

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION
CRIMINAL CASE NO. HAC 129 OF 2015

STATE

v

- 1. RATU EPELI NIUDAMU**
- 2. SEREIMA ADIDAVE ROKODI**
- 3. SAILASA WAIROAROA MALANI**
- 4. NANISE KASAMI NAGUSUCA**
- 5. WAISEA DUAILIMA**
- 6. SAMUELA LIGABALAVU**
- 7. MIKAELE GONERARA**
- 8. EMOSI TOGA**
- 9. WAISAKE RALACA**
- 10. JOSEFA NATAU**
- 11. ISIKELI WAISEGA KABAKORO**
- 12. SULUWETI LOTU WAQALALA**
- 13. LAISIASA MOCEVAKACA**
- 14. ULAIASI RABUA TUIVOMO**
- 15. APOLOSI QALILAWA**

Counsel: Mr. Lee Burney and Mr S. Babitu for State
Mr. K. Tunidau for 1st Accused
Mr. A. Ravindra Singh for 2nd to 15th Accused

Dates of Hearing: 14th August to 12th September, 2017
Date of Summing up: 15th September, 2017

SUMMING UP

Ladies and Gentlemen Assessors,

1. It is now my duty to sum up this case to you. You will then be required to consider your opinions. Each of you must give a separate opinion whether each accused is guilty or not guilty.
2. In coming to your decision you must apply the law as I explain it to you. It is my duty to regulate the procedure of the trial and direct you on the law. Those directions on the law must be followed by you.
3. However I do not decide the facts. That is for you. As I speak to you, you may feel that I have formed some views on a particular question of fact. If you disagree with the version of the facts that I appear to be expressing, then please feel completely free to disregard my opinion. All matters of fact are for you and you alone. It is for you to decide the credibility of the witnesses and what parts of their evidence you accept as true and what parts you reject. You decide what facts are proved and what inferences you can properly draw from those facts. You then apply the law as I explain it to you and decide whether the opinion should be guilty or not guilty in respect of each accused.
4. You must come to that decision solely upon the evidence you have heard from the witnesses and documents tendered through them. If you have previously heard anything about this case or the people involved, through the media or some other source, you must ignore that completely. The law requires that the accused are to be judged solely upon the evidence sworn to in this Court. In considering that evidence you are expected to apply your common sense and everyday knowledge of human nature and people. You must please put aside personal political, religious and social convictions and any feelings of prejudice or sympathy which may occur to you one way or the other and arrive at your verdicts calmly and dispassionately.
5. As I said in my opening, this case has political overtones because of the very nature of the charges but neither you nor I will be judging this case with politics in mind. Everybody has political opinions, even Judges; but Judges are never permitted to express those opinions neither professionally nor socially for the obvious reason that Judges must be seen to be impartial. Similarly, for the

purposes of this case only, you are not allowed to express a political opinion. You are not permitted to let your political views cloud your judgment. It is irrelevant what political party you represent or what ethnic or religious group you may belong to; you are to decide this case solely on the evidence presented to you in trial in the context of the law that I direct you on and nothing else. You will conduct an objective appraisal of the evidence.

6. Amongst the Accused, there are number of prominent leaders of our community including Paramount Chiefs who, according to Mr. Tunidau's interpretation, are 'Kings of Fiji'. You may find in them respectable and influential men and women. However, we are here to sit as judges in a court of law before which everybody is deemed equal and not above the law. This trial is not about whether they had a good or bad motive for what they did and it's not about whether you have sympathy for them or for their cause and views; it's not about whether you reject their views. Please put aside your own political, religious and personal convictions. What you are supposed to do is to apply the law as I explain it to you to the facts in this case and decide whether each of them is guilty of the charges that have been laid against them.
7. You will not be asked to give reasons for your opinions. Your opinions need not be unanimous although it is desirable if you could agree on them. I am not bound by your opinions. But I will give them the greatest weight when I come to deliver my judgment.
8. On the matter of proof, I must direct you as a matter of law, that the accused persons are innocent until they are proved guilty. The burden of proving their guilt rests on the Prosecution and never shifts. There is no obligation upon the accused to prove their innocence.
9. The standard of proof is that of proof beyond reasonable doubt. This means that before you can find any of the accused guilty, you must be satisfied so that you are sure of his or her guilt. If you have any reasonable doubt as to guilt of any of them, you must find him or her not guilty. A reasonable doubt is a doubt which you find is reasonable in the circumstances of this case. If, after a full consideration of the evidence, and bearing in mind the directions I give to you, you find the charges are proved beyond reasonable doubt your opinion must be 'guilty'. On the other hand, if you are left with a reasonable doubt, your opinion must be 'not guilty'.
10. You apply that test to the case against each accused. That is an important matter.

As you are aware, fifteen accused are charged with Sedition on 34 counts in the same Information. However, they are charged separately. The law recognizes that more than one person may be charged together when offence/s are alleged to have been committed in a single transaction. It is convenient to deal with their cases together in one trial. However, they are still entitled to have their charges considered separately. In doing this you must carefully distinguish between the evidence against one accused and the evidence against the other. You must not for instance, supplement the evidence against one accused by taking into account evidence referable only to another. You must not assume that because you find there is enough evidence to convict one, that the others must be guilty. This case comes within a small compass and I do not think you will have any difficulty in keeping distinct in your minds evidence which properly and fairly relates to all of them and that which relates to one of them alone. I will refer to this when I discuss the evidence in respect of each Accused.

11. In assessing the evidence, you are at liberty to accept the whole of the witness's evidence or part of it and reject the other part or reject the whole. In deciding on the credibility of any witness, you should take into account not only what you heard but what you saw. You must take into account the demeanor and manner in which the witness gives evidence. You are to ask yourselves, was the witness honest and reliable.
12. The charges against the accused are as follows:

FIRST COUNT

Statement of Offence

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

Particulars of Offence

RATU EPELI NIUDAMU, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely signed a document headed "Uluda Declaration" purporting to be a unilateral declaration of independence by the entity "Ra 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.

