REPUBLIC OF VANUATU

OFFICE OF THE OMBUDSMAN

PUBLIC REPORT

(Pursuant to art 63(3) of the Constitution)

ON THE

PAYMENT OF "COMPENSATION"

TO

HON MAXIME CARLOT KORMAN,

HON WILLIE JIMMY,

AND

HON BARAK SOPE

IN BREACH OF THE LEADERSHIP CODE AND COMPENSATION ACT 1994

This report contains the findings of fact, opinions, views and of unlawful conduct and the recommendations of the Ombudsman pursuant to the Constitution of the Republic of Vanuatu and the Ombudsman Act No.14 of 1995.

3rd July 1997

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PREAMBLE

"But there is a people robbed and spoiled, they are all of them snared in holes, they are for a prey, and none delivereth; they are for a spoil and none saith "Restore" ISAIAH 42 v 22.

This report shows a pattern of behaviour which is becoming very familiar as leaders pursue more and more money by unethical and often illegal means. Rulings and advice by the Government's own legal authorities are treated with contempt, as the leaders singlemindedly pursue the acquisitions of ill-gotten gains by whatever means it may take.

We use terms like "misappropriation" and "misuse" when it would be often more straight-forward to describe actions as "theft" - plain stealing of public funds to finance private ambitions.

My Office is now battling with a backlog of complaints and investigation and many complaints simply ask when the offenders will be tried and punished. The Public Prosecutor's Office is also battling with a backlog of cases and deserves some sympathy, but none the less, if the public do not see any realistic attempts to bring appropriate charges before the Courts the result will be an increasing disillusionment, helpless anger and a complete loss of faith not only in the leaders, but in the very process of law and justice itself.

The public may have to think hard about the quality of leaders whom they wish to safeguard their interests, and become vigilant in ensuring that their representatives are acting in conformity with honest and legal principles.

1 SUMMARY

1.1 This report is about "compensation" payments of Vt 5,000,000 made in 1994 to the former Prime Minister, Maxime Carlot Korman, the current Finance Minister, Hon Willie Jimmy and the current deputy Prime Minister, Mr Barak Sope.

1.2 In this case I investigated three leaders of this country who had appeared to have used their high positions for their own and their associates' personal gain.

1.3 These payments were made to compensate the alleged "political injustice" of their imprisonment under order of the Supreme Court during trial and after conviction by Chief Justice Ward on various criminal charges. These charges related to their part in attempting to form an (illegal) interim government on 18.12.88 after the then President's (Mr George Sokomanu) unconstitutional attempt to dissolve Parliament.

1.4 In 1994 when Mr Korman was Prime Minister and Mr Jimmy was Finance Minister, they were told that they could not legally "compensate" themselves. There was nothing in the Budget authorising it. They therefore promoted a general bill for compensation for people affected by the 1980 Santo rebellion and the 1988 Vila riot in the Council of Ministers. They had it passed by Parliament with the support of Mr Sope. This, they thought would allow them to legally compensate themselves. As the evidence in this report shows the payments made to them were illegal. This was principally because:

(a) Mr Jimmy, Mr Korman and Mr Sope did not meet the criteria of the s3(1)(e) of the Compensation Act; namely imprisonment **without a Court Order**. Messrs Jimmy, Korman and Sope were imprisoned **with a Court Order**; and

(b) They were approved the payments before the Compensation Act was a law of Vanuatu.

1.5 My investigation was prompted by a number of complaints (people who had applied for compensation and had not received any monies) and also concerns raised in the 1993 Audit Report (see page 13) over the increase in ex-gratia payments being made. Due to the seriousness of the matter I decided to enquire into all these compensation payments on my own initiative.

1.6 One of the most glaring facts that forced me to enquire was that the family of Sethy Pango who died in the Vila riot of 16/05/88 received compensation of Vt 1 million. The plain message to me was that the 3 months' imprisonment of a leader is worth 5 lives of a non leader.

1.7 My investigation also led me to uncover other cases of "compensation" payments of up to Vt 1,000,000 to so-called "*political victims*" and a "compensation" payment of Vt 5,000,000 to New Caledonian lawyers and Vt 1,000,000 to an Australian lawyer who represented the men in the trials after Mr Sokomanu's attempted dissolution of Parliament. Again the amount of these payments appeared to be most unfair when compared to payments being made to ni-Vanuatu injured in the 1980 Santo Rebellion and 1988 Civil Unrest. For example, a VMF officer who was seriously shot in 1980 on Santo received Vt 700,000. This is quite low compared to what the leaders received. However, a civil servant driving a truck ambushed by rebels, the truck overturned and with a broken arm he got only Vt 20,000. Others who were imprisoned and battled received nothing as did some members of the New Hebrides Defence Force.

1.8 For the reasons that follow in this report, my opinion is that by receiving Vt 5,000,000 compensation payments for themselves and their colleagues Mr Korman, and Mr Jimmy and Mr Sope very seriously breached the leadership code set out in art 66 of the Constitution. In summary, the main reasons are:

(a) The leaders could have sued the Republic of Vanuatu for compensation under existing law without the need to pass the Compensation Act;

(b) The leaders and other UMP supporters were approved compensation payments in June 1994 before the Compensation Act was passed (see 1.10 below);

(c) Messrs Jimmy and Korman, as Minister of Finance and Prime Minister respectively, actively promoted the passage of the Compensation Act into law knowing full well that they stood to personally gain from it;

(d) Messrs Korman, Jimmy and Sope, as Members of Parliament, voted in favour of the passage of the Compensation Act;

(e) On 26 October 1994 the then Attorney General Mr Patrick Ellum told Mr Korman that the compensation payments were illegal but Mr Korman decided to ignore this advice and directed Mr Jimmy to pay the compensation payments;

(f) Messrs Korman and Jimmy did not follow the Compensation Act because the Compensation Board to be appointed under the Act to decide on how much compensation people applying should get did not make the decision, rather the Council of Ministers did;

(g) On 09.12.94 the Director General of Finance, Mr Jeffrey Wilfred, warned Mr Jimmy that Mr Jimmy was not following the Compensation Act (i.e acting illegally);

(h) The Compensation Board, when appointed later, were UMP political appointments[1] very close to the leaders concerned; and

(i) As noted above at 1.4(a), Messrs Jimmy, Korman and Sope who received Vt 5,000,000 did not qualify under the Compensation Act anyway because they were jailed under order of the Supreme Court.

1.9 Because of these factors Messrs Korman and Jimmy directly placed themselves in positions of serious conflict of interest. They obtained money from the Reserve Bank of Vanuatu to approve themselves compensation before the Compensation Act was passed. I consider that these men have acted in breach of the Constitution and illegally. Their conduct shows that they consider themselves above the law and against democratic principles, such as equal treatment for all under the law.

1.10 Those who received large amounts of "compensation" are set out below in the following table which is an exact copy of a document signed by Mr Willie Jimmy. (Refer Appendix "**1**")

NAMES TAKEN FROM THE SCHEDULE APPROVED BY COUNCIL OF MINISTERS

1.	*Deaths*	*Alexis YOULU*	*VT 5,000,000*
		Sethy PANGO	*VT 1,000,000*
		Garae AMBAE (Nag)	*VT 2,000,000*
2.	*Injured*	*Tari BULUK*	*VT 1,500,000*
		J.M. LEYE	*VT 500,000*
		Albert RAVUTIA	*VT 1,000,000*
		Alfred MALIU	*VT 1,000,000*
		Sam YAOUKO	*VT 700,000*
		Touk NOAU	*VT 500,000*
3.	*Political Victims*	*Aimé MALÉRÉ*	*VT 1,000,000*
		Charley NAKO	*VT 200,000*
		Amos ANDENG	*VT 700,000*
		Harry KOREARU	*VT 1,000,000*
		Thomas TUNGU	*VT 700,000*
		Wohor NALAN	*VT 1,000,000*
4.	*Loss of Properties*	*Amos ANDENG*	*VT 1,500,000*
		Jack KALOTITI	*VT 1,500,000*
5.	*Political Prisoners*	*John KALOTITI*	*VT 5,000,000*
		Maxime Carlot KORMAN	*VT 3,000,000 (O/S 2 Million)*[2]
		Willie JIMMY	*VT 3,000,000 (O/S 2 Million)*
		Lawyers fee (UMP)	*VT 5,000,000*
		Ifira Trust (Lawyers fee)	*VT 1,000,000*
		Barak T. SOPE	*VT 2,500,000 (O/S 2,500,000)*

[1] (a) Mrs Sam Yvette (UMP) as Chairman, the then Prime Minister's (Mr Korman) first secretary;
(b) Mr Waniel Emile (UMP) private secretary to Hon John Sethy Regenvanu deputy Prime Minister; and
(c) Mr Antoine Pikioune (UMP), first secretary to the then Minister of Finance (Mr Jimmy).

[2] "O/S" stands for outstanding. Messrs Korman, Jimmy and Sope at some earlier point in time had received money from the Finance Department previously. They therefore received a total of Vt 5 million each when their existing debts to the Government and the payments they received are added together.

6.	*NHDF*	*220 Members*	*VT16,500,000*
	National	*21 Members*	*VT 4,200,000*
			VT61,000,000

1.11 What should have happened so that the Compensation Act was put into effect is as follows:

(a) Minister of Finance to borrow VT 200,000,000;

(b) The Compensation Board to be appointed by the Prime Minister (comprised of three non political, neutral and independent persons);

(c) Publicity campaign advising the public of:

(i) the types of people who might qualify for compensation;

(ii) the date by which claims had to be made;

(iii) the information and evidence that should be provided by persons applying for compensation;

(d) After receiving all applications by the closing date the Compensation Board was to:

(i) meet and consider all the claims and prepare a report for the Council of Ministers recommending payments (and amounts) of compensation;

(ii) in determining all the claims like this - similar amounts for similar loss or injury are awarded;

(e) The Compensation Board's report to be submitted to the Council of Ministers for final decision.

1.12 Had this procedure been adopted then:

(a) All applicants would have had a fair and equal chance to receive their fair share of the VT 200,000,000. As this public report reveals (see 6.21 below), 6000 claims were submitted and 40% of the claims accepted by the Council of Ministers were not paid because of lack of funds.

(b) Applicants by persons not falling within the criteria in s3 of the Compensation Report (see 5.8 below), including those of Messrs Jimmy, Korman and Sope, would have been rejected and no compensation money paid to them, leaving more for those claims that were within the legal criteria (including those who missed out completely).

2 JURISDICTION

2.1 Pursuant to art 62 of the Constitution and s14 of the Ombudsman Act No.14 of 1995 (**"Act"**) I have jurisdiction to enquire into the conduct of certain public bodies or persons on receiving a complaint or on my own initiative. The three persons enquired into were or are leaders and their conduct to whom my jurisdiction applies.

