

REPUBLIC OF VANUATU
OFFICE OF THE OMBUDSMAN

PUBLIC REPORT
ON THE
IMPROPER APPOINTMENT
OF
MR LUC SIBA
AS THE COMMISSIONER
OF POLICE
AND
HIS MISCONDUCT IN OFFICE

13 August 1998

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PREAMBLE

"Destruction and misery are in their ways, and the way of peace have they not known there is no fear of God before their eyes..."

Romans 3 v 16 - 18

As we consider the facts that have emerged in this investigation, it is difficult not to feel pessimistic and disillusioned as we see successive actions by people in power which are rooted in little else other than thoughts of revenge for real or imagined injustices suffered at the hands of political or religious opponents.

It appeared to be impossible for these leaders to look beyond the smally-minded motives of either avenging personal or religious grievances or acquiring political advantages by filling as many posts as possible with persons of their own particular personal allegiances so that the new government's policies could be implemented without opposition in order to avenge past wrongs of one kind or another.

The use or rather the misuse of power to further the interests of one group or section of the population based on religious or political affiliations resulted in successive unbalanced, biased and unfair decisions and appointments, with no regard for legal procedures or for a fair and honest evaluation of the abilities and qualities of the best candidates.

Indeed it is obvious that those whose responsibilities it was and should have been to choose the candidate whose character and record fitted him above all others for the vital position of Commissioner of Police failed in that simple but important duty, and readers of the Report will see the shameful list of excuses and evasions that were offered to the Office of the Ombudsman in order to attempt and justify actions or failure to act.

There was never a time and it is difficult to foresee a future time more vital for Vanuatu to have a strong, principled and talented experienced leader of the Police to provide moral example and high principles. Without this, it is difficult to be optimistic about real progress.

1. SUMMARY

- 1.1 Mr Luc Siba, according to court records, was convicted in 1982 of theft and sentenced to 12 months imprisonment. In 1983 he was convicted again of using another person's property without authority and sentenced to 12 months imprisonment where he commenced his imprisonment term on 23 March 1983.
- 1.2 Mr Siba was appointed as the Commissioner of Police on 30 August 1994. This appointment was advertised in the Vanuatu Weekly on 28 May 1994. He never applied for this vacant post. His appointment was made on the direct instruction of Mr Gérard Leymang and Mr Maxime Carlot Korman to the Police Service Commission (**Police SC**). His previous job was the Research Officer in the Prime Minister's Office (**PMO**).
- 1.3 Mr Siba took his official oath before the Chief Justice where he swore to "uphold the Constitution and the law". Since his appointment as the Commissioner of Police he has been convicted for careless and drunken driving as a result of a road traffic accident. He has appeared before the Police SC and was fined. His appointment was confirmed on a permanent basis because, according to the Police SC, Mr Siba had completed his probation period successfully. Mr Siba was again convicted in court of misappropriation of public funds and false accounting on 7 November 1996. Mr Siba used police vehicles for his personal business. On one occasion the vehicle got stuck in the sand at Pango Point when he transported two girls and another policeman there and was towed out by a private vehicle.
- 1.4 The Ombudsman found that the appointment of Mr Siba was illegal, that his continuing role as the Commissioner of Police while committing offences was illegal and that the conduct of those surrounding his appointment was illegal and improper. As well as recommendations about these people, the Ombudsman has recommended that

guidelines be set to ensure that the Police SC carries out its mandate efficiently and legally.

- 1.5 The consequences of this incident are far reaching. By appointing a person who had already served a jail sentence and then continued to behave illegally, Mr Korman and the Police SC directly contributed to the lowering of morale in the Force. This led to the inevitable consequences of a lower quality of commitment and service to the public and a diminishing self respect and self-esteem of the Force. These factors contributed to destabilising the Force and the VMF and the uprising in October 1996, and a diminishing quality of Police Services.

2 JURISDICTION

- 2.1 The Ombudsman conducted this enquiry in accordance with art 62 of the Constitution and sections 14 and 17 of the Ombudsman Act No. 14 of 1995. Under art 62 of the Constitution, the Ombudsman is empowered to enquire into matters either on his own initiative or upon receiving complaints from any person affected as a result of a particular conduct or action by another person.
- 2.2 Please note that the Ombudsman Act continues to apply to this case as if it had not been repealed (in accordance with s. 11 of the Interpretation Act [CAP 132]), since the investigation began while the Act was in effect.

3 SCOPE OF ENQUIRY

- 3.1 The objective of this enquiry was to establish whether:
- (a) the appointment of Mr Siba was properly made,
 - (b) Mr Siba was involved and continued to be involved in misconduct when he was the Commissioner of Police.

4 PRELIMINARY REPORT

- 4.1 The preliminary report, issued by the Ombudsman outlined the preliminary findings of misconduct in relation to breaches of leadership code. I gave 15 days from the receipt of this preliminary report to people who had been involved in the matter to give their comments and submissions. This discharged my constitutional obligation of granting the person or body complained of an opportunity to reply to the complaints made against them granted by Article 62(4) of the Constitution.

- 4.2 The preliminary report was issued to the following people:

Mr Maxime Carlot Korman	-	former PM, at present member of Parliament
Mr Gérard Leymang	-	former PMO First Secretary
Mr Luc Siba	-	former Commissioner of Police
Mr Waimini Perei	-	former Police SC Chairman
Mr Amos Andeng	-	former Police SC member
Mr Joel PakoaLau Mansale	-	former Police SC member
Mr Vake Rakau	-	former Police SC member, and now the Officer responsible for Criminal Investigation Department
Mme Marie Growby	-	former Police SC member

- 4.3 In response I received comments from the following persons:

- Mr Vake Rakau (Annexed here as **A**)
 - Mr Gérard Leymang.
- Their comments are explained in paragraph 8.

- 4.4 For those that did not respond, I assume that they agree with the report where it concerned them.

5 RELEVANT LAWS

5.1 CONSTITUTION OF THE REPUBLIC OF VANUATU

CONDUCT OF LEADERS

66. (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).

DEFINITION OF A LEADER

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

5.2 SECTION 4(2) OF THE POLICE ACT [CAP 105]:

The Force shall be employed throughout Vanuatu and its territorial waters for-

- (a) the preservation of peace and maintenance of order;
- (b) the protection of life and property;
- (c) the enforcement of laws.
- (d) the prevention and detection of offences and the production of offenders before the courts; and
- (e) such duties as may be expressly provided for by law.

5.3 SECTION 33 OF THE POLICE ACT:

- (1) Any member may be dismissed from the Force in accordance with the provisions of this Act if he has been -
 - (a) found to have committed an offence against discipline; or
 - (b) convicted of an offence against any written law.
- (2) ...
- (3) A member who has been dismissed from the Force under the provisions of this section may not be re-appointed.

5.4 ARTICLE 19 OF THE POLICE RULES:

Any member of the Force who-

- ...
 - (w) uses improperly any police or other public property
- ... shall have committed an offence against discipline.