SECOND COUNT

Statement of Offence

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

Particulars of Offence

RATU EPELI NIUDAMU, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention by signing a document purporting to be a Petition to the ICJ with an intention to raise discontent or disaffection amongst the inhabitants of Fiji.

THIRD COUNT

Statement of Offence

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

Particulars of Offence

SEREIMA ADIDAVE ROKODI, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely signed a document headed "Uluda Declaration" purporting to be a unilateral declaration of independence by the entity "Ra 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.

FOURTH COUNT

Statement of Offence

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

Particulars of Offence

SEREIMA ADIDAVE ROKODI, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention by signing a document purporting to be a Petition to the ICJ with an intention to raise discontent or disaffection amongst the inhabitants of Fiji.

FIFTH COUNT

Statement of Offence

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

Particulars of Offence

SAILASA WAIROAROA MALANI, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely signed a document headed "Uluda Declaration" purporting to be a unilateral declaration of independence by the entity "Ra 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.

SIXTH COUNT

Statement of Offence

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

Particulars of Offence

SAILASA WAIROAROA MALANI, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention by signing a document purporting to be a Petition to the ICJ with an intention to raise discontent or disaffection amongst the inhabitants of Fiji.

SEVENTH COUNT

Statement of Offence

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

Particulars of Offence

NANISE KASAMI NAGUSUCA, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely signed a document headed "Uluda Declaration" purporting to be a unilateral declaration of independence by the entity "Ra 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.

EIGHTH COUNT

Statement of Offence

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

Particulars of Offence

NANISE KASAMI NAGUSUCA, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention by signing a document purporting to be a Petition to the ICJ with an intention to raise discontent or disaffection amongst the inhabitants of Fiji.

NINETH COUNT

Statement of Offence

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

Particulars of Offence

NANISE KASAMI NAGUSUCA, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra 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.

TENTH COUNT

Statement of Offence

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

Particulars of Offence

NANISE KASAMI NAGUSUCA, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian

State” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

ELEVENTH COUNT

Statement of Offence

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

Particulars of Offence

WAISEA DUAILIMA, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely signed a document headed “Uluda Declaration” purporting to be a unilateral declaration of independence by the entity “Ra 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.

TWELFTH COUNT

Statement of Offence

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

Particulars of Offence

WAISEA DUAILIMA, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention by signing a document purporting to be a Petition to the ICJ with an intention to raise discontent or disaffection amongst the inhabitants of Fiji.

THIRTEENTH COUNT

Statement of Offence

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

Particulars of Offence

WAISEA DUAILIMA, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra 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.

FOURTEENTH COUNT

Statement of Offence

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

Particulars of Offence

WAISEA DUAILIMA, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

FIFTEENTH COUNT

Statement of Offence

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

Particulars of Offence

SAMUELA LIGABALAVU, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra 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.

SIXTEENTH COUNT

Statement of Offence

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

Particulars of Offence

SAMUELA LIGABALAVU, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

SEVENTEENTH COUNT

Statement of Offence

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

Particulars of Offence

MIKAELE GONERARA, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra 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.

EIGHTEENTH COUNT

Statement of Offence

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

Particulars of Offence

MIKAELE GONERARA on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

NINETEENTH COUNT

Statement of Offence

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

Particulars of Offence

EMOSI TOGA, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra 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.

TWENTIETH COUNT

Statement of Offence

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

Particulars of Offence

EMOSI TOGA on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

TWENTY FIRST COUNT

Statement of Offence

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

Particulars of Offence

WAISAKE RALACA, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra 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.

TWENTY SECOND COUNT

Statement of Offence

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

Particulars of Offence

WAISAKE RALACA on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed “Ra Sovereign Christian State” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

TWENTY THIRD COUNT

Statement of Offence

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

Particulars of Offence

JOSEFA NATAU, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “Ra 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.

TWENTY FOURTH COUNT

Statement of Offence

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

Particulars of Offence

JOSEFA NATAU on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed “Ra Sovereign Christian State” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

TWENTY FIFTH COUNT

Statement of Offence

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

Particulars of Offence

ISIKELI WAISEGA KABAKORO, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra 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.

TWENTY SIXTH COUNT

Statement of Offence

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

Particulars of Offence

ISIKELI WAISEGA KABAKORO on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

TWENTY SEVENTH COUNT

Statement of Offence

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

Particulars of Offence

SULUWETI LOTU WAQALALA, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra 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.

TWENTY EIGHTH COUNT

Statement of Offence

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

Particulars of Offence

SULUWETI LOTU WAQALALA on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

TWENTY NINETH COUNT

Statement of Offence

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

Particulars of Offence

LAISIASA MOCEVAKACA, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra 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.

THIRTIETH COUNT

Statement of Offence

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

Particulars of Offence

LAISIASA MOCEVAKACA on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

THIRTY FIRST COUNT

Statement of Offence

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

Particulars of Offence

ULAIASI RABUA TUIVOMO, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “Ra 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.

THIRTY SECOND COUNT

Statement of Offence

SEDITION: Contrary to Section 65 (2) (a) of the Crimes Act 2009.

Particulars of Offence

ULAIASI RABUA TUIVOMO, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed “Ra Sovereign Christian State” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

THIRTY THIRD COUNT

Statement of Offence

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

Particulars of Offence

APOLOSI QALILAWA, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “Ra 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.

THIRTY FOURTH COUNT

Statement of Offence

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

Particulars of Offence

APOLOSI QALILAWA, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

13. I will now deal with the elements of the offence. Section 67(1) of the Crimes Act 2009 defines the offence of Sedition as follows:

A person commits 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.

