

Republic of Vanuatu Parliamentary Handbook



The writing and publication of this handbook is funded by the
Department for International Development (DFID).
DFID is responsible for the British Government's contribution to
international development.

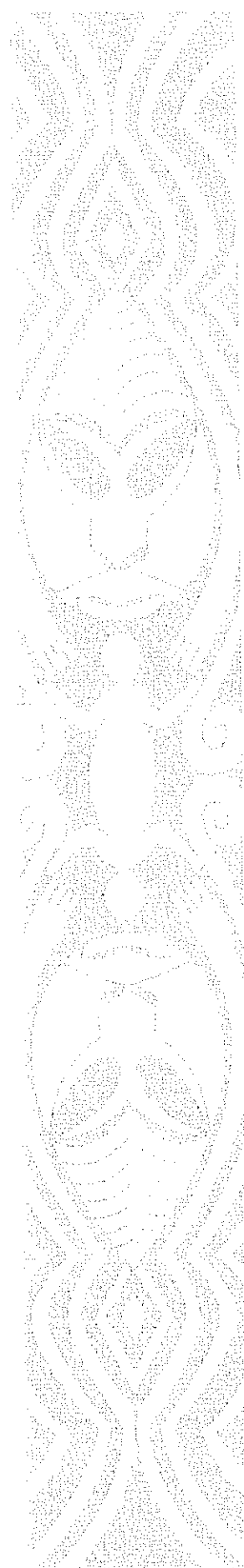
Dedicated to the memory of the Hon. Fr **Walter Lini**
Father of the Nation,
and to the courageous women and men who supported the
struggle for a free and independent Vanuatu

Republic of Vanuatu Parliamentary Handbook
by the Hon Margaret Shields
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Published and funded by UK DFID

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The frontispiece is derived from three photographs by Brian Brake, of a hafted shell adze (an important possession of a grade society member); a slit gong from North Ambrym; and a grade society monument of tree fern from Malekula.



Preface

This handbook was written in response to a request from the Vanuatu Parliament, after two workshops for Members of Parliament in 1997 and 1998. It does not pretend to tell you everything an MP needs to know. Rather, it is designed to introduce new parliamentarians, and people planning to be candidates for election to Parliament, to the most fundamental aspects of the job. The serious student of Vanuatu politics will have to read more than this. However, I hope that new Members of Parliament will find this a useful document to keep beside them, to answer their many questions when they are first elected to the House of Representatives.

Section One gives a brief history of the Vanuatu Parliament. The intention is to set it in context, as one of the most recent Parliaments in the Pacific. This section does not try to detail the intricate discussions, debates and conflicts that took place during the transition from the Condominium of the New Hebrides to the Republic of Vanuatu. The rich oral history of Vanuatu yields many different views on that topic. This section deals more narrowly with the facts that are generally agreed on. It identifies the basic elements of the Parliament of Vanuatu, and describes how it fits into the family of Parliaments around the world, particularly those within the British Commonwealth.

Section Two deals with Vanuatu's electoral processes, drawing on both the Constitution and the Representation of the People Act. The introduction of democratic forms of government is never easy, and Vanuatu (like almost all its neighbours) has had its share of problems in establishing a system that draws on the best of its own and other nations' experience. It needs to be mentioned that the electoral processes and procedures are still evolving. This section covers the situation as it was in 1998-9, and provides a guide for MPs and aspiring politicians to the most important rules and regulations that apply to the electoral process.

Section Three covers the Constitution of the Republic of Vanuatu and links it to some of the legislation that flows from it. As the founding document of the Republic, the Constitution should be the starting point for any new MP to learn the job of being a politician. The Constitution also forms the framework within which all new laws sit. It is impossible for any MP to do a good job of being a legislator without a basic understanding of this document. Within this section, the work of the Prime Minister and the Executive, the Council of Chiefs and the President (as Head of State) are dealt with in some detail.

Section Four describes the main purposes of the Standing Orders of the Vanuatu Parliament, as well as the role of the Speaker. All MPs must understand Standing Orders if they are to take a full part in the proceedings of Parliament. This section is meant to be a supplement to, rather than a replacement for, the Standing Orders. Any wise MP will have a copy of the Standing Orders always at hand. The work of the Speaker as the presiding officer or chairman of Parliament is explained, and his or her main functions are outlined.

Section Five is concerned with the many, varied roles of Members of Parliament - not only their work in the House and their offices, but also the many ways they may become involved in their own communities. Most Parliaments are true Houses of Representatives, and MPs are as varied as the communities that they represent. The way they carry out their tasks will vary according to their personalities, their background and the expectations of the people they represent. This section is designed to cover the essentials, and also offering some suggestions about other activities that may prove helpful to both the MP and those they represent.

Section Six deals with the basic and most important work of Parliament, the making of laws. It describes the basic structure of Bills and Acts of Parliament, and the process Bills must pass through before they become new laws. It also deals briefly with the

Budget as a special form of legislation. Because the Budget is expected to be the subject of another workshop, this topic is covered more lightly than the others in this section. More notes will be provided during later training workshops and may be included in future editions of this Guide.

Section Seven is about committees, an area of parliamentary activity that has not been used much in Vanuatu, except for the review of public expenditure. However, parliamentary committees can be a useful way of enriching the process of law-making, and this section outlines some of the ways committees might be used. If more use is made of committees, though, they must be adequately funded. Other committees might be used, as they are in other parts of the Pacific, both to increase participation in the legislative process and to increase public acceptance of new laws.

Section Eight is about parliamentary privilege. The concept is very old, and enables the open debate of questions of public interest. However, it is made clear that, far from being above the law, Parliamentarians are expected to be good leaders, and to set the best of examples to the people that they represent. This is spelt out in the Leadership Code. I heartily agree with the old adage, that "Law-makers should not be Law-breakers."

Section Nine is concerned with another difficult area for politicians everywhere; appointing people to government boards and bodies. These appointments are often controversial, and most countries have had problems in this area, but all small Pacific countries, with their intricate networks of relationships and obligations, have special problems. It is clear that the more effort politicians put into appointing people on the basis of merit (rather than influence) the better the outcome. This Section outlines how to develop systems of appointment that are both fair and seen to be fair.

Section Ten brings together some short outlines of the responsibilities and duties of some of the important officials in Vanuatu whose work touches on the work of Parliament. There is one important addition to this list. Vanuatu has signed the United Nations Declaration on Human Rights, but it has not yet established the post of a Human Rights Commissioner. Therefore, there is a brief description of the possible role of such a person, and how he or she might help to maintain the human rights of the people of Vanuatu, such as freedom of speech, association and religion, and freedom from discrimination, violence, and oppressive practices.

There have been particular difficulties in providing references for the French text, since there has been no review or revision of the French versions between 1980 and 1989. For that reason, the French numbering of the Constitution and some statutes is different from the English.

A glossary of words, expressions and usages that may be unfamiliar to new MPs completes the handbook.

Acknowledgments

The writing of this guide was made possible by the sponsorship of the United Kingdom development agency, DFID. The cheerful and constructive help of Mr Leonard Chan, Manager of the Fiji office of the DFID Pacific Governance Fund, could always be relied upon. He facilitated the whole process and smoothed away many problems. There are many other people to whom I owe thanks for assistance along the way.

First, this guide (and the workshops that gave rise to it) would not have happened without the initiative of the Vanuatu National Council of Women (VNCW) and the United Nations Development Fund for Women (UNIFEM). These two groups organised a seminar to review the experience of woman candidates in the 1976 General Election. The involvement of some parliamentary and government officials and some MPs in that seminar gave rise to the two parliamentary workshops.

Thanks are also due to the New Zealand and Australian Ministries of Foreign Affairs who funded the first of the Parliamentary workshops. Special tribute is due to Cleaver Elliott, Deputy Clerk of the Australian Senate, who assisted me in the training given at that first workshop.

Similarly, thanks are due to DFID for funding of the second workshop, "More Skills for Better Governance", and for its sponsorship of Simon Pentanau, Chief Ombudsman of Papua New Guinea, who gave very valuable help to all who took part.

I am grateful to Michelle Powles, from the School of Law at Victoria University of Wellington, who wrote most of the section on the history of Vanuatu's government.

In the final stages I could not have done without the assistance of Hugh Young Momoka, who assisted expertly with editing and layout and wrote the glossary and the section about debates, and that of Sue Moriarty, with typing.

In the same way, I must acknowledge the special contribution of Donny McLeod of the Office Pub, Port Vila, and others, who were responsible for the drawings and cartoons that enliven the text.

Finally, the warmest of thanks are due to the Speaker of the House, the Hon Edward Natapei, and the other ni-Vanuatu, MPs and non-politicians alike, who took part in the three workshops that gave rise to this handbook. I felt right from the beginning that it was a great privilege to work with, and learn from, all the participants. I hope that by writing this handbook I am able to return and share some of the knowledge gained there. Mi hapi tumas blong givimbak long yufala evriwan samfala save ia.