5.5 SECTION 10(1) OF THE POLICE ACT

The Commissioner of Police shall be appointed by the President acting on the advice of the Commission, for such period as the Commission shall advise.

6 METHOD OF INVESTIGATION

6.1 The following people were examined under oath:

Mr Joel Pakoalau Mansale
Mr Vake Rakau
Mrs Maria Growby.

These were members of the Police SC at the time of Mr Siba's appointment.

- 6.2 Examination of information remitted to the Ombudsman by Mr Leymang, Mr Perei, and Mr Willie Ben Karie, a person asked for a reference by Mr Raffey Taiwia.
- 6.3 Examination of the present personnel file maintained on Mr Siba obtained from Police Headquarters. His past personnel file with the Police is missing.
- 6.4 Examination of correspondence exchanged between the Prime Minister's Office (PMO), Police SC and Mr Siba on the appointment of Mr Siba.
- 6.5 Examination of documents obtained from the Police SC on the appointment of Mr Siba.
- 6.6 Examination of the statement submitted by Mr Raffey Taiwia, an applicant to the post of Commissioner of Police.

7 CHRONOLOGY OF EVENTS

Former misconduct of Mr Luc Siba

- 7.1 Court records shows that on 22 July 1982 Mr Siba appeared before the court on a theft charge when he was convicted and sentenced to 12 months' imprisonment. He was also ordered to pay compensation costs of VT.20.000 and a prosecution fee of VT.5.000.
- 7.2 Court records shows that on 22 March 1983 Mr Siba appeared before the court on a charge of unlawful use of other's property. He was convicted and sentenced to 12 months. He was also ordered to pay compensation costs of VT 30,000 or in default to go to prison for an additional six months. He commenced his imprisonment of 28 March 1983 and released on remission on 27 November 1983.

Appointment of Mr Luc Siba

- 7.3 On 23 March 1994 Mr Siba was appointed on a temporary basis as the Research Officer in the PMO by Mr Korman, the Prime Minister.
The Public Service Secretariat confirmed that this is not a Public Service post but created as a political post in the PMO during the Korman Government.
- 7.4 On 28 May 1994 a vacancy notice was published in the *Vanuatu Weekly* No. 495 for the post of the Commissioner of Police. The notice set out the qualifications of this post and informed interested persons to apply to Mr Gérard Leymang, First Secretary, PMO. Interested persons were to give three referees. A copy of this notice is as annexed here as **B**.
- 7.5 On 30 August 1994 the Chairman of the Police SC recommended to the President that Mr Siba be appointed as the Commissioner of Police for a trial period of 6 months, to take effect from 2 September 1994. The members of the Police SC were:

-	Mr Waimini Perei	-	Chairman
-	Hon. Amos Andeng	-	Member
-	Mrs Marie Growby	-	Member
-	Mr Vake Rakau	-	Member

Messrs Perei and Rakau were familiar with the past conduct of Mr Siba, his court convictions and that he had already been dismissed from the Police Force.

A copy of the Police SC letter recommending Mr Siba is attached annexed here as **C**.

- 7.6 On 30 August 1994 the President appointed Mr Siba as the Commissioner of Police on the recommendation of the Police SC. A copy of the appointment notice is attached as annexed here as D.
- 7.7 On 9 September 1994 Mr Siba took his official oath before the Chief Justice where he swore to 'uphold the Constitution and the law'.

Wrongful acts committed while Mr Siba was Commissioner

- 7.8 On 10 December 1994 whilst Commissioner of Police, Mr Siba was involved in a road traffic accident with police vehicle COMPOL 1 at Tagabe area. This accident occurred while Mr Siba was using the Police vehicle for his own purposes and was under the influence of alcohol.
- 7.9 On 9 January 1995 Mr Siba told the Prime Minister Mr Korman that after attending a cocktail party organised by the Prime Minister, he went to the Police Club to attend fundraising activities and when he drove home in a police vehicle COMPOL 1, he hit a bus stop sign post at Tagabe. The cost of repair was VT 209,450.
- 7.10 On 20 January 1995, as a result of this accident, he appeared in court on charges of careless driving and drunk driving. He was convicted and ordered to pay fines of VT 15,000 and VT 10,000 respectively. He was also ordered to pay a prosecution fee of VT 5,000.
- 7.11 On 22 February 1995 the Chairman of the Police SC, Mr Perei, informed the Director of Finance that a punishment of 14 days pay was given to Mr Siba when he appeared before the Police SC on 15 February 1995 on disciplinary charges arising out his court appearance on 20 January 1995.
- 7.12 On 24 February 1995 Mr Siba appealed to Prime Minister, Mr Korman, against the penalty imposed by the Police SC on 15 February 1995.
- 7.13 On 3 March 1995 Mr Korman, Prime Minister, informed Mr Perei that he had received an appeal from Mr Siba about the punishment. He informed Mr Perei that he upheld the appeal and reduced the VT 60,000 awarded as punishment to VT 30,000.
- 7.14 According to the Department of Finance document, an advance of VT.900.000 (as accountable imprest) was accepted and signed for by Mr Siba on 24 April 1994 as an advance for his trip to Egypt with the Public Prosecutor and his senior crime prevention officer. On 20 July 1995 Mr Siba informed the Director General of Finance that he "forgot" to give back half (retire the imprest) of the VT.900.000 he advanced from the Department of Finance as an accountable imprest. He said that the Recovery Section in the Department of Finance had already started deducting money from his salary to recover the imprest. This was later proven to be untrue.
(The accountable imprest is the money advanced from the Department of Finance for a specific use and which must be accounted for in full within the period allowed or when the purpose has been fulfilled, whichever is the sooner' (Regulation 225(b), Finance Regulations).
- 7.15 On 24 October 1995 the Police SC Chairman informed Mr Siba that during the Police SC meeting on 24 October 1995, his appointment as Commissioner of Police was confirmed on a permanent basis following the successful completion of his probation period, even though Mr Siba appeared in court on traffic offences (refer 7.10) and the same Police SC (refer 7.11) during this probation period.
- 7.16 On 9 November 1995 Mr Siba caused a traffic accident involving police vehicle COMPOL 2 and a private vehicle driven by its owner. An agreement was reached between the two of them to repair their own cars.
- 7.17 On 20 January 1996 Mr Siba used the police vehicle (Reg. No. 9409) he had under his charge to pick up another policeman and two females in the early hours of the morning and drove first to Malapoa Point and then later to Pango Point. During this time they were consuming alcoholic liquor in the vehicle. At Pango Point the two females alleged that Mr Siba and the other policeman had sex with them. The vehicle got stuck in the sand and a private vehicle was used to pull the police vehicle out of the sand.