14. A "**seditious intention**" is an intention defined in Section 66 (1) of the Crimes Act. Sedition intention is an intent

(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

(ii) 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.

15. The elements of the offence of Sedition in this case are that:

- (a) The accused
- (b) did an act
- (c) with a seditious intention

16. The purpose of the offence is to prevent any unlawful attacks on the tranquility of the State but it is not intended to prevent freedom of expression and legitimate political activity guaranteed under the Constitution. However, those freedoms are not absolute and can be lawfully restricted to protect the tranquility of the State; offence of Sedition being one such restriction.

17. Deeply held political convictions frequently provoke strong emotions but there is authority to show that even strong or intemperate 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) of Section 66 of the Crimes Act.

18. Therefore, 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.

19. The charges against the Accused 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 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.
20. "Government established by law" is the visible symbol of the state and it would be in jeopardy, where its authority is subverted. "The Government established by law" has to be distinguished from the persons for the time being engaged in carrying on the administration. The continued existence of the Government established by law is an essential condition of the tranquility and stability of the State. Hence, any act within the meaning of Section 66 (1) (i) which has the effect of subverting the Government by bringing that Government into contempt or hatred, or creating disaffection against it, would be within the meaning of Crimes Act because the feeling of disloyalty to the Government established by law or enmity to it imports the idea of tendency to public disorder. In the same way, if the act has the effect to raise discontent or disaffection amongst the inhabitants of Fiji; it would be within Section 66 (1) (iv) of the Crimes Act.
21. The offence of Sedition does not consist in exciting mutiny, violence, rebellion, or any sort of actual disturbance, great or small. It is immaterial whether the act did produce one of the unlawful effects or consequences set out in Section 66(1). Whether any disturbance, discontent or disaffection was caused by the seditious act is absolutely immaterial. If the accused intended by the act to excite feelings of disaffection, hatred or contempt towards the Government, or raise discontent or disaffection amongst the inhabitants of Fiji that is sufficient to make him or her guilty under these sections.
22. Like in most of other criminal offences, the offence of Sedition has a physical element or an act (*actus reus*) and a mental element (*mens rea*) or culpable state of mind. The Prosecution must prove both elements in respect of each accused beyond reasonable doubt.
23. If you peruse the information carefully, Prosecution alleges of two physical acts. Namely, **signing of documents** titled Uluda Declaration, Ra Petition to the ICJ, Ra Christian State document and **taking an oath** to serve as a Cabinet Minister in the Government of 'Ra Christian State'.

24. If you are satisfied that those acts were done as alleged, then you have to be satisfied that those acts were done with a seditious intention. The intention to produce the particular result as described in each count is a necessary element of the offence of Sedition.
25. Prosecution alleges that the acts of signing the documents titled Uluda Declaration and taking an oath to serve as a Cabinet Minister in the Ra Christian State have been done with the seditious intention of bringing the Government of Fiji into hatred or contempt or to excite disaffection against it. Prosecution also alleges that the acts of signing the document titled Ra Petition to the ICJ and Ra Sovereign Christian State document have been done with the seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.
26. An 'intention' is the state of mind of one who does an act because he desires it to produce a particular result. This encompasses knowledge namely the state of mind of one who, when he does the act, is aware that it is likely to produce that result but is prepared to take the risk that it may do so, perhaps in order to achieve some other purpose which provided his motive for doing what he did. It is well-settled law that both states of mind constitute 'intention' in the sense in which that expression is used in the definition of Sedition.
27. You have to be mindful that intention differs from motive or desire. Motive describes the reason a person chooses to commit a crime. The reason, however, is different from a required mental state 'intent'. Thus, for example, a person who kills a loved one dying from a terminal illness, in order to prevent suffering or please the God, may well act out of good motives. Nevertheless, this does not prevent him having the necessary intention to kill.
28. Now I deal with evidence led in this trial. In doing this, I do not propose going through all the evidence. Although it was fairly a long trial, still I hope the things are fresh in your memory. My summary might have missed some parts of evidence. That is not because they are unimportant. You heard every item of evidence and you should remind yourselves of all that evidence and you're your opinions on facts. I only draw your attention to the salient items of evidence and help you in reminding yourselves of the evidence.

Case for Prosecution

Evidence of Waisake Naqica

29. Prosecution called Waisake Naqica as their 1st witness for Prosecution. He was the Assistant Roko for the district of Ra in 2014. As part of his responsibilities, he was mandatorily required to attend certain meetings in his District connected to iTaukei Affairs.
30. On the 21st of October 2014, he attended a "*Province Bose Vanua*" meeting convened by the Chiefs that looked into traditional titles that are vacant, issues that deal with lands and title disputes within their districts. The meeting was held at Navuavua Village at the residence of Ratu Meli Bolobolo, one of the four Chiefs in the Province of Ra.
31. He attended the "*Bose Vanua*" in his official capacity as the Assistant Roko for the district of Rakiraki as an observer and advisor. After this meeting, another group of people including Nainima Sairusi, came to Ratu Meli Bolobolo's residence.
32. On the 28th of October he attended a District "*Bose Vanua*" of Rakiraki held at the same place convened by Ratu Meli Bolobolo. Representative from villages of Rakiraki District were in attendance at this district '*Bose Vanua*'. Two *Mata ni Tikina* from other districts were also present representing the District of Raviravi and the District of Rakiraki because it was a joint district meeting for the *Tikina cokovata* of Rakiraki.
33. He received information that Mr. Sairusi was going around soliciting support of the people to form a new government. So he told the two reps and the Turaga-ni-Koro to be present at the meeting for them to go back and tell their own communities about this development.
34. After they had finished with that meeting then one lady by the name of Mereoni Coriakula spoke. She was introduced to the audience by Rabua. Mereoni was there to obtain the approval of the four Chiefs in the Province of Ra to replace the current Government as she was willing to take her case to a Court overseas. Nanise Nagusuca was also with Mereoni in her group.
35. Mereoni was addressing the group for about an hour by the time he left the meeting. She spoke on the indigenous rights of the iTaukei, their plight after iTaukei being mainstreamed by the Government as Fijians and on the qoliqoli for the iTaukeis. She spoke about her experience fighting for the rights of Aborigines in Australia.

