IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU

CIVIL CASE No 29 OF 1996

BETWEEN	:	**HONOURABLE RIALUTH SERGE VOHOR** **First Applicant**
AND	:	**HONOURABLE WALTER HADYE LINI** **Second Applicant**
AND	:	**HONOURABLE HILDA LINI** **Third Applicant**
AND	:	**HONOURABLE DONALD KALPOKAS** **First Respondent**
AND	:	**HONOURABLE AMOS ANDENG** **Second Respondent**
AND	:	**HONOURABLE MAXIME CARLOT KORMAN** **Third Respondent**
AND	:	**THE CLERK OF PARLIAMENT** **Fourth Respondent**
AND	:	**THE ATTORNEY-GENERAL** **Fifth Respondent**
AND	:	**THE COMMISSIONER OF POLICE** **Sixth Respondent**

Coram: The Chief Justice
For the Applicants: Mr Roger de Robillard
For the Respondents: Mr Patrick Ellum, instructed by the Attorney-General and the Respondents.

INTERLOCUTORY JUDGMENT

This application to the Supreme Court for the exercise of its jurisdiction under Articles 53(1) & 53(2) of the Constitution was begun by an informal petition dated 23 February

1996 pursuant to Section 218 of the Criminal Procedure Code [CAP. 136] in the following terms:

> **TAKE NOTICE** that the Applicants will apply to this Honourable Court for the following Declaratory Orders:
>
> i) That no person take any step to swear-in Mr Maxime Carlot Korman as Prime Minister
>
> ii) That no one takes any steps to swear-in any Minister
>
> iii) That the sitting of Parliament held on 23 February 1996 is null and void
>
> iv) Such other order as the Court deems fit.

This matter came before me in chambers shortly after 10.05 a.m. on Friday 23 February 1996 when Mr Roger de Robillard on behalf of the Applicants sought to obtain an ex-parte order in the terms of his application as set out above. The ex-parte application was refused on three grounds:

i) The Court would have no power to injunct proceedings of Parliament; (see Article 27 of the Constitution). The swearing-in of a Prime Minister being a matter that takes place in the Chamber of Parliament itself during a sitting of Parliament;

ii) Under the principles of Parliamentary democracy, the presumption is that a majority of the members of Parliament is entitled to elect a new Prime Minister when the post of Prime Minister has become vacant. Judicial notice of such a vacancy having been taken pursuant to Section 16 of the Interpretation Act [CAP 132] as published in the Official Gazette No 5 of 1996 dated 19 February 1996;

iii) The Court can in only very rare circumstances make a Declaratory Order ex-parte and would certainly not make such an important Order against Parliament without hearing both sides.

Instead the application was adjourned to be heard inter-partes at 2.00 p.m. on the same day, the 23 February 1996, in view of the importance of the situation. Time for service was abridged.

It is of some importance to set out here the legal basis upon which such applications can be made to the Court. Article 53 of the Constitution states:

> *(1) Anyone who considers that a provision of the Constitution has been infringed in relation to him may, without prejudice to any other legal remedy available to him, apply to the Supreme Court for redress.*

(2) *The Supreme Court has the jurisdiction to determine the matter and to make such order as it considers appropriate to enforce the provisions of the Constitution.*

It is important to note therefore that under Article 53 of the Constitution an individual has a personal right, above and beyond any other legal rights and remedies that he may have, to seek redress from the Supreme Court if any **Constitutional provisions** have been infringed with regards to him. It is a right for redress for an infringement of a Constitutional provision and for nothing else. The procedure to be followed for bringing before the Court such applications is to be found in Part XIII of the Criminal Procedure Code CAP 136, under Section 218 of that Act and the relevant parts of which are as follows:

218. (1) *Every application to the Supreme Court for the exercise of its jurisdiction under Articles .... 53(1), 53(2) ..... of the Constitution shall be by petition and shall be valid no matter how informally made.*

(2) The Supreme Court may on its own motion or upon application being made therefor by any party interested in the petition summon the petitioner before it to obtain any further information or documents it may require.

(3) The petitioner shall, within 7 days of the filing of his petition in the Supreme Court or within such longer period as the Court may on application being made therefor order, cause a copy of the petition together with copies of supporting documents filed in relation to such petition to be served on the party or on all those parties whose actions are complained of.

(4) Any party who is served with a copy of the petition in pursuance of subsection (3) may without prejudice to any other legal remedy available to such party apply to the Supreme Court for an order dismissing the petition on the ground that the petition is without foundation or vexatious or frivolous.

(5) Unless the Supreme Court shall be satisfied in the first instance that the petition is without foundation or vexatious or frivolous, it shall set the matter down for hearing and inquire into it. It shall summon the party or parties whose actions are complained of to attend the hearing.

The general practice in these Courts is that the initial application for leave to petition pursuant to the above Act (The interlocutory application) and any subsequent applications to dismiss the petition pursuant to Section 218 (4) is done in the secrecy of chambers. In this instance, because of the general public interest in the matter, exceptionally the Court allowed the application to be made in open Court and allowed in members of the general public.

The background to this case is also of some importance and was raised by Mr de Robillard in his closing address to the Court. Briefly they are as follows: on the 27 January 1996, a notice of motion of no confidence in the Prime Minister, the Hon Serge Vohor, dated 27 January, was sent to the Speaker signed by some 27 members of Parliament seeking an extraordinary session of Parliament for the 8 February 1996

in order to debate the motion. This was accompanied by a document headed 'Motion No 1 /96' which was also signed by 27 members. Article 43(2) of the Constitution provides that:

> *Parliament may pass a motion of no confidence in the Prime Minister. At least one week's notice of such a motion shall be given to the Speaker and the motion must be signed by one sixth of the members of Parliament. If it is supported by an absolute majority of the members of Parliament, the Prime Minister and other Ministers shall cease to hold office forthwith but shall continue to exercise their functions until a new Prime Minister is elected.*

It is to be noted therefore that the strict Constitutional requirement is that **'at least one week's notice'** must be given to the Speaker of such a motion. It must also be **signed by one sixth** of the members of Parliament. The number of members in Parliament being 50, the motion had to be signed therefore by at least 9 members in order to comply with the provisions of Article 43(2).

Article 21(2) of the Constitution states:

> *Parliament may meet in extraordinary session at the request of the majority of its members, the Speaker or the Prime Minister.*

Therefore in order to comply with the Constitution, a member's request for Parliament to meet must be made by the majority of its members. Unlike the motion of no confidence, there is no period of time stipulated in the Constitution itself to be given for such a request, nor does the Constitution specify that it must be in writing. The strict obligation is that it must be at the request of the majority of its members. In the present instance the majority would be 26 members.