Hon. Margaret Shields, QSO
Former New Zealand MP and Cabinet Minister

Foreword

Eighteen years of a parliamentary system of government that is foreign to Melanesian society has given the leaders of this nation the experience to appreciate the need for strengthening and improving the role of Parliament in the legislative process

The National Level Task Team, established to draw up a Comprehensive Reform Programme, clearly states in the CRP document that, to establish an effective basis for good governance in Vanuatu in the future, there must be a concerted process of renewal and rebuilding of the institution of Parliament

Among ten main areas identified as needing some attention is the strengthening of Parliament's role, so that it makes better laws, provides an active forum for national debate, and closely reviews the policies and activities of the Executive.

The effectiveness of Parliament depends to a large extent on the effectiveness of its members. For Members of Parliament to contribute constructively to Parliament's work, they need to go through some training to help improve their capacity to undertake their duties. To facilitate this training, a seminar for Parliamentarians was organised in 1997, with the assistance of the Office of the Ombudsman and generous financial support of the Governments of Australia and New Zealand. A second seminar, organised by Parliament with the financial support of DFID, took place in 1998.

A former New Zealand Cabinet Minister and MP, the Hon. Margaret Shields QSO, was a trainer at both of these seminars, and she was given the task of preparing this handbook. Her knowledge of the Westminster parliamentary system, and her experience in organising and running training workshops and seminars in the Pacific, is reflected in the way this handbook has been written and put together.

This handbook would not have been completed without Margaret Shields' dedication to the improvement of Parliament and good governance in Vanuatu and the Pacific.

The value of this handbook lies in its potential for equipping Members of Parliament with the knowledge they need to effectively perform their duties as legislators and representatives of the people. This includes such things as how and where to go for assistance in preparing Private Members' Bills.

Both present Members of Parliament and interested members of the public hoping to represent their people in the future will find this handbook very informative: it deals with the history of Vanuatu, the electoral process, the Constitution, the Standing Orders of Parliament, Committees of Parliament, and Parliamentary privilege.

In the chapter dealing with the electoral process, the writer has drawn on her knowledge of electoral laws in other countries of the region to compare with the corresponding sections of Vanuatu law. Particular attention is drawn to the section that deals with those who are not permitted to contest an election. It is a piece of Vanuatu's legislation that prohibits people who have the potential to be good and effective Members of Parliament. It can be seen as a disqualification for educated or experienced ni-Vanuatu from standing for Parliament, thus limiting the candidates to people who are, quite often, inexperienced.

This handbook is the basis on which future training of Members of Parliament will be built, and also the first attempt at improving the Members' capacity to undertake their duties effectively.

Honourable Nipake E. Natapei
Speaker of the Parliament
Vila, March 1999

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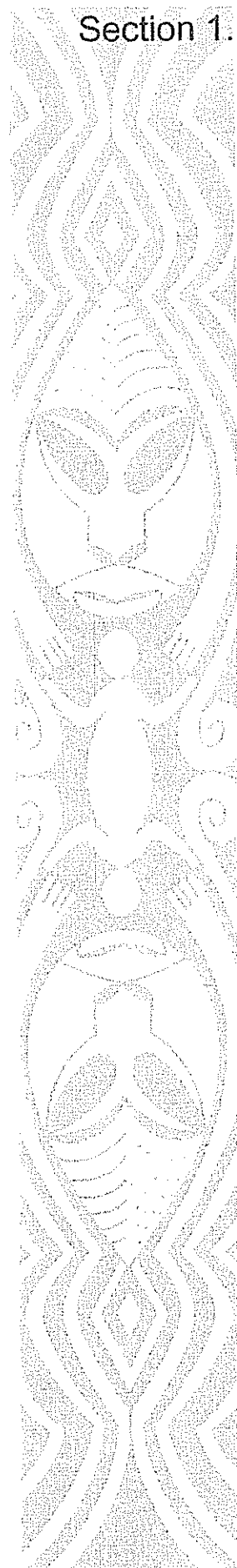
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A Brief History of the Vanuatu Parliament

Section 1.



A Brief History of the Vanuatu Parliament

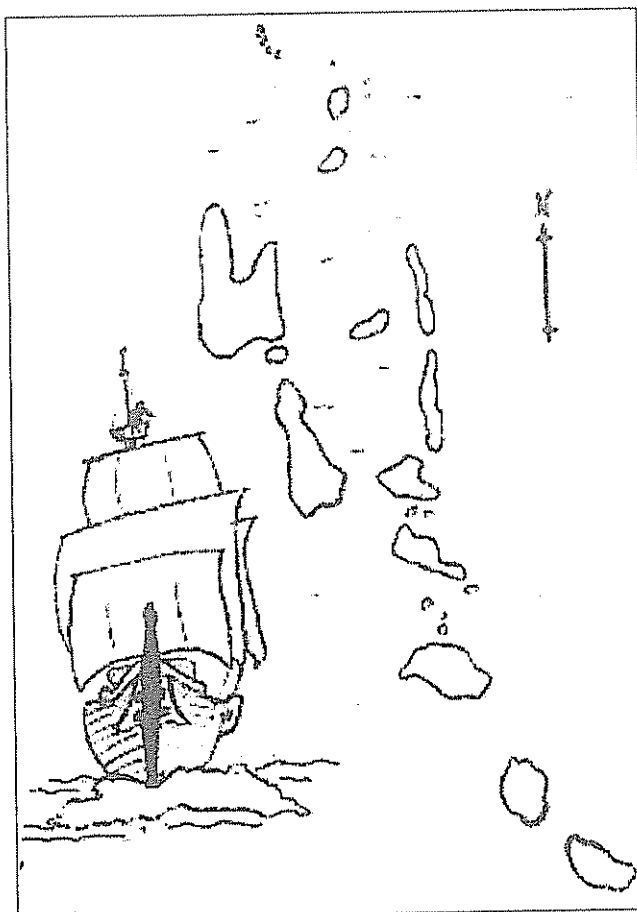
Section 1.

First settlement

People first came to the islands we now call Vanuatu from the north and west, about 3500 years ago. We know little about those brave explorers and their descendants, the first ni-Vanuatu, but we may guess that they had little of what we now call "government". They probably were organised in groups no bigger than a village, with a bigman or chief, and perhaps a sorcerer (magician), to keep the affairs of the people in order. The smaller islands or groups may have had one "chief of chiefs" (highest grade chief) or island councils. Men love to talk of power, and to make themselves important, everywhere in the world. But just as the languages of Vanuatu grew into many different languages, different islands may have developed different forms of government, a chief here, a council there, maybe even assemblies of the whole community, or powerful women. So "devolution" - limited self-government for different parts of the country - may not be such a foreign idea. And over more than 2400 years, customs certainly changed.

First Contact

The first Europeans to come to Vanuatu were Spanish, the crews of the *Capitana*, *Almiranta* and *Los Tres Reyes* under Pedro Fernandez de Quiros, who called the islands "Tierra Australia del Espiritu Santo" - Southern Land of the Holy Spirit - in May, 1606. (The name has shortened and its use has narrowed to the one island.) It was Captain James Cook in 1774 who renamed the islands "the New Hebrides", after some cold and windswept (but much loved) islands off the north-west of Scotland.

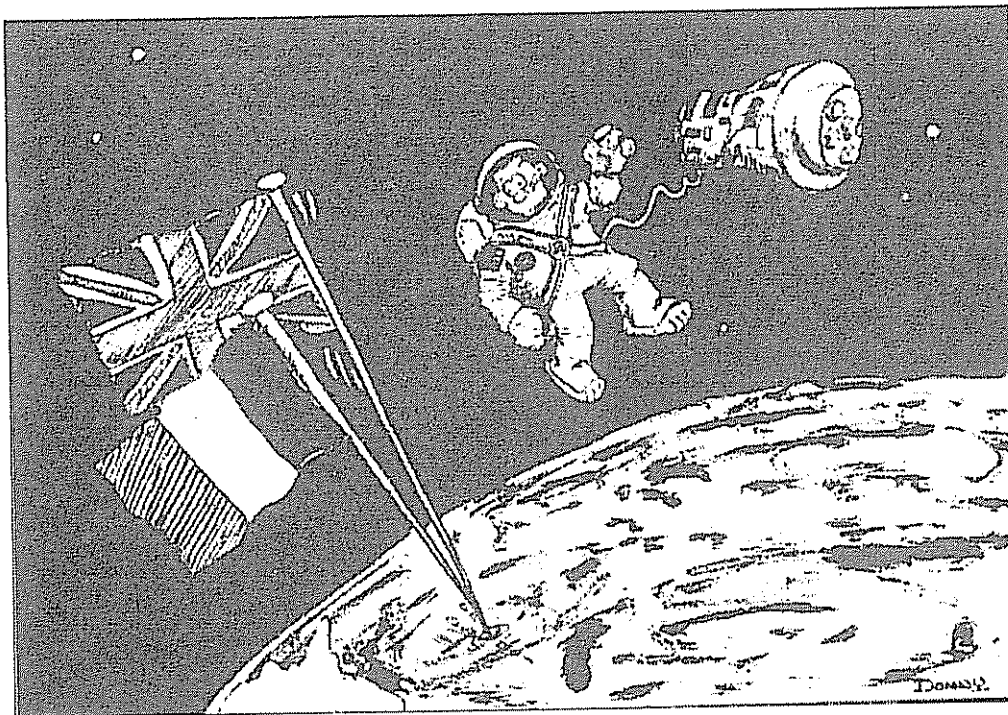


Condominium

As recently as 1815, England and France were at war. Relations between the two countries remained uneasy long after that, and this has cast a long shadow over the government of what is now Vanuatu.

