as alleged but their motive is irrelevant in this case.
21. The document headed “Nadroga-Navosa Sovereign Christian State Provisional Institutions of Self-Government” (prosecution exhibit no. 28) contains the names and signatures of all the accused persons and the respective Cabinet Ministerial positions and Secretary to Cabinet position they undertook to serve.

22. The prosecution case has been that all the accused persons by signing prosecution exhibit no.28 had accepted and adopted the contents of this document.
23. The prosecution submits that the contents of the document headed "Nadroga-Navosa Sovereign Christian State Provisional Institutions of Self-Government" (prosecution exhibit no. 28) has the tendency to:
 - a) to raise discontent or disaffection amongst the inhabitants of Fiji.
24. The contents of the entire document have to be looked at objectively that is whether an informed reasonable observer would come to the same conclusion as submitted by the prosecution.
25. The document headed "Nadroga-Navosa Sovereign Christian State Provisional Institutions of Self-Government" (prosecution exhibit no. 28) states inter-alia:-

Page 1, first paragraph

"We, the democratically elected (by consensus) leaders of the People, hereby declare Nadroga-Navosa Province to be an independent and sovereign State, and to be hereinafter known as the "Nadroga-Navosa Sovereign Christian State".

Page 2, Line 15

"Therefore, we intend to put immediate end to all self-serving governments of all persuasions who have ruled us contemptuously in the past, as from the date of this Declaration."

Page 2, second paragraph, line 5

"We also claim the rights accorded us by the Statutes of Genocide 1949 for protection against genocidal laws which have been promulgated by the current government of Fiji over the past eight

years, and which are now enshrined in their Fiji 2013 ‘mainstreaming’ Constitution...”

Page 3, second paragraph

“As native people of Fiji, we reject outright the ‘mainstreaming’ Constitution of the current government, assented to on 6 September, 2013...”

Page 3, second paragraph, line 6

“We also reject outright the use of the thesis written by Muslim man, Aiyaz Saiyed Khaiyum, who is Fiji’s current Attorney-General and Justice Minister,... for the ‘extermination’ of the native Fijian race of people from the landscape of Fiji, our country of origin...”

Page 3, third paragraph

“Our overwhelming desire to free and extricate ourselves and our future generations from the tyranny of foreign subjugation and genocidal laws intended for our extermination ... is the single decisive impetus for our Unilateral Declaration of Independence on 10 October, 2014.”

Page 7, paragraph 6

“As attested to by facts articulated in this Declaration, we, the democratically elected (by consensus) leaders of the People of Nadroga-Navosa for reasons pertaining to our own survival, and that of our generations to come, hereby declare this province of Nadroga-Navosa to be an independent and sovereign State, and to hereinafter known as the “Nadroga-Navosa Sovereign Christian State”...”

26. The document headed “Nadroga-Navosa Sovereign Christian State Provisional Institutions of Self-Government” in my view contains intemperate, provocative, relentless and inflammatory language

which has the tendency to raise discontent or disaffection amongst the inhabitants of Fiji.

27. The defence position has been that all the accused persons did not have any seditious intention as alleged. None of the accused persons have relied upon the statutory defences provided for under section 66 of the Crimes Act.
28. The accused persons in their records of interviews have made admissions and given explanations. I have kept in mind that where a mixed statement is under consideration by court in a case where the accused has not given evidence, it must consider the whole statement, both incriminating parts and the excuses or explanations, while bearing in mind the fact that incriminating parts are likely to be true, whereas excuses do not have the same weight in determining where the truth lies. See *Duncan* (1981) 73 Cr. App. R 359 at p. 356. *R v. Sharp* (1988) 86 Cr. App.R.

Prosecution case

29. The first prosecution witness Semesa Sacere did not give any relevant evidence to further the prosecution case therefore I do not wish to summarize his evidence.
30. Napolioni Batimala (PW2) informed the court that on 4th November, 2014 he was present at Cuvu village where some people were appointed as Ministers. According to the witness names were read out and those appointed took an oath on the Holy Bible.
31. The witness knew those who were appointed as Ministers on the day and was able to identify the following accused persons in court namely:

- (a) Adi Cuvu Gavidi [4th accused];
 - (b) Ratu Tevita Makutu [9th accused];
 - (c) Mosese Navaci [10th accused];
 - (d) Jimi Koroï [2nd accused];
 - (e) Ratu Inoke Tasere [1st accused];
 - (f) Peniasi Naqau [6th accused];
 - (g) Alifereti Gonewai [13th accused]; and
 - (h) Alifereti Nakuinivou [12th accused].
32. The prosecution also relies on the records of interviews of all the accused persons in support of its case which they say were recorded voluntarily. I am satisfied that all the accused persons gave their answers in their respective records of interviews voluntarily and truthfully in respect of their admissions.
33. I will start my judgment by first addressing the unanimous opinions returned on both counts followed by the return of mixed opinions on either of the counts the accused persons have been charged with.