36. When he heard this talk about setting up a new government, he left the meeting because it was not the right forum for that to be heard in.
37. Under Cross examination, witness said that Mereoni was there that day to obtain approval of the four Chiefs of Ra. Mereoni did not say that she had the approval of the four Chiefs. He sat there for about an hour with the police officer until he realized that it was not the proper forum to him. During his stay, no documents were involved in Mereoni's presentation.

Evidence of Apenisa Kalokalo Sere Loki

38. We heard from witness Loki next. He traveled over to Rakiraki in November 2014 because a talk was going around that there is a *Bose Vanua* at the residence of Tui Navitilevu about forming a Government and a lady by the name of Mereoni would come there.
39. Mereoni had come there to explain Court procedures in the International Court of Justice. She had gone to England to argue a matter about a State, but then she told that it was impossible and only a State could do that. She requested signatures for documents so that rules of law could be followed.
40. After the presentation, a discussion took place about establishment of a State whose Constitution was to be the Ten Commandments. He, as a member of Seventh Day Adventist, attended the meeting because of the 10 Commandments.
41. He was there when only Tui Navitilevu was sworn in. He had a stomachache and went to the convenience. Ratu Bolobolo was sworn in by Mereoni to be the President of provincial Government of something like Ra Sovereign State. Mereoni was sworn in as the Attorney General by the President. A blessing prayer was conducted at the end of this process. He recognized only Nanise (4th Accused) and Pastor Qalilawa (15th Accused) among the group of attendees.
42. Under Cross examination witness said that when he entered the meeting house at Ratu Bolobolo's residence in November, some of the villagers had already arrived and awaiting others to come so that Mereoni could speak.
43. Mereoni started her presentation at about 10.30 am. She was talking about what she was doing in Australia with the Aborigines and her fighting for their rights. She also wanted to fight for iTaukei people and present their case to the International Court of Justice.

44. Some documents were shown to those present by Mereoni about Ra Sovereignty. He read one page supposed to be the 10 Commandments, flipped through and gave it back. He only wanted to see that 10 Commandments from the Bible were there or not.
45. Prosecution then called nine police witnesses who had either conducted caution interviews or acted as witnessing officers. Interviewing officers read caution statement of each Accused and tendered in evidence. They said that interviews were conducted fairly and under caution. Accused had cooperated with police and had not complained of anything. They had answered all questions voluntarily.
46. That is the case for the Prosecution. At the close of the Prosecution case, you heard me explain to the accused what their rights were in defence and how they could remain silent and say that the Prosecution had not proved the case against them to the requisite standard or they could give evidence in which case they would be cross-examined.
47. As you are aware, only the 1st Accused elected to give evidence under oath. You must consider his evidence and give such weight as you deem fit. 2nd to 15th Accused elected to exercise their right to remain silent. That is their right. They are not obliged to give or offer evidence. Simply because of their decision not to offer evidence you cannot jump to the conclusion that their silence prove the case against them. They do not. The burden remains with the Prosecution to prove its case beyond a reasonable doubt.
48. You have before you the caution statements of 1st to 15th Accused. I now direct you as to how you should approach caution statement evidence. Prosecution tendered caution statement of each accused and substantially rely on admissions they have made to police during their respective interviews. They of course are very important documentary evidence in this case if they are acceptable to you.
49. Please bear in mind, a caution statement of an accused is only admissible against the maker of the statements. For example, what the 1st Accused person said in his caution statement is evidence against him only. If he has implicated another accused person in his caution statement, that is not evidence against the second accused person. As a matter of law, nothing in that caution statement can be regarded as evidence against other accused persons. In caution statements, you

will find certain parts have been blacked out. You are not here to speculate about missing parts. Just concentrate on what is legible.

50. In order to determine whether you can safely rely upon admissions of an accused, you must be sure of two things; firstly, you have to be sure that the accused in fact made those admissions. Having considered the evidence presented during the course of the hearing, if you are not satisfied or not sure that accused actually made the admission in his or her respective caution statement, you must ignore those statements. Secondly, if you are satisfied, that each accused person had given those admissions, then, it is for you to decide whether those statements are truthful, and what weight you attach to them as evidence. You must consider all other evidence adduced during the course of the hearing in deciding the truthfulness of those statements. If you are not sure, for whatever reason, that those admissions are true, you must disregard them. If, on the other hand, you are sure that they are true, you may rely on them.
51. I will now direct you as to how you should approach 'out of court mixed statements' containing both admissions and exculpatory explanations or assertions. 2nd to 15th Accused in their caution statements while admitting signing the documents and taking the oath had advanced various explanations and excuses. The whole contents of a caution statement are admissible as evidence and you have to consider statements as a whole in deciding where the truth lies.
52. They elected not to give evidence. That is of course their right. Excuses and explanations in their caution statements were not supported by evidence under oath. Therefore, you decide what weight you should attach to those excuses and explanations in their caution statements. You have to consider each caution statement as a whole in deciding where the truth lies.

Case for 1st Accused

53. In order to explain his position *vis -a -vis* his signatures and also to explain his intention when he signed those documents, 1st Accused introduced evidence under oath.
54. 1st Accused said that he represented the Great Council of Chiefs in Parliament as a Senator in the seventies. He said that Mereoni, with a group of people, visited his Chiefly House in Matawailevu on 28th of October 2014 when he was about to leave for Suva to lodge his visa application at the French Embassy. He had received a telephone call from Ratu Meli Bolobolo 15 minutes before Mereoni

came and was informed that Mereoni was coming to get his signature for two pages regarding natural resources and fishing grounds (qoliqoli).