- 7.18 On 30 April 1996 Mr Siba told the Public Prosecutor that he (Mr Siba) would be appearing in court on a charge of alleged misappropriation of official funds. Mr Siba went on to say that he had sufficient evidence from reliable sources that quite a large number of senior government employees had also misappropriated funds and that he was the only one picked out of the list. He thought that this was biased. He sought approval from the Public Prosecutor to investigate other government employees as well.
- 7.19 On 12 October 1996 the Minister of Home Affairs, Mr Robert Karie, recommended to the Chairman of Police SC, Mr François Luc Baba, that Mr Siba be immediately suspended from duty pending the Supreme Court decision on alleged misappropriation and false accounting of imprest of VT 900,000. The Ministry of Home Affairs decided also to set up a commission of enquiry into the VMF Stand-down issue and he indicated that it would not be possible to keep Mr Siba on active duty during the period of this enquiry since he played a major role in this crisis.
- 7.20 On 14 October 1996 Mr Siba was interdicted from duty (refer 7.19).
- 7.21 On 7 November 1996 Mr Siba appeared before the Supreme Court on charges of misappropriation of public funds and false accounting. He was convicted and sentenced to 6 months imprisonment suspended for 1 year on the charge of misappropriation and also 6 months imprisonment suspended for 1 year for false accounting, concurrent with the first charge.
- 7.22 On 15 November 1996 Acting Commissioner of Police, Mr Peter Bong, informed the Police SC Chairman about the traffic accident involving police vehicle COMPOL 1, and indicated that Mr Siba had not yet paid the cost of repair which was VT 542,572 and labor cost of VT 53,090 as promised in court. Mr Bong went to say that the Police SC should deal with Mr Siba and order Mr Siba to pay back the VT 53,572. A copy of this letter is annexed here as E.
- 7.23 On 16 November 1996 Mr Bong recommended to Mr Baba, the Chairman of Police SC, that the Police SC submit a recommendation to the President that he terminate the appointment of Mr Siba because of his convictions in court.
- 7.24 On 31 December 1996 Mr Bong authorised and signed an LPO No. 276639 to SOCOMETRA in Vila to pay for spare parts for police vehicle COMPOL 1. This was the vehicle which was involved in the road accident with when Mr Siba was drunk. A copy of this LPO is annexed here as F.
- 7.25 On 14 February 1997, Mr Siba resigned from the Vanuatu Police Force.

The Application received for the position of Police Commissioner

- 7.26 Mr Baba confirmed to the Ombudsman on 9 July 1997 that he could only find one application for the vacant post of the Commissioner of Police. This application was submitted by Mr Raffey Taiwia. The application was never discussed in the Police SC meeting on 30 August 1994, even though he addressed his application directly to Mr Leymang as requested by the advertisement. Mr Taiwia had the proper qualifications for the position. Mr Baba also stated that he had found no documents relating to Mr Siba to confirm that Mr Siba applied. He stated that all Police SC records were missing as Mr Perei did not maintain proper minutes and correspondence files. Mr Siba's previous personnel file could not be located at the Police in 1997.
- 7.27 Mr Willie Ben Karie told the Ombudsman on 18 September 1997 that he was asked by Mr Taiwia to provide a reference because Mr Taiwia told him he was applying for the post of Commissioner of Police. Mr Karie never saw the vacancy notice but only knew about it from Mr Taiwia when Mr Taiwia asked him to provide his reference. He never provided this reference for Mr Taiwia or for any other ex-police officer who applied for the post of the Commissioner of Police.
- 7.28 Mr Taiwia told the Ombudsman on 16 October 1997 that after seeing the vacancy notice which appeared in the Vanuatu Weekly, he saw his former colleagues, Messrs Baba and Siba, and asked them to provide references for him because the vacancy notice said that interested person must provide three people to give references. He then applied. He said that Mr Leymang once called him to his office and to discuss the issue and Mr Taiwia's impression was that he would be getting the job. A few weeks later Mr Siba saw him and told him that it was not him (Mr Taiwia) but him (Mr Siba) who got

the job. Mr Taiwia said that at that time Mr Siba was the Information Officer for the PMO and he did not apply for this post because Mr Siba also agreed that Mr Taiwia was likely to get the job. He went on to say that Mr Siba could not take this post because he had a criminal record.

8 REPLIES RECEIVED AND COMMENTS BY OMBUDSMAN

Mr Vake Rakau's reply (Annexed as A)

- 8.1 In his reply he stated that on the date the Commission sat to decide Mr Siba's appointment:
- He was a member nominated by the Chief Justice because he was still a member of the Judiciary Department as a Magistrate with no political affiliation.
 - The normal practice for the Commission to decide was to take a vote, he did not recall the Chairman calling for that vote.
 - There were no other application documents presented before the Commission but only a one page document which the Chairman advised the Commission that he received from the PMO.
 - He raised Mr Siba's criminal conviction but from comment raised by other members, it was a directive from the PMO that Mr Siba be appointed because there was no choice.

Comments by Ombudsman

- 8.2 I consider Mr Rakau's letter as a shameful list of excuses and evasions that are offered in order to attempt to justify actions or failure to act. The decision taken by the Police SC on Mr Siba's appointment was improper and very damaging to the Police institution as was confirmed later. Mr Rakau apparently endorsed the decision of the Police SC. But the appropriate reaction considering his knowledge of the law, of the criminal record of Mr Siba and also because he was a magistrate and a member nominated by the Chief Justice, his duty was to oppose this appointment, not to endorse it.

Mr Gérard Leymang's reply

- 8.3 Mr Leymang sent me a 16-page letter in reply to my preliminary findings, as is his right in accordance with Art 62(4) of the Constitution. I am required, pursuant to s.16(4)(c) of the Ombudsman Act, to "include in the document published, the substance of any statement the responsible person may have made in explanation of or opposition to the Ombudsman's conclusions".
- 8.4 Mr Leymang raised a number of issues which have no bearing on the issues in this report, such as providing examples of other matters which he considers improper or illegal. These will not be repeated nor discussed here. As the letter is riddled with inflammatory and irrelevant remarks, the substance of the remarks which explain or oppose the findings are set out below.
- 8.5 Mr Leymang makes other comments in explanation of or opposition to my preliminary findings on this specific inquiry:
- a) He states that my investigation was "slapdash" as I did not question Mr Siba, Mr Korman nor the President.

Comment

Messrs Siba and Korman were invited to respond to the preliminary set of facts and findings, but chose not to do so. I do not have jurisdiction over the conduct of the President (Art 62(2) of the Constitution) and cannot make any findings against the President.

- b) Mr Leymang states that I am making judgements in 1998 on actions taking place in 1994, based on the practices of 1998. He states that it was accepted practice at the time for the Prime Minister to appoint a Police Commissioner "who supported his point of view". Mr Leymang explains Mr Korman's objective as "re-establishing the balance between two cultural and linguistic components of the country in order to set the country on the path towards bilingualism." Mr Leymang claims that I am judging according to the "CRP way of administration".

Comments

My findings are based on the Constitutionally-grounded categories of conduct which is "contrary to law", "unjust" and "blatantly unreasonable", as well as the Leadership Code of the Constitution, and therefore follow the law and Constitution as existing at the time of the appointment. It is the Constitution and the law that require the Ombudsman to carry out the function of a watchdog not the CRP. You could have the balance, but do not appoint criminals or former criminals. Whether the applicant is anglophone or francophone, the law apply equally. This is what Article 5(k) of the Constitution says.

