State Society and Governance in Melanesia

A COUP THAT FAILED? RECENT POLITICAL EVENTS IN VANUATU

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SUMMARY

When Vanuatu conducted its fourth post-independence general election, in November last year, more was at stake perhaps than in any previous election.

For the first twelve years of independence, the country's anglophone majority had held government through the same party, the Vanua'aku Party (VP), and its constituents had enjoyed the benefits that power and the scope for preferment that being in office brings.

For many anglophone politicians and constituents alike, therefore, the four years spent in Opposition, 1991–1995, were a painful lesson in the consequences of electoral defeat.

By contrast, the francophone minority, who had endured more than a decade of, in their view, disadvantage and discrimination under anglophone rule, finally won office in 1991 and had begun to redress those years of perceived injustice and inequality.

By the end of 1995, therefore, in both communities, a better appreciation of the real benefits of office sharpened the competition between not only rival parties but between individual leaders and factions within the parties.

In a context of almost certain coalition government, and of competitive bidding for

supporters, party loyalty was quickly subordinated to rival ambitions, and personal allegiance became a tradeable good in the race for the top job.

The corruption of political processes, which soon accompanied (or drove) the quest for power, led to more and more desperate stratagems to secure the prize.

In the tense few weeks that followed the formation of government on 21 December, a number of key actors showed themselves quite willing to knowingly flout convention and even (knowingly?) to exceed their legal authority.

Ultimately, judicial decision defeated a raft of purported Executive actions which, taken together, seem to have been intended to effect an administrative coup d'état.

INTRODUCTION

A recital of events from shortly before the general election in Vanuatu, in November last year, to the formation of its second government before the end of February this year, in itself makes a very interesting study in the possibilities for political double-dealing where gaining power is driven as much by the desire to prevent its exercise by a personal rival as by any wish to implement a particular political program. The interest lies in

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the detail of the events that took place, in how unstable and unpredictable the general political situation became and the strains that were placed on the institutions and practices of constitutional parliamentary government. The detail is, however, so copious and its chronological recital so likely to lose your attention, either by confusing you with too much unsifted raw material or by simply boring you, that I have been selective in what I aim to present. The selection, and more importantly, the arrangement of the material, has been made around the actions of a few principal players in the unfolding drama. I apologise for any distortion which selection may, by what it omits, have introduced.

The key players in the drama were

- Serge Vohor—President of the Union of Moderate Parties (UMP) (fr.)
- Maxime Carlot-Korman—Prime Minister (1991-95) in the UMP-led coalition government (fr.)
- Fr. Walter Lini—leader of the National United Party (NUP); Prime Minister (1980-91) (ang.)
- Donald Kalpokas—leader of the Vanua'aka Party (VP) and Leader of the Opposition Unity Front (UF); VP Prime Minister (1991) (ang.)
- Charles Vaudin d'Imecourt—Chief Justice of the Supreme Court (expat.)
- Jean-Marie Leye Lenelcau—President of the Republic of Vanuatu (fr.)

BACKGROUND

Although Carlot-Korman had succeeded in leading Vanuatu's first coalition government and remaining in office for the full four year term (1991-95) normal to government in Vanuatu, the uncertainty of coalition government had been plainly revealed to all, politicians and general public alike, through the number of changes in the party affiliations of those anglophone politicians on whose support his government had depended. During the period, personal ambition, spite, revenge and venality replaced principle and party loyalty in the desire for the perquisites of public office.

The loss of the election by the main anglophone parties in 1991 and the four succeeding years in Opposition had taught the VP and its allies in the Unity Front (UF), the Melanesian Progressive Party and Tan Union, the need for a coordinated electoral strategy, careful calibration in the choice and number of their candidates and discipline in the management of their electoral support. Failure to do so in 1991 had contributed to their defeat at that time. The years in opposition had, moreover, already accustomed them to consultation and their solidarity had largely withstood attempts by government to suborn one or another party or individual to defect to the government, or at least to sow the seeds of suspicion and mistrust among them.

In their preparation for the elections and in their campaigns, the UF parties were able to maintain their close coordination in order to maximise the total number of seats they might win and not diminish their potential collective strength by competing against each other to the probable detriment of all. Unlike their major rivals, the UF parties had to fight the election on very limited budgets and were unable to sweeten their campaign promises with an immediate foretaste of the good things victory would bestow on the faithful.

The NUP, perhaps by exaggerating the personal appeal of their leader, Fr Lini, as father of the country and perhaps its saviour from the continued uncertainties of coalition government, or reckless of the campaign funds of its party chairman, Dinh Van Than, who bank-rolled the campaign, pursued a strategy aimed at winning government in its own right.