55. He said he received only two pages from Mereoni where Tui Navitilevu had already signed and it had a space for him to sign with his name. He signed two pages and he signed in the belief that he was signing documents meant to safeguard fishing grounds and was not aware that they were to do with the establishment of a new government. He said that there was nothing else written above or below Ratu Bolobolo's name on the pages and no explanation was given to him by Mereoni and her group about the subject matter of the two pages during 15-minutes-stay at his house other than what he had heard from Tui Navitilevu during the telephone conversation about safeguarding of the fishing grounds. He said that safeguarding fishing rights was the only purpose of signing and he had no bad intentions and knew nothing about establishing of a new Government known as the Ra Sovereign Christian State.
56. He confirmed his signature on page 15 of 15 of the Ra Petition to the ICJ. He however denied that it had anything else above or below other than Ratu Bolobolo's name and his name. He also denied truthfulness of Mereoni's certification at the end of both documents that contents therein were explained in English and Fijian language. He said he does not know the meaning of some of the words written in those documents like 'Mainstreaming Constitution' 'First Nation People', 'Private Property' and 'self-determination' and he would not sign a document which he does not understand.
57. He said that he was shocked when he was shown a 9-page document at the interview because it was the 1st time he had seen it. There was a big change in the document in that a lot of things had been written on top of the document and also below the document and that was not the document that was shown to him.
58. He denied having participated in any consultation with Mereoni and other Chiefs on 28th of October 2014 at the Uluda House and signing the two pages at Uluda. However, he admitted participating in a Provincial Bose Vanua held at Uluda House prior to 28th October 2014 where the Roko from the Ministry of Fijian Affairs and local Chiefs and Police Officers were also in attendance. At the meeting, various issues relating to vacant chiefly positions maintenance of fishing grounds and mangroves, sea pollution were discussed.
59. When he was waiting for transport after the meeting, Tui Navitilevu came and informed him about a visitor by the name of Mereoni who was supposed to give

an 'explanation'. Mereoni rendered her explanation inside the house when he was sitting outside, at the porch, 10 m. away from where Mereoni rendered her explanation. He only heard some introductory parts of her explanation. By that time, he had to leave because his carrier had arrived. Before he left, he made it a point to tell Tui Navitilevu that if they wanted any development to be done in the Ra Province, then they should follow the proper channel.

60. He further said that he lodged the passport for visa on 28th having been informed about the trip one week ago and collected the passport visa being stamped on it on 30th and left for Germany on the 31st October 2014.

Case for 2nd to 15th Accused

61. 2nd to 15th Accused did not offer any evidence. That is their right. Counsel for 2nd to 15th Accused advanced certain arguments during trial and cross examination. They do not form part of evidence. Although you are not bound to accept those arguments, you must take them into consideration in deliberation and deciding.
62. The nature of the defence taken up by 2nd to 15th Accused is different from that of the 1st Accused. In their respective caution interviews, they do not deny the acts alleged in the information, namely, signing and taking of an oath. Addressing assessors in his opening and closing speeches on behalf of all accused Mr. Singh confirmed this position. At the end of the day, you are left with one question, the question as to the intention of each accused at the time of their particular acts. If you look at caution statement of each accused, they have given various explanations for their individual acts. Therefore, you are bound to take their explanations into account.
63. We know that 1st to 5th Accused are charged with Sedition on the basis that they had signed the Uluda Declaration and the Ra Petition to the ICJ. 1st to 5th Accused persons each in their respective caution statements admitted their signatures present in those documents.
64. In addition to that, 2nd to 5th Accused are also charged with Sedition on the basis that they had signed the Ra Christian State document and took an oath to serve as a Cabinet Minister in the Government of Ra Christian State. 6th to 15th Accused are also charged, two counts each, on the same basis for Sedition.

65. 2nd to 5th Accused in their respective caution interviews admitted signing the Uluda Declaration and Ra petition to the ICJ. 2nd to 15th Accused in their respective caution statements admitted signing the Ra Christian State document. Except for 15th Accused, all other accused from 2nd to 14th admit taking an oath to serve as a Cabinet Minister in the Government of Ra Christian State. For your easy reference, I will now draw your attention to relevant parts of their respective caution statements.
66. 2nd Accused is charged on Counts 3 and 4. At question 47, 2nd Accused admits signing the Uluda Declaration voluntarily. She identified her signature at page 8 of the Uluda Declaration. At question 59, 2nd Accused identifies the Ra Petition to the ICJ which Mereoni undertook to take to the International Court of Justice. WIP Seru gave evidence that 2nd Accused identified her signature at page 15 of the Ra Petition to the ICJ.
67. 3rd Accused is charged on 5th and 6th counts. At question 43 of his caution statement, 3rd Accused admits signing the Uluda Declaration. At question 52, he also admits signing the Ra Petition to the ICJ.
68. 4th Accused is charged on 7th and 8th Counts. At questions 29 and 30 of her 2nd caution statement, 4th Accused admits signing the Uluda Declaration. She also admits signing the Ra Petition to the ICJ at questions 51 and 52 of her second caution statement. She admits having agreed, upon being explained, to the contents of those documents.
69. 5th Accused is charged on 11th and 12th counts. At question 17 of his 2nd caution statement, 5th Accused admits signing the Uluda Declaration. At question 28 of his second caution statement, 5th Accused also admits signing the Ra Petition to the ICJ.
70. 4th Accused is charged on counts 9 and 10. At question 42 of her 1st caution statement, the 4th Accused admits being sworn in as the Minister for Fijian Affairs, Culture, & Heritage & Minister for Health. At question 51, she also admits signing the document titled 'Ra Sovereign Christian State' and identifies her signature.
71. 5th Accused is charged on counts 13 and 14. At question 41 of his 1st caution statement, the 5th Accused admits being sworn in as a Minister. At question 51, he also admits signing the document titled 'Ra Sovereign Christian State'.