- c) Mr Leymang states *"just because the appointment of Mr Luc Siba may have been politically influenced by the Minister responsible does not mean that Mr Luc Siba was a bad candidate."*

Comment

This is irrelevant. My point is the propriety of the appointment, which in this case would be improper whether or not Mr Siba actually performed his duties well as Commissioner of Police. He had a criminal record and was therefore even by common sense the wrong person for the job. This behaviour and his later court conviction only confirmed the bad choice. The VMF stand down crisis was the final blow to the demoralised Police Institution.

- d) Mr Leymang states that Mr Siba had been pardoned before his appointment and hence his previous convictions cannot be taken into account. He states that he was never *"personally aware of such convictions"* of Mr Siba.

Comment

Mr Siba was released on remission on 27 November 1983, but not pardoned, as Mr Leymang claimed and, in any event, it is Mr Siba's dismissal from the Force rather than his convictions themselves that make his appointment plainly illegal. Mr Leymang either never checked Mr Siba's personal files or did not want to acknowledge the content but rushed this appointment because if this appointment had been done properly, Mr Siba's court convictions would or could have been discovered and he have been appointed.

- e) Mr Leymang states, with reference to the applications being addressed to him as First Secretary, *"I am not sure that the normal practice was right and moreover, it remains to be proven what the normal practice was."* Mr Leymang states that the practice since independence has been appointing a Police Commission *"to be the puppet of power"*, to *"make it look like the Police Commissioner is appointed by this Commission"*, and to appoint *"some good British officers"* to assist him. He claims that Mr Korman's system was justified and done more openly than previous practices: *"...what is wrong with a government which sees to it that the Police Commissioner of its choice, who will not work against it, is appointed?"*

Comment

The use or rather the misuse of power to further the interests of one group or section of the population based on religious or political affiliations, resulted in an unbalanced, biased and unfair decision and appointment with no regard for legal procedures or for a fair and honest evaluation of the abilities and qualities of the best candidates. The only legal authority to appoint the Commissioner of Police is the President of the Republic on the recommendation of the Police SC. It is more logic that it is the Police SC alone that advertises the post, receives all applications, and assessed all application to ensure that the appointment is made on merit. When Mr Leymang became involved in this case, it is a direct political influence into the independence of the Police SC.

The practice since independence was appointing of a still serving member of the Force as the Commissioner of Police to avoid the politicising the Police Force. When the Union of Moderates Party (UMP) came into government, it started appointing people, one of whom was Mr Siba, who were no longer serving in the Force. It brought in people who were no longer policemen with the purpose, as Mr Leymang admitted, to ensure that they would not work against the government, but rather be only the puppet of the government. Mr Leymang failed to understand that the police is only answerable to the law but not one else (including the politicians), unless for natural disaster matters.

- f) Mr Leymang states that he received the applications, transferred them to the Prime Minister, and *"He actually asked me my opinion but then went on to deal with the file himself. The fact is that Mr Maxime Carlot Korman had actually decided over some months to introduce and support the appointment of Mr Luc Siba. He also*

had the support of certain members of the Police Force and the UMP. This did not prevent Mr Maxime Carlot Korman from considering all the applications received even to the point of hesitating and taking his time. It is totally false to say that Mr Luc Siba did not submit an application because he did so along with the other four or five candidates. I myself transferred the applications to the Prime Minister, as was the usual custom. If I remember correctly, it seems to me that Mr Luc Siba was qualified to become Lieutenant and had followed the appropriate training." And later, "...I am finally considered as responsible for the appointment of Mr Luc Siba, simply because I received the applications on behalf of and at the request of the Prime Minister whom I served. What a rushed conclusion when there is nothing to back it up, no proof, nor tangible fact!" He further states "The accusation that has been made against me for having maintained and appointed Mr Luc Siba is not based on any proof but on an authority and responsibility that I did not even hold."

Comment

Mr Leymang admitted that he personally handed Mr Siba's application, including four to five other applications, together with his opinion on the applications, to Mr Korman. Mr Leymang lied to me on 4 September 1997 (see enclosure No.G) when he informed me that he knew nothing about this appointment and referred me to Mr Korman and the Chairman of the Police SC. The Police SC members stated that they neither saw any applications documents nor any of Mr Siba qualification if Mr Leymang wants us to believe him.

It is apparent now, according to what Mr Leymang said that Mr Korman and the UMP had a direct influence on the appointment of Mr Siba because a decision was made by them months ago that Mr Siba will be appointed. The Police SC only went along to endorse the decision of politician instead of acting independently. It was not the role of the Prime Minister to choose the Police Commissioner, but that choice belonged to the Police Service Commission.

- g) Mr Leymang claims that *"if anyone is responsible, it is surely the person who appointed Mr Luc Siba. It is the Head of State who appointed him following the Police Service Commission's recommendation."*

Comment

I must repeat what I already said earlier (refer (a)) above that I have no jurisdiction (cannot investigate) over the conduct of the President (Art 62(2) of the Constitution) and cannot make any findings against the President.

- h) Mr Leymang defends Mr Siba, saying that he *"generally upheld the law and respected other people's rights. If he has committed some acts of misconduct, there is not one person in Vanuatu who can say that Mr Luc Siba has made him suffer the tortures inflicted mainly on francophones and Catholics since they even snatched their rosaries from them in prison."* He states that there is no proof of repeated misappropriation of funds. Fr. Leymang objects that, with respect to Mr Siba's misappropriation, I failed *"to specify whether he had reimbursed these funds and whether he left his job following that."*

Comment

This report also covers the misconduct of Mr Siba when he was the Commissioner of Police. Did Mr Siba uphold the law when he caused a road traffic accident involving a police vehicle when he was under the influence of alcoholic liquor (refer para. 7.8 & 7.10) and misused and the false accounting of the public funds he advanced from the Department of Finance for his trip to Egypt (refer para. 7.20)? No.

The comments Mr Leymang made concerning the suffering of tortures inflicted mainly on the francophone and Catholics are not part of these inquiries. I take it now as only a political statement rooted in little use other than thoughts or revenge for real or imagined injustices suffered at the hands of political or religious opponents.

- i) Mr Leymang states that the facts of Mr Siba's misconduct in office have nothing to do with his appointment and only create confusion. He states: *"How can one predict on the date of a person's nomination, how they will behave later?"*

Comment

At the first instance, Mr Siba's appointment was illegal because he was already a dismissed police officer, already convicted in court and served a term of imprisonment. That is the point but not the predicting of one's behaviour.

- j) With reference to Mr Siba's misconduct with the use of police vehicles, Mr Leymang states that I am being hypocritical since I would not be dismissed "for a mere violation of the highway code."

Comment

Mr Siba was appointed as head of the Vanuatu Police Force, a disciplined organisation. It has very strict rules for Force members to comply with. The violation of any laws (e.g. a violation of road traffic law) by a policeman is a very serious misconduct, and depending on the circumstances of the case, can call for severe punishment, one of which is a dismissal from the Police Force.