From early in 1995, the ruling UMP had begun increasingly to show signs of internal disunity, with rival factions, conscious of the approaching elections, forming in support of the Party President, Vohor, and his main opponent, the incumbent Prime Minister, Carlot-Korman. Their personal contest ultimately led to the formation of a breakaway party of young disaffected party members, a significant increase in the number of candidates standing as independents and finally to

litigation to decide the UMP's official candidate-list, all of which tended to divide the UMP's normal electoral vote.

The rivalry of the two men had a long history but only became really acute when UMP emerged from the 1991 general elections as the largest single party and in a position to form government. At the time, Vohor, both by position as President of the party, and because within the party he commanded the strongest following, had expected to become Prime Minister following their election win. His disappointment at Carlot-Korman's appointment as Prime Minister and frustration at having to serve in his government were open secrets in Port Vila. The further humiliation he suffered when removed from his first Ministerial appointment as Foreign Minister by Carlot-Korman seems, in retrospect, to have fixed an adamant resolve to prevent a repetition of that outcome in any future negotiations to form government which might follow the general elections in 1995.

Against this background of fractious and fragmenting party politics, even to the most uninstructed observer, the elections in November 1995 seemed to portend a further period of uneasy coalition government.

When officially announced, on 7 December, the election results confirmed that no party had secured a simple majority in its own right and merely served to intensify the inter-party negotiations that had been phrenetically going on since the completion of the poll.

The edge of Vohor's ambition had already been sharply whetted by his pre-election conflict with Carlot-Korman over the party's list of endorsed candidates and the Court's finding in favour of Carlot-Korman's submission. Not willing to see Carlot-Korman lead his party in government again, Vohor began his own pre-emptive quest for power betimes and, to the surprise and consternation of all, concluded as early as 4 December, a Memorandum of Understanding on coalition with the UF, which had gained the biggest bloc of seats of any party (20) and seemed, therefore, likely to be important to the final composition of any

The General Election—November 1995

Official Results	Political Party	Seats
VANUA'AKU PATI	} UNITY FRONT (20)	13
TAN UNION		2
MELANESIAN PROGRESSIVE PATI		5
UNION OF MODERATE PARTIES		17
NATIONAL UNITED PATI		9
NAGRIAMEL		1
FREN MELANESIAN PATI		1
INDEPENDENT		2

government. In doing so, Vohor risked splitting the party but acted within the authority he considered he enjoyed as party President and chairman of the Executive committee. As President, moreover, he could purport to act on behalf of the party as a whole and not be seen to act out of personal malice or self interest.

It is not certain just how many MPs Vohor carried with him but, although he claimed about 13 out of UMP's total 17 elected members, the number was probably 9.

In agreeing to the coalition, it was soon being reported that Vohor and his colleagues would be allocated the deputy-Prime Ministership and an additional 2 or 3 Ministries. These figures seemed about right, as the UF had to share the remaining 9 Ministries equitably among its three constituent parties.

By this early and unexpected alliance, Vohor sought to pre-empt Carlot-Korman's leadership pretensions or isolate him within the party. A refusal by Carlot-Korman to accept Vohor's leadership and his own inclusion in a new government would expose him, rather than Vohor, to the obloquy of splitting the Party in the furtherance of his own ambition.

Carlot-Korman's response was quick and unyielding. The same day, he convened a meeting of party members and formed a new interim national executive committee, which immediately acted to suspend Vohor, and those known to have followed him, from membership of the party, and

he then immediately entered into negotiations on an alternative coalition with Fr Lini and the NUP.

On 7 December, the two parties announced agreement under which UMP would lead the government, with 7 Ministries, and NUP hold 5 Ministries and the deputy-Prime Minister's position. Carlot-Korman's agreement with NUP, however, while personally defiant of Vohor's challenge, and equally cavalier in its threat to party unity, could not deliver government to him as, whatever their combined numbers, they were still well short of a parliamentary majority.

UMP party officials, some MPs and grass-roots supporters were, however, anxious to prevent an open split in the party and to avoid the fate which had observably befallen the Vanua'aku Party in the period since its major split in mid-1991. A split among UMP's constituent elements might prove even more fissile than among the rather more homogeneous anglophones. Vohor, however, was not to be appeased and, on 8 December, rejected an attempt at reconciliation with Carlot-Korman as 'not real' unless accompanied by rescission, in writing, of the purported suspension of his party membership by the so-called interim NEC.

Simultaneously, Vincent Boulekone, President of the Tan Union, and a member of the UF, rebuffed an offer by Carlot-Korman of the Presidency of the UMP (a position he had been dumped from in 1987 in favour of Vohor), in what was an obvious attempt to fracture the unity of the UF and attract its two francophone MPs to his faction of the UMP.

The weekend of 9/10 December, marked the highwater mark in Vohor's improbable brokerage of his uncertain electoral weight (controlling no more than 9 of the Parliament's 50 elected members) into mastery of the House. His performance at the numbers game required dissimulation and double-dealing breathtaking in its boldness and barefaced duplicity.

