REV. JOSATEKI FIFI KOROI

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REV. RATU ISIRELI CAUCAU & OTHERS

[HIGH COURT, 1989 (Tuivaga CJ) 30 March]

Civil Jurisdiction

Ecclesiastical law- constitution of the Methodist Church of Fiji- whether suspension of constitution lawful.

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A rift developed within the Methodist Church of Fiji over the question of Sunday observance. The Defendants, one of whom was the General Secretary of the Church purported to suspend the Church's constitution, to dissolve the Standing Committee, to depose the Plaintiff as its President and to take over the management and administration of the Church. The High Court, stressing the paramountcy of the rule of law in Fiji, examined the constitution of the Church and declared the actions by the defendants to be unlawful, illegal, null and void.

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No case was cited.

F.G.. Keil for the Plaintiffs K.R. Bulewa for the Defendants

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Tuivaga CJ:

Part I - Introduction

On 8th March, 1989 the Reverend Josateki Koroi filed an Originating Summons on behalf of himself as President of the Methodist Church in Fiji and a trustee thereof and on behalf of and as representing the members of the Methodist Church in Fiji duly constituted under the Constitution of the Methodist Church of Fiji as plaintiffs in this action against the defendants and their supporters for perpetrating acts which are said to be unlawful as being in breach of the Constitution of the Church and therefore null and void.

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More specifically the alleged unlawful actions complained of are as follows:-

- in purporting to suspend the Constitution of the Methodist Church of Fiji;
- (2) in purporting to dissolve the Standing Committee of the Annual Conference of the Church:

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- in purporting to displace Reverend Josateki Koroi from his duly elected office as President of the Methodist Church; and
- (4) in purporting to take over the management and administration

of the Church.

A It would appear that these proceedings were only instituted after all conciliatory moves to appease the turmoil in the Methodist Church affecting the plaintiffs and defendants failed.

In this application before this Court arising out of the said Originating Summons the plaintiffs seek the following remedies and/or reliefs:-

- B 1. For an Order that until the next Annual Conference of the Church duly called and to be held in accordance with the provisions of the Constitution of the Methodist Church in Fiji at Centenary Methodist Church Suva between 18th August and 1st September 1989 the Plaintiffs including the Standing Committee are the duly authorised members and officials to conduct all of the affairs of the Methodist Church in Fiji including control of all its property, administration and pastoral affairs.
 - For an Order that the Defendants forthwith remove themselves from all
 properties belonging to the Methodist Church in Fiji in particular from
 the property comprised in Certificates of Title 7945 and 8989 and deliver
 up to the Plaintiffs motor vehicles Nos. BY742 and CC494.
- D 3. For an Injunction restraining the Defendants, by themselves, their servants, workmen or agents or otherwise howsoever from doing the following acts or any of them that is to say:
 - interfering in any way with or taking possession, control or use of any of the real and personal properties belonging to the Methodist Church in Fiji including
 - i) Epworth Hall and surroundings.

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- ii) Jubilee Hall, Huon Street Toorak, and surroundings.
- iii) Davuilevu Young People's Department Hall and Methodist Lay Training Centre, Theological school buildings or residences, Baker Hall and Davuilevu Circuit Minister's house and surroundings.
- Motor vehicles registration Nos. BG466, BY742 and CC494.
- v) Key to GPO Box 357, Suva.
- Vi. Bank account with Westpac Banking Corporation Suva.
- (2) disturbing, hindering or molesting the Plaintiffs officials staff and other members of the Church in the performance of functions carried out by them in accordance with the

provisions of the Constitution of the Methodist Church in Fiji."

Part II - Factual Background of the Case

Several basic facts in this case which were deposed to in the affidavit of Reverend Koroi are not seriously disputed. The Reverend Koroi and Reverend Lasaro are the duly appointed President and General Secretary of the Methodist Church in Fiji respectively. They were appointed by the Annual Conference and have been carrying out their respective responsibilities when the present disputes broke out. The disputes appear to have arisen from differences regarding the Church's policy stand on Sunday Observance. But what perhaps precipitated and exacerbated the current turmoil in the Church was a letter the President wrote to Reverend Lasaro on 20th December, 1988 which stated as follows:-

"In view of the fact that you have:

- been directly involved in the organising of an illegal public demonstration without any authority from the church and
- (ii) that you have publicly stated your opposition to the 1988 Conference resolution concerning the Methodist Church's support for the Interim Government and
- (iii) that you have consistently made pronouncements presuming to represent the Church but without the authority of the Standing Committee or the President (as the Constitution required).