In 1887, a joint English-French Naval Commission was set up to take control over the English and French people in the islands, the traders, planters and missionaries. A "Condominium" (shared government) was agreed to in 1906, a protocol (plan) was written in 1914, and it finally came into force in 1922. British and French people (including the "Tonkinese" brought from what is now Vietnam) came under the governments of their own countries, and other foreigners could choose which government to have. Ni-Vanuatu did not come under either umbrella, so there were really three sets of people in Vanuatu.

The Condominium was jokingly called a "Pandemonium" (terrible noise) because of the clashes between the governments. A symbol of this was the fact that neither government could bear to have its flag lower than the other's, so they both put up higher and higher flagpoles - until they finally agreed they were being silly and decided on a single height.



As well as French and British law, there was New Hebridean customary law. This had power over ni-Vanuatu unless the case was covered by the Joint Regulations made "for the good government of the group" in the 1922 Anglo-French Protocol.

The Joint Regulations were made by a Joint Commission, controlled by French and British officials. These regulations were the starting point of a national law for Vanuatu after Independence.

Ni-Vanuatu had no say in government until 1957, when an Advisory Council was set up. This still gave little power to the indigenous people, and did not satisfy the growing interest in self-government. Demands for independence

increased through the 1970s as countries around went independent, and in 1975, the first step towards indigenous government was taken, when elections were held for municipal councils in Port Vila and Luganville. Soon after, elections were held for a Representative Assembly, but there was also conflict between European authorities and local political parties.

Constitution

As a result, discussions began between French and British officials and ni-Vanuatu over the political future of the New Hebrides. A Constitution Committee was set up, and after much discussion, it reached agreement on a Constitution for an independent nation.

It was agreed on September 19, 1979, by the representatives present at the Constitutional Conference held in Port Vila, and put into effect by "an exchange of notes" (actually very formal documents) between France and the United Kingdom. Independence was declared officially on July 30, 1980.

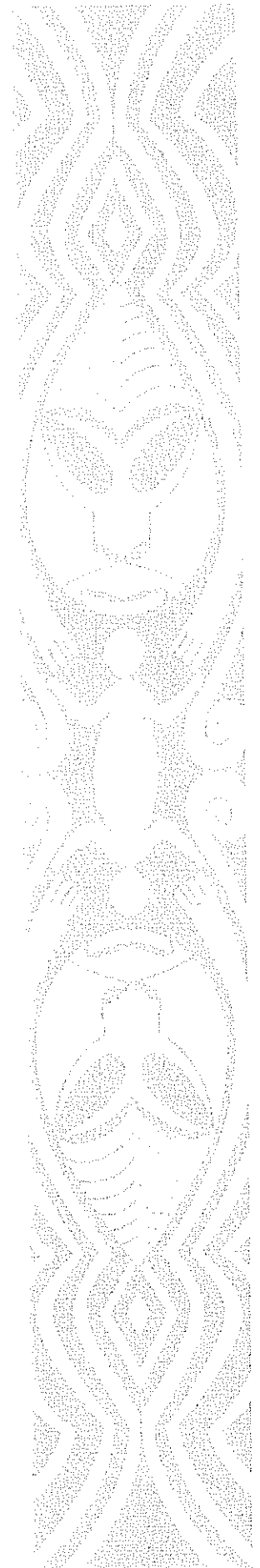
Republic

Under the 1980 Constitution, Vanuatu has a unitary state (unlike, say, Australia, which has federal government and separate state parliaments). The Vanuatu Parliament was founded on the Rule of Law, the Separation of Powers (see Section Three), and what is often called a "Westminster" style of government (an elected Parliament divided into a Government and a loyal Opposition).

Democracy

The first Article of the Constitution recognises democracy as the foundation of the Republic. Democracy means government by the people, but in practice it is almost always done through their elected representatives. (Switzerland is a country where the people do some of the governing directly, through public votes - referendums.) The Constitution provides for this with

- 📖 emphasis on the Rule of Law
- 📖 basic human rights and duties
- 📖 a free and universal franchise (all adults - with a few exceptions - may vote) and election processes
- 📖 the Separation of Powers. The Constitution has separate chapters for the Legislature, the Executive and the Judiciary.



The Westminster Model

Vanuatu uses what is called "the Westminster model" of government. Like most Commonwealth countries, this is actually different in some important ways from the British system whose Parliament is at Westminster. That one has

- 📖 Parliamentary sovereignty
- 📖 a head of state with few powers
- 📖 a bipartisan (two-sided) and bicameral structure (with an Upper and a Lower House of Parliament)
- 📖 executive control through a strong one-party Government
- 📖 a suffrage-based electoral system (people, not only land-owners, vote) and
- 📖 no entrenched (hard-to-change) Constitution

In most Commonwealth countries, those have changed. Parties may still be strong, but there are usually more than two of them, and the Government may be formed from more than one (a coalition government), though the executive may still be controlled by a one-party Cabinet. Many countries now have a written Constitution which is entrenched - built in to the structure of the government - and can only be changed with extra difficulty.

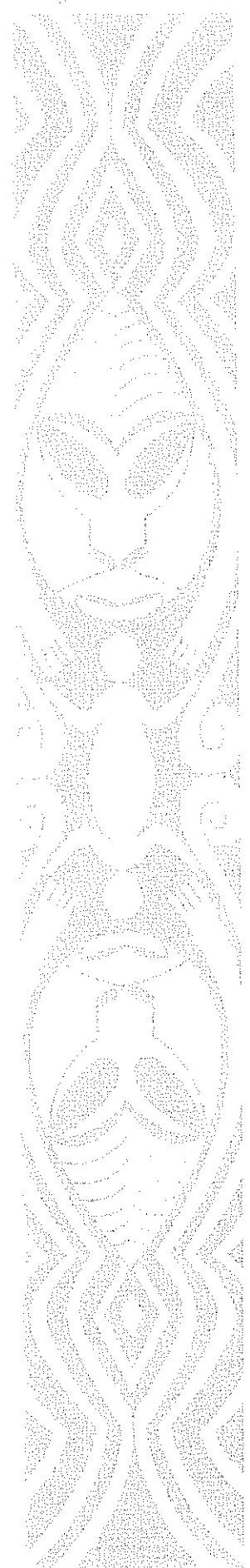
The Vanuatu form of government is quite similar to those of other Commonwealth countries. What makes it different is the French influence. That is probably why the Head of State is called the "President" and not, say, the "Governor". Unlike other Pacific states, the colonial Government never installed a local government, whether French or British, so what has come out is designed especially for the needs of Vanuatu. An example of that is the National Council of Chiefs (Malvatumauri), which is elected, and has advisory powers under Articles 27 and 28 of the Constitution.

The President

The role of President seems to conflict with the supremacy of Parliament, which is part of the Westminster model. But the President can not over-rule Parliament unless the Supreme Court has ruled that Parliament has broken the Constitution. And the President is not elected directly by the people, so that title could be misleading. The Constitution grants the President only a restricted role. The President is something of a figure-head (respected but with no power), like the Monarch of Britain or the Governor-General of a country like New Zealand, but in New Zealand it is the Attorney General who checks legislation for breaches of human rights (NZ Bill of Rights Act 1990, s7). But he (President) has power to pardon convicted criminals and to appoint the Ombudsman (and exercises both during any time)

Structure

The Westminster model is one thing in theory, another in practice. In countries like New Zealand, the very existence of Cabinet (the Council of Ministers) is only a matter of convention. One of its basic rules, that once Cabinet has decided anything, every Minister must support it (collective responsibility), is another convention.



Vanuatu has important features like the Council of Ministers written into its Constitution. The Constitution is "entrenched": it can only be changed by a two-thirds majority of three-quarters of the Members of Parliament, and for some issues, only after a national referendum (public vote, under Articles 83 and 84).