In the morning of the 9th, Vohor attended a public rally in Pt. Vila, a victory parade organised to celebrate the UF's win, and re-affirmed his loyalty and commitment to the Memorandum of Understanding on coalition with the UF. In the afternoon, he attended a reconciliation meeting of

the UMP at which the MPs concluded a 'solidarity agreement' among themselves.

Although details of what other agreements were reached that day are few, it seems safe to assume that Vohor was able to extract agreement to his nomination for Prime Minister in the UMP/NUP coalition as the price for not splitting the party in two. There were also some scurrilous suggestions that a very generous inducement to change his loyalty in favour of NUP may have contributed to the switch.

The combined numbers of a unified UMP and NUP were sufficient to form government, with a majority of one, and the magnetic pull of being in government could also be relied on to attract a number of single member representatives and even possibly to detach the odd opportunist from the ranks of the UF to increase the margin.

None of this was, however, as yet publicly revealed and Vohor was able, on 10 December, plausibly to explain to his UF coalition partners the reasons for his attendance at the reconciliation ceremony as strengthening his hold on his supporters in the party! And, of course, it was true, but only in a sense intended to deceive.

On Monday 11 December, the Secretary-General of the UMP announced that the National Executive Council had repudiated Vohor's Memorandum of Understanding with UF, which offered the party only three Ministries and the position of deputy-Prime Minister. Instead, UMP would form government in coalition with NUP, in which NUP would hold three Ministries and the deputy-Prime Ministership. By a unanimous vote (and three abstentions) the party agreed to nominate Vohor for appointment as Prime Minister.

In response, the UF rather lamely expressed its 'disappointment' at Vohor's failure to honour the terms of their MOU. Belatedly, in a last ditch attempt to secure a role for itself in government, it also approached NUP and offered Lini the Prime Ministership in an UF/NUP coalition.

The following day, the NUP party office acknowledged that its party Executive Committee would meet to consider whether to honour its Memorandum of Understanding with UMP or to accept the new proposal from the UF. It

confirmed the offer of the Prime Ministership to Lini, plus 2/3 other Ministries. Lini had thus suddenly become the pivotal figure in the power-brokering. His decision could give effect to the strongly held hope within the broad community of anglophones of a reconciliation among their former political leaders. Lini seized his chance and moved quickly to exploit the opportunity to the advantage of his party and to the discomfort of his enemies.

On 14 December, NUP and UMP confirmed their agreement on jointly forming government and, in announcing the details of the power-sharing, revealed that Lini had been able to improve the UMP's original offer and to obtain five Ministerial posts for NUP, the first deputy-Speakership in the Parliament and the chairmanship of the Board of Air Vanuatu—a position soon to be conferred on NUP's President, Dinh Van Than, to whom Lini was deeply indebted for the funding of his party ever since its inauguration in 1991. Carlot-Korman declined Vohor's offer of appointment as Minister of Foreign Affairs and Trade (the first appointment held by Vohor under Carlot-Korman in 1991-92), preferring instead nomination as Speaker of the Parliament, a position he had held in Vanuatu's first post-independence Parliament.

Once again, the UF lamely expressed 'disappointment' and reproached NUP for its decision, but should have seen (even if too late) that in making its offer to Lini it had strengthened his negotiating position, *vis-à-vis* the UMP, which had greater apparent flexibility to accommodate extra demands from a coalition partner than UF which, with three parties to accommodate from the outset, had little or none.

In a retort to UF's statement, the NUP rejoined that the UF had missed its chance on 2 December, when it revealed it had initiated negotiations, aimed at reconciliation with the VP and MPP, its former anglophone allies. It may be inferred from this statement, however, that NUP, in initiating those contacts, had sought simultaneously to fracture UF's unity and to exclude the Tan Union from the proposed coalition. Destruction of that unity was probably its real motive, rather than

a sincere wish to reunify the anglophones. In not responding positively to NUP's overture at the time, the VP and MPP may be seen to have reaffirmed that loyalty to one another which had underwritten four years of united opposition. Lini's demand to be Prime Minister would also have made the decision, not to accept the offer, all the easier for VP and MPP, since its acceptance would have restored the *status quo ante* 1988!

In announcing the agreement, the UMP/NUP also set out some guiding principles for coalition government which would be 'based on democratic principles, respect for the Constitution and the rule of law', and promised 'good and open government'. They also claimed their agreement demonstrated that, 'regardless of differences of policy', the two parties had shown a willingness to work together for the good of the country and people. Indeed, both sides had discovered in the first UMP/NUP government of 1991-92, that policy differences were no obstacle to coalition in which each party determined and implemented its own policy directions in those portfolios for which it was responsible, without regard to the other or to any coherence or coordination of national policy across government. Given pronounced differences in political ideology between NUP and UMP, there could be little objective reason to hope for good government and little of the coalition surviving long, except on the basis of non-interference in the affairs of each other's agreed areas of responsibility!