UNANIMOUS OPINIONS

34. The following accused persons were unanimously found guilty by the assessors as charged on both counts. They were:
- (a) Ratu Inoke Tasere (Accused 1);
 - (b) Jimi Koroibete (Accused 2)
 - (c) Adi Cuvu Gavidi Atama (Accused 4);
 - (d) Ulaiasi Rabua Tuivomo (Accused 5);
 - (e) Semi Tanikili (Accused 7);
 - (f) Mosese Navaci (Accused 10);
 - (g) Eroni Rikoriko (Accused 11);
 - (h) Alifereti Gonewai (Accused 13); and
 - (i) Jorama Ratulevu (Accused 14).

35. Out of the above mentioned nine (9) accused persons, only the 4th accused Adi Cuvu Gavidi Atama gave evidence. The other accused persons exercised their right to remain silent.
36. The accused persons during their respective interviews told the Police of the following:

Accused One – Ratu Inoke Tasere

37. This accused in his record of interview confirmed that he was part of the group that formed the Vanua Government of Nadroga-Navosa at Cuvu Village. He was appointed as the “Minister of Grace and Finance” which he voluntarily accepted. For his swearing in the accused recited an oath from the Holy Bible. I am satisfied that the accused told the truth in his record of interview.

Accused Two – Jimi Koroibete

38. This accused in his record of interview agreed that he was appointed as the “Minister for Investment/Commerce/Tourism”. The accused took an oath on the Holy Bible and then signed the document. When the document “Nadroga-Navosa Sovereign Christian State Provisional Institutions of Self-Government” was shown he recognized the document. The accused confirmed his signature beside the name Jemesa Koroibete. The name Jemesa was given to the 2nd accused after baptism but he was always called Jimi.
39. The accused does not like the Government because it introduced some Decrees which totally removed the rights of indigenous people including the ownership of their natural resources.
40. According to the accused, forming another government is the solution in “fighting” to restore the rights of the indigenous people, however, he did not agree that the action by the group was a sign of

rebellious act which can lead to instability amongst the people of all races in Fiji.

41. The accused is against the Government of Fiji because it declared Fiji a Secular State and the Decrees it promulgated took away the rights and ownership of natural resources of the indigenous people. I am satisfied that the accused told the truth in his record of interview.

Accused Four – Adi Cuvu Gavidi Atama

42. This accused in her record of interview stated that on 4th November, 2014 she was chosen as “Minister for Family Affairs” and that she had repeated the oath statement. The accused admitted signing a list of names after it was explained to her.
43. The 4th accused in her evidence informed the court that on 4th November, 2014 at Cuvu village she saw her name written on a piece of paper and she had signed beside her name on one page only. The piece of paper was on a table in front of her father at the time of the signing. The accused believed that she was signing on an administration to manage natural resources document within the context of the Vanua of Nadroga-Navosa which was a Tribal Kingdom. According to her, she was simply signing in the context of Nadroga Navosa Province under chiefly leadership.
44. The first time she saw the document (prosecution exhibit no. 28) in its entirety was on 14th January, 2015 when she was caution interviewed by the Police. The document she had signed was totally different from the one shown to her during the caution interview.
45. The accused denied having any knowledge of the contents of the document headed “Nadroga-Navosa Sovereign Christian State

Provisional Institutions of Self-Government” and maintained that she only signed a single page and not a document.

46. The ministerial appointment was to do with the administration and management of “The Kalevu Resource Trust” and on the day in question it was a prayer of commitment and a confession of her faith to God being called to serve the Vanua.
47. In cross examination by State Counsel, the 4th accused stated that she did not freely accept the ministerial appointment that was offered to her. According to the accused, the word “Minister” meant a “Pastor” or “Talatala” which was what her father had told her.
48. The accused was present at Nasama village on 10th October, 2014 and she knew that Nadroga-Navosa Province had been declared independent which was a sudden turn of events for her.
49. On 4th November, 2014 at Cuvu village all the names were called according to the list. After the name of the accused was called she made her way forward.
50. The accused confirmed that she had given truthful answers in her record of interview dated 14th January, 2015 which was conducted about ten weeks after the swearing in ceremony.
51. The accused agreed that she repeated the oath statement recited by Mereoni Kirwin in English language as per her answer to question 39 in her record of interview. She stated that it was an oath to serve in the Matanitu Vanua of Nadroga-Navosa which was recited after she had been called to serve as the “Minister for Family Affairs”.