The Constitution gives complete jurisdiction (power to decide) about Constitutional matters to the Supreme Court. This means the Judiciary can stop the Executive from using its power wrongly, following the principle of the Separation of Powers (see Section Three, and especially the diagram on page 3-2.) Usually, the real centre of the system is a powerful Cabinet, accountable to Parliament, but rarely controlled by any other body. In giving final say to the Supreme Court, the Vanuatu Constitution is different from the Westminster (English) model. It still keeps to the Commonwealth model because Parliament usually has the final say, and the powers of the Supreme Court are not often used, usually only when parties affected by the decision ask for it.

And French?

So how much influence did the French government system have? The name "Westminster" implies that the British model was the main one. French is a national language, and French law a source of Vanuatu law, but French law has no Constitutional role.

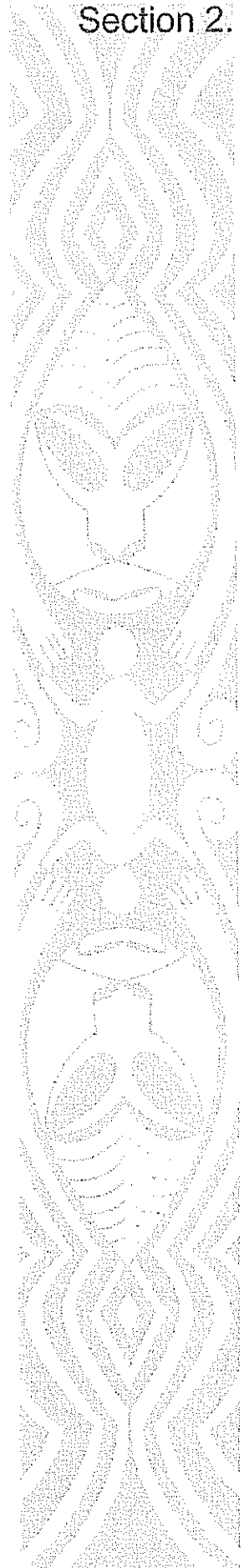
Both French and British laws that applied before Independence continue unless they are inconsistent with independent status (Article 93 (2)). This could create conflict between French and British law.

There is a trend towards the use of common law rather than other possible systems. That is because it fits in with Vanuatu having a government and constitutional system that is related to the Commonwealth version of the Westminster system. Vanuatu has a rich mixture of systems borrowed from various forms of government, but the main influence is British law, in both Parliament and the Judiciary.



How elections are held in Vanuatu

Section 2.

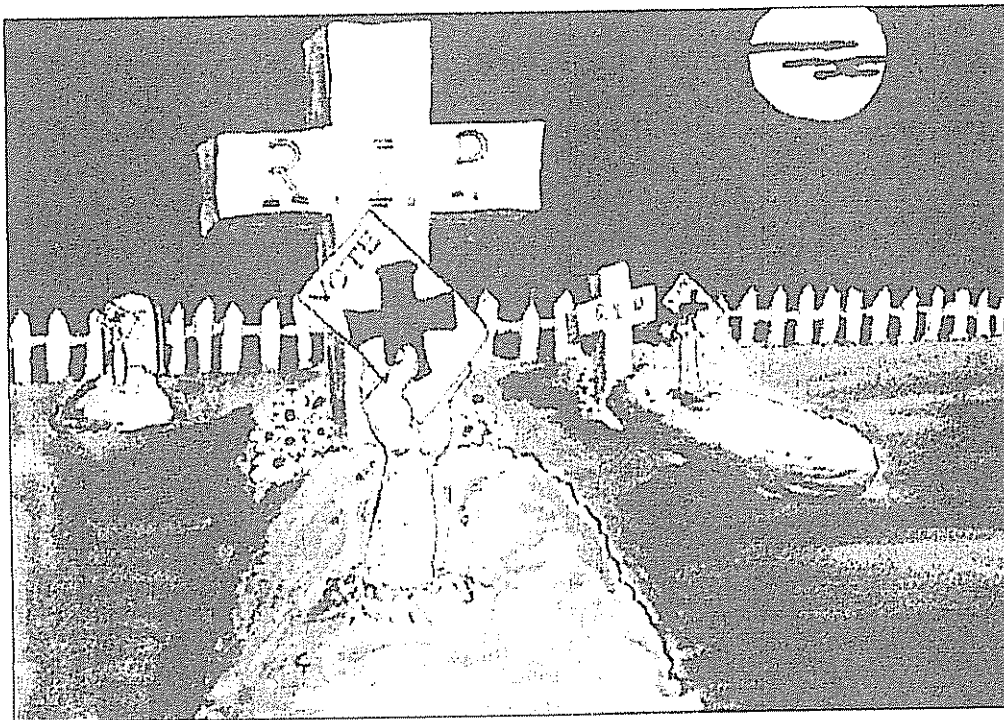


How elections are held in Vanuatu

Section 2.

Introduction

One of the hardest problems facing any democratic country is to make sure that the election process is fair, and seen to be fair. Many things have been said about politicians, and many of those things have been less than complimentary. Some were deserved. It is said that the notorious Mayor Richard J. Daley of Chicago advised his supporters, before every election, to "Vote early, vote often!" To do this, they were said to copy names from the death notices of newspapers and new gravestones, so that on election day they could vote using the names of those who had just died.



The stories may not be true, but the fact that they are told shows how people are always ready to believe the worst of the people who hold power over them. For that reason, it is especially important that the processes by which people are elected to power are open to examination, and that every care is taken to make sure that the results of elections are believed to be an expression of the will of the people.

Fortunately those who wrote the Constitution of the Republic of Vanuatu took great care to guard against the problems faced by Chicago in the 1950s. There are many ways care is taken to make sure that all those who are entitled to vote can vote (once at each election!) and that all those who are not entitled to vote, do not. There are also basic rules to encourage fair conduct of elections. In fact, in some ways the Vanuatu rules about who may stand for Parliament are very strict indeed, compared with other countries

Getting to Know the Rules

Before you can become a Member of Parliament you must be elected. To avoid problems in the election process it is very important to become familiar with the main processes and practices of the electoral laws of Vanuatu. It is not unknown in other countries for a Member of Parliament to serve several terms in Parliament and then find, to their horror, that they or one of their campaign team is being charged with a breach of the electoral law. The laws and regulations about elections in Vanuatu are in the Constitution (especially Articles 17-20) and "Representation of the People" (Chapter 146 of The Laws of the Republic of Vanuatu, Revised Edition 1988). Two other important documents are the Representative Assembly (Constituencies and Membership) Regulation No. 22 of 1979, and Election Regulation No. 19. Every MP should have access to these documents, either through the Parliamentary Library or from the Clerk of the House. As mentioned in the Preface, the French versions of these laws and regulations are numbered differently from the English.

Representation of the People Act

Short Title: The Short Title of the electoral Act of Vanuatu is simply the "Representation of the People" and the Long Title, given on page 5 of the Act is "To provide for registration of voters and elections to Parliament " (An even shorter title, used here, is "ROTP".) But the Act is not simple. It has to cover all the administrative detail required to give life to the intentions of the Constitution, and to ensure that the Parliament of the Republic of Vanuatu truly represents all ni-Vanuatu.

This section of the handbook deals with the parts of the Act in a different order from the Act itself. References are given so you can check the details in the documents themselves.

The Electoral Commission

The Electoral Commission is set up under Article 18 of the Constitution to take responsibility for the running of elections. The Chairman and the other two members of the Electoral Commission are appointed for five year terms by the President, acting on the advice of the Judicial Services Commission. There are strict rules about who may be a member of the Electoral Commission. Nobody who is elected or a candidate to be a

- ⌘ Member of Parliament
- ⌘ member of a local or municipal council or
- ⌘ member of the National Council of Chiefs

can be appointed to the Commission. Nor may anyone who exercises any position of responsibility within a political party be considered for membership.

As laid out in Article 20 of the Constitution, the Electoral Commission has the responsibility to supervise the registration of voters and the conduct of elections, not only to Parliament but also to the National Council of Chiefs and to local and municipal councils. Any proposed Bill or regulation about the registration of electors or the election of members must be referred to the Commission. That must be done early enough for the Commission to consider the matters raised and make comments before the Bill is introduced to Parliament or the regulation made.

The Principal Electoral Officer

The Principal Electoral Officer (and his or her Deputy) are the officials responsible for the carrying out of the actual work of conducting elections. The Principal Electoral Officer must keep the Electoral Commission fully informed about everything concerning the exercise of his or her functions. The Principal Electoral Officer is a public servant, but is directly responsible to the Electoral Commission. The Principal Electoral Officer may attend meetings of the Commission, and must comply with any instructions given by the Commission. The Electoral Commission reports to Parliament on any matters relating to its responsibilities, and on any draft Bill or instrument (other document), as it sees fit.