VOHOR'S GOVERNMENT

Under Vanuatu's Constitution, Parliament meets to elect a new Prime Minister who then proceeds to form a government. The Ministry is sworn in by the Attorney-General. Article 21 (4) of the Constitution enjoins that a quorum at the first sitting of a new session of Parliament shall be two-thirds of the elected members. Predictably, therefore, when Parliament met on 18 December to elect a new Prime Minister and swear in a new government, the UF boycotted the sitting which then failed of a quorum and had to be adjourned for three days, until 21 December, when the

required quorum would be a simple majority only. In a public statement released to justify its boycott of the sitting, the UF rather naively asserted a moral justification for its actions, arguing that since democracy required that the majority should rule, the UF as the largest block of MPs 'should be the group to seek a coalition partner in a new government'.

Lini, in denouncing the boycott as designed simply to allow three more days in which to suborn UMP or NUP MPs to defect to the UF, said that on the contrary it would only strengthen their commitment to the coalition agreement.

Finally, on 21 December, all 50 MPs attended the adjourned sitting of Parliament and elected Vohor Prime Minister by 28 votes to 22 for UF leader Donald Kalpokas.

In an almost unremarked, but very significant by-play, the oldest member of the Parliament, Amos Andeng, UMP MP for Ambrym, who, as required by Parliamentary Standing Order, had presided over the election of Carlot-Korman as the new Speaker of Parliament, declined his nomination for appointment as the second deputy-Speaker. It was a sign that unreconciled differences still rankled beneath the outward appearance of unity in the UMP's and Vohor's extra-ordinary triumph.

THE HONEYMOON PERIOD

The Christmas/New Year break must have provided a very welcome relief to populace and politicians alike after weeks of rumour and intrigue and increasing uncertainty of outcome. It may also have offered an opportunity, in this profoundly Christian country, for forgiveness of betrayal and double-dealing, but if so, the mood lasted no longer than the festive season which perhaps induced it.

As early as 2 January, for public servants and others in government employment, the implications of the change of government were ominously foreshadowed by the Secretary General of the UMP in public remarks that the coalition would make sure it worked only with people and staff who honoured the government and not with anyone not loyal to it. His remarks

added to the concern already caused by Fr Lini's pre-election statement that NUP would replace non-NUP public servants with their own supporters because 'in politics there is no forgiveness'. What this meant in practice soon started to become apparent with the purported dismissals of the Directors of Civil Aviation, Public Works, Health and the Vanuatu Cultural Centre; the suspension of the Heads of Police Special Branch and of the National Tourist Office and public acknowledgement that the contract of the Chief Justice, due to expire in March, would not be renewed; all this in the first ten days of January!

On 4 January, PM Vohor married and, on the 10th, left the country to represent Vanuatu at the state funeral for the late President of France, Francois Mitterand. His absence from the country and distraction from domestic political affairs left Lini in practical charge of the government, a role he relished and performed with so much purpose it soon led to complaints from UMP followers that the government seemed to be a NUP/UMP coalition, not the other way round.

That amorphous discontent soon found more expressive voice through a group of six disgruntled UMP MPs whose dissatisfactions with Vohor's leadership became a stalking-horse for Carlot-Korman's ambition and quickly precipitated a serious political crisis.

The first open signs that the reconciliation within the UMP which brought it to government was more apparent than real, are to be seen in Carlot-Korman's refusal of a Cabinet post in Vohor's government and preference for the 'neutral' position of Speaker of Parliament, and Amos Andeng's refusal of nomination for the second deputy-Speaker position. Carlot-Korman was not reconciled to the loss of the Prime Ministership and Andeng, less driven by personal ambition, was not reconciled to UMP's failure to win government in its own right—a failure he blamed on Vohor and his faction in the UMP, for reasons going back to the selection and endorsement of UMP candidates for the elections.

During the year, from a position of great strength and personal support within the Party, and determined to prevent Carlot-Korman from again

displacing him from the Prime Ministership, Vohor worked his numbers in order to exclude Carlot-Korman, and his closest supporters, from the UMP candidates list which was to be endorsed at the party's national congress held at Epi in mid-September.

Those internal disputes within the Party were soon being fought out in semi-public as six Ministers in Carlot-Korman's government, plus the Speaker, wrote to the UMP President, a week before the party Congress was to open, alleging interference with the decisions of regional Party congresses, expressing lack of 'trust or faith in the leadership of the Party today' and threatening, if their requests were not met, to 'form another group together with those MPs who wish to join forces with us and still contest the next General Elections.'