52. The accused agreed that she was shown the document “Nadroga-Navosa Sovereign Christian State Provisional Institutions of Self-Government” during the record of interview by the police and that she had flipped through the document. When referred to page 8 of the document the accused was able to recognize her signature and her father’s signature as well.
53. The Accused stated that the Nadroga-Navosa Sovereign Christian State was applicable only to the members of the Vanua of Nadroga-Navosa who were primarily Indigenous Fijians.
54. The accused disagreed with the suggestion that she knew that she was signing a document in connection with the Nadroga- Navosa Christian State although it was written so in big bold capital letters on the page she signed. According to the accused the big bold letters were not clear to her.
55. The 4th accused gave a totally different version to court under oath from her caution interview, which was conducted about 10 weeks after the alleged offending on 4th November, 2014. During the caution interview, the 4th accused had recognized her signature when prosecution exhibit no. 28 was shown to her. The signature page in the document was not detached and upon perusal of this particular exhibit the signature portion is part of a continuing document. The page on which the 4th accused had signed is noted as 8 of 11 pages. I therefore do not accept that the accused had only signed a piece of paper.
56. I also do not accept the evidence of the 4th accused that she had signed because she was told by her father that the word “minister” in the title “Minister for Family Affairs” meant a “Pastor” or “Talatala”. The 4th accused is an educated person, I do not to believe

that she was not able to differentiate between a “Pastor” and “Minister for Family Affairs”. The two titles have different meaning and role.

57. The accused in her record of interview admitted signing a list of names, when one looks at prosecution exhibit no. 28 the signature page has a list of names which she had admitted signing. The inference that can be drawn by looking at prosecution exhibit no. 28 and the admission by the accused is that she signed a list of names as part of prosecution exhibit no. 28 and not a piece of paper as mentioned by the 4th accused in her evidence.
58. Furthermore, the accused saw the signature of her father on the page she had signed, above the signature portion of the page where it was written in bold capital letters “NADROGA-NAVOSA SOVEREIGN CHRISTIAN STATE FIRST CABINET MEETING, TUESDAY 4 NOVEMBER, 2014. When questioned by the State Counsel, the accused stated that the notation was not clear to her. I have perused the document in question. I am not satisfied with the explanation given by the accused that the notation was not clearly stated.
59. The accused also stated that she did not know the content of the document (prosecution exhibit no. 28) since it was not given to her. Lack of knowledge of the contents of prosecution exhibit no. 28 by the accused is irrelevant to the charges faced by her since knowledge is not an element of the offence of sedition. At Q.41 of her record of interview the 4th accused informed the Police of the following:

“Q.41 By signing the document, you are showing your support for the Nadroga/Navosa Province to be declared as the Nadroga/Navosa Sovereign Christian State and to be separate from the current

Government now in place which is chosen by the people of Fiji. What can you say?

Ans: Firstly I only signed for my father's call because I made several questions as I was a bit concerned. It brings us together on that day for the whole Nadroga/Navosa province to be present on that day.

60. By taking into consideration the answer given by the 4th accused to Q.41 in her record of interview I have no doubts, that the accused knew the contents of prosecution exhibit no. 28 because she had asked several questions since she was concerned about its contents. I therefore do not believe that the 4th accused signed prosecution exhibit no. 28 without knowing the contents.
61. I have observed the demeanour of the 4th accused whilst giving evidence. She was not only evasive but also not forthright in her evidence particularly in cross examination. It was obvious to me that she was not telling the truth in court. Whenever she realised that the question posed to her would put her in some difficulty she would ask for the question to be repeated to buy time to think of an answer.
62. The demeanour of the 4th accused was not consistent with her honesty. The manner in which the accused was giving her evidence gave me the impression that she was not a person who could be forced to do something which she would not wish to. I accept the accused told the truth in her record of interview but not to the court. I reject the evidence of the 4th accused as unreliable and untruthful.

Accused Five [Ulaiasi Rabua Tuivomo]

63. This accused in his record of interview stated that on 4th November, 2014 Cabinet Ministers of the Vanua based Government for the "Nadroga-Navosa Sovereign Christian State" was sworn in. The accused agreed to be the "Minister for Public Relations". When

prosecution exhibit no. 28 was shown to the accused, he admitted signing on the 8th page beside the title “Minister for Public Relations”.

64. The accused could not recall the words of the oath statement but he admitted that he did swear that he will pay true allegiance to the task he had been given.
65. Furthermore, the accused agreed that by signing the document he clearly expressed his disagreement with the current Government. He totally disagrees with the Constitution of Fiji because it had taken away the rights of the indigenous Fijians. I am satisfied that the accused told the truth in his record of interview.

Accused Seven [Semi Tanikili]

66. This accused in his record of interview admitted that on 10th October 2014 he was present at Nasama Village when the Nadroga-Navosa Province was declared to be an independent and Sovereign State. He was appointed as the “Minister for Sports/Recreation/Parks & Garden”. After taking an oath on the Holy Bible, he signed the document. I am satisfied that he told the truth in his record of interview.

Accused Ten [Mosese Navaci]

67. This accused in his record of interview stated that he was a member of “Nadroga-Navosa Sovereign Christian State” and he was at the meeting held at Cuvu village.
68. On 4th November, 2014 a total of eighteen Ministers were sworn in and the details of the Ministers are mentioned in prosecution exhibit no. 28 which he had given to the Police. Furthermore, the accused stated that he was sworn in as the “Minister for Infrastructure, Village Reconstruction”.

69. All the names were listed in a document and after the appointment of Ministers, swearing in was done. The accused was unable to recall the actual words of the oath taken. I am satisfied that he told the truth in his record of interview.

Accused Eleven [Eroni Rikoriko]

70. This accused in his record of interview stated that an independent Government was formed in the Nadroga-Navosa Province on 10th October, 2014 at Nasama village.