72. 6th Accused is charged on counts 15 and 16. At question 87 of his caution statement, 6th Accused admits being sworn in as the Minister for Education. He also admits at question 89 signing the book the oath was taken. The signature is marked as PEX 2B(1).
73. 7th Accused is charged on counts 17 and 18. At questions 52, 53, 55 of his caution statement, the 7th Accused admits being sworn in as the Minister for Agriculture, Fisheries, and Forests & Environment. He also admits signing the document titled 'Ra Sovereign Christian State'. The signature is marked as PEX 2B (10).
74. 8th Accused is charged on Counts 19 and 20. 8th Accused, at question 54 of his caution statement, admits being sworn in as the Minister for Infrastructure and Transport. At question 53, he also admits signing the document titled 'Ra Sovereign Christian State'. The signature is marked as PEX 2B(7).
75. 9th Accused is charged on counts 21 and 22. He admits, at questions 115 and 121 of his caution statement being sworn in at the ceremony. His name appears against the portfolio -Minister for Youth and Sports in the document titled 'Ra Sovereign Christian State'. At questions 125 and 126, he admits signing the document titled 'Ra Sovereign Christian State'. The signature is marked as PEX 2B(3).
76. 10th Accused is charged on counts 23 and 24. At question 54 of his caution statement 10th Accused admits being sworn in as the Minister for foreign Affairs. At question 49, he admits signing the document titled 'Ra Sovereign Christian State'. The signature is marked as PEX 2B(6).
77. 11th Accused is charged on counts 25 and 26. At question 54 and 56 of his caution statement, 11th Accused admits being sworn in as the Minister for Tourism. At questions 57 and 58, he also admits signing the document titled 'Ra Sovereign Christian State'. The signature is marked as PEX 2B (8).
78. 12th Accused is charged on counts 27 and 28. At question 38 of her caution statement, 12th Accused admits being sworn in as the Minister for Communication and signing the document titled 'Ra Sovereign Christian State'.
79. 13th Accused is charged on counts 29 and 30. At questions 42 and 45 of his caution statement, 13th Accused admits being sworn in as a Minister. He also

admits signing the document titled 'Ra Sovereign Christian State' as the Minister for Defence, Security and Home Affairs. The signature is marked as PEX 2B(9).

80. 14th Accused is charged on 31st and 32nd Counts. At question 86 of his caution statement, he admits being sworn in as the Minister for Public Relations. He also admits signing his name after taking the oath. At question 100, he admits signing his name after taking oath. A signature appears against his name at page 11 of 12 of the document titled 'Ra Sovereign Christian State'.
81. 15th Accused is charge on counts 33 and 34. He admits signing the document titled 'Ra Sovereign Christian State'. His signature is marked PEX2B (11). He denies that he was sworn in. At page 11 of 12 of the document titled 'Ra Sovereign Christian State', a signature appears against his name under the portfolio, Minister for Religious Affairs. He admits at question 33 that this document was brought over for him to sign. He also admits participating in the oath taking on the 3rd November 2014 at the Uluda House.

Analysis

82. The Counsel for 2nd to 15th Accused in his opening and closing speeches confirmed his position and does not dispute the fact that each accused had admitted signing the relevant documents and taking an oath. Therefore, you can be satisfied that each accused had done the relevant acts described in the information.
83. 1st Accused however takes a different stance to explain the presence of his signature in the Uluda Declaration and Ra Petition to the ICJ. 1st Accused, having admitted his signature on both documents, maintains that he was shown only two pages and his signature were obtained by deception and therefore his act of signing was not intentional. In his caution interview, 1st Accused having agreed that the contents of Uluda declaration are seditious in nature, denied any knowledge of the contents of those documents.
84. We know, the 1st Accused was subjected to a lengthy cross examination by the Prosecution. 1st Accused denied that he signed as a witness. He said that he signed because he knew that the talks between him and Tui Navitilevu were in regards to the fishing grounds.

85. The gist of Prosecution questioning is that 1st Accused lied to this Court when he said that he was presented with only two pages without any content other than his and Tui Navitilevu's name and his signature, and that the documents had been modified after obtaining his signature.
86. It is also the Persecution case that 1st Accused, having heard Mereoni's presentation held prior to 28th October, 2014 at Uluda House, was completely aware of the contents and the consequence of documents he signed. The Counsel for Prosecution suggested that a person of his caliber and experience would not have signed documents of such a nature irresponsibly without reading the contents and their meaning.
87. It was also suggested that 1st Accused knowingly signed those two documents and later changed his position when he realised the seriousness of his act and when the police investigators began investigations in the Province of Ra and that is why he called a meeting on 10th December, 2014 at Nanukuloa after his return from Germany and expressed his opposition to the idea of forming a new Government and later went to the Police Station and told the Police his side of the story. Prosecution also suggested that 1st Accused is attempting to put the blame on his cousin Bolobolo for misleading him as he is now dead and gone.
88. You have had the opportunity to listen from both sides. It is up to form your own opinion whether 1st Accused told the truth to this Court. If you believe his side of the story, then you may think that 1st Accused has been tricked and his act of signing was not intentional. In that event you must find the 1st Accused not guilty on both counts because the Prosecution has not proved their case beyond reasonable doubt. If you disbelieve him, then 1st Accused also falls into the category to which 2nd to 15th Accused fell with their admission of the physical act of the offence of Sedition. In that eventuality, you have to decide whether his act of signing was done with a seditious intention applying the directions I am now going to give you.
89. We do not know what ran in each accused's mind when they acted in a certain way unless they express to us to a satisfactory level of their intention. That is what exactly the 1st Accused was attempting to do when he elected to give evidence under oath.
90. Paragraphs 2, 9, 10, 11, 12 13, 14, 15, 16, 17, 22, of Uluda Declaration had been read to 1st Accused at his caution interview and he in turn had admitted that those statements would promote feelings of enmity between different

communities, religious groups, and classes of the community thereby bringing hatred or excite disaffection against the current government of Fiji established by law. To explain his side of the story why he signed, 1st Accused adduced evidence under oath. 1st Accused said that his intention was to protect indigenous rights. It is up to you decide what weight you should give to his evidence in deciding his intention in light of directions I have given.