- k) Mr Leymang claims that my finding about "damaging Vanuatu's reputation overseas, it is totally false. We have never had so much multilateral relations for the country's security as we did during that period. It is absolutely ridiculous, irresponsible, childish and hardly professional to say such a thing without any proof."

Comment

Mr Leymang did not produce the evidence to support this claim. It is also not relevant to this report. The public can assess for themselves whether the Police Services were affected or not during this period and afterwards.

- l) A later conviction of Mr Siba "was imposed when Mr Maxime Carlot Korman no longer had any political responsibilities." according to Mr Leymang.

Comment

The incident (misappropriation of and false accounting on public funds) occurred in May 1995 when Mr Korman was still the PM. This incident could have been prevented if Mr Siba, who was already convicted twice on similar charges before his appointment, was not appointed as the Commissioner of Police at the first place.

- m) Mr Leymang claims that I do not have jurisdiction over this matter since an individual complainant should seek a settlement in court.

Comment

This is not relevant since this is an "own initiative" inquiry clearly within my jurisdiction under Art 62(1)(c) of the Constitution and ss. 14 and 16(2) of the Ombudsman Act.

- n) Mr Leymang says I called him a liar based on unfounded allegations. "I do not remember having said that I do not know anything. The fact is I do not have any recollection of this matter..."

Comment

I said that Mr Leymang lied to because he told me that he knew nothing about this appointment when he was actually involved. Refer to my comments under (f) above and (o) below.

- o) Mr Leymang states "There was no act of corruption and I have not done anything illegal in the appointment of Mr Luc Siba."

Comment

Mr Leymang was a partner in influencing the Police SC to appoint Mr Siba because the positions he held was the one of First Secretary in the PMO. He received all the application, gave his opinion on them, and gave them to Mr Korman, knowing very well that Mr Korman and the UMP had already decided months ago that Mr Siba is getting the job of the Commissioner of Police. The Police SC was rushed to only endorse the decision already made by Mr Korman and UMP. If Mr Leymang had acted correctly he would have remitted all the applications he received to the Police SC instead of remitted them to Mr Korman to ensure the Commissioner of Police was appointed on merit rather than on the decision of the politicians. This is a corrupt action.

The Police Force at that time came under the responsibility of the former PM Mr Korman. Mr Leymang was his First Secretary.

8.6 In summary Mr Leymang says:

- I did not have the power to appoint Mr Luc Siba and I did not do it.
- No part of the law forbade the Minister of the time the right to look into the appointment of a Police Commissioner and that an essential principle of the law is that all that is not prohibited is allowed.
- Denouncing a first selection in the appointment of a Police Commissioner is totally hypocritical when it is obvious that the Police Commissioner has always been on the side of which ever side is in power.
- Mr Luc Siba's rival such as Mr Taiwia, were the first to try using politics and compromise in order to be appointed as Police Commissioner.
- I think it is normal that a Police Commissioner should be appointed in favour with the government and Minister responsible. It is an honour for the UMP government for ensuring that the appointed Commissioner did not allow the Police to violate human rights, as was the case with others.
- The actions following the appointment of Mr Luc Siba have nothing to do with his appointment.
- There is no single act of corruption in this affair and any such accusation is pure slander.
- What credit can be given to a report in which the three main people concerned, that is the President of the Republic, the Prime Minister of the time and Mr Luc Siba, were never questioned?
- In my opinion, Mrs Ferrieux-Patterson's work is rushed, of poor quality and totally without objective.

Comments

I have already made my comments above. There is no need to repeat them here. However, the Ombudsman work was never rushed, of poor quality and without objective as Mr Leymang says. Tremendous work has been put into every enquiry conducted by my office. The general public will judge for themselves on whether Mr Leymang's statement is true.

9 FINDINGS

FINDING NO.1: THE APPOINTMENT OF MR LUC SIBA AS COMMISSIONER OF POLICE WAS CONTRARY TO SECTION 33(3) OF THE POLICE ACT AND THEREFORE ILLEGAL. MESSRS KORMAN, LEYMANG, PEREI, ANDENG, MANSALE, RAKAU, AND MME GROWBY ALL CONTRIBUTED TO THIS BREACH OF LAW.

- 9.1 Its against the law (refer 5.3) to re-appoint an already dismissed policeman into the Police Force. There is no exception. However, through a collective actions of the above persons, Mr Siba, who had already been a dismissed police officer, and convicted and jailed for an offence, was appointed a Commissioner of Police. Mr Korman was the PM and Minister responsible for the police. Mr Leymang was the First Secretary of the PMO. Mr Perei was a member and Chairman of the Police SC whilst Messrs Andeng, Mansale and Rakau and Mme Growby were its members. Mr Rakau at the time was a magistrate and knew the law more than anyone present and carries the responsibility even more than the other unqualified members.

FINDING NO. 2: THE CONDUCT OF MR KORMAN IN DIRECTING THE POLICE SC TO APPOINT MR SIBA AS COMMISSIONER, AND CONTINUING TO SUPPORT HIM DESPITE IMPROPER ACTIONS, WAS UNJUST, BLATANTLY UNREASONABLE, AND A VIOLATION OF THE LEADERSHIP CODE (ART. 66(1) (A), (B) AND (C) OF THE CONSTITUTION)

- 9.2 Mr Korman, former Prime Minister, withheld other applications given to him by Mr Leymang and prevented a proper recruitment process by forcing a quick process by not forwarding them to the Police SC. He only handed over the name of Luc Siba to them.
- 9.3 Mr Korman misused his power by requesting the interested applicants to address their applications to the Prime Minister's Office and not the Police SC. The Police SC alone is the legal institution to deal with appointment of Police Commissioners. The PMO involvement was to ensure political influence to prevail in the appointment the chosen candidate.
- 9.4 When Mr Siba continued to break the law after his appointment as the Commissioner of Police, Mr Korman failed to initiate his dismissal and on the contrary diminished the sanction imposed by the Police SC.
- 9.5 As Prime Minister, and by acting unfairly, he demeaned his Office as the Prime Minister and diminished the respect and confidence on the Vanuatu Government when he appointed as the Head of all Police Force a former convict with little experience in the Police. The good interest of the Force was not his priority. The Prime Minister's priority was to ensure his personal control of the Force jeopardising the principle of independence of the Police Force, and as a result the Police Institution got a diminished reputation in the eyes of the public and in the eyes of the members of the force who lost their pride and self-esteem.

