

# NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/21

## CONSTITUTIONAL COMMITTEE

### MINUTES OF MEETING HELD ON 23 JULY 1979: 2.15 p.m.

Present: G. LEYMANG (Chairman), W. LINI, G. KALKOA, T. REUBEN, D. KALPOKAS, M. CARLOT, A. MALERE, J. NAUPA, S. REGENVANU, M. BERNAST (for L. VATOU), T. TUNGU, G. CRONSTEADT, K. KALSAKAU, K. MATAS, J. NATUMAN, B. SOPE, G. MOLISA, J. LALOYER (for L. DINI), G. PAKOA, RINGAO, T. TIPOLOAMATA, M. TACETAMATA, A. STANDLEY (Minutes).

Invited: Professors ZORGBIBE and YASH GHAI.

Observers: M. KALCHICHI (alternate for S. REGENVANU), B. NARAKOBI.

1. The Chairman opened the meeting by informing members of the decision taken by the Steering Committee to use the drafts prepared by Professors ZORGBIBE and YASH GHAI in April as the basis for discussion. The Committee, he said, would discuss the following issues during the week July 23-27: Sovereignty, Land, Fundamental Rights, Justice, Administration, Citizenship. The first to be discussed would be Sovereignty (document R1).
2. Professor ZORGBIBE introduced this document pointed out its main features:  
- both National Sovereignty and Sovereignty within the State were referred to: - official languages.  
With reference to languages, Prof. ZORGBIBE explained that following the discussions held in April, he had modified his proposals - he suggested that English and French be designated "official languages" and Bislama "national language".
3. G. PAKOA wondered whether it would not be necessary to include some sort of protection against secessionist movements in the Chapter on Sovereignty.  
Prof. YASH GHAI replied that the underlying principle throughout the Constitution was that the country would be united. He added, however, that if it was felt necessary, the territorial limits of the country could be defined within the Constitution as an annexe.
4. S. REGENVANU then introduced a proposal made by the New Hebrides Christian Council (distributed to members), explaining sections 1-5 in some detail.
5. A long discussion followed on whether reference should be made to Christianity in the part of the Constitution dealing with Sovereignty. Prof. ZORGBIBE felt that the phrase "Christian Democratic State" could be held to imply some sort of theocratic state - he proposed that, if the Committee wished to include a reference to Christianity, a more suitable working would "...a Sovereign democratic state, based on Christian principles and traditional beliefs".
6. Justifying the inclusion of a reference to Christianity, S. REGENVANU explained that this clarified the principles to which the New Hebrides adhered. G. CRONSTEADT objected to any reference to Christianity or traditional beliefs in the Section on Sovereignty, feeling that the

implications of any such inclusion were more profound than appeared at first sight. Certain people who believed strongly in custom, he continued, would, further more, object to any reference to Christianity . G. CRONSTEADT concluded by proposing that the original draft of R1 be kept.

7. A number of other suggestions were made concerning the opening phrase of the section on Sovereignty. W. LINI proposed the phrase “ democratic State, based on good Melanesian / Community values”. He pointed, however, the importance of preparing a Constitution that would be acceptable to the country - he felt that many persons, who were members of Churches, would not be satisfied by a Constitution that made no reference to Christianity. Prof. ZORGBIBE then proposed another possible phrase: “ ...democratic state based on Christian principles and traditional Melanesian values”. He explained that “Christian principles” only implied a philosophical notion and not that the New Hebrides would be a religious state.

8. Other proposals put forward included:” ...good Melanesian principles and values”, “...indigenous Melanesian principles”, “traditional Melanesian beliefs”. Prof. ZORGBIBE made a final suggestion: “...state based on faith in God and Melanesian values”.

9. No final decision was taken on this point.

10. The Committee also discussed the question of languages. Prof. ZORGBIBE explained that by “national” language, he meant the language that was the cultural expression of the country; by “official” languages, he meant working languages and languages used for external communications. He appreciated that having two official languages could be costly, but he also pointed out that this could be an asset within the context of the Pacific.

11. A number of speakers were worried that if specific reference was made to Bislama, English and French in the Constitution, this would eventually lead to the disappearance of the Melanesian languages in the islands.

12. A further point made was the possibility of selecting one of the more widely - spoken Melanesian languages such as Mota, or Ngunesse, and turning it into a national language to replace Bislama which, it was felt, was insufficiently complex to serve as a full national language. Furthermore, Bislama was not a truly Melanesian language.