91. We did not however hear from 2nd to 15th Accused anything under oath. That is of course as a result of them exercising their right to remain silent. You must not hold against them for that because they are not obliged to adduce evidence or prove anything at all in this case.
92. However, in the absence of accused's evidence, we are left with no other option than to resort to other sources of evidence to come to a conclusion as to their intentions. In this regard, I advise you firstly to look at all the circumstances that led to the signing and oath taking and the documents before you.
93. According to what Accused persons had told police in their respective caution statements, the incidents of signing documents and oath taking are a culmination of series of presentations conducted by Mereoni in the Province of Ra. If you look at 14th Accused Rabua's statement you will agree with me. Assistant Roko and 1st Accused also told us how Mereoni went about conducting presentations or 'explanations'. We of course had the opportunity to listen to one of Mereoni's presentations video recorded by the 3rd Accused.
94. By listening to Mereoni's presentation, you will find no difficulty that three documents presented by the Prosecution contain the same views and the scheme expressed by Mereoni in her presentation. There is no dispute that Mereoni is the author of these documents and the master brain behind the Ra Christen State Project. If you have a closer look objectively at the contents of documents titled the Uluda Declaration, Ra Petition to the ICJ and Ra Christian State as reasonable men and women in our society, you will realise what her intention was.
95. However, we are not here to determine what Mereoni intended by making those documents and whether her actions are seditious. That is not the Prosecution case either. Mereoni has already left the country and is not standing trial in this case. What the Prosecution is trying to establish is that by either signing or taking an oath on those documents, each accused had subscribed to or adopted the views expressed in those documents.

96. Therefore, you are expected to look at the contents of those documents objectively to come to a conclusion whether they had a seditious tendency. In other words, you should ask yourselves whether a reasonably informed observer in our society would consider the words contained therein are seditious in terms of section 66 of the Crimes Act.
97. The Uluda Declaration is a Unilateral Declaration of Independence (UDI) by the entity "Ra Sovereign Christian State" within the territorial boundaries of the Republic of Fiji. As correctly suggested by the Counsel of 1st Accused it is not a legal document whatsoever according to laws of Fiji. You will realise that it rejects and denounces the Constitution of the Republic of Fiji, the supreme law of the land.
98. You have a copy of the Uluda Declaration. You ask yourselves whether contents of this document viewed objectively have a tendency to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.
99. The Ra Petition to the ICJ is a document intended to be sent to the International Court of Justice, the Queen of England and the Secretary General of the United Nations. It makes reference to the Uluda Declaration and bond together with it. A copy of which is with you have had the opportunity to read it.
100. It contains statements condemning the notion of 'mainstreaming' and it is interpreted as a 'sign of unprecedented racial turbulence in days to come'. It contains statements such as *..A Constitution that enshrines mainstreaming which mandates the extermination of native Fijians...This document condemns the current government as a military backed dictatorship under which native Fijians have seen their indigenous status usurped under the barrel of the gun and their rights and freedoms muzzled in totality. It also states that.. The past eight years of military dictatorship has foistered mainstreaming upon indigenous Fijians... The Government has statutised the extermination of all forms of indigenous efforts....*
101. After having read this document in its entirety, you ask yourselves whether contents of this document viewed objectively have a tendency to raise discontent or disaffection amongst the inhabitants of Fiji.
102. Now I am coming to the 3rd document, *the document titled "Ra Sovereign Christian State"*. It (PE2(B)) talks about *'democratically elected (by consensus) leaders and declares the province of Ra to be an independent and Sovereign State known as the 'Ra*

Sovereign Christian State'. It manifests the intention 'to put immediate end to all self-serving governments of all persuasions in Fiji as from the date of this Declaration. It rejects outright the 'mainstreaming' Constitution of the current Government, assented to on 6th September, 2013.

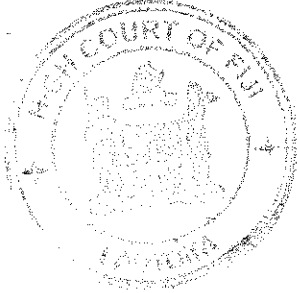
103. This document makes reference to Uluda Declaration (UDI) signed on 28th October, 2014 where it is stated at paragraph 8.. *"We, people of the Ra Sovereign Christian State in exercise of our right to self-determination, believe that our subsisting common law applies unilaterally to all residents on the Ra lands and seas, and non Ra people are prohibited from performing ceremonial duties such as the worship of false gods on our lands"*.
104. After having read this document in its entirety, you ask yourselves whether contents of this document viewed objectively have a tendency to raise discontent or disaffection amongst the inhabitants of Fiji.
105. Each accused admitted signing the documents in relation to which they are charged. Each of 4nd to 15th Accused admitted taking an oath to serve as a Cabinet Minister for the entity "Ra Sovereign Christian State". Prosecution says that, when they signed and took an oath, they acted with a seditious intention.
106. In deciding whether a particular act was done with a seditious intention, Crimes Act provides us with a deeming provision. You have to apply that provision to the facts of this case. It says that in determining whether the intention with which any act was done was or was not seditious, every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and under the circumstances in which he so conducted himself.
107. If you find the particular acts done by the accused, looked at objectively, had the tendency to produce the effect of bringing into hatred or contempt or to excite disaffection against the Government of Fiji or raising discontent or disaffection amongst the inhabitants of Fiji, then the application of the deeming provision is sufficient to convert this objective tendency into the actual intention of the accused. It is all about what a reasonably informed observer would think of what the accused's intentions were at the time he or she was doing those actions in the circumstances of the case. Was it an attempt to bring into hatred or contempt or to excite disaffection against the Government of Fiji? or was it an attempt to raise discontent or disaffection amongst the inhabitants of Fiji? You have to decide, by reference to all the evidence including the documents produced and drawing


such inferences you deem fit from the evidence as appear proper, whether, when they did those acts, the accused did intend to produce those effects.