FINDING NO. 3: THE CONDUCT OF MR LEYMANG IN FORWARDING MR SIBA'S NAME TO THE POLICE SC FOR APPOINTMENT WAS UNJUST AND BLATANTLY UNREASONABLE

- 9.6 As a First Secretary of the PMO, responsible for the police, he influenced the Police SC to recommend Mr Siba for appointment. He lied to the Ombudsman when he said that he knew nothing about Mr Siba's appointment when in fact he received Mr Siba's application with four to five others.
- 9.7 The vacancy notice should not have been issued by the PMO but by the Police SC who alone has the legal responsibility over the assessment and recommendation of a Commissioner of Police. He failed to understand and respect this legal requirement in order to guarantee a political appointment.
- 9.8 He prevented the proper recruitment and forced the process on the appointment of Mr Siba because he did not send all applications he received directly to the Police SC but instead to Mr Korman. According to the Chairman and members of the Police SC, only one name was sent from the PMO to the Police SC with the instruction that he be appointed, that of Mr Siba, although Mr Leymang had discussed the position with another applicant. It appears Mr Korman and the UMP facilitated the Mr Siba's appointment because they decided months before this appointment that Mr Siba would take the job. This showed his direct political influence on the independence of the Police SC.
- 9.9 He influenced the Police SC to break the Police Act when it recommended Mr Siba, an already dismissed police officer, into the Police Force.

FINDING NO. 4: THE CONDUCT OF MR PEREI IN APPROVING LUC SIBA AS COMMISSIONER OF POLICE WAS UNJUST, BASED ON IMPROPER MOTIVES AND IRRELEVANT GROUNDS, AND BLATANTLY UNREASONABLE

- 9.10 Mr Perei failed to ensure that all applications sent to the PMO for the Police Commissioner's post were all sent to the Police SC before it convened its meeting to assess them. By doing so he did not properly carry out the function of advising the President of the right candidate for appointment because he did not review all applications. It appears that an arrangement was made between Messrs Korman, Leymang and Mr Perei to either withhold or withdraw other applications because Mr Leymang confirmed in his office to one of the applicant that he had already received his application but it was not remitted to the Police SC, and he also confirmed that he remitted 4 applications to the Prime Minister.
- 9.11 He did not protect the independence of the Police SC and allowed Messrs Korman and Leymang, who are politicians, to influence him, as Chairman, on Mr Siba's appointment. The appointment of Mr Siba was rushed because Mr Perei convened an urgent Police SC meeting on 30 August 1994 and Mr Siba was subsequently appointed the same day. It has been confirmed by other members of the Commission that a decision had already been made before he convened this meeting. His decision was based on the direction of the Messrs Korman and Leymang rather than the study of the merit of candidates because Mr Siba had previous court criminal convictions and has been dismissed from the Force which automatically disqualified him from the post of the Commissioner of Police.
- 9.12 Mr Perei is a former police officer and he knew very well Mr Siba court convictions. He also knew that he had been dismissed from the Police Force which disqualified Mr Siba from the beginning. Instead Mr Perei allowed himself to act and be a puppet of the politicians.
- 9.13 He failed to properly perform his duty as the Chairman of the Police SC to adjourn the meeting when members of the Police SC were making enquiries into the non existence Mr Siba's application and records, to another date when these documents would be available.

FINDING NO. 5: THE CONDUCT OF MESSRS ANDENG, MANSALE, RAKAU AND MME GROWBY WAS UNJUST, BASED ON IMPROPER AND IRRELEVANT MOTIVES AND BLATANTLY UNREASONABLE

- 9.14 These people failed to ensure that the Police SC acted independently and allowed themselves to be influenced by politicians. Even though they were informed by the Chairman that the instruction from the Prime Minister's Office was to recommend Mr Siba for the position of Commissioner of Police, they failed to take an independent stand to ensure that the Police SC recommended the appropriate person.
- 9.15 Their decision was based on the direction of the politicians rather than on merit of the candidates because Mr Siba had already been dismissed from the Police Force and also convicted in court. They approved the wrong man with the wrong criminal background for the wrong reasons. They did not follow the appropriate procedure for the appointment of the Police Commissioner in that candidates were not screened or discussed but a recommendation made on the instructions of the Chairman. They are responsible for damaging a national institution of Vanuatu and for the subsequent dramatic crisis of the VMF standdown group, aggrieved by the mismanagement of their allowances by Luc Siba the man chosen by the Police SC.

FINDING NO. 6: THE CONDUCT OF LUC SIBA AS POLICE COMMISSIONER, IN BREAKING THE LAW AND VIOLATING DISCIPLINARY RULES, WAS IN BREACH OF THE LEADERSHIP CODE

- 9.16 Mr Siba ignored his legal obligation as the Commissioner of Police. He was placed in command, to enforce the law however he continued to break the law as well as lie about his breaches during his term as the Commissioner of Police.
- 9.17 He ignored the rules of discipline as stated in the Police Act and continued to break these rules.

- 9.18 As the Commissioner of Police, Mr Siba breached the Leadership Code, Article 66(1) (b) and (c) of the Constitution, in that when he conducted his behaviour contrary to the laws and rules of discipline, he demeaned his office as the Commissioner of Police, brought his integrity and that of the country and his leadership into question.

10 RECOMMENDATIONS

- NO. 1** MR WAIMINI PEREI NOT BE RE-APPOINTED ONTO ANY GOVERNMENT STATUTORY BODIES OR COMMISSIONS IN THE FUTURE.
- NO. 2** MESSRS AMOS ANDENG, PAKAO LAU MANSALÉ, VAKE RAKAU & MME MARIA GROWBY NOT BE APPOINTED AS A MEMBER OR CHAIRMAN OF ANY COMMISSIONS LEGALLY ESTABLISHED WITHIN THE VANUATU GOVERNMENT OR ITS STATUTORY BODIES IN THE FUTURE, AND NOT TO BE APPOINTED IN A POSITION OF RESPONSIBILITY AS THEY SHOWED THEMSELVES UNABLE TO ACT WITH INTEGRITY AND TO THINK FOR THE GOOD OF THE COUNTRY. INSTEAD THEY ACTED AS PUPPETS OF THE POLITICAL POWER.
- NO. 3** MR MAXIME CARLOT KORMAN NOT BE APPOINTED IN THE FUTURE INTO ANY OFFICE OF RESPONSIBILITY (FOR EXAMPLE ANY MAKING APPOINTMENTS WITHIN THE PUBLIC SERVICE AND ALSO THE GOVERNMENT STATUTORY BODIES).
- NO. 4** MR GÉRARD LEYMANG NOT BE APPOINTED IN THE FUTURE INTO ANY VANUATU GOVERNMENT OFFICES RESPONSIBLE FOR MAKING APPOINTMENTS IN THE PUBLIC SERVICE. THIS ALSO INCLUDES GOVERNMENT STATUTORY BODIES.
- NO. 5** MR LUC SIBA NEVER BE APPOINTED TO ANY LEADERSHIP POST AGAIN, AND TO ANY POST IN THE PUBLIC SERVICE.
- NO. 6** GUIDELINES ON THE DUTIES AND OBLIGATION OF THE POLICE SERVICE COMMISSION TO BE ESTABLISHED TO ENABLE IT TO CARRY OUT ITS LEGAL OBLIGATIONS.
- NO. 7** WE RECOMMEND THAT FUTURE APPOINTMENTS OF POLICE COMMISSIONERS ARE MADE ON MERIT, WITH A FAIR CONSIDERATION OF ALL APPLICATIONS.