Article 21(5) of the Constitution provides that:

> *Parliament shall make its own rules of procedure.*

Pursuant to the above Parliament on 1 January 1982 has made various rules contained in the Standing Orders of Parliament. Standing Order 14 sets out the procedure whereby Parliament may convene in an extraordinary session. If it is at the request of the members it must be in writing and signed by the majority of its members. The Clerk of Parliament must send the notice to each member of Parliament which must state therein the matter or matters to be discussed and the notice must be given at least 7 days before the day appointed for the meeting.

In a similar petition to the present one, dated 6 February 1996 (The first petition), Mr de Robillard acting for the same parties, sought a declaration, inter alia, that the request dated 27 January 1996 made in writing to the Speaker and signed by 27 members was not a request within Article 21(2) of the Constitution, alternatively that it was in contravention of Standing Order 14(2) and was null and void. The Court sat in the afternoon of Wednesday 7 February in order to hear the application for leave to present the petition and the hearing continued on Thursday 8th. On the 8th Parliament sat but did not have the required quorum for a first sitting of a session of two thirds of

its members as required under Article 21.(4) of the Constitution. As required by the same provision of the Constitution, the sitting was adjourned to the following Monday 12 February 1996, the necessary quorum then would have been one consisting of a simple majority. At 5.45 p.m. on the 8th a document purporting to be a Constitutional document stating that the Prime Minister had resigned with immediate effect was received and brought immediately to counsel's attention. This is the same document that was gazetted in the Official Gazette No 5 of 1996 dated 19 February 1996, in the following terms:

REPUBLIC OF VANUATU

CONSTITUTION

RESIGNATION OF PRIME MINISTER

WHEREAS on the 21st December 1995 Parliament met and elected myself as the fourth Prime Minister of the Republic of Vanuatu in accordance with Article 41 and Schedule 2 of the Constitution, and Order 8 of the Standing Orders of Parliament;

WHEREAS Article 44 of the Constitution of the Republic of Vanuatu, inter alia, provides for the holder of the Office of the Prime Minister to cease to hold such Office on his resignation;

THEREFORE in accordance with Article 44 of the Constitution, I, Serge Vohor, Prime Minister of the Republic of Vanuatu, have decided to and hereby resign my position as Prime Minister with immediate effect.

Signed Serge Vohor

DATED the 8 day of February 1996

On the 9th February the Court sat to finish the taking of evidence from the Clerk to Parliament and the matter was adjourned sine die as both counsel agreed that the urgency had gone out of the application seeing that the Prime Minister had resigned and because counsel for the applicants, Mr de Robillard, wished to take further instructions and because counsel appearing for the Respondents on that occasion, Mr Silas Hakwa, was himself a member of Parliament and was due to attend Parliament on the Monday. On Monday 12 February, Parliament convened again at 8.30 a.m. for the purpose of proceeding with the other business on the agenda, namely the election of the Prime Minister. At 10.00 a.m. or shortly thereafter, Mr de Robillard applied again under Article 53 for an ex-parte declaration that Parliament should not proceed with the business of the day on the basis that the matter was then sub judice (the second petition). The application for an ex-parte declaration was refused and the application was set down for hearing in the afternoon of the 12th at 2.00 p.m. When the matter

came before the Court on that occasion, Mr de Robillard informed the Court that the matter was now dead as the motion of no confidence had been withdrawn upon Parliament being informed that the Prime Minister had resigned. He also informed the Court that the Speaker had closed the first extraordinary session for 1996 and had called a second extraordinary session on his own motion for Tuesday 20 February at 8.30 a.m. That Petition was therefore dismissed. That sets out as precisely as possible the background to the present petition (the third petition).

At 2.00 p.m. therefore on the 23 February 1996, the present petition came before the Court again for a preliminary hearing. Mr Ellum was instructed to appear on behalf of the fifth Respondent, the Attorney-General. There was no evidence before the Court that the other Respondents had received a copy of the petition. Mr Ellum applied for further information of the grounds of the petition pursuant to Section 218(2) of the Criminal Procedure Code Act CAP 136. The Court rose having directed that Mr de Robillard should provide further information relating to his petition to Mr Ellum and in order for an inquiry to be made of the other parties in order to ascertain whether or not they had been served with a copy of the petition and to see whether they would all agree to be represented by Mr Ellum. The time set for the resumption of the hearing was 3.30 p.m. At that time the Court resumed the hearing. Mr Ellum then informed the Court that all the Respondents had now indeed been served and that they had all agreed to be represented by him. He further informed the Court that Mr de Robillard had refused, in the time afforded to him by the Court, to disclose any further information as directed and Mr Ellum then applied for the petition to be dismissed on the ground that it failed to disclose sufficient grounds upon which the Court could adjudicate and more importantly that it was without foundation pursuant to Section 218(4) of the Criminal Code Act Cap 136. In the light of the matters before the Court as at that time, it could not have then set the matter down for hearing pursuant to Section 218 (5) of the Criminal Code Act Cap 135 and would have been bound to dismiss the petition. Mr de Robillard then sought a further adjournment in order to comply with the Court's previous order, pleading shortness of time as a reason for his previous failure to comply with the order. This application was opposed by Mr Ellum. The time by then was 5.30 p.m. Mr de Robillard was then submitting that the country was in an uncertain state as there were, in his submission, two Prime Ministers and two sets of Ministers running Vanuatu as of that time. In view of the seriousness of the application and because of the state of the situation prevailing in the Country at that time and also because it was felt that it would be right to allow more time for the Applicants to get their case in order, the Petition was adjourned until 9.00 a.m. on Monday 26 February but on the following terms, which were agreed and signed by both counsel in the case namely that:

i) Until further order, no persons shall claim to be the Prime Minister or a Minister of State of the Republic of Vanuatu unless he was elected as Prime Minister by Parliament on the 23rd day of February 1996 or was appointed by the Prime Minister who was elected on that date.

ii) Particulars of the Petition to be served on the Attorney-General no later than 9.00 a.m. on Sunday 25th day of February 1996.

Furthermore, in view of the seriousness of the situation prevailing at the time and in order to ensure peace and stability in the country over the week-end, the Court requested that the Attorney-General should deliver a copy of the above Order to Radio Vanuatu requesting that they should broadcast the Order over the 6.00 p.m. news in all three official languages. The decision to broadcast the Order of the Court was opposed by Mr de Robillard, on the ground that it would be likely to prejudice his clients' position. His objection was overruled on the ground of the overriding public interest and the Order was broadcast in the media that evening as requested.