3 PRELIMINARY REPORT

3.1 On or about 17 October 1996 I issued and circulated a confidential and secret preliminary version of this public report. The preliminary report was sent to:

- Mr Korman*
- Mr Sope
- Mr Jimmy*
- Mr Sokomanu*
- Dr Spooner*

3.2 When Mr Jimmy replied he said that the matter involved an executive decision of the Council of Ministers of the time. Accordingly, on 13 December 1996 I sent copies of the preliminary report to the following who were on the Council of Ministers:

- Mr Romain Batick
- Rt Hon Serge Vohor
- Mr Cecil Sinker
- Mr Jimmy
- Mr Korman
- Hon Amos Bangabiti
- Hon Paul Telukluk
- Hon Charlie Nako*
- Mr Sethy Regenvanu
- Mr Onynne Tahi
- Mr Edward Tabisari

Those persons marked with an * exercised their constitutional right to reply to the preliminary report. The other people did not and must be assumed to agree with the report where it concerns them. Copies of the replies are annexed to this report. They are discussed further in section 7 below.

3.3 The purpose of the preliminary report is to seek comments and submissions from those whose conduct is enquired into or those otherwise criticised. By circulating this report the Office of the Ombudsman's discharges its constitutional obligation of granting *"the person or body complained of an opportunity to reply to the complaints made against them"* (art 62(4) of the Constitution), and of the legal obligation as outlined in s 16(4) of Act.

4 SCOPE OF REPORT

4.1 The scope of this report is to find out:

(a) how the six former or present leaders and their New Caledonian lawyers each received Vt 5m compensation;

(b) whether there was any lawful basis for receiving the money under the Compensation Act;

(c) if Messrs Korman, Jimmy and Sope breached the leadership code in the Constitution.

5 RELEVANT LAW

5.1 The law relevant to this enquiry is the Constitution and the Compensation Act (which came into force on 17/10/94).

5.2 Art 5(1)(k) of the Constitution says:

> (1) The Republic of Vanuatu recognises, that, subject to any restrictions imposed by law on non-citizens, all persons are entitled to the following fundamental rights and freedoms of the individual without discrimination on the grounds of race, place of origin, religious or traditional beliefs, **political opinions**, language or sex but subject to respect for the rights and freedoms of others and to the legitimate public interest in defence, safety, public order, welfare and health.
>
> (k) **Equal treatment** under the law ....

5.3 Art 5(1)(k) is relevant in this case because it would appear that giving compensation of Vt 1m for the death of one ni-Vanuatu citizen and Vt 5m for several months' imprisonment of another is not equal.

5.4 Art 66 of the Constitution covers the conduct of leaders. It says:

> (1) Any person defined as a leader in Article 67 has a duty to conduct himself in such a way, both in his public and private life, so as not to:
>
> (a) place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised;
>
> (b) demean his office or position;
>
> (c) allow his integrity to be called into question; or
>
> (d) endanger or diminish respect for and confidence in the integrity of the Government of the Republic of Vanuatu.
>
> (2) In particular, a leader shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by subarticle (1)."

5.5 Art 66 is relevant in this case because leaders include the Prime Minister and other Ministers. Because Mr Korman Carlot was the Prime Minister and Mr Jimmy was Minister, and Mr Sope an MP at the time and because they received Vt 5m each, art 66 of the Constitution applies to them.

5.6 The other relevant articles of the Constitution in this matter are:

(a) art 3 - the Constitution is the Supreme Law;
(b) art 4 - political parties must respect the Constitution and the principles of democracy;
(c) art 7(a) - everyone has to respect and act in the spirit of the Constitution.

5.7 The Compensation Act came into force on 17/10/94. Its purpose is:

> An Act to authorise the borrowing of a sum of money not exceeding 200,000,000 vatu for the purpose of enabling the government to assess and pay unsatisfied claims for compensation relating to injuries or loss of life, damage or loss of property suffered during the civil disturbances in 1980 and in certain other circumstances.

5.8 S3 of the Compensation Act provides which people were able to apply for compensation. It says:

(1) Any person or the legal personal representatives of any person:

(a) who was injured or lost his life during the civil disturbances in 1980;

(b) whose property was damaged, requisitioned or acquired during the civil disturbances in 1980;

(c) who was injured or lost his life during the civil unrest in 1988;

(d) who was a member of the New Hebrides Defence Force;

(e) who has been unfairly imprisoned **without an order of the Court**;

(f) who is a former member of the National Council of Chiefs whose term of office ended on 16th December, 1992.

(my emphasis)

5.9 S5 & 6 of the Compensation Act established a Compensation Board (**"Board"**) to have jurisdiction to look at all applications for compensation by people who fell into the categories described in s3. All claims had to be made by midnight 30/11/94. As the Act came into force on 17/10/94 all applications had to be made between 17/10/94 - 30/11/94.

5.10 S6(2) is important because it outlines the responsibility of the Board:

> In considering claims for compensation the Board shall act fairly and judicially, attempting insofar as possible to award similar sums for similar degrees of loss, pain or suffering in similar circumstances and to award lesser or greater sums according to the degree of loss, pain or suffering involved.

5.11 In other words a man on Santo who lost his house in the Santo Rebellion should get about the same as a woman who lost her house on Tanna during the same time. The family of someone killed would expect more than a person who was injured or imprisoned without court order.

6 FACTUAL BACKGROUND

1988/1989 - attempted dissolution of Parliament and subsequent events

6.1 To understand how the leaders came to be in a position to receive Vt 5m each it is necessary to look back in time.

6.2 On 16/05/88 there was a demonstration in Vila. Order was lost as a result. One man, Sethy Pango, was killed and millions of vatu of property damage occurred. After this, Vanuatu entered an unstable political situation. Twenty-three MPs, half of Parliament at that time, were expelled.

6.3 In October 1988 the then Prime Minister, Father Walter Lini said he would hold by-elections to fill the empty places in Parliament. Mr Sokomanu, the then President, disagreed. Mr Sokomanu publicly said that there should be a general election. The by-elections went ahead.

6.4 On 16/12/88, the President was scheduled, as usual, to open Vanuatu's Parliament. The opening was broadcast live on Radio Vanuatu. At this time Mr Sokomanu then declared as follows:

(a) he was dissolving Parliament;

(b) he was calling a general election in February 1989; and

(c) he was forming an interim government until a new government was elected.

6.5 On Sunday 18/12/88 Mr Sokomanu swore in his interim government of Mr Sope (as Prime Minister), Mr Carlot Korman (as Deputy) and Messrs Jimmy and Naupa and Dr Spooner as Ministers. On 19/12/88 all the men were arrested and put in jail. Applications for bail were refused by the Supreme Court. On 30/01/89 Mr Sokomanu was removed as President.

6.6 On 20/02/89 the men faced a number of charges relating to the attempt to dissolve Parliament and swear in an interim government. On 07/03/89 Messrs Sokomanu, Korman, Sope and Jimmy were convicted and sentenced to imprisonment of varying periods by Chief Justice Ward. They immediately appealed. The others, Mr Naupa and Dr Spooner were acquitted and set free. Messrs Sokomanu, Korman, Sope and Jimmy appealed against their conviction.

6.7 On 14/04/89 the Vanuatu Court of Appeal granted the appeals[3]. The convictions were quashed and the men released from prison. **It is important for me to mention here that the leaders, when imprisoned pending trial, during trial and pending appeal <u>were imprisoned under Court order</u>**. For that reason it would appear clear that Messrs Carlot Korman, Sope and Jimmy could not have qualified for compensation under s3(e) of the Compensation Act even if they had decided to apply to the Compensation Board between 17/10/94 - 30/11/94. **S3(e) only applies to people who <u>were imprisoned without Court order</u>.**

1994

6.8 By 1994, as we know, things had changed. Mr Korman was the Prime Minister, leading the government. Mr Jimmy was the Minister of Finance and Mr Sope was a member of Parliament. Mr Sokomanu had become the head of the South Pacific Commission. Dr Spooner was in medical practice. Mr Naupa was now deceased.

6.9 Sometime during this year it appears that the Council of Ministers believed those who had been badly affected by the 1980 Santo Rebellion and the 16/05/88 Vila riot should be compensated. Accordingly, a bill was prepared by the then Attorney General, Mr P Ellum and presented for consideration to the Council of Ministers.

6.10 A bill is a document that contains a future law. Its purpose is to allow MPs to consider its contents, argue and debate, until a final wording is agreed. When this is done, Parliament votes. If the majority of MPs agree it should become the law, the bill becomes official law once the President signs it and it is published in the official gazette.

6.11 However, sometime before the Compensation Act became law (on 17/10/94), in June 1994, Mr Jimmy had prepared a list of people who should be paid compensation. This list included Vt 5m for Mr Jimmy himself, Mr Korman and Mr Sope. There was also to be Vt 5m payments to Mr Naupa, Dr Spooner, Mr John Kalotiti, (Mr Sokomanu's private secretary in 1988) and somewhat remarkably payments of Vt 5,000,000 to lawyers who represented the men at trial and Vt 1,000,000 for the appeal lawyers. A copy of the document signed by Mr Jimmy appears as appendix **1**. This also appears in the text of this report at 1.9 above. The Council of Ministers which approved the compensation payments included Messrs Korman and Jimmy. It should be noted that because the men owed their lawyers money the compensation payment to the lawyers was a further benefit to the men as it extinguished their debts owed to their lawyers.

6.12 On 25/08/94 the Council of Ministers approved the Compensation Bill and it came into force as law on 17/10/94.

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[3] The Court of Appeal did however confirm that Mr Sokomanu as President had acted illegally and against the Constitution in attempting to dissolve Parliament and trying to set up an interim government.

6.13 On 26/10/94 Mr Korman met with Mr Ellum and the then acting director of Finance. Mr Ellum advised Mr Korman that the Compensation Act did not allow the government to pay compensation in the way it proposed. According to the record of the meeting it appears that Mr Korman *"understood and accepted what P Ellum said but on this occasion he would not follow his advice and the Minister of Finance would pay the advances"*. A copy of the record appears as appendix **2**. A copy of Mr Ellum's advice in writing on 26/10/94 is appendix **3**.

6.14 On 27/10/94 Mrs Naupa (on behalf of Mr Naupa, deceased) Mr Sokomanu and Dr Spooner were paid Vt 5m each. Appendix **4** exhibits copies of the Government payment vouchers signed by Mr Jimmy directing the payment of compensation.

6.15 On 22/11/94 Mr Naupa's estate lodged a claim for compensation of Vt 30,000,000. He lodged this almost a month after having already been paid.

6.16 On 24/11/94 Mr Sokomanu and Dr Spooner lodged claims for Vt 30,000,000 each. Again this was almost a month after they had been paid Vt 5,000,000 each. Mr Sope lodged a claim for Vt 30,000,000 on the same day. All claims were made on the basis of unlawful imprisonment. No application has been seen by me for Mr Jimmy or Mr Korman.