11 CONCLUSION

- 11.1 In accordance with Article 63(4) of the Constitution and Section 23 of the Ombudsman Act No. 14 of 1995, I am forwarding a copy of this report to the President of the Republic of Vanuatu, the Prime Minister and the Minister responsible for the Vanuatu Police Force and relevant public authorities. according to the Constitution, their duty is to 'decide upon the findings of the Ombudsman within a reasonable time and the decision with reasons, shall be given to the complainant forthwith'.

I therefore request all appropriate authorities to decide upon these findings within 21 days upon the date of receipt of this report:

- His Excellency the President of the Republic of Vanuatu
- Honourable Prime Minister
- Honourable Minister responsible for the police
- The Chairman of the Police Service Commission
- The Commissioner of Police

Dated this 13 day of August 1998.



Marie-Noëlle FERRIEUX PATTERSON
OMBUDSMAN OF THE REPUBLIC OF VANUATU.

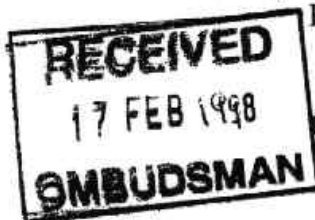
12 APPENDICES

- A Mr Vake Rakau's reply to the preliminary report.
- B The vacancy notice published in the *Vanuatu Weekly* on the vacant post of the Commissioner of Police.
- C The recommendation for Mr Siba's appointment submitted by the Police SC.
- D A copy of Mr Siba's appointment letter.
- E A copy of Mr Peter Bong's letter on expenses spent as a result of Mr Siba's road traffic accident.
- F A copy of LPO No. 2766739 (authorised for payment of spare parts on the police vehicle Mr Siba was involved in a traffic accident with).
- G A copy of a letter of 04.09.97 from Mr Leymang.

MEMORANDUM

CRIMINAL INVESTIGATION DEPARTMENT
PMB 14, Port Vila.
Republic of Vanuatu.
Telephone & Fax. 22893.

POLICE JUDICIAIRE
SAC PRIVE 014, Port Vila
Republique de Vanuatu.



Date: 16 Feb'98

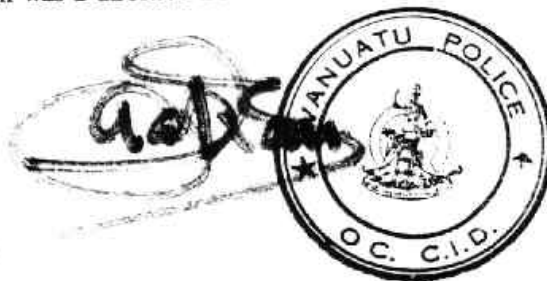
To: The Ombudsman of Vanuatu
Office of the Ombudsman
P.O. BOX 126, PORT VILA.

Subject

PRELIMINARY REPORT ON THE ALLEGED IMPROPER APPOINTMENT OF MR LUC SIBA AS THE COMMISSIONER OF POLICE.

Following the above subject matter I write in respond to the covering letter dated 4 February 1998 and ask that my involvement in the above matter be retracted subject to the following points:

- 1) That I find your report as containing few short falls in that it does not take into account what has politically contaminated the POLICE SERVICE COMMISSION when the KORMAN led government took over leadership from the KALPOKAS led government in 1991. That was when members such as Job DALESA, Allan NAFUKI and George PAKOASOGI appointed for four (4) years were terminated before completing their term. I understand that this matter was raised by the members concern but was ignored.
- 2) Their replacements were:
 - Mr. Pakoalau MANSALE
 - Mr. Amos ANDENG and
 - Mrs. Maria GROWBY who were former UMP Members of Parliament and
 - Mr. Waimini PEREI who was commonly known as UMP supporter.
- 3) You are aware that at that time I was still a member of the Judiciary department (magistrate) with no political affiliation, therefore it is not fair for your office to conclude in the report that we were equally held responsible for the appointment of Mr. Luc SIBA. The normal practice of the Commission in deciding a matter before it is through a vote from each member. I do not recall the Chairman calling for a vote in this matter nor do I remember taking part in any voting and I guess it was the reason that the matter was a directive from the Prime Minister's office.
- 3) On the date in question which resulted the Police Service Commission's resolution to recommend the appointment of Mr. Luc SIBA to the Head of State, I noticed that there were no other applications. There was only one page letter which the Chairman advised members that he received from the Prime Minister's office. Also among other things raised concerning this matter I advised members of the Commission concerning the Criminal convictions of Mr. Luc SIBA. All I can remember from comments raised by some members of the Commission was, the candidate forwarded for discussion was a directive from the Prime Minister's office therefore there is no other choice.



17/03/00 03:00

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wan nurse mo bambae i mekem i posibol blong rpea wok blong wota saplae i save gehed i no longuam.

Hemi talem long saed blong skul se tede fulap man blong tufala aelan ia i holem wok long Gavman be tede sapos yu lukluk hak i nomo gat wan skul mo hemia i no stret.

Praem Minista i talem se yumi indipenden finis mo hemia wok blong Gavman blong mas mekem.

Long ol tektok blong hem yemi talem tankio long Efate lokol Gavman Kaonsel we i stap traem best blong hem blong helpem evri eia we i stap raon long hem nomata we i no gat inaf risos, be hemi talem se ol problem we i stap tede bambae i nomo stap taem Decentralaisesen Bill i pass long Palemen.

Hemi talem se wetem Bill ia nbac plante eia blong yumi i save develop i kam antap.

Sem toktok we Praem Minista i talem long olgeta jif, jioj lida mo yuths long Nguna hemi mekem bakegen i go long olgeta blong Pele.

Praem Minista i givim i go long ol vilij blong Pele, yuths, stringband grup we i piet, jioj mo skul pikinini blong Tangovawia skul VT10,000 ij.

Jif blong Pele i rikwestem Gavman blong i gat rpea long wota saplae sistem we i stap naolia, wan dispenseri mo wan nurse, komuniti hall, miting haos blong Werearu mo jioj haos blong Piliura we i haf i stap.

Long aelan blong Nguna olgeta i askem bot, kaliko blong somap, iron ruf, komuniti hall mo wota tanki.

Olgeta jif mo pipol blong tufala aelan ia oli talem tankio long Honourable Praem Minista we i save visium pipol blong olgeta mo harem need blong ol.

Olgeta i talem se efot blong lida blong Gavman i go long aelan blong ol i wan bigfala example we ol nara lida tu oli shud stap mekem from plante oli stap fokatem pipol blong olgeta.

mekem Gavman i wok gud kontinuesen long koalsen arenjmen.

RIPABLIK BLONG VANUATU



POSITION

COMMISSIONER BLONG POLIS

Gavman blong Ripablik blong hemi wandem invaetem aplikeisen blong post blong Komisena blong Polis blong Vanuatu Polis Fos.

Presiden blong Ripablik bae i apoentem Komisena blong Polis folem advaes blong Polis Servis Komisen.