I must advise you that you are suspended from your duties as General Secretary of the Methodist Church immediately as from today."

In writing the letter Reverend Koroi no doubt purported to be acting under his powers as President of the Methodist Church which rest on his constitutional responsibilities and functions as prescribed under Clause 80 of the Constitution of the Methodist Church. Clause 80 lists them as follows:

- "(a) To be the chief pastor of the Church;
- (b) To be the official representative of the Church. The President shall have the power to appoint a deputy to represent him/ her;
- (c) To preside at the Conference and at official Conference committees or meetings;
- (d) To have the power to act in the name of the Church in a situation of urgency;
- (e) To have the authority to give rulings on matters not covered

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by the Constitution and the decision of Conference; such rulings to be reported to the next Standing Committee for confirmation or amendment;

(f) To commission Divisional Superintendents.

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(g) The President (or a suitable person delegated by the President) shall oversee the Divisional Superintendents' administrative work, pastoral duties and general book work."

Reverend Koroi averred that after suspending Reverend Lasaro from office he arranged to convene a meeting of the Standing Committee as required under Clause 80(e) (see above) to be held on 3rd February 1989 at Epworth House, the official headquarters of the Methodist Church. The meeting was to consider and review the suspension of Reverend Lasaro. That averment was denied by Reverend Lasaro in his affidavit. In view of the final outcome of this case I do not need to dwell on that aspect of the question.

The letter, as may be expected, brought strong reaction from the defendants and their supporters. They decided to take pre-emptive action by calling and organizing a meeting to be held at Nasese in Suva on 3rd February, 1989. The meeting was held as arranged. About sixty people comprising ministers and lay members attended. A decision was taken which was conveyed to Reverend Koroi on the same day in a letter signed by all of them. The letter states:

"At a combined meeting of 5 Divisions of the Methodist Conference held today we have agreed on the following:

- (i) That you are to be suspended from your position as President of the Methodist Church in Suva since many Methodists in Fiji and Rotuma have expressed a lack of confidence in your leadership.
- (ii) In your place we have appointed the Rev. Ratu Isireli Caucau, Superintendent Minister of Bau.
- (iii) The appointment is to be effective from today.

We the undersigned, have signed on behalf of our own Divisions and all members of the Methodist Church."

Acting on the strength of the decision at the meeting, the defendants and their supporters set out to and did take over from the President and the Standing Committee the management and administration of the Church. It would appear that the defendants and their supporters resorted to the use of force and threat of force and violence in doing so. The takeover particularly in regard to the occupation and control of Epworth House, the Church headquarters and surrounding Church premises took on the appearance of a blockade against the President and those who are sympathetic to him.

In his affidavit Reverend Lasaro claims to have overwhelming support of Church members for the action taken. He also contended that the President was a mere figurehead of the Church for most purposes with no executive authority. His main role is as chief pastor of the Church. It is claimed that it is Reverend Lasaro who is possessed of the executive powers of the Annual Conference by virtue of his being the executive officer of the Conference. According to the defendants their action was dictated by the wishes of about 99.9% of Church members.					
Clauses 83 and 84 of the Constitution set out the responsibilities and function the General Secretary which are as follows:-					
	"83. There shall be a General Secretary of the Methodist Church in Fiji, who shall be responsible for the administrative work of the Church and the secretarial work of the Conference.				
	(a)		General Secretary shall be a minister of the Conference l connexion.	C	
	(b)		ame person may be re-elected as General Secretary for ximum of 7 years.		
	(c)		General Secretary shall assume office at the beginning e connexional year following his appointment.	D	
	(d)	This	appointment shall be a separate appointment,		
84.	Duties of the General Secretary				
	(a)	To be the executive officer of the Conference;			
	(b)	To act as agent for the Conference;		Е	
	(c)	To be	e the custodian of deeds;		
	(d)	To be responsible for the organization of the work of the church office and all matters related thereto;		F	
	(e)	To be	responsible for time handling of all connexional monies;	Γ	
	(f)	To be	e a member of the Standing Committee;		
	(g)	To see that the following are carried out:			
		(i)	keeping up to date of all conference records;	G	
		(ii)	appointing of an accountant/accountants and other necessary office staff (e.g. Administrative Secretary);		
		(iii)	preparing and presenting of the business of Conference;		

seeing that an accurate record of Conference business

(iv)

is kept;