6.17 On 12/12/94 vouchers for Messrs Korman, Jimmy and Sope to receive Vt 5,000,000 each were signed together with those of the lawyers. Appendix **5** exhibits copies of the Government payment vouchers signed by Mr Jimmy directing the payment of compensation.

6.18 As at 12/12/94 the Compensation Board had yet to be appointed. This did not occur till 17/01/95. The members of the Board were:

(a) Mrs Sam Yvette (UMP) as Chairman, the then Prime Minister's (Mr Korman) first secretary;

(b) Mr Waniel Emile (UMP) private secretary to Hon John Sethy Regenvanu deputy Prime Minister; and

(c) Mr Antoine Pikioune (UMP), first secretary to the then Minister of Finance (Mr Jimmy).

Their appointment was published in the official gazette on 22/02/95. A copy of this notice is appendix **6**.

6.19 However, back on 12/12/94 compensation, payments ranging between Vt 700,000 and Vt 5,000,000 were paid to various UMP leaders and supporters involved in the 1980 Santo Rebellion. This cannot have been approved by the Compensation Board as it was only appointed on that day. A copy of a Finance Department computer print out confirming payment of this money is appendix **7**. Vouchers for these payments were signed for these payments by Mr Jimmy on the same day that he signed the vouchers for himself and Messrs Korman and Sope.

6.20 Subsequently throughout 1995 further compensation payments were made. According to Mrs Sam there were about 6000 claims. The great majority were for much smaller sums than what the leaders received.

6.21 Finally, despite the Compensation Act putting a limit of Vt 200 million to meet all claims it appears that 2400 claims (40%) could not be paid because all the money was gone. I refer to Mrs Sam's letter dated 13.06.96 which is appendix **8**.

7 REPLIES

7.1 I received replies from the following men who had been given a copy of the report on or about 17 October 1996; their replies are annexed as appendices 9, 11 and 12:

- Mr Korman- appendix **9** (with English translation)
- Mr Jimmy (set out in full at 7.6)
- Mr Sokomanu (10) - not annexed because he marked it confidential
- Dr Spooner - appendix **11**

7.2 I also received a reply from Mr Nako who received the preliminary report as a Minister in the Council of Ministers responsible for the promotion of the Compensation Act. His reply (and transcript of reply) is annexed as appendix **12.**

7.3 I do not comment on the replies of Mr Sokomanu and Dr Spooner as they are not within my jurisdiction. Dr Spooner corrected my earlier mistake whereby I had thought he was a former MP. These men were however sent a copy of the preliminary report because they were mentioned in the report. I now deal with the replies.

Mr Nako

7.4 In his reply Mr Nako stressed that the importance of the Compensation Act was to compensate those persons who had suffered in the 1980 Santo rebellion and the Vila riot on 16/05/88. In principle there is nothing wrong with this. However, it is very important to note that Mr Nako himself gained personally. He received a payment of Vt 200,000 on 13.12.94 (see Appendix **12a**). This was before the Compensation Board was even appointed.

7.5 Mr Nako therefore allowed the Bill to be promoted knowing that he was on Mr Jimmy's list (see paragraph 1.9 above at page 4). He did not have the courage to stand up to Mr Korman and Mr Jimmy and remind them of their leadership responsibilities - such as not gaining personally from public office. Rather he followed their bad example and voted in a situation to gain personally.

Mr Jimmy

7.6 Mr Jimmy's reply was basically to accept the truth of the contents of the report. In other words he agrees with the facts as stated now. What he simply says is that because Parliament voted on it everything is legal. Mr Jimmy says only a Court can decide. I set out his reply in full:

"

23rd October 1996

The Ombudsman
Office of the Ombudsman
PORT VILA.

Dear Ombudsman

re: Compensation Payment Preliminary Report

In response to your findings about the procedure in which Compensation fund was paid to those mentioned in your report, it seems true that most of your findings seemed to be quiet true and correct in many ways.

However, only a competent court can decide on the legality of the action taken by those involved and the procedure adopted to implement the Council of Ministers decision, and the legality of the Compensation Act which was passed by parliament to give effect to the payment to those mentioned in your preliminary report.

I view that the preliminary report is too outrageous on matters which involved a collective decision of the Council of Minister as being the Executive decisions under the Constitution and the Compensation Act approved by parliament.
I have no further comments.
Yours faithfully,
Hon Willie Jimmy
Minister of Foreign Affairs and Immigration"

7.7 Mr Jimmy misses the point of my enquiry. I am not saying that the Compensation Act is a bad thing or illegal. What I am doing is informing the public of my opinion that Mr Jimmy (and Mr Korman) abused and misused their positions as Ministers to get money illegally and in breach of the leadership code in the Constitution, and of the Compensation Act.

7.8 The jurisdiction over conduct of leaders is not with the Court but with the Ombudsman. That is what the Ombudsman Act says in accordance with the Constitution. The Court cannot commence an enquiry into Mr Jimmy and Mr Korman's conduct over allegations that they used their offices for personal gain. It was Parliament that passed the Ombudsman Act and Parliament's intention was that the Ombudsman look at the conduct of leaders of which Mr Jimmy is one. So Mr Jimmy is wrong that only the Court can look into this matter. The Court cannot. Only the Ombudsman can start an enquiry.

7.9 Furthermore, the enquiry has shown (and accepted by Mr Jimmy) that Mr Jimmy and Mr Korman did not follow the Compensation Act. It must be remembered that Mr Jimmy had worked out how much money he, Mr Korman, Mr Sope and others were going to get even before the Act was passed. And finally, they (the seven who were in prison following the setting up of the illegal "*interim government*", did not qualify under the Act to get any money at all because they were **imprisoned under Court order**; s3(1)(e) of the Act required the imprisonment to be **without Court order**.

7.10 What is more shocking is that the Acting Director of Finance on 09.12.94 sent Mr Jimmy a memo pointing out that payment was illegal. An extract from this memo (Appendix **13**) is set out below:

> *"I am concerned about the legality of payments listed in your memo to me dated 28.11.94 due to the fact that they were approved by the Council of Ministers in August 1994, some two months before the Act was passed in Parliament.* ***Clearly, the provisions of the bill have not been complied with****, therefore it is my duty to remind you that as the Minister responsible for paying out the compensation you are also responsible for ensuring that all provisions of the bill are complied with before any payments are made".*

(emphasis added)

Mr Korman

7.10 In Korman's reply (with English translation) he makes the following main points:

(a) The Government was going to be sued by various claimants including the seven who were jailed for involvement in forming the illegal interim government and who were either not convicted or had their convictions quashed by the Court of Appeal;

(b) The Council of Ministers decided to settle these possible claims without going to Court by paying out the seven claimants Vt 5,000,000 each;

(c) Vt 5,000,000 was a fair amount for them and Sethy Pango, who died, got Vt 1,000,000 (five times less than those who were imprisoned under Court order) because he was supposed to be paid some more money from the villages of Pango, Ifira and Erakor out of the money those villages received from the Vanuatu Government for Port Vila urban land compensation;

(d) Mr Korman considered that he fell within s3(1)(e) of the Compensation Act and thus was able to claim; and

(e) At all times he and Mr Jimmy acted without abusing their high positions.

7.11 After I received Mr Korman's reply I did the following:

(a) I wrote and asked Mr Korman to provide me some evidence of letters from lawyers saying that they were going to sue the Government;

(b) I also wrote to the Attorney General's Office and Prime Minister's Office seeking some proof that lawyers had written making claims;

(c) I also contacted the former acting Director General of Finance and the former Attorney General, Mr Patrick Ellum who had been advising Mr Korman at the time in relation to the Compensation Act; and

(d) One of officers interviewed the three chiefs of Pango, Ifira and Erakor to find out if there was a special arrangement for those villages to pay the family of Sethy Pango extra money on top of his payment of VT 1 million.

7.12 As a result of (a) above, Mr Korman wrote back and said that he did consult the then Attorney General and that his advice was that it would be better to pay a reasonable amount than fight a Court case. Mr Korman, despite my request, was unable to provide copies of any documents that backed up what he told me. He asked me to try the Prime Minister's Office where he stated that the documents would be archived. The Prime Minister's Office were unable to provide me with any of these documents that Mr Korman suggested had existed. The position was the same with Attorney General's Office.

7.13 Mr Ellum did not remember any discussion with Mr Korman about any claim that had been made by lawyers acting on behalf of anyone. They referred me back to the meeting that they had had with Mr Korman on 26 October 1994 when they informed that the payments were illegal (refer paragraph 6.13 above and appendix 3).

7.14 The only claims made where a lawyer was involved were claims made for VT 30,000,000 by Messrs Naupa, Sokomanu and Dr Spooner. But these were made in late November 1995 **AFTER** these men had already been paid VT 5,000,000 each on 27/10/94 (refer 6.14 and 6.15 above). The claims made by the lawyer therefore had nothing to do with the payments made a month earlier. Rather the only explanation for the claims was presumably to try and give some basis to later defend the amounts paid to these men if they were later questioned.

7.15 Finally, I can inform the public that the three chiefs of Pango, Ifira and Erakor, Chiefs Andy Riman and Mantoi Kalsakau III and Tenene Wayane all swore on the Bible and denied the arrangement that Mr Korman said that he had made with them. They said that they had met with Mr Korman but that he never mentioned to them that some of the compensation each village had received for claims on urban land in Port Vila was to be paid to the family of Sethy Pango.

7.16 I conclude that the information Mr Korman gave me in his reply is not correct.

8 FINDINGS

Introductory

8.1 I wish to make it clear that the men who were imprisoned following Sokomanu's attempt to dissolve Parliament may well have had valid grounds for feeling that they were treated unfairly. It is clear from the Court of Appeal's judgment that, whilst Mr Sokomanu had no Constitutional right to dissolve Parliament, neither Mr Sokomanu nor the other men convicted were guilty of any criminal act so that on that ground their personal feeling that they were unfairly treated is understandable. However, they were lawfully imprisoned under Court order. They therefore never had any legal basis to make a claim under the Compensation Act or under the common law for that matter, unless Chief Justice Ward acted in bad faith (and no-one has ever suggested that).

8.2 However, the point of my enquiry is not to comment on their treatment. The point of my enquiry was to find out if the leaders had, by awarding themselves "compensation", fallen below the standards demanded by the leadership code in the Constitution.

Findings - Messrs Carlot Korman and Jimmy - use of Ministerial Office for personal gain

8.3 My opinion is that Messrs Carlot Korman and Jimmy have fallen well short of the standard of conduct required by leaders. This is because not only were the provisions of Compensation Act not followed but they had an obvious and clear conflict of interest in both the passage of the Compensation Act and its application to their own claims. The Constitution is very clear. It says (art 66) that:

> a leader .... has a duty to conduct himself in such a way both in his public and private life, so as not to -
>
> (a) place himself in a position in which he **has or could have a conflict of interests** or in which the fair exercise of his public or official duties **might be compromised.**

(My emphasis added).