13. After further discussion it was decided that R1 would be amended to read: “The national language of the New Hebrides is Bislama. The working languages of the New Hebrides are French, English and Bislama. The Republic will protect the existence of the various local languages which are part of the cultural wealth of the nation and may raise one of these languages to the status of national language”.

14. The meeting was closed at 4.45 p.m.

# NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

P/22

## CONSTITUTIONAL COMMITTEE

### MINUTES OF MEETING HELD ON 24 JULY 1979: 8.30 a.m.

Present: G. Leymang (Chairman), W. Lini, L. Dini (afternoon only - represented by J. Laloyer in morning), G. Kalkoa, G. Prevot, D. Kalpokas, A. Malere, J. Naupa, T. Reuben, M. Carlot, M. Bernast (for L. Vatou), T. Tungu, G. Kalsakau, T. Timpoloamata, G. Cronsteadt, J. Natuman, B. Sope, G. Molisa, G. Pakea, K. Matas, M. Tacetamata, Ringao, S. Regenvanu, J. M. Leye (afternoon only).

Invited: Professors Ghai and Zorgbibe

Observers: A. Sandy (alternate for J. Natuman), M. Kalchichi (alternate for S. Regenvanu), J. Kaletiti (alternate for T. Tungu - afternoon only), B. Narakobi.

Minutes: A. Standley.

1. The Chairman opened the meeting by informing members of the Steering Committee's decision to continue with the study of document R1 "Sovereignty", and then to go on to the documents dealing with Fundamental Rights (G2), Administration (C4), and Justice (E1). The Chairman then repeated the last proposal made by Prof. ZORGBIBE concerning the first line of the Section on Sovereignty:

"The Republic of the New Hebrides is a sovereign and democratic State, founded on faith in God and Melanesian values".

2. Prof. Zorgbibe explained that the intention of his proposal was to refer to the State's basic underlying philosophy, without giving the impression of excluding those persons who were not members of a Church.

3. G. Cronsteadt was of the opinion that a discussion of Church and Custom could take place in the Section on Fundamental Rights or in the Preamble to the Constitution, but that the Section on Sovereignty was not the place for it.

4. A number of speakers felt that the phrase "faith in God" was too open and that Christianity should be mentioned specifically. A counterargument put forward by W. Lini was that it was important that the Constitution should not exclude anyone - he therefore believed that reference to religion should be couched in general terms. J. Naupa replied that such a general formulation might make it difficult for future Governments of the New Hebrides to refuse entry into the country to undesirable religious sects that claimed also to have "faith in God".

5. Replying to a proposal that the opening sentence of the Section on Sovereignty be kept as originally drafted in document R1, W. Lini felt that not to make any mention of God would be running the risk of making the Constitution unacceptable to the majority of the population. K. Matas agreed with W. Lini in favouring a general phrase such as "faith in God" rather than a specific reference to Christianity.

6. M. Carlot considered that “faith in God” was now part of “Melanesian values” - he wondered whether a suitable phrase could be found that would contain both the idea of God and of Melanesian values.

7. Prof. Zorgbibe, summarizing the discussions, felt there were two ways of approaching the drafting of this sentence. It could either be drafted in a neutral way (as was done in R1) as a technical and philosophical statement, or it could be worded in such a way as to indicate the general philosophy of the State. He therefore proposed four possibilities:

1) The document R1 draft, could be kept;

2) The Republic of the New Hebrides is a sovereign and democratic state founded on Melanesian values;

3) The Republic of the New Hebrides is a sovereign and democratic state founded on faith in God and Melanesian values.

4) The Republic of the New Hebrides is a sovereign and democratic state founded on Christian principles and Melanesian values.

8. A discussion followed on this with four possibilities receiving some support. G. Molisa, G. Kalsakau, T. Reuben, K. Matas, M. Tacetamata, and S. Regenvanu preferred possibility 4). G. Cronsteadt and A. Malere spoke in favour of the first possibility. S. Regenvanu proposed the following phrase for the Preamble:

“The New Hebrides is a free, united and democratic State, founded on Christian principles and good Melanesian values”.

9. It was finally decided that Professors Zorgbibe and Ghai would try to draft a Preamble in which the question of religious faith and custom would be covered.