Vohor responded in a press statement, two days before the congress opened, recommending that the extra-ordinary congress in Epi 'review the candidatures of the following members' and proceeded to name all seven of them.

In the event the congress endorsed 29 candidates, including all seven of the petitioners, plus 2 FMP and 1 Nagriamel candidate to run under the UMP umbrella.

The matter did not end there, however, and ultimately the Supreme Court was required to decide which UMP candidates could stand in the elections after three lists were lodged with the Election Commission—the original list approved by the Epi congress; one submitted by the party's national executive (read Vohor) which added four names to the Epi list and excluded two of the petitioning Ministers and Amos Andeng; and one by the Prime Minister, which was the same as the Epi congress list but excluded a Vohor supporter from Ambrym.

The Court decided in favour of the Epi congress list. Those candidates then no longer formally endorsed by the UMP all decided to run as independents, a move which the secretary-general of the UMP publicly endorsed, referring to them as 'UMP independant candidates.' Vohor, in a media interview a day or so later, commented that some Ministers were past it and should retire¹.

POLITICAL CHALLENGE

In addition to Vohor's attempt to remove him from the endorsed candidates list, Andeng was also incensed that Vohor had yielded a fifth Ministerial position to NUP, which Fr Lini had been able to extract from him after being offered the Prime Ministership by UF. The UMP Executive had not authorised its President to do so and, of course, NUP's gain was at the expense of a UMP member, thus frustrating the expectations of some UMP supporters, in particular those in Ambae and Efate, neither of which gained a cabinet appointment and deeply resented the slight.

Although not openly associated with the group of UMP malcontents, Carlot-Korman was generally assumed and, in the gossip of Port Vila, commonly rumoured to be a prime-mover in evolving plans to unseat Vohor.

Early in January, six UMP MPs including two former Ministers and Andeng, sent a petition to the Prime Minister in which they reproached him for the decline in the UMP's vote at the general elections, its failure to win a simple majority, the litigation over the list of UMP candidates, the unfair distribution of portfolios and the excessive influence of UMP's coalition partner NUP in government. The regional committees of both Efate and Ambae, at about the same time, also petitioned the Prime Minister and, according to media reports, threatened to look elsewhere for a role in government, unless accommodated with a Ministry.

Port Vila soon abounded in rumours that the six, in concert with the UF, would move a motion of no-confidence in Vohor or cross the floor in the vote on the Budget and bring down the government.

Vohor responded to their complaints by announcing that the UMP National Executive would meet, on 31 January, to consider the MPs' grievances—a delay which, even allowing for his marriage and travel to France, suggests a certain insouciance about their concerns. Vohor, completely confident of his support in the Party, appears to have underestimated Carlot-Korman's desperation to regain the Prime Ministership and

the lengths to which he might be prepared to go to obtain it and also the UF's desperation to get back into government again. Despite the rumours about a MOU between UF and the UMP break-away group, Vohor seems not have credited that UF, with twenty seats in the Parliament, would yield the position of Prime Minister to Carlot-Korman with his limited support. But, to the extent others in the UMP believed in that possibility, it put pressure on Vohor to resolve the growing tensions, as Carlot-Korman could be expected to demand the top position as the price for not splitting the Party and bringing down the government.

PARLIAMENTARY CHALLENGE

On 31 January, a press statement from the office of the Speaker of the Parliament revealed that a motion of no-confidence, signed by a majority of MPs, had been lodged on 30 January. The group of six members of the UMP, led by Amos Andeng, plus FMP's sole member Albert Ravutia, had joined forces with the 20 UF members with the intention to unseat the Vohor/Lini government. Carlot-Korman, although not a signatory (perhaps in deference to the proprieties of his office), was widely seen as closely involved in the move and likely to be its principal beneficiary as Prime Minister in a new coalition government.

News of this challenge to Vohor instantly inflamed passions in his home island Santo where, Radio Vanuatu reported the following day, Vohor's supporters had threatened 'to take the law into their own hands' if he were displaced as Prime Minister, and to expel from residency in Santo anyone from the home-islands of the breakaway UMP renegades. The police very quickly responded publicly to caution against any such contemplated action. NUP dissociated itself from the remarks.

The same day, on Radio Vanuatu, Vohor accused Carlot-Korman of fomenting the move against him and of corruption in having solicited campaign funds for the UMP and deposited them in private accounts. He expressed surprise that the

six could ally themselves with such a corrupt man, and went on to intimate a willingness to step aside as Prime Minister, but not in favour of Carlot-Korman.

If Vohor's offer was intended to tempt the breakaway group away from its alliance with the UF and thus disarm the threat of a successful vote of no-confidence, it was unsuccessful. On 6 February, Kalpokas and Andeng issued a press statement on their UF/UMP MOU and Kalpokas publicly stated that Carlot-Korman would be Prime Minister and UMP would hold four other Ministries. At the same time, the Prime Minister's first secretary announced that the government would attempt to stop the vote of no-confidence and was considering advising the President to dissolve the Parliament.