- (v) preparing and issuing of the minutes of Conference."
- A On 8th February, 1989 a letter was addressed to the Manager, Bhura & Jokhan Service Station in Bau Street, Suva and signed by the fourth defendant as Acting Development Supervisor. The letter reads:

"re: Charge Accounts - Church Vehicles

I wish to advise you that as from 7/2/89 the Methodist Church in Fiji will only honour Accounts borne by the Vehicle Nos. BY742 and CC494.

All other Church vehicles should pay cash, for any services rendered by your Company.

Please refer any queries to the Church Office Suva."

- The action appears to have been aimed at stopping certain ministers sympathetic to Reverend Koroi from charging their fuel bill to the Church account with the company. Reverend Koroi himself was deprived of access to the President's mail box No. 357 at the General Post Office. There were other similar belittling incidents which brought nobody any credit.
- On or about the 13th February, 1989 the fourth defendant in his purported joint capacity as Acting Development Officer and Administrative Secretary sent a circular letter under the title "Instructions for Methodist Church Head Office Staff" which reads as follows:-
- "I hereby inform all Methodist Church Head Office staff that as from today you are not to take any instruction, advice or request from the Rev. Josateki F. Koroi and the Rev. Paula Niukula on any matter to do with this office. They are not to be permitted to use the telephone, or official church letter head bearing the name, Methodist Church in Fiji and Rotuma.
- F I am counting on your assistance on this matter."

On 13th February, 1989 Reverend Lasaro addressed a letter to Reverend Koroi which was copied to Reverend Paula Niukula, the Acting General Secretary, in these terms:-

"As you well know, a meeting of all Divisional Superintendents and representatives were called at the Centenary Church on Friday 10th February to discuss the situation facing our Church at the present time. An invitation was also extended to you but for some reason or other, you did not attend.

At the meeting, the following were unanimously resolved:

a) endorsed the action taken by the Acting President, that the

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		Constitution of the Church remain suspended until the next Conference and the Standing Committee dissolved;				
	b)	that the Divisional Superintendent Bau, Ratu Isireli Caucau, continue to act as President of the Methodist Church in Fiji until the next Conference;				
	c)	the meeting unanimously passed a motion of no confidence in your leadership as President of the Methodist Church;	В			
	d)	that you be suspended from the Office as President of the Methodist Church until the next Conference;				
	e)	that a special meeting of the Conference has been set from the 30th - 31st March, 1989 to formalise the action taken and to discuss the future of our Constitution, and the Sunday issue.	С			
	all tl	Despite the fact that a rival meeting of Ministers was held at Viseisei, all the twenty-four (24) Divisions were represented at the meeting with the exception of the Indian Division.				
	Whilst in the meanwhile you may still enjoy the privilege of staying at the quarters at Pender Street, the need to hand over the church vehicle DG466 to the Office is required for the official business of the Church."					
On 14th February, 1989 a memorandum Circular to all Staff members was sent by Reverend Lasaro under the subject "Staff Re-Organisation". It reads as follows:-						
	reso Supe	"Following our meeting this morning and in accordance with the resolutions passed at last week's meeting of Divisional Superintendents and Ministers, the following is for general information and guidance:-				
	1)	The Divisional Superintendent of Bau will be Acting President until the next Conference;				
	2)	endorsed my reinstatement as General Secretary;				
	3)	Conference;				
	4)					
	5)	Before the next Conference all Divisional Superintendents within Viti Levu and Tuirara Levu will act as Advisory				

Committee to the President:

- A a special meeting of the Conference is to be held from 30th to 31st March, 1989.
 - Ratu Emosi Vuakatagane in addition to his duties as Development Supervisor will conjointly act as Administrative Secretary during this intervening period;
- B as an interim measure, J. Vosanibola will continue to perform operations at Davuilevu and will also assist with the President and the General Secretary during this period in this Office;
 - officers should ensure at no time that they are supposed to release information to the news media without my approval;
 - 10) no official business as may be required by the Revs. J. Koroi and P. Niukula be done in this Office without first obtaining approval from the Administrative Secretary.