8.4 I would therefore have expected that Messrs Korman and Jimmy not to have had any input on the matter of compensation. I consider that they should have disqualified themselves from:

(a) any involvement in the drafting or passage of the Compensation Act into law;

(b) voting on the Compensation Bill;

(c) participating in Council of Ministers' meetings when their individual cases were looked at; and

(d) appointing political associates to the Compensation Board.

8.5 The reverse occurred. **Mr Jimmy signed the voucher authorising his own Vt 5 million compensation payment.**

8.6 Their conduct was made worse by the payments of compensation being:

(a) approved before the Compensation Act became law (ie in advance);

(b) made contrary to the Attorney General's advice (refer 6.13 above) and the Finance Director's warning (refer 7.10 above);

(c) so much bigger and out of proportion when compared to the other payments made; and

(d) **not payable because Messrs Jimmy, Korman and Sope were imprisoned under Court order and thus did not fall into s 3(1)(e) of the Compensation Act which required them to have been imprisoned without a Court order**.

8.7 I conclude that Messrs Korman and Jimmy have used their high offices for personal gain. Such conduct in my opinion will result in a loss of confidence in the integrity of these office holders. I consider these men to be corrupt and unfit to hold Ministerial office.

Mr Sope - voting in favour of an Act in which he obtained a personal gain

8.8 Mr Sope's conduct in this instance is not as serious as that as that of Messrs Korman and Jimmy. He, however, did receive money that under the law he was not entitled to. He did not qualify under s3(1)(e) under the Act. He too was allotted and approved a certain figure (VT 5,000,000) before the Compensation Act was passed into law and before the Compensation Board had even been appointed let alone met. Mr Sope did not reply to the preliminary report so again, like Mr Jimmy, he can be taken as not having any dispute with the facts.

9 RECOMMENDATIONS

Recommendation No 1

Return of the money by Messrs Korman, Jimmy and Sope

9.1 There was no legal basis for the payments of the amounts of VT 5,000,000 to the seven imprisoned. These three MPs fall within my jurisdiction and I recommend therefore that since the payments have no basis in law that they should return it to the Government which effectively holds the money for the benefit of the people of the Republic of Vanuatu (refer art 39(1) of the Constitution[4]). I am requesting that they advise me within 14 days whether or not they intend returning the money. If Messrs Korman, Jimmy and Sope are prepared to return it I recommend that it be returned within 3 months of the date of this report together with interest at 5% per annum for the period that the money has been out of the Public Revenue.

9.2 It could well be used to pay some of the claimants who made claims under the Compensation Act but could not get paid because the money had been all used up as explained by Mrs Yvette Sam (refer 1.12(b) and 6.21) above.

9.3 If I do not receive advice within the 14 day period that they will return the money, then I recommend that legal proceedings be issued against these three men to recover the money.

Recommendation No 2

Hon W Jimmy to resign or be dismissed from Council of Ministers and not reappointed again in the future to any position involving public money

9.4 Mr Jimmy directly breached the leadership code in the Constitution because he gained personally from public office. Fortunately he has had the sense not to argue against the findings of this report when his illegal conduct was discovered.

9.5 I therefore recommend Mr Jimmy do what I consider to be the honourable thing. That is having admitted his misconduct, pay back the money and resign from the Council of Ministers and apologise to the people of Vanuatu. Failing this **I repeat my recommendation in the Illegal Ex-Gratia payment report (04.06.97) that the Council of Ministers dismiss Mr Jimmy as a Minister.** Mr Jimmy should not be considered for reappointment to the Council of Ministers in this term of Government or to any other position where he has anything to do with public money ever again.

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[4] *"The executive power of the people of the Republic of Vanuatu is vested in the Prime Minister and Council of Ministers and shall be exercised as provided by the Constitution or a law".*

Recommendation No 3

Hon Maxime Carlot Korman not to be considered for Ministerial post or other position involving public money

9.6 Mr Korman's misconduct was similar to that of Mr Jimmy but perhaps slightly worse. Mr Korman was the Prime Minister of the time. He was the leader of the Council of Ministers. He demonstrated an arrogant disregard for the legal advice of the then Attorney General, Mr Patrick Ellum (refer appendix 3 and para 6.13 above). Unlike Mr Jimmy however, Mr Korman is not prepared to admit the facts.

9.7 Greed got the better of Mr Korman. As Prime Minister he must along with the Finance Minister take the higher responsibility for the misappropriation of the people's money. He too used his high position to obtain personal gain in direct breach of the Leadership Code of the Constitution. **I therefore recommend that Mr Korman never be considered for a Ministerial post again nor should he be appointed to any position that involves public money.**

Recommendation No 4

Mr Sope - confirmation of previous recommendations

9.8 As noted earlier Mr Sope's role in this illegal behaviour was not as serious as MP Carlot Korman and Minister Willie Jimmy. The public are well aware now of Mr Sope's past activities and my opinions of those activities as a result.

9.9 Suffice to say that Mr Sope's receipt of money in this incident is again further evidence of his moral bankruptcy and his lack of conscience or regard for the people of Vanuatu.

9.10 Accordingly, **I confirm** the most recent recommendation on Mr Sope in the Multiple Breaches of the Leadership Code (10 December 1996) that **he be excluded from appointment to any position of public responsibility ever again**. Obviously his recent reappointment as Deputy Prime Minister is of very serious concern because of his repeated illegal behaviour in the past. As Prime Minister when he dismissed Mr Sope from his post of Deputy Prime Minister, Mr Vohor is reported to have stated in October 1996[5] following the Bank Guarantees, Multiple Breaches and Cybank reports: *"I don't want to work with leaders that threaten the security of this Nation and its people".*

Recommendation No 5

Council of Ministers to follow the law and the advice of the Attorney General

9.11 Time and again the Ombudsman's Office is faced with instances where the Council of Ministers see themselves above the law. They are not. If they do not like the current law they can change it or make new law through Parliament.

9.12 Furthermore once a new law has been passed it must be applied in accordance with its terms and equally and fairly to all people. The Compensation Act is a classic case of Ministers treating themselves better or higher than the people. That is in breach of the Constitution which says at art 5(1)(k) that the law must be applied equally to all.

9.13 This situation was even worse because the Ministers and their colleagues (the group of 7) did not even fall within the Compensation Act. The former Attorney General told Mr Korman of this but Mr Korman ignored the advice and thus ignored the law. **I therefore recommend that the Council of Ministers must follow the advice of**

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[5] Vanuatu Weekly Hebdomadaire issue no. 618, dated 26 October 1996

the Attorney General. If they strongly disagree on very good legal grounds then perhaps they may consider having the Supreme Court determine such an issue; but this would only be in very rare cases. However, the Council of Ministers must not simply ignore the law when they do not like the advice of the Attorney General.

Recommendation No 6

Leadership Code Bill to be passed and voted on as a conscience vote

9.14 This Bill was before Parliament at the December 1996 session. It was withdrawn from Parliament in December 1996 because I understand some MPs wished to have a closer look at it. It was again before Parliament in the May/June 1997 session and not tabled with other bills.

9.15 In my opinion this Bill if passed into law will discourage leaders in the future from breaking the law and the Leadership Code (in the Constitution) because a special court called a Leadership Tribunal (ie **not** the Ombudsman) will be able to judge leaders who break the law and the Leadership Code. **I recommend that all political parties agree to allow the Bill to be voted on as a conscience vote.** A conscience vote is where MPs do not vote according to what their party tells them to vote but rather on their own conscience. Sometimes in conscience votes MPs find it helpful to talk to their people in their electorate to find out what the people's view is on their conscience vote.

9.16 I should finally note that I have made no formal recommendation concerning Mr Charlie Nako, current Minister of Health (refer paragraphs 1.9, 3.2 and 7.4 - 7.5 above). This was after much thought. If Mr Nako's conduct is the subject of my Office's scrutiny and adverse finding in the future it is possible that I will have regard to his conduct in this matter in any future recommendation that I may make.

10 CONCLUSION

In accordance with s23 of the Ombudsman Act No.14 of 1995 and s63(4) of the Constitution, I am forwarding a copy of this report to the President, the Prime Minister, and the relevant public authorities. According to art 63(4) of the Constitution their duty is to *"decide upon the findings of the Ombudsman within a reasonable time and the decisions, with reasons, shall be given to the complainant forthwith".*

Dated this 3rd day of July 1997.

MARIE-NOËLLE FERRIEUX PATTERSON
OMBUDSMAN OF THE REPUBLIC OF VANUATU

NAMES TAKEN FROM THE SCHEDULE APPROVED
BY COUNCIL OF MINISTERS

1.	Deaths	Alexis YOULU	VT. 5,000,000
		Sethy PANGO	1,000,000
		Garae AMBAE (Naq)	2,000,000
2.	Injured	Tari BULUK	1,500.000
		J.M. LEYE	500,000
		Albert RAVUTIA	1,000,000
		Alfred MALIU	1,000,000
		Sam YAOUKO	700,000
		Touk NOAU	500,000
3.	Political Victims	Aimio MALERE	1,000,000
		Charley NAKO	200,000
		Amos ANDENG	700,000
		Harry KOREARU	1,000,000
		Thomas TUNGU	700,000
		Weber NALAN	1,000,000
4.	Loss of Properties	Amos ANDENG	1,500,000
		Jack KALOTITI	1,500,000
5.	Political Prisoners	John KALOTITI	5,000,000
		Maxime Carlot KORMAN	3,000,000 ✓
			(O/S 2 Million) ✓
		Willie JIMMY	3,000,000
			(O/S 2 Million)
		Lawyers fee (UMP) -	5,000,000
		Ifira Trust (Lawyers fee)	1,000,000
		Barak T. SOPE	2,500,000
			(O/S 2,500,000)
6.	MBDE	220 Members	16,500,000
7.	National	21 Members	4,200,000
		Total Amounts Payable	VT. 61,000,000

Agreed to by Prime Minister.

Approved

28/11/94

2

PE advised that this was not so. The committee had not been appointed under the Act - and he had requested the nominations - and the date on which the committee could first consider the applications - 1.12.94 - had not arrived.

PE pointed out that this was not the first occasion on this subject when the PM had put pressure on him to say what was not right was right. The PM must understand that PE was not going to say yes but to give proper advice and to protect Ministers. He had done all he could to achieve the PM's objectives within the law.

The PM said that he understood and accepted what PE said but on this occasion he would not follow his advice and the Minister of Finance would pay the advances.

MW explained that the money had not been raised. Banks had been approached and some were unwilling. If an advance was to be made this must be within the limits set by the Public Finance Act and the Minister of Finance must make the decision and give written instructions.