On Monday morning 26 February, Mr de Robillard applied to join the Commissioner of police as a sixth Respondent to the petition. Leave was granted and the Commissioner was informed and agreed to be represented by Mr Ellum. Mr de Robillard presented an amended petition now containing five grounds, each with a number of particulars.

The first ground was: **"that the sitting of Parliament held on the 23 February 1996 is null and void and of no effect".** The reasons being: (1) that the sitting was alleged to be in breach of Standing Order 14(5) of Parliament because it is claimed that i) the required notice of the meeting was not given at least 7 days before the day appointed for the opening of the extraordinary session; ii) the notice was not sent to each member of Parliament. (2) That the sitting was in breach of Standing Order 10(1) in that: i) The first deputy Speaker was not permitted to chair and preside the sitting of Parliament on the 23 February 1996 and ii) that he was prevented from maintaining order and otherwise to exercise his duties. (3) That Mr Willy Reuben Abel, who it was said had been appointed by the first deputy Speaker to act as Clerk of Parliament was prevented from entering the Parliamentary Chamber to perform his duties. (4) That no motion to suspend the Standing Orders had been passed at the sitting.

The second ground was **"that the election of the Speaker at the said sitting was null and void and of no effect".** The reasons being: (1) that the proceedings were in breach of Standing Order 4 because the deputy Speaker was not allowed to preside over the proceedings or to preside the opening of the sitting. (2) Because he was not allowed to do so through use of force. (3) Because the question as to who should be chairing the proceedings was not put to debate. (4) In breach of Order 5(2) there was no Clerk present at the sitting. (5) That the Clerk was excluded from being present. (6) No announcement of the vacancy of the office of the speaker was made at the opening of the sitting pursuant to Order 5(2). (7) That therefore there was no vacancy in the office of the Speaker. (8) That the Constitution provides that the functions of the Speaker may be exercised by a deputy Speaker.

The third ground was **"That there was no vacancy, as at the opening of the sitting of 23 February 1996, in the Office of the Prime Minister".** The reasons being: i) that in breach of Standing Order 9(2) Parliament had not been given notice by the Speaker of the Prime Minister's intention to resign. ii) That the Prime Minister's expressed intent to resign had been withdrawn on the 20 February 1996 which withdrawal had been accepted by the first deputy Speaker.

The fourth ground was **"That the election of the Prime Minister at the said sitting was null and void and of no effect".** The reasons being: i) On identical grounds to i)

in the third grounds above. ii) There was no Speaker in the chair at the sitting. iii) The notice of the Prime Minister's resignation was not read out at that sitting. iv) That the Honourable Maxime Carlot Korman was sworn in by a Government Officer who was at the time suspended from his duties.

The fifth ground was **"That the failure by Parliament to follow the normally accepted Parliamentary procedures was contrary to and fell short of the Leadership Code as set out in Chapter 10 of the Constitution"** These are followed by nine allegations of improprieties namely: i) the alleged removal of the deputy from the chair by the intervention of armed police; ii) failure to resort to a vote as to who should chair the proceedings; iii) not allowing Mr Willy Reuben Able access to the Chamber by intervention of armed police; iv) allowing access to the Chamber to the Clerk and deputy Clerk of Parliament who it is alleged had been suspended by the deputy Speaker; v) Using armed police to force access to the Chamber for the Attorney-General who it is alleged was suspended from his duties; vi) The purported unlawful arrest of a member of Parliament; vii) The forcible removal of the same member of Parliament from the Chamber; viii) denying access to Ministers to their vehicles; ix) wrongful use of Government resources in order to drive the Attorney-General to Parliament.

Mr Ellum on behalf of the Respondents applies for the petition to be dismissed on the ground that it is without foundation, vexatious and frivolous pursuant to Section 218(4) of the Criminal Procedure Code CAP 136 and seeks a Declaration that the appointment of the Hon Maxime Carlot Korman as Prime Minister by Parliament on the 23 February 1996 and the nomination by him of his Council of Ministers were in accordance with the Constitution and the law. He also seeks the Court's injunction to restrain the Applicants etc ... from making statements contrary to the Declaration of the Court and a mandatory injunction for the return of Government property.

It is plain from the wording of Article 53(1) of the Constitution itself, that before redress can be obtained from the Supreme Court thereunder, the petitioner must establish that there has been a Constitutional breach which has caused him prejudice. It is not every breach of the Constitution that is justiciable, nor indeed can a party complain of a breach of the Constitution in relation to a third party. He must establish prima facie that there has been a breach of the Constitution in regard to himself. Unless he does so, he has no cause of action. The doctrine of the separation of powers clearly applies to Vanuatu and is implicit in the Constitution itself. It is an old and well established rule of the Common Law that the Courts will not normally inquire into the internal management of the procedure of Parliament and that at Common law the Courts have no power to interfere with the internal workings of Parliament; see Bradlaugh v Gossett 1884 (12) Q.B.D. 271. In Vanuatu, the Constitution is the Supreme Law see Article 2. It is under that very Constitution that the legal right exists for an individual to seek redress when he has been affected by breaches of the Constitution. So one must look carefully at the petition to see whether it raises any personal Constitutional rights of the petitioner that have been infringed which entitles him to redress. In this case there are three petitioners or applicants, The Hon Serge Vohor, the Hon Walter Lini and the Hon Hilda Lini. All three are members of Parliament. The first petitioner was lawfully elected Prime Minister on the 21 December last. The second petitioner was lawfully appointed his deputy Prime

Minister and Minister of Justice on the same day. The third petitioner is a member of Parliament lawfully elected to Parliament at the last general elections in December 1995. The Prime Minister is elected by Parliament pursuant to Article 41 of the Constitution and holds office for the term of Parliament unless he is defeated by a motion of no confidence pursuant to Article 43(2), or he resigns or dies pursuant to Article 44 of the Constitution. It seems to me that the first and most important question to be determined is whether a vacancy has existed in the Office of Prime Minister which would entitle Parliament to meet and elect another Prime Minister. If there has been no such vacancy, then Parliament cannot meet lawfully under the Constitution in order to elect another Prime Minister and if it purports to do so it would be acting in breach of the Constitution. That would be a breach which a properly elected Prime Minister could seek redress from the Court against, under Article 53 of the Constitution, as it would be in breach of a provision of the Constitution directly affecting him. In consequence, it would directly affect the second petitioner as the latter holds office under the former. That is not to say that Parliament cannot meet for the purpose of voting a motion of no confidence against an incumbent Prime Minister. I therefore turn first to the third ground of this petition, namely that there was no vacancy in the Office of the Prime Minister on the 23 February 1996. Prima facie, the Court has the obligation to take judicial notice of the fact that a Constitutional document was published in the Official Gazette No 5 of 1996 dated 19 February 1996 in the terms set out above purporting to be a resignation by the Hon Serge Vohor with immediate effect: **"I, Serge Vohor, Prime Minister of the Republic of Vanuatu, have decided to and hereby resign my position as Prime Minister with immediate effect."** Section 16 of the Interpretation Act CAP 132 states:

> (1) **All Constitutional Orders shall be published in the Gazette and shall be judicially noticed.**
>
> (2) **In this section 'Constitutional Orders" means any orders or declaration made in exercise of a power conferred by the Constitution on the President, the Council of Ministers or on any other person or body except the Court.**

Article 44 of the Constitution does foresee that a Prime Minister may resign and states the Constitutional effect of such a resignation upon the Council of Ministers in these terms:

> *"The Council of Ministers shall cease to hold office whenever the Prime Minister resigns or dies but shall continue to exercise their functions until a new Prime Minister is elected ..... "*

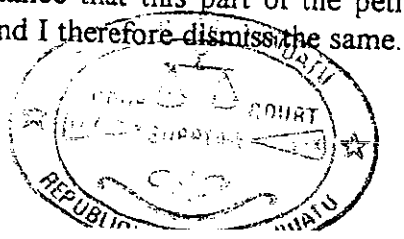
What the Constitution does not do is stipulate what action must be taken by the Prime Minister, in order for him to resign his Office and how he should go about doing so. In the petition, Mr de Robillard says that *"The Prime Minister's expressed intent to resign was effectively withdrawn on the 20th February 1996 by the revocation of the Instrument of Resignation received by the third Respondent in his capacity as Speaker and accepted by..... the First Deputy Speaker on the 22 February 1996."* During the inquiries into this matter Mr de Robillard produced as Exhibit 7 a document on the Prime Minister's letterhead headed "REPUBLIC OF VANUATU CONSTITUTION" "REVOCATION OF THE INSTRUMENT OF RESIGNATION AS PRIME

MINISTER" purported to be signed by the Hon Serge Vohor. I note that no such revocation has been published in the Official Gazette and the Court cannot therefore take judicial notice of it. Mr de Robillard submits on the one hand that the resignation was validly withdrawn by the document Exhibit 7, and that such a resignation could be withdrawn at any time before Parliament met to elect another Prime Minister. He relies for that submission on Article 44 and submits that the Article foresees that although the Council of Ministers shall cease to hold office upon the resignation of a Prime Minister, they continue in their function until a new Prime Minister is elected. He submits that this continuity of function allows for the Prime Minister to withdraw his resignation at any time before another Prime Minister has been elected, as there are no provisions in the Constitution that prevent a Prime Minister from withdrawing his resignation. The fallacy of that argument can be seen immediately by a proper reading of Article 44 which states: "The **Council of Ministers** shall **cease to hold Office** whenever the Prime Minister resigns. It is clear from those words that **the Office of Prime Minister and of every Minister "the Council of Ministers"** ceases to hold Office from the moment of an effective resignation by the Prime Minister. A reading of the next Article of the Constitution makes the point in the clearest possible way; Article 45 states; **"A Minister, including the Prime Minister, "SHALL ALSO CEASE TO HOLD OFFICE"** and it goes on to stipulate in what **other** circumstances they cease to hold office. Mr de Robillard further submits that before such a resignation can take effect a report must be given to Parliament by the Speaker of the intention of the Prime Minister to resign, pursuant to Standing Order 9(2). He submits that until such a report has been made to Parliament the resignation is not effective. It is nevertheless common ground that the Speaker was notified immediately of the intention of the Prime Minister to resign his Office with immediate effect, and that such a report was made to Parliament on the occasion of the opening of the sitting of Parliament immediately next after the notice had been given, that is on the 12 February 1996, with every member of Parliament present in the Chamber. Mr de Robillard submits that this could not be proper notice because it occurred at a time when Parliament in his submission could not meet properly to discuss any business, because of his original petition dated 6 February 1996 which was still alive and adjourned sine die before the Court. It seems to me that there is no validity in this submission either. Parliament was effectively convened on the 12th, I am supported in this view by the decision of our own Court of Appeal in the Case of Carlot and others v The Attorney-General and others Appeal Case No 4 of 1988, which at page 3 of its judgment states "On each day when Parliament assembles and the Speaker takes the chair, there is a sitting of Parliament." In this case it was a sitting with all the 50 members present and the notice of the Prime Minister's resignation was read to all the members of Parliament. Those who had placed the motion of no confidence before Parliament then withdrew the motion. The Speaker then informed the 50 members present of his intention to summon Parliament to meet in a second extraordinary session on the 20 February 1996 in order to elect a new Prime Minister, on his own motion pursuant to Standing Order 14. It seems to me that even if the submission of Mr de Robillard is correct, which I do not accept, that the resignation of the Prime Minister can only become effective as from the time that it is read out to Parliament, that was in fact done on the 12th with all its members present. Resignation is a right vested in an office holder and a voluntary act that can only be unilaterally done. What must be done is to ascertain the intention of the Office holder. That intention embraces two elements, the subjective intention to resign and some objective conduct which

manifests an attempt to carry that intention into effect. In other words in order for a resignation to be valid, two elements must be present: first, the intention, freely and voluntarily reached, to quit (the internal intent) and second, positive actions that externalise this intention (the avowed intent). In my judgement, the two elements I have just enunciated can be observed in the present case. The subjective conduct was the signing of the Constitutional document itself, and the objective conduct was the sending of it to the various Constitutional post holders to whom it was sent, including the Speaker, who then acted upon it by informing Parliament on the 12th February. One must also bear in mind that this is a Constitutional Post holder, holding one of the highest post in the land, with great responsibility to the nation. It must be assumed that when he takes the step that he does to resign with immediate effect, he has thought out very carefully the decision and taken the appropriate advice. One can assume that it is not something that such a post holder would do capriciously or without careful planning. One must also look at the Constitution itself to see whether it requires any particular steps to be taken by the Office holder in order for him to resign and it does not. It seems to me that Constitutionally the resignation of the Prime Minister becomes effective as from the time stated in the Constitutional Instrument itself that he signs informing the nation of his intention to resign, in this case with immediate effect from the 8 February last, the sending of the instrument to the various other Constitutional post holders, particularly the Speaker who has the obligation to convene Parliament in order to effect the election of a new Prime Minister is the external confirmation of the resignation. There is nothing in the Constitution or elsewhere that requires that this resignation should be accepted by anyone else before it takes effect. Alternatively the resignation takes effect from the time that such written notice of the same is sent to the Speaker pursuant to Standing Order 9(1) which states:

> *"If the Prime Minister wishes to resign he shall send a written notice thereof to the Speaker. Such notice shall state the date on which the resignation shall take effect."*

Clearly on the admitted facts before me and on the evidence, that is exactly what the Hon Serge Vohor has done. The report of it to Parliament is only necessary in order for Parliament to convene *as soon as possible to elect a new Prime Minister* pursuant to Standing Order 9(3). The election of a new Prime Minister does not require an extraordinary sitting of Parliament. It cold occur at the next ordinary session of Parliament pursuant to Article 21(1) and Standing Order 12. Alternatively an extraordinary session may be called for. What is clear is that once such a resignation has taken effect, it cannot be revoked. Only Parliament can elect a Prime Minister pursuant to Article 41 and Schedule 2 of the Constitution. There is no impediment in Parliament electing the outgoing Prime Minister for a further term, but that is the only way that he can be restored to his post and certainly not by a letter of revocation being accepted by a deputy Speaker as is suggested in this case. Concerning that matter, I find that there was a vacancy created in the Office of the Prime Minister effective as from the 8 February last. I rule therefore that there has not been any infringement of the Constitution in regard to that matter concerning either the Hon Serge Vohor or the Hon Walter Lini. I am satisfied in the first instance that this part of the petition is without foundation, pursuant to Section 218(5) and I therefore dismiss the same.



I now turn my attention to the first part of this petition, namely: **That the sitting of Parliament held on the 23 February 1996 is null and void and of no effect.** Concerning the first limb of that part, on the grounds: i) of insufficiency of notice to members of Parliament. ii) That the notice was not sent to each member of Parliament. I go back to the original point that I made above. It is only the infringement of the Constitution that affects a particular person that gives rise to a remedy under Article 53. Standing Orders of Parliament are rules of Procedure made by Parliament pursuant to Article 21(5). They do not form part of the Constitution itself. Parliament *"may make laws for the peace, order and good government of Vanuatu"* pursuant to Article 16(1). It does not necessarily follow from that, that a breach of those laws affecting an individual citizen, is also an infringement of the Constitution in relation to that individual giving rise to a claim for redress under Article 53, although in an individual case it may do so. It will depend on the law that is infringed. Likewise, it is not every infringement of the Standing Orders that will amount to a Constitutional breach bringing into effect the right of redress under Article 53. Article 21 states:

(1) *Parliament shall meet twice a year in ordinary session.*

(2) *Parliament may meet in extraordinary session at the request of the majority of its members, the Speaker or the Prime Minister.*

What is complained of here is that the Speaker's request to the members of Parliament did not comply with Standing Order 14(2) which requires at least 7 days' notice to be sent to each member. One must not loose sight of the fact that this was a Speaker's summon for Parliament to meet. That Parliament had convened on the 12th February and that all its members were present at the time and that they were informed verbally of the extraordinary meeting organised for the 20th, and that they were informed verbally of the reasons for that meeting in the Chamber of Parliament by the Speaker, before the session of the 12th was brought to a close. It is also clear on the evidence that I have seen and heard that members of Parliament were served with the request from the Speaker that Parliament should meet on the 20th, the notice, the agenda, the letter of resignation from the Speaker dated 12 February 1996 indicating his intention to resign effective from 8.29 a.m. on the 20 February. That evidence came from the Affidavit of Mr Emiliano Bouletare, that he had either served persons personally or that he had served the documents on persons confirming authority to accept delivery of the documents. There was no evidence to suggest that such notices had been delivered otherwise than within the time required under Article 14. The Hon Mrs Lini in her evidence confirmed that she had received a copy of the documents from her brother. She did not in anyway indicate that it was not on the 13th as indicated on the document itself. I note that there are only three petitioners in this case and that none of them complained that they had failed to receive the documents in sufficient time. At best, Article 53 can only afford redress to those who petition for such redress. None of the petitioners themselves have complained that they failed to receive the notices in time. If Mrs Lini is to be believed, her brother certainly did as he was the one who gave her a copy. In any event, as I said before, just as it is not every breach of the law that can give rise to a complaint under Article 53, not every breach of the Standing Order will give rise to such a complaint. At best what Article 21(2) requires is that members of Parliament should receive reasonable notice in order to attend Parliament and reasonable notice of it purpose. After the announcement by the then Speaker on

the 12th to all the assembled members, no one could have failed to have known the date of the extraordinary session or its purpose. It is not the role of this Court to interfere with the inner workings of Parliament on what at best could be described as a technical breach of its Standing Orders, if indeed there was one, which does not amount to the infringement of any part of the Constitution regarding any of the petitioners before the Court. For those reasons I also rule therefore that there has not been any infringement of the Constitution regarding those two matters of the first ground concerning any of the three petitioners before the Court. I am satisfied in the first instance that this part of the petition is without foundation, pursuant to Section 218(5) and I therefore dismiss the same.

The second limb of the first part, complains of a breach of Standing Order 10(1) in that i) the first deputy Speaker was not permitted to preside at the extraordinary sitting of the 23 February, and ii) that he was not allowed to maintain order in the House. Standing Order 10(1) defines the Powers and duties of the Speaker. Mr de Robillard contends that pursuant to Article 22(3) in the absence of the Speaker and in the event of his resignation, which was the case, only the first deputy Speaker was entitled to preside at the opening session of the 23 February 1996. Plainly that is not what the Constitution says. What it does say is that the functions of Speaker may be exercised by a deputy Speaker, not that it must be. In any event, the procedure to be followed when the office of the Speaker becomes vacant is set out in Standing Order 5 as follows:

5. *(1) If the Speaker wishes to resign he shall send a written notice thereof to the Clerk. Such notice shall state the date on which such notice shall take effect.*

(2) The Clerk shall report to Parliament any notice given by the Speaker pursuant to paragraph (1) or any vacancy in the Office of Speaker at the opening of the sitting after the notice has been given or the vacancy occurs.