The above rules are effective now and should be observed more rigidly. I count on your loyal support in these trying times."

Under the Constitution the hierarchy of the Methodist Church has at its apex the Annual Conference, also known as Church Conference or simply Conference. The following Chart shows what the power structure of the Church looks like.

METHODIST CHURCH OF FIJI - POWER STRUCTURE

Annual Conference (Supreme body)

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Standing Committee (Executive body of the Conference)

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President of the Church (Chief pastor and official Representative of the Church)

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General Secretary (Executive Officer of the Conference)

Divisional Superintendents (Responsible pastors and officials of the Church in each Division)

Circuit Ministers and Ministers (Responsible pastors within the Circuit)

Church laity

From the above Chart it is clear that the supreme or all-powerful body of the Church is the Annual Conference. It is a large and representative body and meets only once a year. A Clauses 67 and 68 of the Constitution provide as follows:-"67. There shall be a Conference of the Methodist Church in Fiji, which shall meet annually. There shall be one Conference only, comprising both ministerial and lay representatives. B 68. The Conference shall consist of the following: (a) Ordained ministers The lay vice-President (b) (c) The two immediate past vice-Presidents Circuit lay representatives (d) C One lay representative from each section of the secretariat (e) The head or one representative from (f) Dilkusha Girls' Home Veilomani Boys' home Ba Methodist Hospital D Methodist Lay Training Centre Methodist Handcraft and Farming School (g) The Administrator of the Deaconess Order (h) The President and the Secretary of the Methodist Women's Fellowship E (i) A representative of the Overseas Missions Committee The Secretary for Education (i) The Principal or Head Teacher of each church school or his/ (k) her representative (1) All ordained deaconesses (m) One woman representative from each division F One youth representative from each division, being a member (n) of the Church under 30 years of age Ex officio lay national leaders of the church (Financial (o) Secretary, Property Development Supervisor) The President's Panel. For this the President may appoint (p) no more than ten extra lay members of Conference choosing G

The next lawfully scheduled meeting of the Annual Conference is not due to be held until August this year. There is no provision in the Church Constitution for the holding of a special general meeting or extraordinary general meeting of the Conference as is common form in many organisation Constitutions. From the

church members who, in his judgment, have a special contribution to make to the work of the Annual Conference."

nature of the power structure of the Methodist Church provisions for special or extraordinary general meetings of the Conference would appear to be altogether unnecessary. The reason may be that the Standing Committee which is the executive body of the Conference meets regularly to monitor the affairs of the Church and make important decisions as and when necessary in the general interests of the Church.

The responsibilities and functions of the Standing Committee are set out in the Appendix to the Constitution of the Church which provides as follows:

"Each Annual Conference of the Methodist Church in Fiji shall appoint a Standing Committee to act as the executive of the Conference in matters which may arise between Conferences.

A. Terms of Reference of the Standing Committee

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- To make decisions on matters which are not otherwise provided for in the Constitution of the Methodist Church in Fiji.
- To deal with matters which, by the Constitution of the Methodist Church in Fiji, are under the authority of the Conference.
- To see that Conference decisions are carried out, making any supplementary decisions necessary to ensure this.
- To deal with matters which the Conference directs the Standing Committee to handle, including the items under Section A of the Conference Agenda.
- To receive reports of the decisions of the Working Committee on Ministry, and to take any action necessary.

B. Personnel of the Standing Committee

The Standing Committee shall consist of 32 people. Provision shall be made for representation of women, youth and minority groups in the Church.

1. The following shall be ex officio members:

The President, Ex-President, Vice-President, General Secretary, the Superintendent of the Suva-Davuilevu Division, the Superintendent of the Indian Division, 1 lay representative of the Indian Division recommended by its Annual Divisional Meeting.

2. The remaining members shall be elected by Conference in

such a way as to give equal representation on the committee to ministers and lay people, including the ex officio members. They shall include at least 4 women, at least 1 young person, and at least 3 representatives of minority groups within the Church (e.g. Indian, Rotuman, Banaban, European etc.).

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- 3. Any lay person who has been a representative to any two Conferences may be included in the personnel, subject to the provisions in paragraph C on the method of election, and provided that he/she is a confirmed member of the Methodist Church for a period of not less than four continuous years, and has consented in writing to being nominated.
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4. The Standing Committee shall serve from January to December of the year following its election."