71. The accused was appointed as the “Minister of Lands, Mining and Environment” thereafter, he was called and he swore an oath on the Holy Bible. The accused recognized prosecution exhibit no. 28 and admitted that he had a copy of the document. He confirmed that the document had the names of the Cabinet Ministers and that beside his name was his signature. I am satisfied that he told the truth in his record of interview.

Accused Thirteen [Alifereti Gonewai]

72. This accused in his record of interview stated that Nadroga-Navosa had been declared to be a Vanua based government and that he was appointed to be the “Minister for Prayer and Intercession” which he gladly accepted. He was also able to recall the oath statement he had recited at the swearing in ceremony.

73. When the accused was referred to prosecution exhibit no. 28 he agreed that his name was written as the “Minister for Prayer and Intercession” and he had signed his name after swearing in. I am satisfied that he told the truth in his record of interview.

Accused Fourteen [Jorama Ratulevu]

74. This accused in his record of interview stated that it was true that the Province of Nadroga-Navosa was recently declared an independent and Sovereign Christian State. On 10th October, 2014 a declaration of independence was done at Nasama village and the swearing in ceremony of the Ministers took place at Cuvu village.
75. The accused was appointed as the “Secretary to Cabinet”. He also took an oath on the Holy Bible, however, he forgot the wordings of the oath. The accused recognized prosecution exhibit no. 28 which the Police had seized from his home. He also recognized his signature beside his name. I am satisfied that he told truth in his record of interview.
76. In respect of Ratu Inoke Tasere (accused one) and Mosese Navaci (accused ten) I note that in their respective records of interviews they were not asked about the signing of prosecution exhibit no. 28.
77. This omission by the Police in my view does not affect the prosecution case because the document (prosecution exhibit no. 28) contains the names and signatures of both the accused persons. Both the accused persons did not give evidence to the contrary since they had exercised their right to remain silent. There is also evidence before the court that all the appointed Cabinet Ministers had signed prosecution exhibit no. 28. I am satisfied that both the accused persons had signed the document in question.
78. The document (prosecution exhibit no. 28) contains language which is intemperate, inciteful, provocative, relentless and inflammatory which has the tendency to raise discontent or disaffection amongst the inhabitants of Fiji.

79. The appointment of Cabinet Ministers and then taking an oath in whichever form is indicative of the formation of another Government which has the tendency to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.
80. The form or contents of the oath taken is irrelevant to the charge. The purpose of the oath is relevant which was to serve as a Cabinet Minister in an unlawful entity.
81. The application of the deeming provision in section 66 (2) of the Crimes Act also supports the prosecution case. The accused persons intended the consequences of their actions when they signed the document headed “Nadroga- Navosa Sovereign Christian State Provisional Institutions of Self Government” and took an oath to serve as Cabinet Ministers in an unlawful entity.
82. I am satisfied beyond reasonable doubt that the 1st, 2nd, 4th, 5th, 7th, 10th, 11th, 13th and 14th accused persons had signed the document headed “Nadroga-Navosa Sovereign Christian State Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji. The accused persons also took an oath to serve as Cabinet Ministers for the entity “Nadroga Navosa Sovereign Christian State’ with a seditious intention of bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established. I accept the unanimous guilty opinion of the assessors and I find all the above mentioned accused persons guilty for the 2 counts each of the offence of Sedition as charged.

MIXED OPINIONS

83. The assessors returned with mixed opinions for the following accused persons:
- (a) Seru Kunalagi (3rd accused);

- (b) Peniasi Naqau (6th accused);
- (c) Ratu Osea Bolawaqatabu (8th accused);
- (d) Ratu Tevita K. Makutu (9th accused); and
- (e) Alifereti Nakuinivou (12th accused).

84. Out of the above mentioned 5 accused persons , only the 6th accused Peniasi Naqau gave evidence. The prosecution relies on the records of interviews of the accused persons in support of its case.

Seru Kunalagi (3rd accused)

85. The assessors for this accused returned with unanimous opinion that the accused was guilty on the 5th count, but on the 6th count by majority of 3 to 1, the assessors found the accused not guilty.

5th Count

86. This accused in his record of interview at page 8 identified his signature in prosecution exhibit no. 28 beside the title “Minister for Education”.

87. The accused did not give evidence but exercised his right to remain silent. In respect of the signing of prosecution exhibit no. 28, the 3rd accused informed the interviewing officer during his record of interview as follows:

“Q. 33 Mr. Kunalagi can you take a look at this document which was retrieved during police investigation [Document shown to Mr. Kunalagi] Can you state to me the title of this document?”

Ans: Nadroga-Navosa Sovereign Christian State.

Q. 35 This document has 10 pages. Can you please take a look at the 8th page; can you state briefly what is on this page?

Ans: The signatures of Cabinet Ministers.

Q.37 Who is the ... Minister for Education?

Ans: That is me.

Q. 40 There is a signature beside your name, your name on this 8th page. Can you identify the signature?

Ans: That is my signature.