Signed as a true record

Patrick Ellum

Martin Van Weerdenburg

2

26.10.94

Note of Meeting

Between Prime Minister Maxime Carlot Korman ("PM")
Patrick Ellum - Attorney General ("PE")
Martin Van Weerdenburg - D G Finance (Acting) ("MW")

The PM stated that he wishes to make payments under the Compensation Act and that PE was blocking the payment. If the Act did not allow payment to be made it was not in accordance with the instructions of the C.O.M. and PE was working against the Government. The Government was entitled to make the payments.

PE stated that this was not correct. When the issue first arose he advised the C.O.M. and confirmed the advice in writing to the PM that the C.O.M. could not just make the payments of compensation because it would be illegal. The Government had power to do what it wished under the Law and Constitution it also had the right to go to Parliament to change the law. It could not just do what it liked.

Although the C.O.M. had approved the payments, at the following meeting they had instructed PE to prepare the compensation bill, as he had advised was necessary. He had prepared that bill within the week and submitted it to the PM and Minister of Finance with a clear explanation.

When the bill subsequently came to the C.O.M. the PM asked for it to be altered to enable payment to be made to all those approved by the C.O.M. immediately. PE made the alteration and brought it back to the next C.O.M.

At that meeting the Ministers decided the change was not acceptable and instructed PE to go back to the previous draft but with overriding power to the C.O.M.

Although the PM suggested PE make these changes and put the bill to Parliament, PE insisted that the C.O.M. approve the final draft, in view of the earlier problems. PE made the changes over the break and the C.O.M. considered the changes and approved them. The dates inserted in the bill were similarly the dates inserted by the C.O.M., not by PE.

In thecircumstances, if any Minister did not understand the bill this was not the fault of PE.

The PM stated that the payments had been decided by a committee previously and approved by the C.O.M. so he could make them in accordance with the Act.

ATTORNEY GENERAL'S CHAMBERS

3

MEMORANDUM

FROM : Attorney General

TO : Minister of Finance

OUR REF : LEG 11/94/PE/dl ✓

YOUR REF :

DATE : 26 October 1994

SUBJECT

Payments under the Compensation Act 1994

As requested by your Third Secretary, I am writing to confirm that the requirements for payment of compensation are:-

1. That an application be made on the form prescribed by the Prime Minister, prior to 30.11.94

2. That the Compensation Board be appointed

3. That the Compensation Board consider the claims for compensation after 30.11.94

4. That the Board reports to the Minister of Finance

5. That the Council of Ministers considers the report and confirms, varies or rejects it.

There is no provision for the payment of any advances of compensation in the Compensation Act.

Payment of advances can only therefore be made if they are permitted under other legislation, in particular the Public Finance Act. Whilst I have not been asked to look into that in any detail, I do not see how payments which may be made under the Compensation Act could be advanced under the provisions of the Public Finance Act.

Patrick Ellum
Attorney General

CF 120

VANUATU GOVERNMENT GENERAL PAYMENT VOUCHER 4

ORIGINAL: TO TREASURY FOR COMPUTER INPUT

COMPUTER INPUT DETAILS

ENTRY TYPE: 1

VOUCHER NUMBER / TREASURY USE ONLY: 226929

DEPT. DOCUMENT REFERENCE:

NAME: MRS ANNIE NAUPA

ADDRESS of PAYEE: C/- Ministry of FINANCE

DETAILS OF PAYMENT

J. NAUPA - COMPENSATION ADVANCE

Refer Attached Letter.

ACCOUNT NUMBER: 650 1011 36

JOB NUMBER:

GROSS AMOUNT VT: 50000

LESS DEDUCTIONS VT:

NET AMOUNT VT:

NUMBER OF PERIODS:

MENT ENTERED IN VOTE BOOK

Vote Book Page N°. _____ Line N°. : _____

Signature : _____

Date : N/A

DEDUCTIONS - CREDITS

ACCOUNT NUMBER	JOB NUMBER	CREDIT AMOUNT VT	N°. PERIO

MULTIPLE ALLOCATIONS - DEBITS

ACCOUNT NUMBER	JOB NUMBER	DEBIT AMOUNT VT	N° PERIO

CERTIFICATION BY HEAD OF DEPT. OR AUTHORISED OFFICER

I certify that the above particulars are correct : that the prices charged are fair and reasonable and are in accordance with quotation or contract : that the expenditure committed has been properly incurred against the budget head or project indicated by the account number(s) shown and is in accordance with government regulations and project specifications : that funds are available to meet this payment under the Account Number(s) quoted.

Signature of Head of Department.
Official Stamp.

REPUBLIQUE DE VANUATU — MINISTER OF FINANCE

Print Name : JIMMY WILLIE

Date : 27/10/94

ACCOUNTANT GENERAL DEPARTMENT USE

Checked	Approved	Cheque Number	Cheque Dat
		5042565	28/10/94

Received from the Government the sum of _____

Signed : _____

Print Name : ANNE NAUPA MRS Date : 28/10/94

VANUATU GOVERNMENT GENERAL PAYMENT VOUCHER 4

4 no

ORIGINAL: TO TREASURY FOR COMPUTER INPUT

COMPUTER INPUT DETAILS

ENTRY TYPE: 1

VOUCHER NUMBER (TREASURY USE ONLY): 226930

DEPT. DOCUMENT REFERENCE:

NAME: DR. FRANK B. SPOONER

ADDRESS of PAYEE: C/- MINISTRY OF FINANCE.

DETAILS OF PAYMENT

FRANK B. SPOONER

Refer Attached Letter

ACCOUNT NUMBER: 650 10136

JOB NUMBER:

GROSS AMOUNT VT: 5000000

LESS DEDUCTIONS VT:

NET AMOUNT VT:

NUMBER OF PERIODS:

MENT ENTERED IN VOTE BOOK

Vote Book Page N°: Line N°:

Signature: N/A

Date:

CERTIFICATION BY HEAD OF DEPT. OR AUTHORISED OFFICER

I certify that the above particulars are correct ; that the prices charged are fair and reasonable and are in accordance with quotation or contract ; that the expenditure committed has been properly incurred against the budget head or project indicated by the account number(s) shown and is in accordance with government regulations and project specifications ; that funds are available to meet this payment under the Account Number(s) quoted.

Signature of Head of Department Official Stamp

REPUBLIC OF VANUATU — MINISTER OF FINANCE — REPUBLIQUE DE VANUATU

Print Name: JIMMY WILLIE

Date: 27/10/94

DEDUCTIONS - CREDITS

ACCOUNT NUMBER	JOB NUMBER	CREDIT AMOUNT VT	N° PERIOD

MULTIPLE ALLOCATIONS - DEBITS

ACCOUNT NUMBER	JOB NUMBER	DEBIT AMOUNT VT	N° PERIOD

ACCOUNTANT GENERAL DEPARTMENT USE

Checked	Approved	Cheque Number	Cheque Date
		504256	28/10/94

Received from the Government the sum of VT: 5.000.000

Signed:

Print Name: ANA SPOONER 28/10/94

10.4.1.20.

VANUATU GOVERNMENT
GENERAL PAYMENT VOUCHER

4

ORIGINAL: TO TREASURY FOR COMPUTER INPUT

COMPUTER INPUT DETAILS

ENTRY TYPE: 2

VOUCHER NUMBER / TREASURY USE ONLY: 226928

DEPT. DOCUMENT REFERENCE:

NAME: MR. GEORGE SOKOMANU

ADDRESS of PAYEE: C/- MINISTRY OF FINANCE

DETAILS OF PAYMENT

G. SOKOMANU - COMPENSATION ADVANCE

Refer Attached Letter

Less Outstanding Imprest. 13/11/92

VT. 250,000.

ACCOUNT NUMBER	JOB NUMBER
650 101 36	

GROSS AMOUNT VT: 500000

LESS DEDUCTIONS VT: 250000

NET AMOUNT VT: 4750000

NUMBER OF PERIODS: 1

MENT ENTERED IN VOTE BOOK

Vote Book Page N°: Line N°:

Signature: N/A

Date:

CERTIFICATION BY HEAD OF DEPT. OR AUTHORISED OFFICER

I certify that the above particulars are correct : that the prices charged are fair and reasonable and are in accordance with quotation or contract : that the expenditure committed has been properly incurred against the budget head or project indicated by the account number(s) shown and is in accordance with government regulations and project specifications : that funds are available to meet this payment under the Account Number(s) quoted.

Signature of Head of Department. Official Stamp.

REPUBLIC OF VANUATU — MINISTER OF FINANCE — REPUBLIQUE DE VANUATU

Print Name: Jimmy Willa

Date: 27/10/94

DEDUCTIONS - CREDITS

ACCOUNT NUMBER	JOB NUMBER	CREDIT AMOUNT VT	N° PERIOD
210 201 011		250000	

MULTIPLE ALLOCATIONS - DEBITS

ACCOUNT NUMBER	JOB NUMBER	DEBIT AMOUNT VT	N° PERIOD

ACCOUNTANT GENERAL DEPARTMENT USE

Checked	Approved	Cheque Number	Cheque Date
[illegible]	[illegible]	5042566	28.10.94

Received from the Government the sum of VT:

Signed: L. Sokomanu

Print Name: L. Sokomanu

Date: 28/10/94

4

VANUATU GOVERNMENT GENERAL PAYMENT VOUCHER 5

DUPLICATE : TO TREASURY FOR SEQUENTIAL FILE

COMPUTER INPUT DETAILS

ENTRY TYPE: 1

VOUCHER NUMBER / TREASURY USE ONLY: 219999

DEPT. DOCUMENT REFERENCE:

NAME: Mr. Willie Jimmy

ADDRESS of PAYEE:

22 12

46800 00 NUDF

DETAILS OF PAYMENT

Willie Jimmy

Being Compensation Payment as per Council of Ministers Approval

See attached.

ACCOUNT NUMBER: 5 4 0 1 0 1 0 9

JOB NUMBER:

GROSS AMOUNT VT: 5 0 0 0 0 0 0

LESS DEDUCTIONS VT:

NET AMOUNT VT: 5 0 0 0 0 0 0

NUMBER OF PERIODS:

PAYMENT ENTERED IN VOTE BOOK

Vote Book Page N°. _____ Line N°. : _____

Signature : _____

Date _____

DEDUCTIONS - CREDITS

ACCOUNT NUMBER	JOB NUMBER	CREDIT AMOUNT VT	N° PERIODS

MULTIPLE ALLOCATIONS - DEBITS

ACCOUNT NUMBER	JOB NUMBER	DEBIT AMOUNT VT	N° PERIODS

CERTIFICATION BY HEAD OF DEPT. OR AUTHORISED OFFICER

I certify that the above particulars are correct : that the prices charged are fair and reasonable and are in accordance with quotation or contract : that the expenditure committed has been properly incurred against the budget head or project indicated by the account number(s) shown and is in accordance with government regulations and project specifications : that funds are available to meet this payment under the Account Number(s) quoted.