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Since these troubles in the Church started the Standing Committee has been prevented from asserting its lawful, constitutional authority.

Part III - Observations, Findings and Verdict of the Court

This case discloses a serious rift in the hierarchy of the Methodist Church. The rift is between a group led by the President of the Methodist Church, Reverend Josateki Koroi on the one hand, and a group led by the General Secretary, Reverend Manasa Lasaro on the other hand.

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It would appear that one of the major rallying points in that rift concerns the Church policy stand on Sunday Observance. The subject has evoked a lot of passion among the people of Fiji. It is a subject that not only interests the Methodist Church profoundly but also other Church denominations and religious bodies as well as the general public of Fiji.

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From the material available to this Court it does not appear that a comprehensive study has ever been conducted by the Methodist Church concerning the full ramifications of the subject of Sunday Observance on human conditions in our modern technological age. It may not therefore be inappropriate for this Court to urge the Methodist Church to consider doing an in-depth study of this nationally important subject which may well need to be scrutinised under the theological, sociological and political microscope, so to speak.

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The Court believes that the Church has a responsibility to the nation to carry out such a study, part of which might take the form of a referendum of all Church members to ascertain their opinions on Sunday Observance. It may well be that their input will prove interesting and invaluable to the Annual Conference when it gets down to formulate its policy stand on the question. It is probably true to say that only if some such study is carried out by the Church would the general populace feel that the Church has acted with the utmost responsibility in the highly controversial subject of Sunday Observance.

Counsel for the plaintiffs has submitted that the defendants and their supporters had acted illegally in breach of the Constitution of the Church when they purported to take over the control of Church premises in Suva and elsewhere. Similarly it was submitted that the defendants and their supporters had acted illegally in breach of the Constitution of the Church when they purported to take over the management and administration of the Church. It is claimed that they have no constitutional right or power to do so outside the Constitution. It is also claimed that the defendants and their supporters did not follow the constitutional procedures clearly laid down to resolve the present problems of the Church. It is further contended that the defendants and their supporters cannot claim any greater power in relation to the conduct of Church affairs outside the ambit of the Constitution.

According to Counsel for the plaintiffs the defendants and their supporters did not resort to these constitutional procedures to resolve any grievances they may have about Reverend Koroi's style of leadership.

It was also submitted that a state of lawlessness now exists in the Church which should not be allowed to continue because of its serious implications on law and order within the Church and also on the country as a whole.

D The submissions put forward on behalf of the defendants are based on an unremitting indictment of the leadership of Reverend Koroi as President of the Church. Counsel submitted that about 99.9% of the clergy and laity of the Church supported the defendants in their action to take over the leadership of the Methodist Church. It is said that the defendants and their supporters have entirely lost confidence in Reverend Koroi because of the way he misrepresented the Church stand on Sunday Observance and on other questions of Church policy. Complaints were also made of his dealings with certain ministers.

In those circumstances it was submitted that there was every justification to have Reverend Koroi removed from his office as President of the Church. Some argument was also directed to the claim that the President of the Methodist Church does not possess any executive authority in the Church since his role was largely ceremonial and akin to that of a figurehead so that his purported suspension of Reverend Lasaro was ineffectual. It is claimed that the President's main role is as chief pastor of the Church.

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For many people who are well aware of the august history and salutary influence of the Methodist Church since the arrival of the first missionaries in 1835, the present turmoil in the Church has caused much sadness and disappointment. Many people had fervently hoped that the turmoil could be resolved without resort to the Court. However, alast hat was not to be so.

It is not the function of the Court to allocate blame to anyone for the troubles in the Church as manifested by the rift between the two opposing sides.

The function of the Court is to declare what the law is in any given situation and to lend its assistance where this is necessary for the enforcement of the law.

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The Constitution of the Methodist Church in Fiji is a document which provides for the various organs of the Church and the composition, power, and function of its principal functionaries e.g. the President and General Secretary. Within the Church the Constitution is the supreme law which controls and regulates the running of the affairs of the Church. It is a self-contained document which has as its main objective the general welfare of the Church as a guiding, inspirational light to all its followers.