10. A discussion then followed on the term “Republic”. Professors Ghai and Zorgbibe confirmed that this term was used in opposition to “monarchy” and did not imply that the State would be either Presidential or Federal.

11. After a short discussion on Article 2 of the paper on Sovereignty - during which Professor Zorgbibe confirmed that the reference to voting being equal and secret did not apply to votes within Parliament - the Committee turned to the question of Fundamental Rights (G2), introduced by Professor Ghai.

12. Professor Zorgbibe added two points to Prof. Ghai’s introduction:

1) In April, when document G2 had first been discussed, it had been decided to add after “religious” in Article 1 the words “and traditional”.

2) He suggested as a compromise, as custom on certain islands did not favour complete freedom of movement, that the words “within the limits set by local custom” be added to the end of Article 1 (b).

13. S. Regenvanu, on behalf of the New Hebrides Christian Council, made a detailed proposal (circulated to members) concerning fundamental Rights.

14. Professors Zorgbibe and Ghai commented that the proposal was an extremely useful one and not inconsistent with the draft of G2. They added, however, that their approach was to limit the Section in the Constitution on Fundamental Rights to a declaration for fundamental principles - details of the Fundamental Rights could either be enacted by Parliament or included in a Schedule to the Constitution (the Schedule having the same legal force as the main part of the Constitution).

15. G. Kalsakau raised the question of the confidentiality of Church confessions - he wondered whether Priests/Pastors would be obliged to inform the State Authorities of any confession of murder, for example. S. Regenvanu replied that the Christian Council had not discussed this point.

16. W.Lini remarked that neither G2 nor the N.H.C.C. proposal mentioned Community Rights - especially with respect to Land. Prof. Ghai felt this was an important point which could perhaps be dealt with more specifically in the Section on Land. Prof. Zorgbibe added that Community Rights were implied in line 4 of G2.

17. Before the meeting broke for lunch, Prof. Zorgbibe proposed a draft Preamble: "The people of the New Hebrides, conscious of forming a single nation, engaged in a common destiny, affirming their desire to found a New Hebridean fatherland based on faith in God/ Christian principles and ancestral ideals of fraternity, solidarity and justice, approves the draft Constitution establishing the Republic of the New Hebrides".

18. Break 11.30 - 15.00.

19. After lunch, the Committee discussed paper G2 for a few minutes - during which time S. Regenvanu commented that not only Human Rights but also Social Obligations should be specified - before moving on to the Administration (C4) - (the translation and distribution of the N.H.C.C. Fundamental Rights proposals not having been completed).

20. Prof. Zorgbibe introduced paper C4 pointing out its main features - provision for political appointments, Civil Service Commission, Ombudsman (mediator). Prof. Ghai added that the draft provided for high security of office for most civil servants, but for no security for the highest civil servants who were politically appointed. He felt it was normal that a new Government should be able to select its own top civil servants.

21. K. Matas felt that only the political advisors in the Ministerial "cabinet" should be removable - there should be a Permanent Secretary in the real sense of the word. Heads of Technical Departments should also be permanent appointments. G. Cronsteadt disagreed, saying the danger with permanent Heads of Departments was that in certain cases, these came to have more power and control than the Minister himself. It was therefore important that the Government should have the right to remove them.

22. G. Kalkaoa began a discussion on civil servants who stood for election to the Assembly - Professors Zorgbibe and Ghai explained the systems in force in France and Britain ( in France, civil servants could stand an, if elected, could resume their post upon the expiry of their term of office as a Member of Parliament; in the United Kingdom, civil servants were obliged to resign from their job before being able to stand for election).

23. A short discussion followed on political advisers - Prof. Zorgbibe explained that in France these were usually civil servants who, when the Minister to whom they were advisor fell, returned to the Civil Service. In Britain, Prof. Ghai explained, the system of political advisers was very recent - and caused by the need felt by Ministers to have sources of information other than the Civil Service - but that the practice was for Ministers to select their advisers from outside the Civil Service (Trade Unions, Universities, etc.).