Despite earlier public statements that the appointment of the Chief Justice would not be renewed when it expired in March, Lini, having recognised that the political situation was going to require a sitting Supreme Court judge competent to hear the legal challenges the government was contemplating, proceeded during the week to extend his contract for a further two years.

On 7 February, Vohor initiated such proceedings seeking an order in the Supreme Court to prevent (or at least delay) the Parliament from debating the motion of no-confidence, scheduled for an extra-ordinary session on the following day. That afternoon, the Chief Justice ruled that Parliament could sit the following morning, but could not debate the no-confidence motion as the question of its power to do so was still before the Court. In the event, as UMP/NUP MPs boycotted the sitting on the eighth, Parliament failed of a quorum as only 30 of the 33 members required were present and the session was adjourned to reconvene on the 12th.

At 6.00pm that evening, however, Vohor stunned his colleagues and the nation by announcing, in a nationwide broadcast, that he was resigning as Prime Minister with immediate effect. He did so, he said, for the stability of the country and the good of the people, after only seven weeks in office. His action was quickly acclaimed by political allies as gracious and the act of a 'true

statesman'. More prosaically, and perhaps more cynically, his reasons for doing so were, at the time, largely interpreted as an unwillingness to face the vote of no-confidence and an inability to prevent it.

As a consequence of his resignation, and in accordance with Article 44 of Vanuatu's Constitution, all Ministers ceased to hold office forthwith, albeit they would continue to carry out the functions of an interim caretaker government, pending the election of a new Prime Minister and the formation of a new government.

If Vohor's statement of resignation was at first suggestive of personal magnanimity as the leading factor motivating his decision, the events of the following morning were to disclose rather darker designs and less public-spirited self-sacrifice. At 10.00am next day, President Leye signed a decree to dissolve the Parliament, purporting to act under provisions of the Constitution at Article 28(3). A few hours later, following the mid-day news, Radio Vanuatu broadcast an unusual message which sought to dispel any public misapprehension that the President may have acted to dissolve the Parliament. He had not. His retraction reportedly came after receiving advice from the former Attorney-General that his action was unconstitutional. The Vanuatu Mobile Force were ordered to confiscate and destroy any copies of the decree which had been distributed. No doubt, however, of what the President's original intention had been could have survived the publication in the local paper next day of a photograph taken to witness the formal signing of the decree.

Public confusion and political uncertainty were deepened later that same night when Radio Vanuatu broadcast an interview with the President in which he discussed the reasons that had led him to issue his decree dissolving the Parliament. The interview, pre-recorded for use after the signing of the decree, had not been aired once the decree was cancelled. Its belated broadcast led the Attorney-General to obtain an urgent order from the Supreme Court stating that Parliament had not been dissolved and preventing any public statement to the contrary. Both the local Saturday papers, misled by the late-night broadcast, reported that

the Parliament had been dissolved.

On 12 February, Parliament met again in extra-ordinary session, and what an extra-ordinary session it was to be.

The Speaker began by explaining that Parliament had not been dissolved and read out first the President's decree and then its revocation; he referred to the court order obtained by the Attorney-General and also read into the record the resignation statement of Prime Minister Vohor. He went on to explain that since the then Prime Minister had resigned, there was no longer any need to consider the motion of no-confidence and the Parliament should therefore proceed to the election of a new Prime Minister. He then suspended the sitting for half an hour. One and a half hours later, during which time it is most probable that advice was obtained from the Attorney-General on the proposed course of action, Parliament resumed and the Leader of the Opposition formally moved to withdraw the motion of no-confidence, consequent upon the resignation of the former Prime Minister. The Speaker then ruled that as the only business before the House had been withdrawn, the session was concluded and would meet again in extra-ordinary session, on 20 February, to elect a new Prime Minister. Vohor's faction of the UMP was quick to claim Parliament's failure to elect a new Prime Minister as a victory for the putative Vohor government.

Later that same day, Carlot-Korman wrote to the Clerk of Parliament to advise him of his intention to resign the Speakership with effect from 8.29am on the 20th. Parliament would reconvene at 8.30am that day.

In fact, as could have been expected, the UMP/NUP MPs boycotted the sitting on the 20th and thus deferred until 23 February the election of a new Prime Minister.

MENS REA?

In the interim, angered perhaps by the Chief Justice's failure to grant an order to prevent the Parliament from sitting, Lini, as Minister for Justice, announced the establishment of a Commission of

Inquiry to investigate the involvement of Carlot-Korman in the tabling of the vote of no-confidence and more generally, the allegations of corruption made against him in the previous government and in the election campaign. It was also to examine the impartiality of the Chief Justice, a reference which was to include taking account of the complaints of political bias levelled against him by an Australian judge on his departure from Vanuatu the previous year.