Aplikant i mas be wan ni-Vanuatu mo hemi mas be wan experience Polis Ofisa mo hemi mas gat ol karekta ia :

- (1) Gud edukesen;
- (2) Gud save blong ol law blong Vanuatu mo sam save blong ol law blong narafala kaontri;
- (3) Gud save blong toktok Franis mo English;
- (4) Gud save blong toktok long Bislama;
- (5) Gud rikod blong honesty, mo morality mo gud kwaliti blong lidaship.

Aplikant i mas rifea long Polis Akt (CAP 105) blong faenem moa infomesen long position ia.

Aplicant i mas inkludim nem blong tri (3) referee blong hem.

Det blong klosem ol aplikeisen hemi namba 30 June 1994.

Ol aplikeisen wetem ful histri blong ol applicant mo talem risen why applicant hemi biliv se hemi kwalifae long posisen ia i shud sendem i kam long :

GERARD LEYMANG

First Secretary, Prime Minister's Office
Private Mail Bag 053; Port Vila.

" C "

POLICE SERVICE COMMISSION
P O BOX 154
PORT VILA

30 August 1994

His Excellency
Jean Marie Leye Lenalgau
The President
Republic of Vanuatu
State Office
PORT VILA

Your Excellency

RECOMMENDATION FOR POLICE COMMISSIONER


During the Police Service Commission Meeting this afternoon, 30th August 1994, resolved to recommend that Mr Luc SIBA be appointed as Commissioner of Police of the Vanuatu Police Force with effect from 1st of September 1994, for a trial period of six (6) months before a permanent appointment is made for two (2) years upon satisfactory performance.

The Police Service Commission made this recommendation in accordance with the Police Regulation Cap 105 Section 10 (1).

Your favourable consideration is highly appreciated.

I remain

Yours faithfully


Waimini Perei
CHAIRMAN
POLICE SERVICE COMMISSION

cc: Honourable Prime Minister, Prime Minister's Office

30 AUG 1994



REPUBLIC OF VANUATU

POLICE ACT [CAP. 105]

APPOINTMENT

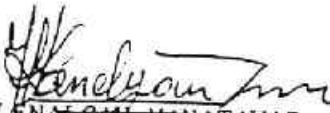
IN EXERCISE of the powers conferred by section 10(1) of the Police Act [CAP. 105], as amended, and acting on the advice of the Police Service Commission, I, LEYE LENALCAU MANATAWAI, President of the Republic of Vanuatu hereby appoint -

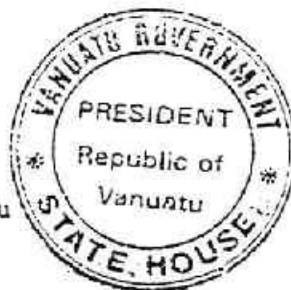
LUC SIBA

to be the Commissioner of Police with effect from the date hereof.

MADE at State Office, Port Vila, this

30 day of August, 1994.


LEYE LENALCAU MANATAWAI
President of the Republic of Vanuatu



FAX : (678) 25315
TELEX : (0771) 1127 VPF NOC
TELEPHONE : (678) 22222



Vanuatu Police Headquarters

Private Mail Bag 014
Port Vila
VANUATU

REPUBLIC OF VANUATU

Your Reference

Our Reference PF/HQ/01

Date 15 November 1996

The Chairman
Police Service Commission
PORT VILA

Dear Sir,

POLICE VEHICLE REGISTERED
RE - DAMAGE TO "COMPOL (1) ONE" BY THE
COMMISSIONER OF POLICE, MR. LUC SIBA

1. I hereby submit the completion of the report on the above subject. The report shows that Mr SIBA had not paid for the cost of the damage as promised in court before the former Public Prosecutor.

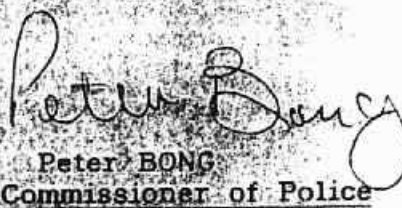
2. According to the Police Discipline Procedures CAP 105, Mr SIBA was never dealt with by the Police Service Commission. The quotation on the damage shows that Mr SIBA should pay the amount of VT. 489,482. The labour cost totals to VT 53,090. The total cost of spare parts and labour will therefore added up to VT. 542,572.

3. The above information I as Acting Commissioner of Police recommend the followings:-

(a) Mr SIBA should be brought before the Police Service Commission and charged for "Committing an Act likely to bring discredit upon the Force."

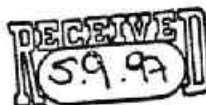
(b) Subsequently the Police Service Commission should impose a disciplinary order for Mr SIBA to pay the total cost of the damage and labour with the amount of VT. 53,090 as soon as possible.

4. Your urgent arrangement for the Commission to look into this report would be mostly appreciated.


Peter BONG
Acting Commissioner of Police

cc: First Secretary Ministry of Home Affairs
First Secretary Prime Minister's Office
First Secretary Ministry of Justice

Gérard LEYMANG
B.P. 762
Port - Vila



Le Médiateur de la République
BP 126
Port-Vila

BY HAND

Port - Vila, le 4 septembre 1997

Madame,

J'accuse réception de votre lettre datée du 26/08/97 sous référence OMB3209/97-20, le 02/09/97.

Bien qu'à l'époque à laquelle vous faites référence j'étais effectivement Directeur de Cabinet du Bureau du Premier Ministre, les circuits internes d'organisation du Bureau du Premier Ministre de l'époque, monsieur Maxime Carlot Korman, et ses méthodes de travail faisaient que je n'étais pas concerné par toutes les décisions détaillées et journalières du Premier Ministre.

C'est vers lui qu'il faut adresser vos questions inquisitoriales ainsi que vers le Président de la Commission de la Police de cette époque.

Permettez-moi, en outre, de souligner mon étonnement face à vos méthodes encore une fois. Je vous rappelle qu'il reste une requête constitutionnelle à entendre par la Cour Suprême dans laquelle je mets en cause, notamment, l'anticonstitutionnalité de votre nomination à la charge de Médiateur de la République. Votre lettre ne fait qu'interférer avec le bon cours et la bonne administration de la Justice, tant qu'il ne sera pas statué sur ces points.

J'ajoute en outre, qu'il est important de vous soumettre le problème légal suivant : quelle est votre position au regard du droit fondamental et de du principe de base dans un Etat de droit qu'est la non-rétroactivité de la Loi ? Pensez-vous que cela s'applique à vous même ?

En conclusion, ce sont les éclaircissements que je peux apporter à votre demande, sans préjudice pour moi, de mes droits à faire valoir l'illégalité et l'anticonstitutionnalité de vos actions. Je ne comprends, en effet, notamment, pas comment, alors qu'il est de notoriété publique que votre nomination n'a pas été faite en conformité avec la Constitution, depuis que le Premier Ministre l'a annoncé publiquement à la radio et à la télévision, vous pouvez continuer impunément à exercer cette fonction et à continuer de harceler, sans attendre la décision de la Cour.

Veuillez croire, Madame, à l'expression de mes salutations distinguées.

Gérard LEYMANG