Signature of Head of Department.
Official Stamp.

Print Name : Willie Jimmy

Date : 12 . 12 . 94

ACCOUNTANT GENERAL DEPARTMENT USE

Checked	Approved	Cheque Number	Cheque Date
		5043765	14/12/94

Received from the Government the sum of VT : _____

Signed : _____

Print Name : Willie JIMMY Date : 13/12/94

VANUATU GOVERNMENT GENERAL PAYMENT VOUCHER

5 of 232

DUPLICATE : TO TREASURY FOR SEQUENTIAL FILE

NAME: Mr. Maxime Carlot Korman

ADDRESS of PAYEE:

COMPUTER INPUT DETAILS

ENTRY TYPE: 1

VOUCHER NUMBER / TREASURY USE ONLY: 219998

DEPT. DOCUMENT REFERENCE: MLOF

DETAILS OF PAYMENT: Maxime Carlot Korman

Policy Compensation Payment as per Council of Ministers' approval

See attached

ACCOUNT NUMBER: 540101 09

JOB NUMBER:

GROSS AMOUNT VT: 50000000

LESS DEDUCTIONS VT:

NET AMOUNT VT: 50000000

NUMBER OF PERIODS:

PAYMENT ENTERED IN VOTE BOOK

Vote Book Page N°. _____ Line N°. : _____

Signature : _____

Date : _____

DEDUCTIONS - CREDITS

ACCOUNT NUMBER	JOB NUMBER	CREDIT AMOUNT VT	N° PERIODS

MULTIPLE ALLOCATIONS - DEBITS

ACCOUNT NUMBER	JOB NUMBER	DEBIT AMOUNT VT	N° PERIODS

CERTIFICATION BY HEAD OF DEPT. OR AUTHORISED OFFICER

I certify that the above particulars are correct : that the prices charged are fair and reasonable and are in accordance with quotation or contract : that the expenditure committed has been properly incurred against the budget head or project indicated by the account number(s) shown and is in accordance with government regulations and project specifications : that funds are available to meet this payment under the Account Number(s) quoted.

Signature of Head of Department.
Official Stamp.

Print Name : Willie Jeremy

Date : 12 . 12 . 94

ACCOUNTANT GENERAL DEPARTMENT USE

Checked	Approved	Cheque Number	Cheque Date
		5043266	12/12/94

Received from the Government the sum of VT : _____

Signed : _____

Pri[illegible] MARIN[illegible] Date : 14/12/94

VANUATU GOVERNMENT
GENERAL PAYMENT VOUCHER 5

DUPLICATE : TO TREASURY FOR SEQUENTIAL FILE

COMPUTER INPUT DETAILS

ENTRY TYPE: 1

VOUCHER NUMBER: 220363 — TREASURY USE ONLY

DEPT. DOCUMENT REFERENCE:

NAME: Mr. Barak T. Sope

ADDRESS of PAYEE: Mr. Barak. T. Sope

DETAILS OF PAYMENT

Lump Compensation Payment as per Council of Ministers Decision

See attached.

ACCOUNT NUMBER: [illegible] — JOB NUMBER:

GROSS AMOUNT VT: 5000000

LESS DEDUCTIONS VT:

NET AMOUNT VT: 5000000

NUMBER OF PERIODS:

PAYMENT ENTERED IN VOTE BOOK

Vote Book Page N°. _____ Line N°. : _____

Signature : _____

Date : _____

CERTIFICATION BY HEAD OF DEPT. OR AUTHORISED OFFICER

I certify that the above particulars are correct : that the prices charged are fair and reasonable and are in accordance with quotation or contract : that the expenditure committed has been properly incurred against the budget head or project indicated by the account number(s) shown and is in accordance with government regulations and project specifications : that funds are available to meet this payment under the Account Number(s) quoted.

Signature of Head of Department.
Official Stamp.

Print Name : [illegible]

Date : 12/12/94

DEDUCTIONS - CREDITS			
ACCOUNT NUMBER	JOB NUMBER	CREDIT AMOUNT VT	N° PERIODS

MULTIPLE ALLOCATIONS - DEBITS			
ACCOUNT NUMBER	JOB NUMBER	DEBIT AMOUNT VT	N° PERIODS

ACCOUNTANT GENERAL DEPARTMENT USE			
Checked	Approved	Cheque Number	Cheque Date
[illegible]	[illegible]	500168	14/12/94

Received from the Government the sum of VT : _____

Signed : _____

Print Name : Enelette SOPE — Date : 14/12/94

Mr. Robert T. Cope

0000001

0000002

6

REPUBLIC OF VANUATU

COMPENSATION ACT NO. 11 OF 1994

APPOINTMENT

IN EXERCISE of the powers conferred upon me by section 5 (1) of the Compensation Act No. 11 of 1994, I, SETHY JOHN REGENVANU, Acting Prime Minister and Deputy Prime Minister and Minister of Justice, Culture and Women's Affairs hereby appoint -

(a) SAM YVETTE a member and Chairperson;
(b) WANIEL EMILE a member; and
(c) PIKIOUNE ANTOINE a member,

of the Compensation Board with effect from the date hereof.

DATED this Seventeenth day of January, 1995.

REPUBLIQUE DE VANUATU
VICE PREMIER MINISTRE
REPUBLIC OF VANUATU

SETHY JOHN REGENVANU
Acting Prime Minister and Deputy
Prime Minister and Minister of Justice,
Culture and Women's Affairs

7

VG - ACCOUNTS SYSTEM - ACCOUNTS ENQUIRY

PAGE:

ACC-51

LISTING OF ACCOUNT

DATE: 08 MAY 96

540.10.109.0000

JAN - DEC 1994

COMPENSATION ACT NO.11. OF 1994

PREVIOUS YEARS :	0
SPENT/RECEIVED :	14,200,000
COMMITMENTS :	0
BUDGET TO DATE :	0
ANNUAL BUDGET :	0

DATE	BATCH	VOUCHER	DEPT-REF	DETAILS	AMOUNT
12/12/94	12CP232	219986	MOF	ALBERT RAVUTIA.	1,000,000
12/12/94	12CP232	219997	MOF	JOHN KALOTITI	5,000,000
12/12/94	12CP232	219987	MOF	ALFRED MALIU	1,000,000
12/12/94	12CP232	219981	MOF	ALEXIS YOULU.	5,000,000
12/12/94	12CP232	219990	MOF	AIMIE MALERE	1,000,000
12/12/94	12CP232	219998	MOF	MAXIME CARLOT KORMAN	5,000,000
12/12/94	12CP232	219996	MOF	JACK KALOTITI.	1,500,000
12/12/94	12CP232	219983	MOF	MR GARAE (AMBAE NAG).	2,000,000
12/12/94	12CP232	219988	MOF	SAM YAOUKO.	700,000
12/12/94	12CP232	219999	MOF	WILLIE JIMMY	5,000,000
12/12/94	12CP232	219989	MOF	TOUK NOAU	500,000
12/12/94	12CP232	219982	MOF	SETHY (PANGO).	1,000,000
12/12/94	12CP232	219994	MOF	THOMAS TUNGU.	700,000
12/12/94	12CP232	220363	MOF	BARAK T SOPE	5,000,000
12/12/94	12CP232	219984	MOF	TARI BULUK	1,500,000
12/12/94	12CP232	220364	MOF	UMP OFFICE (LAWYERS'S FEE).	5,000,000-
12/12/94	12CP232	219993	MOF	HARRY KAREARU	1,000,000-
12/12/94	12CP232	219995	MOF	WOHOR NALAN.	1,000,000
12/12/94	12CP232	220000	MOF	IFIRA WHARF)LAWYERS FEES).	1,000,000
12/12/94	12CP232	219991	MOF	CHARLEY NAKO.	200,000-
12/12/94	12CP232	219992	,OF	AMOS ANDENG	2,200,000-
12/12/94	12CP232	219985	MOF	J M LEYE	500,000-
14/12/94	12AJ382	741381	01lnare	FIRST LOAN PAYMENT TO VAN GOVT	76,000,000
22/12/94	12AJ405	741404	04tsisi	GPV 226928 G SOKOMANU	5,000,000-
22/12/94	12AJ405	741404	04tsisi	226929 J NAUPA ①	5,000,000-
22/12/94	12AJ405	741404	04tsisi	226930 FRANK B SPOONER	5,000,000-

END OF ACCOUNT

TOTAL: 14,200,000

① Originally paid 27/10/94.

8

GOUVERNEMENT
DE LA RÉPUBLIQUE
DE VANUATU

BUREAU DU PREMIER MINISTRE

GOVERNMENT
OF THE REPUBLIC
OF VANUATU

OFFICE OF THE PRIME MINISTER

Our Ref: PM/1400/11/CONF4/560/96/YS/rb

13th June 1996

CONFIDENTIEL

MME MARIE NOELLE FERRIEUX PATTERSON
OMBUDSMAN OF THE REPUBLIC OF VANUATU
PORT VILA

Dear Madame,

I acknowledge receipt of your letter dated 10th of June 1996 and would like to apologise for the delay of the response.

Following the request of the documents I would like to make the following comments.

(1) <u>All the applications submitted in respect of compensation Claims</u>. I would like to inform you that there are around 6000 requests submitted to the board of compensation.
Among these figures there are:
- 211 requests of members of NHDF
- 21 Chiefs Compensation for then work in the National Council of Chiefs
- the rest of the requests are from 1980 events and the May 1988 events.
- and few others from others arears which are not specified in the Act.

Is your office require each copy of the request submitted?

(2) <u>Instrument of the appointment of the Compensation Board</u>

It was published in the Official Gazette, but I don't remember the exact date of the publication.

Telephone : (678) 22413 — Private Mail Bag 053, Port Vila — Fax : (678) 22863

(3) The Board has prepared the following list from the Council of Minister's decision

a) list of members of NHDF 211. The Council of Ministers has allocated an amount of 13 million Vatu for the requests of NHDF

b) The Council of Minister has allocated an amount of 4.2 million Vatu for the members of the National Council of Chief. There are 21 chefs.

c) The board has prepared the following list of claims concerning the events of 1980:

i) National list of big events 1980 - Santo Malo Region (around 700 claims)
ii) List of claims of events 1980 - Tafea Region (around 1000 claims)
iii) List of claims of events 1980 - Malekula Region (around 1141 claims)
(iv) List of claims of events 1980 - Torba, Macwo, Ambac, Pentecost, Ambrym, Paama, Epi, Shepherds and Futuna.(more plan 2000 claims)

(4) <u>Final Report of the Compensation Board to the Minister of Finance</u>

After the decision of the Council of Minister a letter is sent by the Secretariat of the Council of Ministers to the Minister of Finance including the list approved by the Council of Ministers asking the Minister to pay.

(5) <u>Minutes of the Council of Ministers Meeting</u>

I have received advice from the Attorney General Chambers, that the minutes of the Council of Ministers can not be circulated.