24. The meeting was closed at 4.35 p.m.

# NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/23

## CONSTITUTIONAL COMMITTEE

### MINUTES OF MEETING HELD ON 25 JULY 1979: 8.30 a.m.

Present: G. LEYMANG (Chairman), W. LINI, G. KALKOA, M. CARLOT, A. MALERE, D. KALPOKAS, J. NAUPA, T. REUBEN, G. PREVOT (10.30 onwards), J. LALOYER (for L. DINI), V. BOULEKONE (10.30 onwards), T. TUNGU, M. BERNAST (for L. VATOU), T. TIPOLOAMATA (for F. TIMAKATA), RINGAO, M. TACETAMATA, G. CRONSTEADT, G. KALSAKAU, J. M. LEYE (morning only), J. NATUMAN, G. MOLISA, G. PAKOA, S. REGENVANU.

Invited: Professors ZORGBIBE and YASH GHAI.

Observers: J. KALOTITI (alternate for T. TUNGU), M. KALCHICHI (alternate for S. REGENVANU), B. NARAKOBI.

Minutes: A. STANDLEY

1. The Chairman opened the meeting by summarizing the decisions taken by the Steering Committee:

- 1) Among the annexes to the Constitution would be papers on Land and the Leadership Code.
- 2) Prof. GHAI would discuss Fundamental Rights with the New Hebrides Christian Council during the week - end.
- 3) During the discussion on Justice, the Judges could be invited to speak on the organization of the Judiciary.

The Chairman then asked the Committee to continue discussing paper C4 "Administration".

2. A discussion followed on the question of the recruitment of temporary staff and supernumerary staff. G. KALKOA felt that the Public Service Commission should be able to authorize such recruitment. A. MALERE was worried that this would detract from the authority of the Prime Minister, and that the procedure of going through the Public Service Commission was slow.

3. It was finally agreed that in paragraph 2 of Article 1, the words "and urgent" would be deleted and the sentence "in urgent cases, the decision may be taken by the Public Service Commission after consultation of the Minister of Finance and the Minister of Public Administration" added.

4. The Committee then discussed Article 2. K. MATAS summed up some of the points made the previous day: there was a need for continuity in Ministerial Cabinets, and Heads of Department should be transferable. A stable administration was, he concluded, necessary for the security of the country.

5. A. MALERE was of the opinion that a Minister should have a free choice of personal collaborators and should therefore be able to remove the Cabinet Staff he did not wish to keep. T. TIPOLOAMATA disapproved of dismissing staff without finding them alternative employment.

6. M. CARLOT raised the question of young graduates who wished to work as Civil Servants but who found all the senior posts blocked by older Civil Servants. Prof. GHAI said this was a real problem - in Africa, he said, one attempted solution had been to offer attractive early retirement schemes to the older Civil Servants, so as to make their posts available to younger, more qualified, persons. Another possibility, Prof. GHAI added, was to offer contracts of limited duration - upon the expiry of the contract, an older Civil Servant could be replaced by younger one - but this created much insecurity within the Administration.

Prof. Zorgbibe emphasized the difference between employment and functions - whilst a senior civil servant could not be removed from his grade and have his salary reduced, it was conceivable that he be moved from one post to another: an Ambassador, for example, could be moved from an Embassy to the Ministry of Foreign Affairs whilst keeping the same grade. Prof. ZORGBIBE proposed as a compromise that a Minister's "personal" staff within his Cabinet be removable, and that Heads of Department - who would be civil servants - be transferable to other posts at the same grade.

7. W.LINI was also concerned about the possibility of young, well-qualified graduates being unable to find suitable jobs in the Public Service. He felt one solution would be for Public Servants to be contract officers. Prof. ZORGBIBE replied that the Committee would have to choose whether it wished a "stable" public service - as in England and France and as advocated by K. MATAS - with permanent officials; or an American - type service, with contract officers only, where the replacement of senior officials by younger persons could be done more easily.

8. Replying to questions from V. BOULEKONE, M. CARLOT and W. LINI, Prof. ZORGBIBE said a number of measures were available to try to prevent young, well-qualified persons from being unable to occupy top positions:

- a young retiring age could be set
- civil servants could be made to retire after 15 years of Government service
- certain civil servants could be made to retire early, with compensation
- the first incumbents of senior posts could be appointed provisionally

9. G. PREVOT proposed that Heads of Department only be contract officers - this would make it possible for the Government to replace them if a more suitable person was found. He also felt that there should be one senior permanent official in each Ministerial "Cabinet" for the sake of continuity.

10. Commenting on the proposal that Heads of Department be transferable to other posts within the same grade, D. KALPOKAS said he felt it would be wasteful to transfer to another Department a person who had acquired a great deal of technical knowledge during the course of his rise to the top of a particular Department.