Constituencies and Polling Districts

Under Clause 70 of the ROTP, the parliamentary seats and constituencies are set up under the Representative Assembly (Constituencies and Membership) Regulation No.22 of 1979. These remain the parliamentary seats and constituencies until they are changed by an order made by the President, acting on the advice of the Electoral Commission. The approach to polling districts within constituencies is more flexible. These can be changed or replaced by the Electoral Commission.

Constituencies change, usually, because their populations change. Polling districts should stay as similar in size as possible. However, under Article 17 of the Constitution, the electoral system should include an element of proportional representation. This means that the desire for constituencies to be nearly equal in size must be balanced against other considerations.

Because different parts of the country have more or fewer people per square kilometre living in them, the areas of the constituencies vary greatly. This means that there need to be more polling districts and polling places in some constituencies than in others. It is the job of the Electoral Commission to decide the number of polling districts.

Registration of Voters

Because fair representation is almost totally dependent on enrolment procedures, a great deal of attention is paid to this in the ROTP Act. The Principal Electoral Officer (PEO) must (under Part V of the Act) appoint a registration officer for each constituency. The registration officers are required to draw up electoral lists each year for the purpose of compiling electoral rolls. Assistant registration officers carry out the actual work. Their job it is to check each name on the roll and to enrol people who are eligible to be enrolled.

The qualifications to become an elector are spelled out in Clause 9 of the ROTP Act. A person may register in the polling district where he or she lives ("is resident") if he or she

- ✓ is a citizen; and
- ✓ will have reached the age of 18 years on or before the qualifying date (that is the first day of July in the year the list is prepared).

(The ROTP Act does not define "residence" or how long a person has to live in a polling district before they are "resident" there. So it is possible that someone could register in one area and then in another.)

If there is any doubt about whether a person is qualified, by virtue of residence, to enrol on an electoral list, the registration officer makes any inquiries they think necessary, and makes a report to the PEO. Such a report may include

- ✓ a declaration signed by two other people that the applicant for registration is qualified by virtue of residence
- ✓ the applicant's previous enrolment card
- ✓ a certificate from an employer stating that the applicant has been employed by him or her for not less than three months, and/or a certificate from a school or college verifying that the applicant is a student of that institution.

Under the ROTP Act, people who are outside their own polling districts can still enrol:

Registration of a person from outside a polling district: Anyone who is not in their own polling district at the time of registration may apply to the registration officer of the district they are in, for an application to be enrolled in their home district. The registration officer should then give them the correct form and help them to fill it out correctly. It is then the job of the registration officer who signed the form to forward it to the registration officer in the person's home district. If the registration officer in the applicant's home district is satisfied the person is qualified to vote there, they will be registered and informed accordingly.

Registration of overseas voters: Part VI of the ROTP Act applies to registration of ni-Vanuatu who are outside Vanuatu at the time of the annual registration. Those people may enrol by applying to the Principal Electoral Officer and submitting the right form. They will then be registered on the overseas electoral list, on the section of the roll for the constituency where they normally live when they're in Vanuatu. If you know that one of your constituents is likely to be overseas at the time of registration, you should tell the person they can do this. You could suggest to constituents travelling abroad that they take with them as many forms as they need and send back a completed form to the PEO each July.

Supplementary Electoral Rolls and Lists: There are several reasons that some people who are entitled to vote at an election are left off the roll during the July registration. The commonest reason is that they turn 18 between July 1 and polling day. Other reasons include being away from home, sick or just forgetful. Still other people are left off the roll because a clerk has made a mistake. Whatever the reason for them being left off the roll, the Principal Electoral Officer may draw up a supplementary Electoral Roll and put those people on the proper district electoral lists for them. The Principal Electoral Officer has to receive applications for such late registration no more than 30 days before polling day.

Again, a wise MP or party organiser will keep a stack of the appropriate forms to give to people who are entitled to be on the roll but have been left off. Some well-organised MPs have been known to keep a list of the young people in their constituency and their birthdays, and then send both a birthday greeting and an enrolment form when the young person turns eighteen.



Electoral Cards: Every citizen of Vanuatu should be familiar with electoral cards. Every person who registers on the electoral list, the supplementary electoral list or the overseas electoral list is issued with a card. This is proof of registration, and it must be produced on polling day when its holder goes to vote. If a voter mislays, loses or accidentally destroys their electoral card, or if it is mutilated or unusable, it can be replaced. There is a charge of VT50 to replace a card. Applications for replacement must be made to the local registration officer or to the PEO, on the appropriate form, and should include the fee. If the application is being made because the card has become unserviceable, the old card should be sent with the application and the fee.

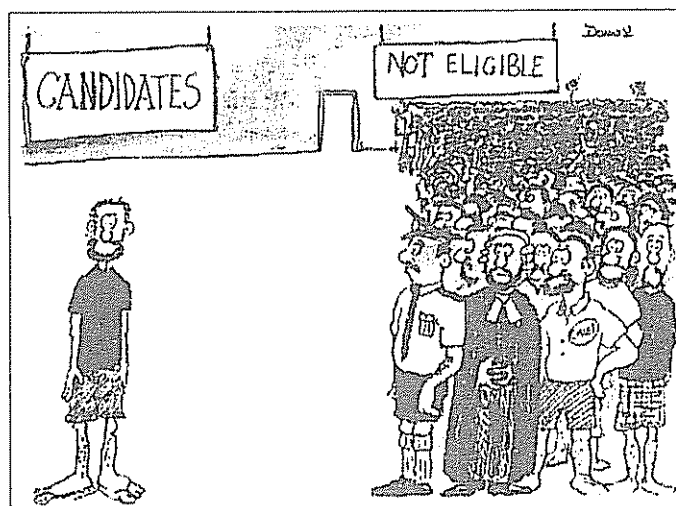
Elections and Candidates

The rules for holding elections in Vanuatu are to be found first in the Constitution and second in the ROTP Act. Under Article 28 (1) of the Constitution, Vanuatu's Parliament has a four-year term. However, it is rare for a Parliament to last that long, so it is important to understand the rules about earlier dissolution. A general election must be held between 30 and 60 days after the dissolution of Parliament, whether that was at the end of a four-year term or earlier.

When a vacancy occurs in a constituency for any reason except the dissolution of Parliament (such as the death or resignation of an MP), a by-election must be held to fill that vacancy. Other Members still serving in that constituency are not affected, and do not have to take part in the by-election.

Who can be a Candidate

The rules about who can stand for Vanuatu's Parliament (see the list below) are unusually strict compared with some other Commonwealth countries. In most countries, public servants, teachers and police officers are not allowed to campaign for parliamentary office while carrying out their normal duties, but there is no rule to stop them from becoming candidates. They can take leave of absence for the official election period. If they are elected, they are automatically deemed to have resigned from their earlier job. If they are not elected they can go back to their old job after a short time. Unlike Vanuatu, in many other countries the Chairmen and officials of local authorities and government councils are free to stand as candidates for Parliament. They are generally



expected to resign from their other post if they are elected as an MP. In New Zealand, many people have become MPs after previously being teachers, local government officials, policemen and public servants, and their experience has been very helpful to Parliament.

Under Part XII, Clause 23 (1) of the ROTP Act, the following people are disqualified from standing for election to Parliament:

- ⌘ The President of the Republic
- ⌘ Judges and magistrates
- ⌘ Members of the police force
- ⌘ Members of the National Council of Chiefs
- ⌘ Anyone who is
 - ⌘ chairman
 - ⌘ vice-chairman
 - ⌘ secretary or
 - ⌘ treasurer of
 - ⌘ a District Council of Chiefs
 - ⌘ an Island Council of Chiefs or
 - ⌘ an Area Council of Chiefs
- ⌘ Public servants
- ⌘ Members of the teaching service, and
- ⌘ Members of the Citizenship Commission.

Under section 23 (2) of the ROTP Act, the Electoral Commission can add even more people or classes of people to this list. Subject to those restrictions, a person may stand for Parliament if he or she

- ✓ is not disqualified from voting
- ✓ has not been sentenced (including a suspended sentence) to a term or terms of imprisonment which has not ended
- ✓ is not an undischarged bankrupt
- ✓ has reached the age of 25 years, and
- ✓ is a citizen.