Q.41 Do you confirm that you personally signed beside your name on this page?

Ans: Yes

88. I accept that the accused told the truth in his record of interview that he signed the document (prosecution exhibit no. 28).
89. The document (prosecution exhibit no. 28) contains language which is intemperate, inciteful, provocative, relentless and inflammatory which has the tendency to raise discontent or disaffection amongst the inhabitants of Fiji.
90. The accused by his act of signing (prosecution exhibit no. 28) is deemed to have intended the consequences of his action.
91. I am satisfied beyond reasonable doubt that the accused signed the document (prosecution exhibit no. 28) as alleged. The document looked at objectively has the tendency to raise discontent or disaffection amongst the inhabitants of Fiji.
92. I accept the unanimous opinion of the assessors and find the 3rd accused guilty of the 5th count as charged.

6th Count

93. In respect of the 6th count the majority of the assessors had returned with a not guilty opinion.
94. Since the 3rd accused did not give evidence it is important to consider the record of interview of this accused in respect of the 6th count as follows:

Q. 48 Were all the newly appointed Ministers present on this particular day?

Ans: Yes.

Q. *Did you recite any sworn in statement?*

Ans: *Yes.*

Q.51: *Can you recall what was said?*

Ans: *I Seru Kunalagi, hereby solemnly declare my allegiance to our Lord Jesus Christ that wherever he goes I may go and wherever he dies I may die."*

95. The accused admitted that he was sworn in as the "Minister for Education" in the Nadroga- Navosa Sovereign Christian State. The accused was able to recall the oath taken by him.
96. The 3rd accused in his explanation stated that he had no intention to cause any conflict with the present Government. The entity formed was not a new Government it was to go back to the old ancestral traditional setup to uphold traditional and Christian beliefs by working under the umbrella of the democratically elected Government. The accused disagreed that his action was a rebellious move towards the current Government but will in turn strengthen it economically, socially and spiritually. Moreover it will improve the indigenous people's economic standard and will therefore make Fiji the most peaceful nation in the world by following Christian principles.
97. The appointment of Cabinet Ministers and then taking an oath in whichever form is indicative of the formation of another Government which has the tendency to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.
98. The form or contents of the oath taken is irrelevant to the charge. The purpose of the oath is relevant which was to serve as a Cabinet Minister for an unlawful entity. The accused is deemed to have intended the consequences of his action.

99. I am satisfied beyond reasonable doubt that the accused took an oath to serve as a Cabinet Minister for the entity “Nadroga-Navosa Sovereign Christian State” with a seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as established by law.
100. For the above reasons, I overturn the majority not guilty opinion of the assessors and accept the minority guilty opinion. I find the 3rd accused Seru Kunalagi guilty for the 6th count as charged.

PENIASI NAQAU (6th accused)

101. For the 6th accused the assessors returned a majority guilty opinion by 3 to 1 in respect of the 11th count. In respect of 12th count the assessors returned a majority not guilty opinion by 3 to 1.
102. This accused in his record of interview stated that the document headed “Nadroga Navosa Sovereign Christian State Provisional Institutions of Self-Government” was their constitution. He admitted that his name was on this document. He had signed the document (prosecution exhibit no. 28) after taking an oath although he had forgotten the oath statement.
103. When giving evidence the 6th accused informed the court that he was to be the main representative of the fishing rights of the Matanitu Vanua of Nadroga-Navosa.
104. The accused had signed a document after his name was called, but he said he had not seen the document that he was asked to sign. According to the witness the page where he had to sign was already open. The accused could not recall if there were any prayers done after he had signed.

105. The accused was asked by Ratu Osea Gavidi to take up the duties for fishing rights of the Matanitu Vanua. At the time of signing the document (prosecution exhibit no. 28) the accused's intention was that this document will help the Matanitu Vanua of Nadroga-Navosa.
106. In cross examination by State Counsel, the accused admitted that he had attended the meeting on 14th November, 2014 and remembered signing page 9 of prosecution exhibit no. 28 which was already open.
107. I am satisfied that the accused told the truth in his record of interview which is also confirmed in cross examination. The accused in his record of interview did not say that he did not know about the contents of prosecution exhibit no. 28 when facts were fresh in his mind. I do not believe the accused that he did not know about the contents of the document at the time of signing. The document (prosecution exhibit no. 28) contains language which is intemperate, inciteful, provocative, relentless and inflammatory which has the tendency to raise discontent or disaffection amongst the inhabitants of Fiji. The accused is deemed to have intended the consequences of his action.
108. I am satisfied beyond reasonable doubt that the 6th accused signed the document headed "Nadroga-Navosa Sovereign Christian State Provisional Institutions of Self-Government with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.
109. I accept the majority opinion of the assessors and I find the 6th accused guilty of the 11th count as charged.

12th count

110. In respect of the 12th count the assessors returned an opinion of not guilty by a majority of 3 to 1.

111. In his record of interview the accused informed the Police of the following:

“Q.36 It is alleged that there was a swearing in ceremony at Cuvu for the appointed persons to be the cabinet Member of the new Vanua Government of Nadroga/Navosa. Do you have any idea this?”