(3) Whenever a notice has been given under paragraph (1) or there is a vacancy in the Office of the Speaker, Parliament shall as soon as possible elect a Speaker in the manner provided by Standing Order 4.

Standing order 4 is the same procedure as is followed for the election of a Speaker following the first sitting of Parliament after a General Election. The Standing Orders make no difference regarding the procedure for the election of a Speaker at a first sitting of Parliament or when a vacancy arises in the Office of the Speaker. Standing Order 4 states:

4. *(1) When a quorum is present, the election of a Speaker shall take place in the manner given in the following paragraph.*

*(2) The Senior member **shall** preside over the debate for the election of the Speaker.*

There can be no ambiguity in the rules that apply when a Speaker is to be appointed. It is clear that the session must be presided over by the senior member. Mr de Robillard further submits that before the senior member is called upon, the order of the day must be conducted by the first deputy Speaker, he gave as an example the saying of prayers etc.. Yet a glance at Standing Order 17(2) makes it clear that this is not so. Standing Order 17(2) states:

> *"Except during an extraordinary session or at the first sitting of an ordinary session, the business of each sitting day shall be transacted in the following order:*
>
> *(a) The Prayer;*
> *(b) Reading of the agenda by the speaker;*
> *(c) Confirmation of minutes;*
> *(d) Announcement by the Speaker;*
> *(e) Statements by Ministers;*
> *(f) Tabling of documents;*
> *(g) Urgent debates;*
> *(h) Business to be transacted on that sitting day pursuant to Standing Order 23 (which deals with the manner in which the business of each day is transacted).*

It is clear therefore that the exception to the general rule as to who shall occupy the chair and have conduct of the proceedings of the day, will depend on the purpose of the extraordinary session. Indeed the procedure is identical whether Parliament meets on it first sitting or for the election of a new Speaker when a vacancy occurs in the Office of Speaker. The exception stated in Standing Order 17(2) is clearly due to the fact that it is the elder member who presides in those circumstances and the first deputy Speaker has absolutely no role to play in that regard. In any event, I could have disposed of this second limb of the first grounds simply by pointing out that the first deputy Speaker is not a party to this petition and that if there was any ground to this complaint under the Constitution, it is his rights that would have been infringed and not that of the other three petitioners, and that therefore they are not in any event entitled to any redress under Article 53 under this second limb as they would not have suffered from any infringement of the Constitution regarding them. I chose nevertheless to point out that there was absolutely no foundation to this limb of the first ground. Consequently, I rule that there has not been any infringement of the Constitution regarding those two matters of the second limb of the first ground concerning any of the three petitioners before the Court. I am satisfied in the first instance that this part of the petition is without foundation, pursuant to Section 218(5) and I therefore dismiss the same.

The third limb of the first ground has even less merit in it than the others. Standing Order 11(7) states:

> *"Whenever the clerk is absent, incapable of performing his duties or the office of Clerk becomes vacant, the powers, functions and duties of the Clerk shall be exercised and performed by the assistant Clerk, or a person nominated for that purpose by the Speaker."*

It is quite clear from what I have heard that the above did not apply to either the Clerk Mr Lino Saksak or to his deputy, neither of whom were either absent or incapable of performing their duties. Mr de Robillard submits that 'incapable' in this context means unable or unwilling through *bias or ill-will* from performing their duty. They had both been 'suspended' by the first deputy Speaker and it is also suggested that because of that they were also incapable of performing their duties. Standing Order 11(1) Makes it clear that: *"the Clerk shall be appointed by the President on the advice of the Speaker."* He can therefore neither be dismissed nor suspended by the first deputy Speaker. Section 21 of the Interpretation Act CAP 132 makes it clear beyond doubt:

> 21. *Where an act of Parliament confers power on any authority to make any appointment that authority shall also have power (subject to any limitations or qualifications which affect the power of appointment) to remove, suspend, reappoint or reinstate any person appointed in the exercise of the power.*

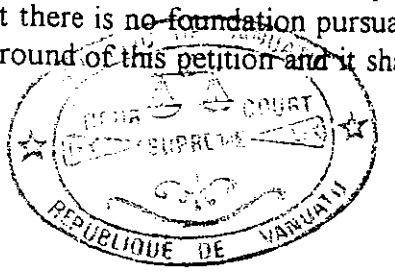
Mr de Robillard submitted that the reason why the Clerk of Parliament and his deputy Mr Emiliano Boulatere had been suspended (albeit quite illegally) by the first deputy Speaker was because of their alleged lack of impartiality. It is an amazing statement when one considers that his choice for replacing them was no other than Mr Willy Reuben Able, the Secretary General of the National United Party, the very party of the first deputy Speaker and two of the three petitioners before the Court. Mr Ellum submitted that it amounted to no more than a crude attempt to gain control of the proceedings of Parliament in order to exclude quite unconstitutionally and illegally from Parliament the 8 members mentioned in the exhibit annexed to the affidavit of the Hon Cyriaque Metmetsan. Mr Ellum referred the Court for these purposes to the case of Barak Sope and others v The Attorney-General and others. Appeal Case No 6 of 1998. That is a decision of the Vanuatu Court of Appeal by which this Court is bound which states as follows on the last page of the judgment:

> *"We therefore hold that section 2(f) of the Members of Parliament (Vacation of Seats) Act 1983 is unconstitutional. It follows that section 4 of the Act is also unconstitutional. The Appellants are entitled to declarations to that effect."*

From the evidence that I have heard in this case I would agree with his view on that matter. Besides, I note that neither Mr Tari nor Mr Able are applicants to this petition. No Constitutional rights exist in the present petitioners to have Mr Tari as the Chairman of the proceedings of the 23rd February or Mr Able as Clerk. It seems to me that this third limb of the first ground is not only devoid of any foundation whatsoever but is also vexatious and I so rule, pursuant to Section 218(5) of CAP 136. Consequently, this ground is also dismissed. I simply need not consider the fourth limb that no motion to suspend the Standing Orders was ever proposed or passed at the sitting, it is not a valid ground in itself and has no foundation, and I so rule. It too shall be dismissed pursuant to Section 218(5).