Becoming a Candidate

For someone to become a parliamentary candidate, there are procedures that must be followed strictly. The Electoral Commission sets a date when all declarations of candidature must be lodged with the Principal Electoral Officer. Every would-be candidate, including sitting MPs, must send to the PEO, on or before that date

- ✓ a declaration of candidature signed by the candidate and containing all the details required in part 1 of Schedule 3 of the ROTP Act. This includes a declaration that the person is eligible to be a candidate, not ruled out by any of the restrictions in the Act. A declaration of candidature must be signed by at least five other people who are
 - ✓ registered to vote in the constituency for which the candidate is standing and
 - ✓ not related to the candidate. (The definition of "related" is in the Preliminary section of the ROTP Act: "...that person's spouse, or the brother, sister, uncle, aunt or lineal ancestor or descendant of that person or his spouse". This sounds quite restrictive, but if candidates can not find at least five supporters in the voting district

- ✓ outside their immediate family, they would be wasting their time to stand.)
- ✓ a deposit of VT50,000. This deposit is not refundable, and that must make it very hard for some people to put themselves forward as candidates. It must certainly discourage candidates from coming forward unless they either know they have a reasonable chance of success, or belong to a group who feels that their message needs to be heard during the election period
- ✓ two full-face photographs of the candidate.
- ✓ A candidate who is not standing for a political party that has already had a political symbol approved by the Electoral Commission must supply an illustration on paper of the candidate's personal electoral symbol.
- ✓ No candidate may stand for more than one constituency.
- ✓ No Member of Parliament may contest a by-election (because they already represent a constituency).

Within 24 hours of the date set for receiving declarations the PEO must make a list of all the candidates, for all constituencies, and send that list to the Electoral Commission. The PEO is also required to attach to that list any comments they may have on the validity of the application and of any persons named on the list. The Electoral Commission then decides on the nomination. The Electoral Commission can only rule a would-be candidate invalid if they or their sponsors do not have the necessary qualifications, or are disqualified, or if the candidate is not sponsored by at least five eligible voters.

Correction of errors, and late candidature

If a candidate has made a mistake in their declaration, the Electoral Commission has the power to ask for a fresh declaration. It may ask the candidate to re-submit the declaration with the necessary changes within 72 hours of the request being made, as long as this is done no later than 14 days before polling day. To avoid last minute problems, it makes sense for a serious candidate to submit their declaration well before the due date. Then, if there are any problems, they can be corrected before the close-off time.

If a candidate standing for a registered party is declared invalid by the Electoral Commission, or if a party candidate dies during the period between declaration day and polling day, another candidate sponsored by the same party may be put forward. Those candidates must lodge their declaration within 72 hours of the first candidate being declared invalid or dead.

Publication of Lists of Candidates

Lists of candidates for election must be displayed at

- the office of every Local Government Council
- the Parliament Building
- the Electoral Office, and
- any other places that the Electoral Commission may direct for not less than 14 days before polling day. Late candidatures do not have to be displayed for the full time, but must be displayed within 9 days of polling day.

The notice for an election must contain

- ✓ the names of the candidates
- ✓ the hours of polling
- ✓ where all the polling stations are
- ✓ enough information so that voters know which polling station they should vote at, and
- ✓ any other information that may be considered necessary by the PEO or the Electoral Commission.

Special Exceptions: There are two special exceptions to those rules:

1. If, when declarations close, the number of candidates is exactly equal to the number of Members to be elected, the PEO tells that to the Electoral Commission, which declare those candidates elected without a poll. This is called "being elected unopposed".
2. If the number of candidates is less than the number required for the constituency, the Electoral Commission declares the number of candidates elected and the number of seats still vacant. Then, within 30 days of the declaration, and after consultation with the Prime Minister, the Electoral Commission fixes a date for an election to the vacant seats.

The Campaign Period

Introduction

The campaign period is usually one of great excitement. Candidates and their supporters always try very hard to squeeze every last vote out of their districts, and emotions can be raised to a feverish level. While it is perfectly permissible to try to persuade people, by rational argument and discussion, to give their vote to a particular candidate, some people can be tempted to go too far. Part XV of the ROTP Act, Clauses 40-53 details the law about election offences. It is absolutely essential that any candidate for Parliament in Vanuatu, including sitting MPs, are familiar with this section of the ROTP Act.

If you commit an offence under this Act, or encourage one of your supporters to do something that is an offence under this Act, you can not plead ignorance of the law as a defence. At the same time, people in the constituencies will expect their candidates and MPs to know the law, and will ask your advice on voting matters. It is important to give only the correct advice. And beware! Some voters may actually encourage you to break the law, by asking you for favours or money in return for a vote. You should not only be ready for this, but also be ready to say "NO!" and to explain why. A wise candidate will be ready with sound arguments why they are not prepared to "buy" votes. For example, a candidate who is prepared to buy votes can not be relied on to be an honest representative of the people. A candidate who buys votes would probably also sell favours when elected. A good answer to someone asking for a bribe is to say that you only want the votes of the people who know that you will be the best person for the job. One slogan that sums up this idea is "Law-makers should not be law-breakers".

The seriousness of offences against the ROTP Act cannot be over-emphasised. If an offence against a candidate is proved, the election of that candidate is declared void. As well, there are heavy penalties for anyone found guilty by the Supreme Court of committing this kind of offence. This is all part of keeping Vanuatu's democratic processes healthy.

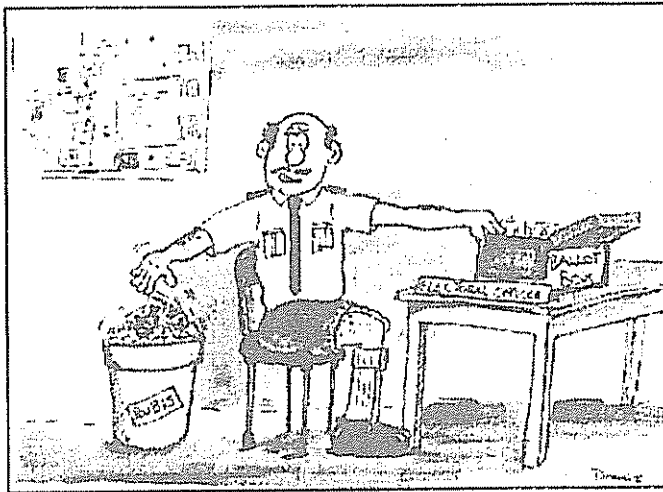
Offences against the ROTP Act before polling day

General Offences: It is an offence under Clause 40 of the ROTP Act to obstruct, hinder or prevent an electoral officer from carrying out his or her duties under the Act. It is also an offence for anyone to knowingly give false information to an electoral officer, when making an application for registration or in supplying information about another person to the electoral officer.

Anybody who refuses to obey a lawful request made under the ROTP Act commits an offence. General Offences under the ROTP Act are punishable, on conviction, with a fine of up to VT20,000 or up to 12 months in prison.

Defacing and Destruction of Cards, Documents and Notices: There are strict rules to make sure electoral materials (application forms, cards and official publicity materials) are kept safe and sent where they ought to go.

Anybody without a lawful excuse who defaces or destroys any card or document issued to anyone under the Act commits an offence. Anybody who defaces, destroys or removes any notice exhibited under the Act commits another offence. (Penalty for both: a fine up to VT20,000 or up to 12 months in prison).



Offences Relating to Declaration of Candidature and Ballot Papers: It is an offence (under Clause 42 of the Act) to forge or fraudulently deface or destroy any declaration of candidature or to lodge such a false declaration with the Electoral Office. This is to stop anyone being nominated for election without their knowledge. The provisions for the protection of ballot papers are even more detailed:

It is a crime to

- X forge or counterfeit, or fraudulently destroy, any ballot paper or an official mark on any ballot paper
- X (without proper authority) supply any ballot paper to any person
- X sell or offer to sell, or buy or offer to buy, any ballot paper from any person
- X (not being a person entitled to be in possession of any ballot paper) have a ballot paper in their possession
- X knowingly or intentionally put into any ballot box, anything other than the ballot paper which they are authorised by law to put in
- X (without proper authority) take any ballot paper out of a polling station or be found to be owning any ballot paper outside a polling station
- X (without proper authority) destroy, take, open or otherwise interfere with any ballot box, ballot paper or packet of ballot papers being used or intended to be used for an election

- X (without proper authority) print any ballot paper, or
- X (not being authorised to do so under this Act) use somebody else's ballot paper to cast a vote in their name.

Those laws are all designed to uphold the principle of "one person, one vote" which is the "keel" of Vanuatu's democracy and Constitution. The penalty for all those offences (after being convicted in court) is the same: a fine of up to **VT20,000**, or up to **12 months** in prison.



Unauthorised Voting and Personation: Clauses 43 and 44 of the Act are also concerned with protecting the "one person/one vote" principle. Clause 43 make it a crime to knowingly vote

- X at an election at which he or she is not entitled to vote
- X more than once at an election
- X at a polling station where you are not entitled to vote
- X as a proxy knowing that the person has already voted or is no longer qualified to vote

These are regarded even more seriously, and the penalty is a fine of up to **VT50,000** or up to **two years** in prison.

The offence of "personation" (anywhere else, we usually say "impersonation") is set down in Clause 44. A person commits the offence of personation if he or she votes as some other person, whether that person is living or dead, except when voting as a lawful proxy.

