

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**  
(Civil Jurisdiction)

**Constitutional Case No.01 of 2011**

**IN THE MATTER OF: ARTICLES 53(1)(2) AND ARTICLES 21(2) OF  
THE CONSTITUTION AND ORDER 14 OF  
THE STANDING ORDER OF PARLIAMENT**

**BETWEEN: HON. SATO KILMAN - Prime Minister  
HON. HAM LINI VANUARORO - Deputy Prime  
Minister, HON ALFRED CARLOT - MP for  
Efate Rural, HON. HARRY IAUKO - MP for  
Tanna, HON. DONNA BROWNY - MP for  
Malekula, HON. JAMES BULE - MP for  
Ambae, HON. DON KEN - MP for Malekula,  
HON. DUNSTAN HILTON – MP for Banks,  
HON. MOANA KALOSIL – MP for Port Vila,  
HON. DANIEL TOARA – MP for Shepherds,  
HON. MARCELLINO PIPITE – MP for Santo  
Rural, HON.SAMSEN SAMSON – MP for  
Santo Rural, HON. GEORGE WELLS – MP for  
Luganville, HON. DAVID TOSUL – MP for  
Pentecost, HON. PHILIP CHARLIE – MP for  
Tafea Outer Islands, HON. MOKING  
STEVENS – MP for Tafea, HON. ESMON  
SIMON – MP for Malekula, HON. HAVO MOLI  
– MP for Malo, HON. RALPH REGANVANU –  
MP for Port Vila, HON. LOUIS ETAP – MP for  
Tanna, HON. ISAAC HAMARILIU – MP for  
Epi, HON. WILLIE LOP – MP for Tanna, HON.  
JEAN RAVO – MP for Santo Rural, HON.  
JAMES NGWANGO – MP for Ambae and  
HON. DAVID ARIASUA – MP for Paama**

**Applicants**

*Counsel: Mr George Boar of Boar Law, Port  
Vila*

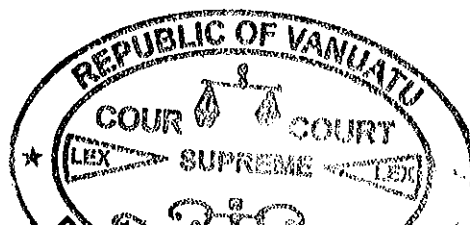
**AND: THE REPUBLIC OF VANUATU**  
**Respondent**

*Mr Daniel Yawha for the Applicants  
Mr Ronald Warsal for the Respondent*

**Hearing date & time: 24<sup>th</sup> April 2011 at 8.00am**  
**Date of decision: 24<sup>th</sup> April 2011 at 9.15am o'clock**

**ORDER**

1. Relief 1 sought in the Application dated 24<sup>th</sup> April 2011 for suspension of the decision of the Supreme Court of 24<sup>th</sup> April 2011 is withdrawn by counsel of the Applicants.
2. Relief 2 sought in the Application dated 24<sup>th</sup> April 2011 restraining the Speaker and Deputy Speaker of Parliament from presiding and convening the extraordinary session of Parliament listed for 8.30am o'clock on 24<sup>th</sup> April



2011 to debate a Motion of no confidence in the Prime Minister pending the determination of the Notice of Appeal filed 24<sup>th</sup> April 2011 is refused.

The reasons are set out below:

- (a) The subject matter of the Motion of no confidence is presently before Parliament for debate at 8.30am o'clock this morning on 24<sup>th</sup> April 2011.
- (b) While the application is on before the Court, the process before Parliament is also on and it appears that the Court is entertaining counsel and parties on same issue which is currently placed before Parliament and Parliament is now debating it and will decide on it shortly or may be Parliament has already decided on it.
- (c) The Notice of Appeal and grounds of appeal are filed. There is no stay/suspension process as the Court dismissed the Urgent Application on the evidence before the Court.
- (d) The grounds are advanced on factual findings of the Supreme Court on its oral decision made this morning 24<sup>th</sup> April 2011. The issue is about Court factual findings but not on a major interpretation of the provision of the Constitution.
- (e) The appeal is made against the decision of the Supreme Court and that is a matter of right for the Applicants. Whether or not the Supreme Court could grant the restraining Orders sought against the Speaker and the Deputy Speaker of Parliament, is a different matter. If the Court issues an order restraining Parliament to debate the Motion, the order will achieve nothing as Parliament is now debating the Motion of no confidence in the Prime Minister and is deciding on it. It is too late for such an order to be made. As the order sought is of injunctive nature, the Court exercises its discretion to refuse it.

These are the reasons of the Court's refusal to grant the injunctive relief sought by the Applicants on 24 April 2011 when the Court hears both counsel from 8.00am to 9.15am o'clock this morning.

**DATED at Port-Vila this 24<sup>th</sup> day of April 2011**

**BY THE COURT**

**Vincent/LUNABEK  
Chief Justice**