The appointment of the Commission was so undeniably political and its membership so vulnerable to charges of blatant political partiality that its findings could hardly be in doubt. The Assessor, Willie Reuben Abel, was Secretary-General of the NUP, Heather Leo from the Attorney-General's Chambers (a younger sister of Fr Lini), and Jack Yankai. It seemed patently clear that the inquiry, relying on Article 47(3)(A) of the Constitution, would be likely to make a finding of gross misconduct, incapacity or professional misconduct as grounds for a recommendation from the Judicial Services Commission to the President to dismiss the Chief Justice.

At about the same time, suddenly there were reports of a new senior Judge who, it was rumoured, had arrived in the country and been appointed with a competence to hear constitutional cases. He was Mr Jean-Claude Bibi, a former Mauritian High Commissioner to Australia and admitted to practice law in Australia. It was also rumoured that he was a personal friend of the acting Prime Minister Vohor. Speculation quickly concluded that such an appointment was intended to preclude Chief Justice d'Imecourt from hearing all constitutional cases and, indeed, even to facilitate appeals against judgements handed down by the Chief Justice, who was certainly regarded as a friend of Carlot-Korman, the former Prime Minister.

Rumour ran a bit out in front of the facts but, on 22 February, Bibi did accompany the Chief Justice to Santo to visit the courts and was urgently recalled from there to Port Vila on a government-chartered plane. No explanation was offered for his sudden recall and the irate Chief Justice was left to return by the next available

commercial flight, late in the afternoon. He was met in Port Vila by the news that the Judicial Services Commission had acted to suspend him and that Bibi was to replace him on the Bench! In this situation, d'Imecourt avoided service of the notice by refusing to attend his Chambers and the President, it is said, refused to officiate at the swearing-in of the new Judge in the absence of the Chief Justice.

Although not known at the time, it was also later revealed that Fr Lini, in his last hours as Minister for Justice, had acted to suspend or dismiss the Commissioner of Police (who has joint command of both the police and the para-military mobile force), the Chief Justice, the Attorney-General, the Clerk and deputy-Clerk of the Parliament and was considering action against the President!

DENOUNCEMENT

On 23 February, Parliament resumed its interrupted fourth extra-ordinary session, with the attendance of all 50 MPs, to proceed to the election of a new Prime Minister. What ensued was full of tension and drama and stretched to the limits the interpretation of Parliamentary practice.

At the opening of business, the first deputy-Speaker, John Tari, a NUP MP, took the Speaker's chair to preside over the day's proceedings, consequent upon the resignation of Carlot-Korman as Speaker.

Two officers of the Vanuatu Police Force then entered the Chamber and asked Tari to vacate the position which, after some apparent hesitation, he did.

The Clerk, deputy-Clerk and the Attorney-General, who would officiate at the swearing-in of a new Prime Minister, were escorted into the Chamber under police guard. The Clerk then read out the Speaker's letter of resignation and announced that, in accordance with Standing Orders 4 and 5, they should proceed to the election of a Speaker and that in accordance with 4(2), the senior member would preside over the election.

The senior member happened to be Amos

Andeng, the leader of the UMP break-away group.

Hilda Lini, sister of the deputy-Prime Minister Fr Lini, forcefully contested Andeng's right to the chair, arguing that the deputy-Speaker should preside and cited Vanuatu's past practice, in 1989 and 1991, as establishing Parliamentary precedent.

Fr Lini also intervened to inform the Parliament that he had signed a letter dismissing the Clerk of the Parliament and that the Attorney-General had been suspended.

After some time of shrill and increasingly acrimonious exchanges, during which Hilda Lini received almost no vocal support from her own colleagues and Serge Vohor remained completely silent, Andeng asked two police officers to enter and escort the honourable member for Port Vila from the Chamber.

She not only did not willingly comply but resisted to the point that she was physically removed by about seven police, two of whom she allegedly wounded with her ballpoint pen!

Edward Natapei, a VP MP for Port Vila, was nominated for Speaker and, following a walk-out by the UMP/NUP MPs, elected and sworn in by the Attorney-General.

With Natapei in the Speaker's chair, Carlot-Korman was then nominated for Prime Minister by VP leader, Donald Kalpokas, seconded by Amos Andeng and elected by all thirty members remaining in the House.

The Speaker closed the session and the new Ministry was sworn-in by the Attorney-General.

Later in the day, Vohor issued a statement in which he asserted that he was still the Prime Minister, that he had lodged a case in the Supreme Court challenging the day's parliamentary proceedings and publicly accused Australia and France of being behind the moves against him.