Bribery: Bribery is perhaps the best known type of election offence, and the most difficult to stamp out. By its very nature it is often hard to identify when bribery takes place, especially in countries like Vanuatu, where owing and repaying obligations to your extended family and tribal systems are customary transactions. The people who framed the Constitution clearly saw the need to elect to Parliament people who could set aside those personal issues and speak, not only for their own groups, but in the interests of the whole nation. These people must be citizens of the highest integrity who are above manipulating power in their own personal interest. One of the tests of personal integrity is whether a person would change, or try to change, a voter's intentions by offering them money, or any gift or action that has value for the recipient. In fact Clause 45 is an important protection for hopeful candidates in Vanuatu. It protects you from greedy voters who might be tempted to sell off their vote to the candidate who offers the best bribe. Any candidates who make promises of jobs or any other favours to any voters are behaving very foolishly. Not only is it an offence, but if the case is proven in Court, the election is declared void. In other words you would lose your seat even if you had got the most votes.

Treating: Clause 46 creates the offence of "treating". Treating is described as a candidate providing or paying for food, or drinks or entertainment, for any voter, with the intention of influencing that voter to vote for that candidate, or to fail to vote for another candidate. Equally, voters who accept free food or drinks or entertainment in exchange for their votes are guilty of corruption. Treating has always been a difficult matter to deal with. Obviously, when people come to a political meeting, food and drink will often be consumed. If this is available to all present, with no suggestion that accepting the refreshments is an agreement to vote for the candidate or Party, then there should be no difficulty. However, a wise candidate will insist that any refreshments are kept at a modest level, and that people are invited to make a small donation to cover the cost.

Undue Influence: Clause 47 deals with "undue influence". Although every election is about trying to get people to support particular candidates, persuasion must be kept within limits.

It is against the law to threaten, or use any form of violence or restraint, in your efforts to persuade anyone to vote for someone, or to fail to vote for someone, or not to vote at all. Threats to injure a voter (or anyone connected to that voter in any way) are strictly forbidden. (This includes both physical and spiritual threats). Similarly, any attempt to stop a voter getting to a polling place is strictly forbidden.



Penalty for Corrupt Practices: Clause 48 says that personation, bribery, treating and undue influence are all corrupt practices under the ROTP Act. Anyone convicted of corrupt practice under this Act faces a fine of up to **VT100,000**, up to **five years** in prison, or both.

False Statements About Candidates: It is an offence under Clause 49, for anyone to make, publish, or cause to be published, a false statement of fact about the personal character or conduct of any candidate, unless they can show that they had good grounds for believing the statement to be true. It is also an offence under this provision, to publish or make a false statement about the withdrawal of a candidate during the election period for the purpose of procuring votes for another candidate. (This would include the practice, common overseas, of slapping false "WITHDRAWN" stickers over posters, though that is also the crime of defacing, under Clause 41.)

The penalty for making a false statement about candidates is a fine of up to **VT40,000** or up to **two years** in prison, or both.

This provision of the ROTP Act does not take away any person's rights to sue for defamation of character under the common law.

Offences on and after polling day

Although it is all right to try to influence a voter (by gentle persuasion) before polling day, stricter rules apply on polling day itself. Under Clause 50 it is forbidden for any person, within 100 metres of any polling station to

- X try to influence anyone to vote for any candidate
- X try to find out which candidate any voter wants to vote for, or
- X hold any deliberations or discussions.

This last Clause prevents the taking of "exit polls". An exit poll is a survey of people who have just voted, to try to predict the result of an election before all the votes have been counted. Such surveys are common in the U.S.A. and some other countries, but are forbidden in others.

The other activity that is prohibited under Clause 50 is the sale of intoxicating liquor within one kilometre of a polling station. Laws against the sale of liquor on polling day, until after the close of voting, used to be common throughout the world, but that is tending to change.

The penalty for people convicted for a breach of Clause 50 is a fine of up to **VT20,000**.

Requirements of Secrecy

Clause 51 is a series of provisions to protect the secrecy of the ballot. These provisions reinforce the provisions against "undue influence" and other corrupt practices; they are to make sure that the way every voter has cast their vote stays a secret.

Under Clause 51 (1), every election officer, candidate, authorised representative of a candidate, and any other person lawfully present at a polling place, must help in maintaining the secrecy of the ballot, and is not allowed to tell any other person, unless the law requires them to do so:

- X the name of any voter who has not applied for a ballot paper or voted at a polling station
- X the number on the register of any voter who has not applied for a ballot paper or voted at a polling station, or
- X an official mark

Those present at the official counting of the votes are also prevented from releasing any information about the counting without authority.

Offences during voting

There are even stricter requirements, under Clause 51 (3), about the period when voters are casting their votes. Nobody may

- X interfere with (or try to interfere with) a voter when recording their vote
- X in a polling station, find out (or try to find out) which candidate anyone has voted for, or is going to vote for
- X tell (in any way), at any time, to any person, anything learnt in a polling station about which candidate anyone is going to vote for, or has voted for
- X cause (directly or indirectly) a voter to display his or her ballot paper after he or she has selected it (or marked it, as the case may be), so as to let

anybody else know who they are going (or not going) to vote for, or have (or have not) voted for.

Under Clause 51 (4) there are special rules to protect the secrecy of the ballots of those who need help with voting. This applies to people who are blind, or who need help for some other reason in marking their ballot paper. Anybody who helps any of those people vote may not let any other person know how those people voted.

The penalties for people convicted of breaking the secrecy provisions of the Act are a fine of up to **VT40,000** or up to **two years** in prison, or both.

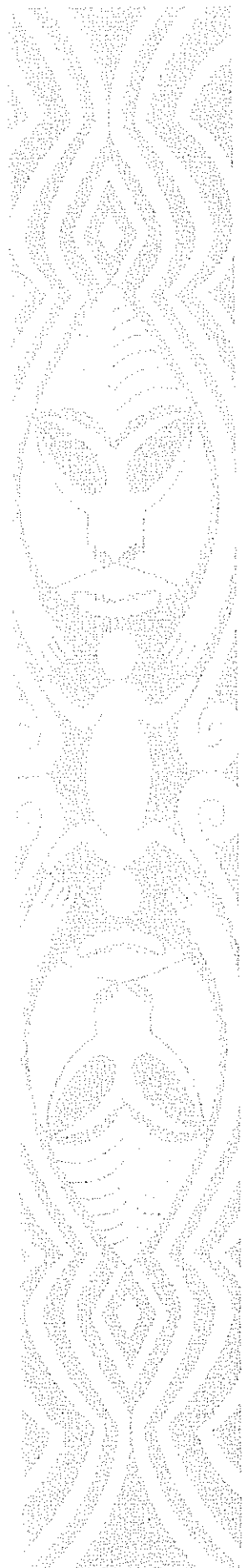
Offences by Election Officers: Under Clause 52 of the ROTP Act there are more things electoral officers must and must not do. Because electoral officers have more power, offences by them are considered more serious than offences by other people. As an MP you do not need to know these in detail, but the people who work for you might need to. You should make sure that anyone acting on your behalf at a polling place knows very well what is allowed and what is not. If anyone notices anything wrong, they should tell the electoral officer. If it is serious, and the electoral officer goes on acting in a way that seems to be against the law, the person who notices it should write down the details and put the matter in the hands of the PEO. An electoral officer is breaking the law if he or she

- x makes (in any record, return or other document which he or she is required to make under this Act) any entry which he (or she) knows (or has reasonable cause to believe) to be false (or does not believe to be true)
- x lets someone vote in the way provided for blind or otherwise disabled people, when he (or she) knows (or has reasonable cause to believe) they are not blind or disabled
- x stops anyone from voting in the way provided for blind or otherwise disabled people, when he (or she) knows (or has reasonable cause to believe) they are blind or disabled
- x wilfully stops anyone from voting at a polling station where he knows (or has reasonable cause to believe) they are going to vote
- x wilfully rejects or refuses to count any ballot paper which he or she knows (or has reasonable cause to believe) is properly cast
- x wilfully counts any ballot paper as being cast for any candidate if he knows (or has reasonable cause to believe) it was not properly cast for that candidate, or, in general
- x (without reasonable cause) acts (or fails to act) in a way that breaches his (or her) official duty

An electoral officer who is convicted of doing any of those things faces a fine of up to **VT60,000** or up to **three years** in prison, or both.

Offence of conspiring to or attempting to commit an election offence:

Finally, Clause 53 of the Act creates the combined offence of conspiring (plotting with other people) to commit any of the offences listed here, and of attempting to commit any of them. Anyone convicted of either conspiring to, or attempting to, defeat the purpose of the election in any of those ways, faces the same penalties as if they had acted alone or been successful in their attempt.