Ans: Yes I am one of those appointed.

Q. 39 What were you appointed for in this new Vanua government?

Ans: I was appointed as Minister for Fisheries.

Q. 40 Who appointed you.

Ans: I was voted for and supported by the raising of hands.

Q. 41 Did you accept this appointment or it was forced upon you?

Ans: I gladly accept it.

Q. 46 Do you have any similar document as this?

Ans: I believe so since I am Minister.

Q. 51 In signing your name in the said document, does it mean also that you recited your oath statement in supporting the movement which Ratu Osea and Mereoni are officiating?

Ans: Yes, I made an oath.

Q.52 What did you say in your oath statement?

Ans: I have forgotten.

Q.53 What were you doing whilst reciting your oath statement?

Ans: I was following what was said by Mereoni.”

112. In his evidence the accused stated that he did not have any intention to bring into hatred or excite disaffection against the present Government.

113. In cross examination when the accused was referred to the answer 39 in his record of interview where it was stated *“I was appointed as Minister for Fisheries”* the accused disagreed saying that he had told the Police Officer that he was only the representative for the Matanitu Vanua of Nadroga-Navosa.

114. The accused agreed that during his interview he was given the opportunity to change his answers but he did not.
115. The accused further stated that the people of Nadroga-Navosa only wanted the Province to be a Christian State and for the non-Christians living in the Province they will be persuaded to become Christians. The accused agreed he was particularly upset about the Surfing Decree as per his answer to Q.55 in his record of interview.
116. The accused in his evidence stated that he did not have any intention to bring into hatred or excite disaffection against the present government in respect of the 12th count.
117. I do not accept that the 6th accused told the truth in court when he stated that he did not have any seditious intention when he took an oath to serve as a Minister for Fisheries for an unlawful entity.
118. The appointment of Cabinet Ministers and then taking an oath in whichever form is indicative of the formation of another Government which has the tendency to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.
119. The form or contents of the oath taken is irrelevant to the charge. The purpose of the oath is relevant which was to serve as a Cabinet Minister for an unlawful entity.
120. I am satisfied that the accused told the truth to the Police during his interview that he took an oath to serve as Minister of Fisheries for the entity "Nadroga-Navosa Sovereign Christian State". The accused is deemed to have intended the consequences of his actions.

121. I am satisfied beyond reasonable doubt that the 6th accused took an oath to serve as the “Minister of Fisheries” for the entity Nadroga-Navosa Sovereign Christian State with the seditious intention to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.
122. I therefore overturn the majority not guilty opinion of the assessors and accept the minority opinion by finding the 6th accused guilty of the 12th count as charged.

Ratu Osea Bolawaqatabu (8th accused)

123. The assessors returned an opinion that the 8th accused was not guilty by a majority of 3 to 1 in respect of the 15th count. This accused did not give evidence but exercised his right to remain silent.

15th Count

124. The accused in his record of interview informed the interviewing officer of the following:

“Q.47 Look after this document titled Nadroga-Navosa Sovereign Christian State, is that the same document you signed in it after sworn in (shown to him)?

Ans: I never go through this document before signing and Mereoni showed the place for me to sign as appeared on page no. 9 of this document.

125. I am satisfied that the accused told the truth in his record of interview. There is no evidence before the court that he knew about the contents of the document before signing. If the accused was not aware of the contents of prosecution exhibit no. 28 then he could not have formed the necessary intention. In my view the prosecution has failed to prove beyond reasonable doubt that when the 8th accused

signed the document headed “Nadroga-Navosa Sovereign Christian State Provisional Institutions of Self-Government” he had a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji. I accept the majority not guilty opinion of the assessors and I find that the 8th accused is not guilty of the 15th count.

16th Count

126. The assessors in respect of the 16th count returned with unanimous opinion that the 8th accused was not guilty. The accused in his record of interview stated the following:

“Q. 40 What happen as you enter the said bure?”

Ans: As I entered, sat down inside the bure where Ratu Osea Gavidia announced that I have been offered by him as “Minister for Land Use and Conservation.”

Q.41 After a while, Mrs Mereoni Kirwin arrived where the meeting was beginning with a church service followed by the swearing of the Cabinet Ministers?

Q. 43 Did you take oath on that particular day?

Ans: Yes.

Q. 44: How did you take oath?

Ans: Mereoni put some oil and pressed our forehead and repeat of what she read out to me and signed a document. She then made a short prayer after all is done; the meeting was closed by another church service.

Q.45 Can you recall the exact wording of took oath which was saying by Mereoni?

Ans: I could recall as I just saying whatever dropped from her mouth.”

127. The accused had admitted the act of taking an oath to serve as the “Minister for Land Use and Conservation” for the entity titled “Nadroga-Navosa Sovereign Christian State”.