The Chart at page 65 on the power structure of the Church shows clearly in a compendious form how Church authority is distributed. Under the present Constitution and given the goodwill of everyone in the Church, the Church has full scope and capacity to run the affairs of the Church effectively and efficiently. As has been noted no provision exists under the Constitution for the holding of a special general meeting or an extraordinary general meeting. No provisions for them were made in the Constitution undoubtedly because they could complicate and hamper the smooth and orderly running of the Church.

I think it is right to state contrary to the submissions that have been made that majority wishes or support alone without constitutional or legal backing is not enough to render unlawful actions lawful. In my view, if that was not the case, any dissatisfied group within the Church or any organisation for that matter could by using the same excuse of having majority support of members do whatever they like against the Church or organisation for their own purposes. This would lead to much confusion and uncertainty for the members with possible disastrous results in the end.

I think also it is right to state having regard to the general scheme of the Constitution, that as between the positions of the President and General Secretary of the Church, the President necessarily takes precedence in authority over the General Secretary. The latter is essentially the principal administrative officer of the Church and whatever executive authority he may have is confined to carrying out the clear and unequivocal decisions of the Annual Conference. It certainly does not give a General Secretary of the Church any powers to carry out in the name of the Church activities which are patently in defiance of the laws of the Country. The least he must do if he contemplates for the Church some unorthodox ventures is to first get the sanctions, if he is able to, of President, who is the official representative of the Methodist Church as well as the Standing Committee, who are the executive body of the Annual Conference. It is most important to the nation that the Church should be seen as a unifying rather than a divisive force for the people of Fiji. One of the cherished and meaningful tenets of Christianity is forgiveness and humility. In that spirit the Court would urge all those concerned to bury the hatchets of dissension and aggressive discontent and work for the good of Church and Country.

All in all, having regard to the facts of this case there can be little doubt that when the defendants and their supporters purported to work outside the four corners of the Constitution, they were clearly acting unconstitutionally. This Court is clearly of the view that in taking control of the Church headquarters in Suva and other Church property and likewise in taking over the management and administration of the Church, the defendants and their supporters acted in a manner which amounted to usurpation. It follows inexorably as a matter of law that the purported actions of the defendants and their supporters in suspending the Constitution of the Methodist Church, in dissolving the Standing Committee, in displacing Reverend Koroi and in taking over the management and administration of the Church, were all illegal and unlawful.

In the result and given the whole circumstances of this case, the Court is satisfied that the plaintiffs are entitled to succeed in their application for relief arising out of the illegal actions of the defendants and their supporters.

Both counsel have agreed that if the Court should come to that conclusion, then all it need do is to make suitable declarations in the light of its findings.

Accordingly this Court would make the following declarations:

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- D 1. That the purported suspension of the Constitution of the Methodist Church by defendants and their supporters was and is null and void.
 - That the purported dissolution of the Standing Committee of the Church by the defendants and their supporters was and is null and void.
 - That the purported displacement of the Reverend Josateki Koroi
 as President of the Methodist Church by the defendants and their
 supporters was and is null and void.
- That the purported takeover of the management and administration of the Methodist Church in Fiji by the defendants and their supporters was and is null and void.

In practical terms the aforesaid declarations envisage the re-instatement of Reverend Josateki Koroi and Reverend Manasa Lasaro as President and General Secretary respectively.

G The declarations also envisage that whatever outstanding policy or administrative problems there are in the Church, they shall be considered and settled by the Standing Committee acting in the best interests of the Church in accordance with the Constitution.

It is also envisaged that no lawfully constituted Annual Conference may be held before 18th August, 1989 as decided by the previous constitutional Annual

Conference of the Church and any purported Conference organised outside the Constitution of the Church and all decisions taken thereunder would be unlawful and would have no binding legal effect.

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I may observe finally that for those who may entertain some misapprehension or misunderstanding about the power of the Court to adjudicate in all justicible disputes that this rests basically on its prerogative role to uphold law and order in accordance with the legal system of the Country. That role distinguishes a civilised society from one which is not. The legal system as now exists is part of the constitutional fabric of the republican sovereign State of Fiji which was born out of a revolution in 1987.

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That is now very much part of the history of Fiji. As far as this Court is concerned, the full force and integrity of the law of Fiji is back in place and is fully operational.

There will be no order as to costs in this case.

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(Judgment for the Plaintiff, declarations granted.)

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