(6) <u>Regulation by Prime Minister, or any other document related on the subject</u>.

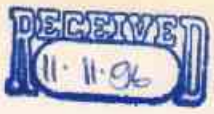
Prime Minister has signed an order to extend period of work of the Board.

For your information all the lists approved by the Council of Ministers were sent to the Ministry of Finance for payment. But when the amount allocated for the compensations was exhausted, the Department of Finance had stopped issuing the cheques. Consequently there are around 40% of the requests made and accepted by the Council of Minister which are not paid until today because of the limited funds.

Yours Sincerely.

REPUBLIQUE DE VANUATU
BUREAU DU PREMIER MINISTRE
PREMIER SECRETAIRE
FIRST SECRETARY
PRIME MINISTER OFFICE
REPUBLIC OF VANUATU

SAM YVETTE
FIRST SECRETARY
Prime Minister's Office

9  1/3

REPUBLIC OF VANUATU

28 October 1996

Hon. Maxime Carlot korman
MP for Port Vila.

To: The Ombudsman
of the Republic of Vanuatu
Marie-Noelle Ferrieux Patterson

Attention: Mr. PASA TOSUSU

RE: Payment of Compensation by the Government.

Reference: Your letter dated 17 October 1996 attached with the preliminary report classified as "confidential".

According to the last paragraph of your letter, I wish to make the following comments:

The 5 million payment was made to 7 political people and not 6. Mr. John KALOTITI must be added to the six who appear in paragraph 1.3 of your report.

The decision for the payment of the five million was taken by the Council of Ministers following a claim made by a private lawyer acting on behalf of Messrs. Sope, Naupa, Spooner, Kalotiti and Sokomanu claiming in the first place 30 million each from the government, otherwise they would be obliged to sue the government.

It was the Lini government that imprisoned them and not the Korman government. Messrs. Korman and Jimmy respectively Prime Minister and Minister of Finance refused the first claim and specified to the group's lawyer that the claim had been exaggerated.

It was then that the lawyer submitted another claim for compensation which amounted to 15 million, to the Prime Minister's (Mr. Korman) Office. The amount was due to be paid to each person within a very short period failing which the matter was to be brought before Court and could be expensive for the government.

In order to put an end to this matter, the Council of Ministers decided therefore with the claimants to end the matter by paying each one 5 million. Mr. Jimmy and I stated before the Council of Ministers that we were also claimants who were therefore victims but that we were not included in the amount of 15 million.

It was the Council of Ministers that approved the compensation amounts. The basic 5 million was kept for those who had been assassinated and imprisoned for life by the government (Alexi Yolu, Jimmy Stephens, the group of 7 imprisoned by Lini and

declared innocent by the Appeal Court. The reimbursement of fees paid to lawyers who removed the former President of the Republic and the Members of Parliament from prison (5 million to the 3 French lawyers and 1.5 million paid to an Australian QC lawyer).

The Committee and the Council of Ministers decided, consequently to pay the seriously injured people amounts which varied according to the seriousness of assaults and injuries (2 million, 1,5 million, 1 million, 700 thousand, 500 thousand to 200 thousand vatu).

Sethy Pango's case with which you wanted to make a comparison against people killed and imprisoned for life for the sake of politics by the government may appear like discrimination and injustice between a leader and non-leader but in this case the government which I led took account of the fact:

1) that Sethy Pango's relatives lodged a complaint against a policeman who had ran over him in a government vehicle and that through court the family should receive compensation also for damage to his life.

2) that when Pango, Ifira and Erakor villages received compensation from the Vanuatu government for Port Vila urban land, each village should also have paid to Sethy's family a certain amount of money since he died as a result of a land demonstration in Port Vila.

Contrary to your first opinion stated in paragraph 1.6 of the report, we did not make the payments to ourselves. Mr. Sope was not with us in government. Only two of us were in government (Korman and Jimmy).

Your sub-paragraph (a):
Of course, leaders could take the government to court (during Lini's time) during negotiations (it was Korman government) but the group lawyer advised them to claim and accept a correct amount directly from the government instead of going through Court, more especially as it was no longer the government that imprisoned them that was in power. There was some risk of the government losing two or three times the amount of money if they were brought before court.

Your sub-paragraph (b):
It is normal in administration for the government to approve areas and amounts of compensation before submitting the bill to Parliament.

Your sub-paragraph (c):
From the time the government approved the compensation bill in Parliament, the payments of the compensation mentioned become legal. I would agree with you if Parliament rejected the compensation bill.

Your sub-paragraph (d):
The Board proposed the list of people to be compensated to the Council of Ministers which had the power finally to decide (on

the people and amounts to receive).

Your sub-paragraph (e):
The Council of Ministers, decided that it would be the First Secretary of the Prime Minister's Office, the First Secretary of the Minister of Finance and a Secretary of the Deputy Prime Minister and Minister of Justice.

Your sub-paragraph (f):
Any leader and any person killed, injured or imprisoned illegally are entitled to receive compensation decided by the Council of Ministers on proposal of the 3 member commission (Board).

Your paragraph 1.7
Mr. Sope was not a member in government. He was in the group of 5 people represented by a private lawyer who was supposed to take their case to court but dealt with the government directly. Mr. Jimmy and I had informed the Council of Ministers of our intentions and the government approved, decided on the amount and included our two names with others on the list of the five people.

Compensation of leaders who were imprisoned is covered within the framework of the Compensation Act, Section 3, subsection (1)(e).

I can assure the "Enquiry Section" of the Ombudsman's Office that following the submission of the lists detailing the six sectors defined under law by the Committee or Commission responsible for reviewing the lists and deciding the amount of compensation to the Council of Ministers for approval, the whole process was democratic and complied with the law. Mr. Jimmy and myself, two on a Council of eleven Ministers not even once did we abuse our powers as Ministers in this matter during the examination of claims and proposals of the Commission.

I firmly think that my conduct as Prime Minister and that of the Minister of Finance at the time, was quite normal and that we did not, in any way act in contradiction with the Constitution of our Republic.

I hope that these remarks will help the Ombudsman's Office to look clearly into the compensation paid by the government which I had the honour, priviledge and responsibility of leading. I remain at the disposal of the Ombudsman's Office to answer any question asked of me for future reports on this matter.

REPUBLIQUE DE VANUATU

REPUBLIC OF VANUATU

Hon. Maxime Carlot Korman
Député de Port-Vila / M.P. for Port Vila

Port-Vila, le 28 Octobre 1996

A

Madame le Médiateur
de la République de Vanuatu
Marie-Noelle Ferrieux PATTERSON

Attention: Monsieur PASA TOSUSU

Objet: Paiement des Compensations par le Gouvernement

Référence: Votre lettre du 17 Octobre 1996 accompagnée du Rapport préliminaire classé "secret"

Conformément au dernier paragraphe de votre lettre, je me permets de faire les commentaires suivants:

Le paiement de 5 millions a été fait a 7 personnalités politiques et non à 6.
Il faut ajouter Monsieur John KALOTITI au six qui figurent au paragraphe 1.3 de votre rapport.

La décision de verser cinq millions a été prise par le Conseil des Ministres à la suite d'une demande formulée par un avocat privé agissant au nom de Messieurs SOPE, NAUPA, SPOONER, KALOTITI et SOKOMANU et réclamaient dans un premier temps 30 Millions chacun au gouvernement, sinon ils se verraient dans l'obligation de traduire le Gouvernement devant le tribunal.

Parliament House – Port Vila, P.M.B. 052 / B.P. 052, Port-Vila – Telephone (678) 22 229 – Facsimile (678) 24 530

C'était le Gouvernement LINI qui les avait emprisonnées et non le Gouvernement KORMAN. Messieurs KORMAN et JIMMY respectivement Premier Ministre et Ministre des Finances ont refusé la première demande en précisant à l'Avocat du groupe que la demande était exagérée.

C'est ainsi que l'Avocat a du soumettre au bureau du Premier Ministre (Monsieur KORMAN) une autre demande dont le montant de la Compensation pour chacun s'élèverait à 15 millions.
Le Montant devrait être payé à chacun dans un délai très court faute de quoi l'affaire serait portée devant le tribunal et risquait de coûter gros au Gouvernement.

Le Conseil des Ministres pour en finir avec cette affaire décida donc avec les demandeurs de clore l'affaire en versant à chacun 5 millions. Monsieur Jimmy et moi-même avons déclaré devant le Conseil des Ministres que nous faisons partie des demandeurs donc victimes également mais que nous ne nous souscrivons pas avec le montant de 15 millions.

C'est le Conseil des Ministres qui a approuvé le montant des compensations. La base de 5 Millions avait été retenu pour les personnes assasinées et mis en prison à vie par le gouvernement (Alexi Yolu, Jimmy Stevens, le Groupe des sept emprisonnés par LINI et déclarés innocents par la Cour d'Appel. Le remboursement des Honoraires payés aux avocats qui ont sorti l'Ancien Président de la République et les Députés de Parlement de la Prisons (5 millions aux 3 Avocats Français et 1 Million,5 payé à un avocat QC Australien).

Le Comité et le Conseil des Ministres a ensuite décidé de verser au grands blessés des montants qui varient selon la gravité des coups et blessures (2 millions , 1.5 millions, 1 million, 700 milles, 500 milles jusqu'à 200 milles vatu).

Le cas de Sethy de Pango dont vous avez bien voulu faire la comparaison avec les personnes assasinées et emprisonnées à vie politiquement par le gouvernement peut paraitre comme une discrimination et une injustice entre un leader et un non-leader mais là le gouvernement que j'ai dirigé a teru compte du fait !

1) Que la famille de Sethy de Pango a porté plainte contre le policier qui l'a écrasé avec le véhicule du Gouvernement et qu'à travers le tribunal la famille devrait recevoir des dommages également en compensation de sa vie.

2) Les villages de Pango, Ifira et Erakor lors des compensations par le gouvernement national des terres urbaines de Port-Vila, devaient également verser chacun à la famille de Sethy une certaine somme d'argent puisque Sethy est décédé à la suite d'une manifestation qui concernait les terres de Port-Vila justement.

Contrairement à votre première opinion stipulée dans le paragraphe 1.6 du rapport, nous ne nous somme pas payés nous même. Monsieur Sopé n'était pas avec nous au Gouvernement. Nous n'étions que deux au gouvernement (Korman et Jimmy).

Votre sous paragraphe (a):
Bien sûr les leaders pourraient traduire le gouvernement (à l'époque LINI) au moment des négociations (c'était le Gouvernement Korman) devant les tribunaux mais l'Avocat du Groupe les a conseillé de réclamer et d'accepter une somme juste directement du Gouvernement au lieu de passer par la voie du Tribunal, d'autant plus que ce n'était plus le Gouvernement qui les a emprisonnés qui est en place. Il y avait risque que le Gouvernement perde deux ou trois fois plus d'argent s'il était emmené devant les tribunaux.