128. The accused explained that when it was announced that he will be the “Minister for Land Use and Conservation” he was shocked since he did not know the purpose of the meeting. He was not given any chance to decide in front of the fully packed bure.
129. After his swearing in, the accused was shocked and in disbelief since there was a Government in place appointed by the people of Fiji with its Cabinet Ministers. On the day he did not read this document before signing. The accused did not leave the venue after being offered the Minister’s position which would have been very disrespectful. The accused regretted his actions so he forwarded a letter of withdrawal on 11th December, 2014 tendering his resignation.
130. The appointment of Cabinet Ministers and then taking an oath in whichever form is indicative of the formation of another Government which has the tendency to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.
131. The form or contents of the oath taken is irrelevant to the charge. The purpose of the oath is relevant which was to serve as a Cabinet Minister for an unlawful entity.
132. The accused is deemed to have intended the consequences of his action. At Q. 46 of the record of interview the accused expressed his regret to what he had done:
“I was shocked and disbelieved knowing very well that a government of the day has been appointed by the people of Fiji with its Cabinet Ministers.”
133. I am satisfied beyond reasonable doubt that the accused took an oath to serve as a Cabinet Minister for the entity “Nadroga-Navosa Sovereign Christian State” with a seditious intention to bring into

hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

134. For the above reasons, I overturn the unanimous not guilty opinion of the assessors and I find the 8th accused guilty of the 16th count as charged.

RATU TEVITA K. MAKUTU (9th accused)

135. The assessors returned unanimous opinion that the 9th accused was guilty of the 17th count. This accused did not give evidence but exercised his right to remain silent.
136. The accused in his record of interview informed the interviewing officer of the following:
- “Q. 56 I would like you to look at his copy of documents where it is written “Nadroga-Navosa Sovereign Christian – Provincial Institutions of Self-Government”. Do you know anything about this copy of documents?*
- Ans: Yes I know. This is a copy of Declaration of the province of Nadroga-Navosa to be Nadroga-Navosa Sovereign Christian State.*
- Q. 59 Inside this copy of document are the names of the Cabinet including the name of Ratu Tevita Makutu. Do you know who was this man? (shown to Ratu Tevita)*
- Ans: It is my self.*
137. In his explanation the accused stated that he did not oppose the government which has been chosen.
138. The accused by his act of signing prosecution exhibit no. 28 is deemed to have intended the consequences of his action.
139. The accused knew that the document he signed was that the Nadroga-Navosa Province had been declared to be a Nadroga-Navosa Sovereign Christian State.

- 140 The document (prosecution exhibit no. 28) contains language which is intemperate, inciteful, provocative, relentless and inflammatory that has the tendency to raise discontent or disaffection amongst the inhabitants of Fiji.
141. I am satisfied beyond reasonable doubt that the 9th accused had signed the document headed “Nadroga-Navosa Sovereign Christian State-Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.
142. I accept the unanimous opinion of the assessors that the 9th accused is guilty of the 17th count as charged.

18th Count

143. In respect of the 18th count the assessors returned a majority not guilty opinion by 3 to 1.

144. The accused in his record of interview informed the interviewing officer as follows:

“Q 42: Was there any Ministerial Portfolio given to you?”

Ans: Yes, Minister for Christian/Evangelism and Vanua Affairs.

Q. 44: Can you explain the process of how the selection was made?”

Ans: It was stated in the meeting so that the chiefs could know and they should give their support for the post holders before the swearing took place.

Q. 45 How did the swearing in took place?”

Ans: We were called up individually and swore in each post we were chosen.

Q. 46: Who officiated the swearing in ceremony?”

Ans: We swore on oath in front of the President of Fiji itaukei government Ratu Osea Gavidia.”

145. In his explanation the accused stated that Nadroga-Navosa Sovereign Christian State was an iTaukei Government which would protect the 34 districts under the leadership of Turaga Bale Na Kalevu na Tui Nadroga which includes the land, the fishing boundary, the natural resources and the wealth of Nadroga-Navosa.
146. The iTaukei Government was not a political Government. There was no election and it was a gift of God to the land and its people. The accused disagreed that whatever they had done was unlawful and that it was done to oppose the current Government.
147. I accept that the accused had admitted the act of taking an oath to serve as the “Minister for Christian/Evangelism and Vanua Affairs” for the entity titled “Nadroga-Navosa Sovereign Christian State”. The entity in question was unlawful. The appointment of a Cabinet Minister and taking an oath is indicative of the formation of another government which has the tendency to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established. The form or content of the oath taken is irrelevant since it was obvious that the purpose of the oath taken was to serve as a Cabinet Minister for an unlawful government.
148. The accused is deemed to have intended the consequences of his actions.
149. I am satisfied beyond reasonable doubt that the accused took an oath to serve as a Cabinet Minister for the entity “Nadroga-Navosa Sovereign Christian State” with a seditious intention to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

150. For the above reasons, I overturn the majority not guilty opinion of the assessors and I find the 9th accused guilty of the 18th count as charged.

ALIFERETI NAKUINIVOU (12th accused)

151. The assessors returned unanimous opinion that the 12th accused was guilty in respect of the 23rd count but for the 24th count the assessors returned by a majority opinion of 3 to 1, that the 12th accused was guilty.