Before the end of the day, the Chief Justice issued an injunction restraining Vohor and his former Ministers from claiming to hold office in government, pending a full hearing the following week.

Vohor, and his co-applicants, retained another former Mauritian lawyer, resident and practising in Australia, Roger de Robilliard, to represent them in Court. de Robilliard lodged a petition pursuant

to Article 53(1) and (2) of the Constitution and section 218 of the Criminal Procedure Act seeking orders that the Parliamentary session was null and void and of no effect, on several counts

- the notice of the extra-ordinary session had not been sent out seven days in advance as required by Standing Order 14(5)
- it had not been sent to all MPs
- it breached Standing Order 10(1) and 4 as the deputy-Speaker had been prevented from acting as Speaker
- it breached Standing Order 5(2) as the newly appointed Clerk of Parliament had been prevented from performing his duties
- Prime Minister Vohor had revoked his resignation on 20th February, a withdrawal which had been accepted by the first deputy-Speaker and therefore no vacancy existed
- there had been nine specified breaches of the Leadership Code, as set out in cap.10 of the Constitution, including Hilda Lini's expulsion from Parliament

In rebuttal, the Respondents, represented by the former expatriate Attorney-General, Patrick Ellum, contended that the claims of the applicants should be dismissed as without foundation, frivolous and vexatious, pursuant to Section 218(4) of the Criminal Procedure Code cap.136, and sought a Declaration that the appointment of Carlot-Korman and his Ministers was in accordance with the Constitution and the law.

JUDGEMENT DAY

On 1 March, the Chief Justice handed down judgement, which was complex in its detail as it needed to answer a complex web of claims.

The key issue for the Court was whether or not a vacancy existed in the Prime Ministership because such a vacancy was a pre-condition for Parliament to meet in order to elect a new one. It was also integral to the additional question of whether any of the applicants had *locus standi* to bring the matter before the Court. The Chief Justice concluded that a vacancy did exist, effective from 8 February, as a result of Vohor's

constitutionally valid resignation, and that Parliament then had an obligation under the Constitution to meet to elect another. He also concluded that there was no constitutional provision to enable a withdrawal of that resignation and that only the Parliament had the power under the Constitution (Article 41 and Schedule 2) to elect a new Prime Minister.

The Chief Justice then examined and affirmed that the election of a new Speaker was procedurally correct and, in any case, even had there been an infringement of any constitutional rights, the affected party, John Tari, the first deputy-Speaker, was not joined to the Application and no claim for redress could be made by a third party.

In dismissing all the several grounds for the Application as without foundation, and some as vexatious and/or frivolous as well, the Chief Justice strongly endorsed the submission of the Respondents' Counsel that far from disclosing breaches of the Leadership Code,

'The facts...show quite the opposite, namely that every officer of Government or Parliament was doing his utmost to ensure that the due process of Parliamentary democracy should operate within the Constitution and the rule of law'.

CONCLUSION

On the evidence, a number of conclusions seem deducible from the events above

- There seems little reason to doubt that Vohor, in his initial negotiations to form government with UF, acted first to pre-empt and exclude Carlot-Korman from the Prime Ministership; and that he was undeterred in that course by the risk of splitting the UMP in order to do so—doubtless, confident that he had the stronger following. His subsequent 'reconciliation' of the internal rift was only accomplished on the basis that he would be the Party's nominee for Prime Minister.
- There are also sufficient grounds to conclude that Vohor only resigned the Prime Ministership believing that the President would immediately dissolve Parliament, not that

Parliament would proceed to elect another

- that Lini first sought to undo the unity on the UF in order to neutralise their political weight—his punitive dismissal from government employment of non-NUP employees casts serious doubt on any professed willingness to enter coalition with VP/MPP
- that Lini/Vohor, frustrated in an attempt to dissolve Parliament and so avoid defeat of the government, sought to protect their hold on power by
 - a series of Court challenges to the legitimacy of Parliament considering the no-confidence motion
 - Vohor's purported withdrawal of his resignation as Prime Minister and resumption of power, and
 - the purported replacement of key officers in both the Parliament and the legal system
 - there can be little doubt that the latter acts were intended first to prevent Parliament from proceeding with the debate; then, later (if required) to defeat Parliament's action through Court challenge in front of a new (and more compliant?) Bench
 - equally, there can be no doubt that Lini knew his actions, purporting to replace the Clerk of Parliament and the principal law officers of the state, were *ultra vires*, as all those acts required the President's authority.

In sum, therefore, it seems reasonable to conclude that Lini/Vohor conceived of a *coup d'état*, to be effected by administrative rather than military means, that it was attempted and failed, defeated ultimately by a broad general reliance on fealty to the Constitution, respect for the rule of law and acceptance by all the parties of the role of the Supreme Court as the final arbiter.