Conduct within Polling Places

Rules for conduct of Polling places: The details for the conduct of the voting inside polling places are in Schedule 5 of the ROTP Act. Candidates and their helpers should be very familiar with these rules, so they are reprinted as an appendix to this section of the handbook, on page 2-15 to 2-20. From time to time, problems can arise with the rules. For example, in a recent general election, voters' thumbnails were marked as provided for under rule 11(a). (See page 2-19.) But the ink used was not permanent, and it seems that many people voted, cleaned the ink off, then went back to the polling place to vote again in the name of another voter - possibly one who had died. These offences against the ROTP Act became known when the counting showed that more votes had been cast than there were voters on the roll.

Returning Officers: Clause 30 of the ROTP Act says the person in charge of each polling place is the returning officer. The registration officer for each polling district is responsible for ensuring that there is a returning officer for each polling place.

Display and Locking of Ballot Boxes: Clause 36 orders the returning officer, before polling starts, to show the inside of the ballot box to everybody lawfully present in the polling station. (It is a good idea for the returning officer to ask each person if it is empty, and for them to answer so that everyone else can hear. This avoids any arguments about it later.) Once they have seen it is empty, the ballot box is locked with two padlocks. The returning officer keeps one key, and the other is given to one of the poll clerks.

Electoral Rolls and Electoral Cards: Clause 31 says an electoral roll must be kept in each polling place. Nobody may vote unless

- ✓ their name is on the electoral roll, and
- ✓ they have their electoral card with them.

That is why it is important for every voter to have an up-to-date electoral card and to make sure it is kept in a safe place.

Clause 32 says people detained by law in a mental institution at the time of an election, may not vote even if they are on the roll and have a valid electoral card. (But not every patient in a mental institution has been detained by law. Those who have asked to be there as "voluntary patients" may still vote.)

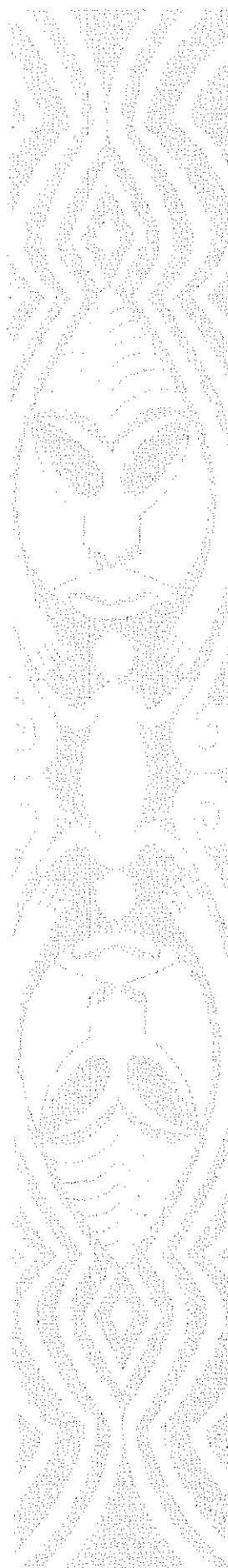
Polls to be secret and voters to have only one vote: Clause 33 repeats the basic principle (contained in Article 4 (2) of the Constitution) that the ballot is secret, and each voter is entitled to vote only once and for only one candidate.

Proxy Votes: Proxy voting (getting someone else to cast your vote for you) is a very important exception to the rules for voting in Vanuatu, because many people may be away from their voting area at the time of an election. The rules for casting a proxy vote are laid out in Schedule 4 of the ROTP Act. Proxy voting is only allowed when voters are able to show that they will not be able to vote at the polling station where they are registered, because of their

- ✓ occupation, including absence for holidays or work-related conferences

The voter must produce a certificate to confirm this from

- ✓ a departmental head
- ✓ a senior manager. or
- ✓ another responsible person



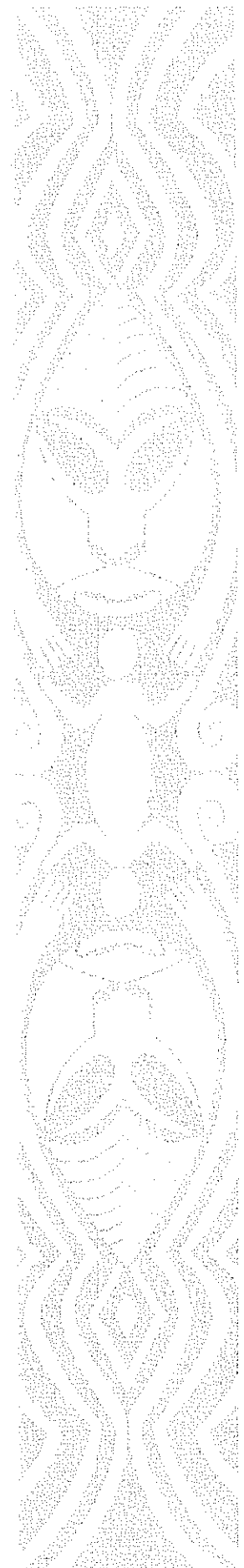
- ✓ health
 - The voter must produce a certificate from
 - ✓ a registered medical practitioner (a doctor)
 - ✓ a nurse
 - ✓ a dresser or, in the absence of such people
 - ✓ some other person of standing who can confirm that the voter can not be present at the polling station on polling day
- ✓ religion
 - The voter must produce a certificate from a minister of religion confirming that the voter can not vote on polling day for religious reasons
- ✓ serious ill health or (recent) death of a family member
 - The voter must produce a certificate signed by a person of standing in their community certifying that the voter is related to the sick or dead person and can not vote in person
- ✓ involvement in national or international sport
 - The voter must produce a certificate signed by the head of the appropriate Vanuatu sporting body certifying that the voter can not vote in person

Anybody wanting to vote by proxy must apply to the registration officer, on the correct form, at least 72 hours before the election. He or she must have his or her electoral card with the form. The voter must say on the application form who is to be their proxy. A proxy voter must be registered to vote at the same polling place as the voter applying. Nobody may cast more than two proxy votes.

A proxy vote (or votes) must be cast at the same time as the proxy voter casts their own vote. The proxy voter must have not only their own electoral card but also the electoral card (or cards) for the person (or two people) they are casting proxy votes for.

It is advisable for anyone who wants to vote by proxy to name their proxy well before the cut-off time for applications, in case there is any problem about the application. For example, if a voter's first choice as proxy has already been chosen by two other voters, they will have to choose someone else.

Suspension and Stopping of Poll: To make sure that the results of the voting are not affected by any disturbance while the polling booths are open, there are rules about suspending and re-opening of polling. These rules apply if there is any kind of disturbance that (in the opinion of the returning officer) makes it impossible to go on polling (See Clause 35 (2)). In that case, the polling time can be extended to make up for any lost time. The polling time may also be extended by one hour if, half an hour before closing, the returning officer and at least one polling clerk believe that the people still waiting to vote will take longer than the time available. If all voters on the roll have voted before the official closing time, the returning officer may close the polling station early, but counting of the votes may not begin until one hour before the official closing time



Election petitions

Part XVI of the ROTP Act is about election petitions. Most MPs and candidates never have to go through the drama of an election petition, [but they can cause a lot of trouble, which can be avoided or minimised by sticking to the rules]. An election petition may be taken up when either a candidate or a registered voter in an election claims that there is reason for the election result to be declared null and void (cancelled). This could be because of some unlawful action, in the time before the election, or during the actual counting of the votes. All election petitions must be heard by the Supreme Court. To prevent people petitioning without some good reason, all petitions must be accompanied by a deposit of **VT20,000**. This will be returned to the petitioner after the petition has been heard, but the amount of any costs awarded by the Court may be taken out of the VT20,000. Any petition must be presented within 21 days of the official publication of the results of the election, except that if the petition claims a bribe was paid after an election, the petition may be lodged up to 21 days after the alleged payment.

Grounds for Declaring Election Void: Under Clause 61 of the Act, the grounds for declaring an election void (if proved to the satisfaction of the Supreme Court) are

- ✓ bribery, treating, undue influence or other misconduct (even if not of a kind spelt out in the Act), so extensive that it may be assumed it affected the result of the election
- ✓ such non-compliance with the Act in the way that the poll was conducted that it could be expected to affect the result
- ✓ that the candidate was not qualified, or disqualified, from election, or
- ✓ that there was such irregularity in the counting of the votes that anyone might reasonably conclude that it had affected the result.

If a candidate is convicted by a Court of a corrupt practice, or of attempting or conspiring to commit a corrupt practice, the election of that candidate is declared void. (See Clauses 44-48 and 53 of the ROTP Act). There is more detail in the Act but, as already noted, most candidates will not need to have a detailed knowledge of the intricacies of election petitions. In fact, the best way to avoid election petitions is to show that you know and respect the law. If your political opponents appear to be “stretching” the boundaries of the law, you should report this at once to the electoral officer. That can then be dealt with before it becomes a major issue.