23rd Count

152. The assessors returned unanimous opinion that the 12th accused was guilty of the 23rd count.

153. This accused did not give evidence but exercised his right to remain silent. The accused was not shown the document (prosecution exhibit no. 28) during his interview. I note that in his record of interview he was not asked about the signing of prosecution exhibit no. 28.

154. This omission by the Police in my view does not affect the prosecution case because prosecution exhibit no. 28 contains the name of the 12th accused, the Cabinet position offered to him and a handwritten signature beside his name. The accused did not give evidence. There is also evidence before the court that all the appointed Cabinet Ministers had signed prosecution exhibit no. 28. I am satisfied beyond reasonable doubt that the accused had signed the document in question.

155. The 12th accused by his act of signing prosecution exhibit no. 28 is deemed to have intended the consequences of his action.
156. The language used in prosecution exhibit no. 28 is intemperate, inciteful, provocative, relentless and inflammatory which has the tendency to raise discontent or disaffection amongst the inhabitants of Fiji.
157. I am satisfied beyond reasonable doubt that the 12th accused had signed the document headed “Nadroga-Navosa Sovereign Christian State – Provisional Institutions of Self-Government” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.
158. I accept the unanimous opinion of the assessors that the 12th accused is guilty of the 23rd count as charged.

24th count

159. In respect of the 24th count the assessors returned a majority guilty opinion that the 12th accused was guilty by a majority of 3 to 1.
160. The accused in his record of interview told the interviewing Police Officer as follows:

“Q. 51: It is alleged that you are one of the appointed Minister of this Tribal Kingdom?”

Ans: Its true.

Q. 53: What was your appointment?

Ans: Minister for Defence and iTaukei Affairs.

Q.54: Did you make any oath of allegiance?

Ans: We were only prayed upon.

Q. 55: For an appointed Minister, the normal procedure is that such person will make oath of allegiance as he or she accepts and supports the responsibility place on him or her. This could be done by raising of the right hand with the bible and recite an oath statement wasn't it the same with you in Cuvu?

Ans: I cannot clearly remember, but I can recall that I was being prayed upon whilst holding the bible and then anointed with Fijian oil as blessing to our new responsibilities.”

161. The accused explained in his record of interview that he was looking forward to a Government that was prophesied by elders that in time to come an iTaukei Government will be established to protect the indigenous and its natural resources.

162. I also note that prosecution exhibit no.28 under the title “Minister for Securities/Home Affairs mentions the name of the 12th accused which also has the signature of the accused. The accused had stated in his caution interview that he had been appointed as the “Minister for Defence and iTaukei Affairs”. The difference in the name of the title does not affect the evidence before the court.

163. Although the accused did not clearly state the oath taken in answer to Q. 55 of his record of interview, however, he did state that he was prayed upon whilst holding the Bible and then anointed with Fijian oil as blessings for his new responsibilities. The form or content of the oath or the manner in which it was taken is irrelevant to the charge since as admitted by the accused the purpose of taking an oath was to serve as a “Minister for Defence and iTaukei Affairs”.

164. The accused has admitted the act of being prayed upon which I am satisfied was the act of taking an oath to serve as the “Minister for Defence and iTaukei Affairs” for the entity “Nadroga-Navosa Sovereign Christian State”. The appointment of Cabinet Ministers and then taking an oath in whichever form is indicative of the formation of another government which has the tendency to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

165. The accused is deemed to have intended the consequences of his action.

166. I am satisfied beyond reasonable doubt that the accused took an oath to serve as a Cabinet Minister for the entity "Nadroga-Navosa Sovereign Christian State" with a seditious intention to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

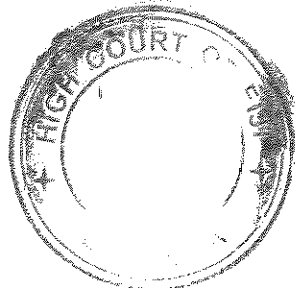
167. For the above reasons, I accept the majority opinion of the assessors that the 12th accused is guilty of the 24th count as charged.

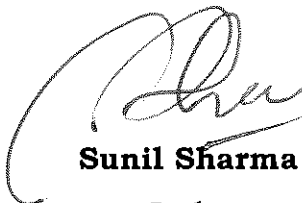
168. In view of the above, I find as follows:

- (a) 1st to 7th and 9th to 14th accused persons are guilty on all counts as charged;
- (b) 8th accused is not guilty of the 15th count but is guilty of the 16th count.

169. I convict all the accused persons on all the counts they have been found guilty of. I acquit the 8th accused of the 15th count.

170. This is the judgment of the Court.




Sunil Sharma
Judge

At Lautoka
9 November 2017

Solicitors

Office of the Director of Public Prosecutions for the State.

Messrs. Aman Ravindra Singh Lawyers, Lautoka for the 1st to 3rd, 5th, 7th to 14th Accused.

Messrs. Law Solutions, Suva for the 4th Accused.

Messrs. Mamlakah Lawyers, Suva for the 6th Accused.