Votre sous paragraphe (b)
Il est normal dans l'Administration que le Gouvernement appouve les secteurs et les limites des compensations avant de soumettre le projet de loi au Parlement.

Votre sous paragraphe (c)
A partir du moment où le gouvernement a approuvé un projet de loi parlementaire sur les compensations les paiements concernant les dites compensations sont légaux. Je serais d'accord avec vous si le Parlement avait rejeté la loi sur les compensations.

Votre sous paragraphe (d)
C'est le Board qui a proposé la liste des personnes à compenser au Conseil des Ministres qui avait le pouvoir final de décider (sur les personnes et les montants à recevoir).

Votre sous paragraphe (e)
Le Conseil des Ministres, avait décidé que ce soit le Premier secrétaire du Bureau du Premier Ministre, le Premier Secrétaire du Ministre des Finances et un Secrétaire du Premier Ministre Adjoint et Ministre de la Justice.

Votre sous paragraphe (f)
Les leaders et toute personnes assasinés, blessés et emprisonnés illégalement sont en droit de recevoir une compensation fixée par le Conseil des Ministres sur proposition de la Commission des 3 membres (Board).

Votre paragraphe 1.7
Monsieur Sopé ne faisait pas partie du Gouvernement. Il était dans le groupe des 5 personnes representées par un avocat privé qui a pris l'affaire en main pour le tribunal mais qui s'est adressé au gouvernement directement. Monsieur Jimmy et moi même avons informé le Conseil des Ministres de nos interêts et c'est le gouvernement qui a approuvé, décidé du montant et inclus nos deux noms avec les autres sur la liste des cinq personnes.

La compensation des leaders emprisonnés entre dans le cadre de la loi sur les compensations article 3 paragraphe (1) alinéa (e).

Le comité ou Commission chargée d'étudier les listes et de fixer le montant des compensations, ayant soumis les listes dans les six secteurs définis par la loi au Conseil de Gouvernement qui en a décidé, je pense içi assurer le bureau du Médiateur "section Enquête" que tout a été fait d'une manière démocratique et suivant la loi. Que Monsieur Jimmy et moi même au mombre de deux sur un conseil de gouvernement de onze Ministres n'avons un seul instant pendant l'étude des demandes et de propositions de la commission abusé de notre pouvoir de Ministres dans cette affaire.

Je pense fermement que ma conduite de Premier Ministre et celle du Ministre des Finances de l'époque est tout à fait normal et que nous avons agi aucunement en contradiction de la Constitution de notre République.

J'espère que ces commentaires aideront le bureau du Médiateur à voir clair dans cette affaire de compensations payées par le gouvernement que j'ai eu l'honneur, le privilège et la responsabilité de diriger. Je reste à la disposition du Bureau du Médiateur pour répondre aux questions qu'il désirerait me poser pour un prochain rapport sur cette affaire.

Maxime Korman CARLOT (MP)
et Ancien Premier Ministre

11

Dr. Frank B. Spooner - General Medical Practitioner

"Marani House" - P. O. Box 273 - Port vila - Tel. 23380 (Surg.) 22350 (Res.) Fax 25509

RECEIVED 4/11/96

Date: 31 / 10/ 96

THE OMBUDSMAN OF THE REPUBLIC OF VANUATU.

ATTENTION: DIRECTOR OF INVESTIGATIONS

Dear Madam,

COMPENSATION PAYMENTS REF: OMB2537/96/KC/erl

As requested my comments are;

(1) I was not an M.P nor a former M.P, but a practising G.P.

(2) My first submission for compensation was addressed to the Prime Minister's office several years ago, before the compensation act was passed by parliment.

The second submission was the one referred to in your report.

I was never advised nor told of any illegality in connection with my request for compensation

I was only advised where to collect the compensation money which amount was way below what i had expected.

1/2

Dr. Frank B. Spooner - General Medical Practitioner

'Marani House' - P. O. Box 273 - Port vila - Tel. 23380 (Surg.) 22350 (Res.) Fax 25509

Date: _____

M

Yours Faithfully,

F. B SPOONER

MP CHARLEY NAKO
C/- Parliament Chambers
PORT VILA

The Ombudsman Office
P.O. Box 126
PORT VILA

Mi risivim wan secret leta dated 13 December 1996 attached with Preliminary Report on Compensation Act of 1994. Leta we Pasa Tosusu, Director of Investigation, Ombudsman's Office i saenem.

Long paragraphe 4 leta ia i askem me blong reply and comment mo givim sam information long yufala, mo yu mas kasem reply ia long 4 p.m long 4 January 1997.

Mi wantem reply folem ol poen ia:

1) Government o Council of Minister i tekem decisen mo apruvum VT200,000,000 ia folem nomo duty mo responsibility wan democratic government long wan independent country.

2) Government i tekem decisen ia blong solvem mo finisim problem we Vanuatu past Government mo two fala coloniel government British mo Franis oli mekem mo livim long country long 1980 mo 1988.

3) Compensation Act of 1994 Section 3 ino prohid nomo long ol politician mo ol UMP sapota. Section long Act ia i aply long everi sitisen we oli liv long hem.

4) Taem mi stap minister long period ia mi mekem duty mo responsibility blong mi olsem wan memba long wan cabinet insaed long wan government.

5) Long 1980 Vanuaku Party Government hemi usum Police mo ol civilien blong oli kilim ded sam man, kilim nogud sam man, robisem nogud sam man, mo damagem nogud ol property blong sam man; ol heap fasin ia no pass long court nating.

6) Last comments sopose Ombudsman's Office i wantem investigetem public mani we Compensation Act blong 1994 providem i good investigetem igo back 1980.

Hem nomo comments blong mi.

Yours sincerely

CHARLIE NAKO

12 30/12/1991

MP CHARLY NAICO
C/- parlement Chamber
port vila.

To

AMBSman ofice
P.O box 126
port vila

mi recivem wan secret letter dated 13 december 1991 attached white preliminary report on compensation act of 1994

Letter we PASA Tosusu Director of investigation ambsman ofice i seenem.

~~Letter~~ long paragraphe 4 letter ia i askem mi blong reply and comments mo givem som information long yu falla; mo yu i mas casem reply ia long 4 pm long 4 january 1992

mi wantem reply Folem ol point ia

1/ gouvernment e consil of minister i teilem decisen mo aprouve 200.000.000 vt ia Folem Nemo duly mo responsabiliti wan ~~of~~ demoratiquee gouvernment long ~~nation~~ independant country

2/ gouvernement i teikem decisen ia belong tolvem mo finisem problème we vanuatu parti gouvernement mo Tow falla colonial gouvernement British mo France ol i meikem mo lesem long contrij long 1980 mo 1988.

3/ compensation act of 1994 section 3 i no provid nomo long ol politician mo ol ump sopoten. section long act ia i aplj long every situsen we antitle long. hem

4/ Taem mi stap minister long periode ia mi meikem ~~dio~~ dutij mo responsabilitis belong mi olsem wan member long wan cabinet insaed long wan gouvernment

5/ Long 1980 vanuatu parti gouvernement hem usum police mo ol civilian belong helem ol sam man, kilem ~~ol~~ no good sam man, robisem no good sam man, mo damagem no good ol proprety belong sam man; ol long fansomo ia no pass long court yetang

6/ Last comments sopose ombudsman office i wantem investigatem public mani we compensation act belong 1994 provide i good mechication i go back 1980.

hem nomo comments belong mi

yours bilong ol.

C. Vako

VANUATU GOVERNMENT
GENERAL PAYMENT VOUCHER

12a

DUPLICATE : TO TREASURY FOR SEQUENTIAL FILE

COMPUTER INPUT DETAILS

ENTRY TYPE: 1

VOUCHER NUMBER — TREASURY USE ONLY: 219991

DEPT. DOCUMENT REFERENCE: MOF

NAME: Mr Charley Nako

ADDRESS of PAYEE:

DETAILS OF PAYMENT

Charley Nako

Rent compensation payment as per Council of Ministers' approval.

See attached

ACCOUNT NUMBER: 5140 1 V MA

JOB NUMBER:

GROSS AMOUNT VT: 200000

LESS DEDUCTIONS VT:

NET AMOUNT VT: 200000

NUMBER OF PERIODS:

PAYMENT ENTERED IN VOTE BOOK

Vote Book Page N°. _____ Line N°. : _____

Signature : _____

Date : _____

CERTIFICATION BY HEAD OF DEPT. OR AUTHORISED OFFICER

I certify that the above particulars are correct : that the prices charged are fair and reasonable and are in accordance with quotation or contract : that the expenditure committed has been properly incurred against the budget head or project indicated by the account number(s) shown and is in accordance with government regulations and project specifications : that funds are available to meet this payment under the Account Number(s) quoted.

Signature of Head of Department.
Official Stamp.

Print Name : Jimmy Willie

Date : 13/12/94

DEDUCTIONS - CREDITS

ACCOUNT NUMBER	JOB NUMBER	CREDIT AMOUNT VT	N° PERIODS

MULTIPLE ALLOCATIONS - DEBITS

ACCOUNT NUMBER	JOB NUMBER	DEBIT AMOUNT VT	N° PERIODS

ACCOUNTANT GENERAL DEPARTMENT USE

Checked	Approved	Cheque Number	Cheque Date

Received from the Government the sum of VT : _____

Signed : _____

Print Name : _____ Date : _____

13

REPUBLIC OF VANUATU
DEPARTMENT OF FINANCE
PMB 031 PORT VILA
PH 24543

REPUBLIQUE DE VANUATU
SERVICE DES FINANCES
SAC PRIVE 031 PORT VILA

MEMORANDUM

DATE : 09/12/94

OUR REF :

FROM : DIRECTOR OF FINANCE

TO : MINISTER OF FINANCE

CC : ATTORNEY GENERAL
: AUDITOR GENERAL

RECEIVED
Log-11/94

SUBJECT : COMPENSATION ACT NO.11 OF 1994

I advise that I have established a special fund in accordance with your instructions and I am currently awaiting the transfer of funds from the Reserve Bank to our No.1. a/c. I will advise you once the funds are received.

The fund has been established under chapter head 540.10.109.

I advise that any payments from this fund can only be made by yourself under the provisions of S.8. of the act. Therefore we await duly completed GPV's signed by yourself before any payments are processed.

I am concerned about the legality of the payments listed in your memo to me dated 28/11/94 due to the fact that they were approved by the Council of Ministers in August 1994 , some two months before the act was passed by parliament. Clearly the provisions of the bill have not been complied with, therefore it is my duty to remind you that as the minister responsible for paying out the compensation you are also responsible for ensuring that all provisions of the bill are complied with before any payments are made.

I suggest that you discuss the requirements of the act with the Attorney General before you prepare any GPV's for payment.

Wilfred

DEPARTMENT OF FINANCE VANUATU

13/12