I now turn to the second ground of the petition, namely: **"That the election of the Speaker at the said sitting** [23 February 1996] **was null and void and of no effect."** Mr de Robillard submits a) that the election of the Speaker on the 23 February 1996

was null and void and that the method by which he was appointed consisted of an infringement of the Constitution in relation to his clients, the petitioners, giving rise to redress under Article 53. He claims that the election was in breach of Standing Order 4 (I have already dealt with and set out that Standing Order above, see page 13 and will not repeat it here) because that Standing Order, he submits, was amended by Parliamentary Practice. In order to support that contention, he called The Hon Mrs Hilda Lini. She told the Court that she has been a member of Parliament since 1987 and that she was present in Parliament on the 6 or 8 September 1991, which was an occasion when a new Speaker was elected at a time other than at a first sitting after election. She told the Court that on that occasion she recalled The Hon Mr Teletaun presided the election of the new Speaker. At that time she said that Mr Teletaun was the first deputy Speaker. In cross-examination she said that she could not recall whether Mr Teletaun was also the senior member of Parliament at the time or not. The Hon Alfred Maseng was also called to assist the Court. He had been Speaker between 1991 and 1995 and had been a member of Parliament since 1983. He said that in 1988 he and others had been thrown out of Parliament which gave rise to Appeal case 4 of 1988 in which he was a plaintiff and later an Appellant. I have already referred to this case above. He said that when he was out of Parliament a Speaker he thought had been appointed other than at a first sitting, but he was not then present in Parliament. He said that he was not present in Parliament in September 1991 and that he regained his seat in December 1991. So he was not able to help on the so called practice. On this evidence, Mr de Robillard submits that it has become an established practice of Parliament, which has amended Standing Order 4, for the first deputy Speaker to preside at the elections of Speakers when such elections occur at a time other than at a first sitting of Parliament. I remind myself that Mrs Lini in any event could not say, when it was put to her that Mr Teletaun was in fact also the senior member, whether he was so or not at the time. I am prepared to accept for the purposes of the present submission that in September 1991, Mr Teletaun was not the senior member and that he did chair the election of a new Speaker, as the then first deputy Speaker, at a time other than at the first sitting of Parliament, in contravention of Standing Order 4. I now ask myself: does this create a precedent of such antiquity and importance as to be sufficient to become a Parliamentary Practice that has amended Standing Order 4, or does it simply mean that on that occasion the Standing Order was breached and that nobody objected. I do not accept Mr de Robillard's submission on this point. He, better than others, will understand the old French saying "une fois n'est pas coutume." As I have set out above, Standing Orders 4 and 5 are very clear on the procedure to be followed for the election of a new Speaker. It is clear that the correct procedure was followed on the 23 February. The only person who could chair the proceedings was the senior member present in the house at the time. That person was Mr Amos Andeng. Further, as I have said before in this judgement, it is not every breach of a Standing Order that can be a breach of a Constitutional right, nor does every breach of the Constitution give an automatic right of redress to every body. It must be an infringement of an individual's Constitutional rights. If indeed this had been a breach of a Constitutional obligation, which it clearly was not, it would have breached Mr Tari's Constitutional rights, not the present Applicants. I rule therefore that I am satisfied that there is no foundation pursuant to Section 218(5) regarding this limb of the second ground of this petition and it shall be dismissed.



b) This ground too is without foundation since the deputy Speaker was not entitled to chair the proceedings. I must point out that the allegation that the use of force by the police to cause Mr Tari to vacate the chair is hotly disputed by the Respondents and I have not heard any evidence to that effect. That second limb of the second ground is also without foundation pursuant to Section 218(5) and I so rule and dismiss the same.

c) This ground also falls with ground a) & b) above.

d) This ground was covered in the third limb of the first ground of the petition and is repeated here. For the same reasons it is dismissed pursuant to Section 218(5). What is submitted here by Mr de Robillard is that it should have been Mr Willy Reuben Abel who should have presided. It is not correct to say that no Clerk presided on the 23 February. In fact on the evidence before me and on the admissions made, the Clerk of Parliament, Mr Lino Saksak did preside as he should have done.

e) This is again a repetition of the third limb of ground 1, and I will not repeat it again here. This ground too is dismissed pursuant to Section 218(5) on the ground that I am satisfied that it is without foundation.

f) It was admitted by Mrs Lini through Mr de Robillard that the Clerk present at the proceedings did in fact read out the Speaker's resignation. This ground too is dismissed under Section 218(5) on the ground that I am satisfied that it is without foundation.

g) & h) It follows from everything that has been said above that those two grounds are without foundation, I am satisfied that this is so and they are also dismissed pursuant to Section 218(5).

I now turn to the fourth ground of this petition namely: **"That the election of the Prime Minister at the said sitting** [of the 23 February] **was null and void and of no effect.** On the basis that a) i) on the basis that Mr Tari was not sitting to Chair the proceedings. I have dealt with this point before. I have ruled that their was no foundation to the allegation that it should have been Mr Tari who should have opened the debate and have given full reasons for it above. The submission of Mr de Robillard here is again the same, namely that the proceedings of the day ought to have been opened by Mr Tari. In fact the Speaker was properly appointed with the senior member presiding and it is common ground that the newly elected Speaker then took the Chair and presided over the election of the new Prime Minister. Again I am satisfied that there is no foundation to this limb of the petition and therefore pursuant to Section 218(5) it is dismissed.

a) ii) That the notice of the Prime Minister's resignation was not read out at this sitting. This has been dealt with above when dealing with the third ground of this petition. The notice of resignation of the Prime Minister was read out to all the members of Parliament present in the Chamber of Parliament on the 12 February and the same was admitted. In any event this does not disclose any breach of a Constitutional provision infringing anyone's right.

b) "That The Hon Maxime Carlot Korman was sworn in by a Government Officer who was at the time suspended from his duties." Mr de Robillard here submits that the Attorney-General who swore in the Prime Minister on the 23 February had been at the time suspended from performing his duties by The Hon Serge Vohor. He went on to submit that a new Attorney-General had been appointed and that she was no other than the second and third petitioners' sister Mrs Lini Leo. I have called for and was not shown the warrant of Office appointing Mrs Lini Leo as Attorney-General. The Law Officers Act CAP 118 Section 2 states:

2. *(1) The Attorney-General shall be appointed by the President on the advice of the Prime Minister.*

I take judicial notice of the fact that the appointment of the Attorney-General, Mr Oliver Saksak was duly gazetted in the Official Gazette No 4 of 1996 published on the 5 February 1995. No revocation of his appointment has been published or shown to me. Mr de Robillard submits, quite erroneously, that the Prime Minister has the power to suspend the Attorney-General. That is just not so and I repeat here what was said regarding the suspensions of the Clerk to Parliament and his deputy:

Section 21 of the Interpretation Act CAP 132 makes it clear beyond doubt:

21. *Where an act of Parliament confers power on any authority to make any appointment that authority shall also have power (subject to any limitations or qualifications which affect the power of appointment) to remove, suspend, reappoint or reinstate any person appointed in the exercise of the power.*

It is quite clear therefore that the Hon the Attorney-General could not have been suspended by the Prime Minister. Nobody but Mr Oliver Saksak was Attorney-General on the 23 February. Mr Ellum again submits that this is indicative of the length to which the petitioners are prepared to go in abusing the Constitution and the law in order to disrupt the proper democratic process of Parliament. He points to the fact that an attempt was made to suspend both Clerks of Parliament quite improperly and unlawfully, and that in his place they attempted to appoint the Secretary General of the political party to which the second and third petitioners belong. They then attempted quite improperly and unlawfully to suspend the Attorney-General and to place in his position the sister of the second and third petitioners. He submits that a declaration is an Equitable remedy and that the petitioners fail to come to the Court 'with clean hands' in order to seek an equitable relief and that on that ground alone this petition should be dismissed. I note that he has a very strong argument. In any event I am in the circumstances satisfied that there is no foundation to this limb of the petition and so rule pursuant to Section 218(5) and hereby dismiss this limb of the fourth ground.

The fifth ground of the petition is: **"That the failure by Parliament on the 23 February 1996 to follow the normally accepted Parliamentary Procedures was contrary to and fell short of the Leadership Code as set out in Chapter 10 of the Constitution.**

The Leadership code reads as follows:

Article 61 (1) A person defined as a leader in Article 67 has a duty to conduct himself in such a way, both in his public and private life, so as not to:

(a) Place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised;

(b) demean his office or position;

(c) allow his integrity to be called into question; or

(d) endanger or diminish respect for and confidence in the integrity of the Government of the Republic of Vanuatu.

(2) In particular, a leader shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by sub article (1).

Article 67 For the purposes of this Chapter, a leader means the President of the Republic, the Prime Minister and other Ministers, members of Parliament, and such public servants, officers of Government agencies and other officers as may be prescribed by law.

Article 68 Parliament shall by law give effect to the principles of this Chapter.

Mr de Robillard appears to be submitting that breaches of the above Leadership code may somehow give his clients a right to redress under Article 53 of the Constitution. The Leadership Code concerns the abuse of office by a leader and profiting from their office. It is difficult to imagine how this Chapter can give rise in the present circumstances to a personal right to redress on behalf of the petitioners. Each of the allegations made in this ground, which is denied by the Respondents, do not in fact disclose breach of any part of the Leadership Code, let alone a breach which would give rise to any remedy under Article 53.

a) The removal of the deputy Speaker from the chair by intervention of armed police. Mr Ellum submitted firstly that there were no armed police in the Chamber of Parliament, secondly, the deputy Speaker was not in any event entitled to chair proceedings. Thirdly, that the interior proceedings of Parliament are not a matter upon which the Court could or should interfere. The conduct of good order in Parliament is a matter for Parliament itself and does not give rise to an actionable redress under Article 53. I agree with his submission. Pursuant to Section 218(5) I rule that there is no foundation to limb a) of the fifth ground. In any event I note that the deputy Speaker is not a party to this petition and if anybody's Constitutional rights were breached it could only have been his, not the present petitioners.

b) Cannot give rise to a Constitutional remedy under Article 53 and is without foundation under Section 218(5) and I so rule and dismiss the same.

c) I was told by Mr de Robillard refers to the presence in the Chamber of Mr Willy Reuben Abel. I have already dealt with this matter in the third limb of the first ground and do not repeat it here. This ground too is without foundation and is dismissed pursuant to Section 218(5).

d) & e) That, I was told, refers to the admission in to the Chamber of Parliament of the Clerk of Parliament and his deputy and of the Attorney-General. I have dealt with these officers' position already above and will not repeat them here. This limb is also without foundation and I so rule and dismiss it pursuant to Section 218(5).

f) & g) No member of Parliament was in fact arrested. She was removed from the Chamber on the orders of the chairman of the proceedings on grounds of conduct. This is not a matter that the Court can look into. These limbs too are dismissed pursuant to Section 218(5).

h) "Denial of access to the first two petitioners of their official cars." This cannot be a ground under Article 53 and is frivolous. I am satisfied that this limb is frivolous and I dismiss it pursuant to Section 218(5).

i) "Wrongful use of police drivers to drive the Attorney-General to Parliament." This cannot give rise to a ground of complaint under Article 53 and is without foundation and frivolous. I am satisfied that it is without foundation and frivolous and pursuant to Section 218(5) this limb is also dismissed.

Mr Ellum further submits that none of the above grounds in any event give rise to a breach of any part of the Leadership Code. Let alone a ground of complaint actionable under Article 53. The facts he submits, show quite the opposite, namely that every officer of Government or Parliament was doing his utmost to ensure that the due process of Parliamentary democracy should operate within the Constitution and the rule of law. On the face of what I have seen and heard in this case I accept entirely this submission of Mr Ellum. I find that this petition in its entirety is without foundation, in parts vexatious and in others frivolous and therefore pursuant to Section 218(5) This whole petition is hereby dismissed.

I now turn to Mr Ellum's cross-applications for a declaration and various injunctions.

This Court hereby Declares that:

1. The Hon Maxime Carlot Korman was duly elected by Parliament on the 23 February 1996 as Prime Minister of the Republic of Vanuatu in accordance with the provisions of Article 41 of the Constitution and that those Ministers appointed by him on the 23 February 1996 constitute with him the Council of Ministers responsible for exercising the executive power of the people of the Republic of Vanuatu.

2. It is Ordered that the Applicants, their servants and agents be restrained from taking any action or making any statements inconsistent with the above Declaration.

3. It is further Ordered that the Applicants, their servants and agents do surrender forthwith all property belonging to the Government of the Republic of Vanuatu as may be in their possession or control; that they vacate forthwith all offices occupied by them belonging to the Government of the Republic of Vanuatu and that they vacate at the latest by 9.00 a.m. on Monday 4 March 1996, all houses and other residences belonging to or rented by the Government of the Republic of Vanuatu for the use of itself, its servants or agents.

4. It is further Ordered that the petitioners do pay the Respondents' costs, such costs to be taxed or agreed.

BY THE COURT this 1st day of March 1996

CHARLES VAUDIN d'IMECOURT
Chief Justice

REPUBLIC OF VANUATU
COUR SUPREME COURT
LEX LEX
REPUBLIQUE DE VANUATU

REPUBLIQUE DE VANUATU