108. You have to consider each accused's case separately to determine their intention. We did not hear from 2nd to 15th Accused. Therefore, look at the records of interview individually to understand what each of them were saying about their intentions. I'm not going to deal with what each of them said. You have the interviews. You have to read and understand them. Please bear in mind, their motives for doing those acts are irrelevant to determine their intentions.
109. In their respective caution statements, several accused have given various excuses and explanations as to why they signed. 2nd Accused said '*at the time of signing this document, I did not read,*' 3rd Accused claims he thought that everything was going to be done lawfully. 4th Accused says '*Nothing against the current government.*'... '*the objective was to petition the British Crown, nothing to do with the current government.*'... '*It was to take the case to the International Court of Justice and the British Crown.*'... '*All done due to Mereoni explanations*'.... '*opposition was to the taking away of the GCC*'. 6th Accused claimed he didn't think he was committing an offence. He further said "*Only Mereoni Kirwin knows the reasons behind the three documents signed*'. '*It was all about indigenous rights and land*'
110. 7th Accused claimed that he had a right to act under the UN Declaration on Indigenous Rights. He further said that his lawyer Mereoni would explain everything. 8th Accused too asserts his rights under the UN Declaration. 9th Accused says he believed Mereoni's words that everything was legal. 10th Accused says that his intention was to be part of a Government spiritual in nature. 11th Accused expects his lawyer Mereoni to explain his reasons. 12th Accused explained her strong belief in God's time. 13th Accused, said his main purpose for supporting Ra Sovereign Christian State was because the constitution was the 10 Commandments and observance of the True Sunday. 14th Accused asserts indigenous rights under the United Nations law. 15th Accused, said he signed the document as the minister because he needed to get into the group to reveal to the others his message not to go against the Government.
111. Please bear in mind, police interviews are out of court statements not given under oath and not tested in cross examination. I have already directed you as to how you should approach them and what weight to be attached to out of court statements. In light of the directions I have given to you, you decide what weight you should give to those reasons and explanations.

112. The Counsel for 2nd to 15th Accused, in his closing speech, perhaps based on 3rd Accused's caution statement, pointed out that 3rd Accused Malani had signed the Uluda Declaration and the Ra Petition to the ICJ on 29th and not on 28th October 2014 as alleged in 4th and 5th counts in the Information. 3rd Accused does not deny signing those documents. You consider whether the date he signed is so important as long as he admits signing those documents.
113. Similarly, the Counsel for 1st Accused argued during cross examination and his closing speech that 1st Accused signed those documents not at Uluda but at his chiefly house and attacked the credibility of Mereoni's assertion in those documents. 1st Accused does not deny the signature in two pages of those documents. You consider whether the place he signed is so important as long as he admits signing those two pages.
114. The Counsel for 2nd to 15th Accused in his closing speech pointed out that the Section cited in count 32 of the Information is erroneous. Count 32 clearly state that the offence charged is SEDITION. The particulars of the offence describe the offence as any other Sedition counts in the Information. No question was raised during trial as to this error. You consider whether the statement and the particulars of offence had misled the 14th Accused and his Counsel and whether they have been prejudiced or embarrassed by this error in setting up 14th Accused's defence.
115. The Counsel for 2nd to 15th Accused argues that Mereoni is a Legal Counsel and everything she had done has been done according to law. Therefore, acts done by 2nd to 15th Accused had been done under her legal instructions and they have not committed any criminal offence. As responsible law abiding citizens of this country, you will be able to come to your own individual opinion on that. However, I must add this well recognized legal principle in criminal law. Ignorance of the law is no excuse when a person is charged with an offence. This does not mean that people are presumed to know the law. Such a presumption would be absurd. Rather, it means that if a person is alleged to have committed an offence, it is both necessary and sufficient for the prosecution to prove the elements of the offence, and it is irrelevant to the question of guilt that the accused person was not aware of those elements that constituted an offence.
116. Ladies and gentleman assessors it is for you to determine the case of each accused separately against each count on a consideration of all the evidence and applying the directions that I have given to you.

117. Please remember, the burden to prove the Accused's guilt beyond reasonable doubt lies with the Prosecution throughout the trial, and never shifts to the accused, at any stage of the trial. The accused are not required to prove their innocence, or prove anything at all. In fact, they are presumed innocent until proven guilty.
118. That concludes my summing up of the law and the evidence in this particular trial. We have now reached the stage where you must deliberate together and form your individual opinions on whether the charges have been proved against each accused. I remind you that you must consider the case against each accused separately. On your return you will be asked to separately state in Court your opinion in respect of each accused whether they are guilty or not guilty of the charges with which they are charged with.
119. Would you please now retire to consider your separate opinions? When you have made your decisions would you please advise the Court clerk and the Court so will reconvene to receive your opinions.
120. Any redirections?




Aruna Aluthge
Judge

AT LAUTOKA
15th September, 2017

Solicitors: Office of the Director of Public Prosecutions for the State
Kevueli Tunidau Lawyers for 1st Accused
Aman Ravindra Singh Lawyers for 2nd to 15th Accused