11. G. KALSAKAU emphasized the need to create jobs for young persons. He felt that all but the top post in a Ministry should be filled by permanent civil servants: he commented that many persons had felt very bitter about losing their jobs when the previous Government had fallen.

12. After the lunch break, the Chairman announced two mistakes in points 2 and 6 of the French text of PV/19.

13. Profs. ZORGBIBE and YASH GHAI then proposed a redrafted Article 2 for document C4: "Article 2. -The rule of irremovability does not apply to the staff of Ministerial Cabinets. Heads of Department, Ambassadors (and regional secretaries-general) may be transferred by the Prime Minister.

The irremovability of civil servants may not prevent such compulsory early retirement as may be decided by law in order to ensure the renewal of holders of public offices”.

14. After a brief discussion on this, it was decided to move on to articles 3 and 4 until the re-drafted Article 2 had been translated and circulated to members.

15. A discussion followed on the appointment of the members of the Public Service Commission - it was pointed out that it was still not certain whether the Head of State would also be Head of Government, or whether there would be a separate Prime Minister.

16. Prof. ZORGBIBE emphasized the importance of the Public Service Commission as a neutral body, above political parties. He approved a suggestion made by S. REGENVANU that the members of the SPC be appointed by the Council of Ministers, after consultation with the Speaker of the Assembly, and the leaders of the political parties.

17. A discussion, centred on the number of members to have in the Public Service Commission, followed. It was finally agreed that there should be 5 members. It was also decided that all 5 members should be appointed at the same time for the same term of office. The Committee also approved that there should be separate Commissions for Teachers, Police and the Judiciary.

18. Before the meeting was closed, the question of the continuity of the Public Service Commission was discussed. A suggestion was made that the Director of the Public Service attend as a member for the sake of continuity, but it was decided that his role would be that of an adviser/ secretary, with no voting rights.

19. The meeting was closed at 4.45 p.m.



# NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/24

## CONSTITUTIONAL COMMITTEE

### MINUTES OF MEETING HELD ON 26 JULY 1979: 8.30 a.m.

Present: G. LEYMANG (Chairman), W. LINI (afternoon only), G. KALKOA, M. CARLOT, A. MALERE, D. KALPOKAS, J. NAUPA, T. REUBEN, G. PREVOT, J. LALOYER (for L. DINI), V. BOULEKONE, T. TUNGU, M. BERNAST (for L. VATOU), T. TIPOLOAMATA (for F. TIMAKATA), RINGAO, M. TACETAMATA, G. CRONSTEADT, G. KALSADAU, J. NATUMAN, G. MOLISA, G. PAKOA, S. REGENVANU (morning only), T. TUNGU, K. MATAS .

Invited: Professors ZORGBIBE and YASH GHAI.

Observers: C. BICE (alternate for W. LINI), B. NARAKOBI.

Minutes: A. STANDLEY

1. The Chairman proposed that the Minutes of the meetings held since 20 June 1979 be approved on the Monday 30 July 1979. He requested members to make use of the week-end to read over these Minutes. After urging all groups to read over Professors ZORGBIBE and GHAI's working drafts with care and to put forward views that represented groups rather than individuals, the Chairman re-opened the discussion on paper C4 "Administration".

2. Professor Ghai proposed new drafts for article 3 and 4 of paper C4 based on the previous days discussions (He pointed out that the question of the appointment of the members of the Civil Service Commission was yet to be resolved).

Article 3: The Civil Service Commission is composed of 5 members, nominated for 3 years by (the Prime Minister or President) after consultation with the Council of Ministers) (by the Prime Minister after consultation with the council of Ministers and the leader of the opposition).

The President of the Republic designates from among the members of the Commission a Chairman who is charged with organizing its discussions.

The post of member of the Commission is incompatible with membership of the National Assembly (the Senate, a Regional Council) or the exercise of a function within a political party.

Article 4: The Civil Service Commission recruits Civil servants for the State (and for the Regions), for which purpose it may establish criteria for the determination of the candidate's competence, it has competence for the appointment, the promotion and the discipline of the various Civil servants and for the selection of those among them who are suitable to be trained by placements in the New Hebrides or abroad.

The Judges, Police, Armed Forces and Teaching Services are excluded from the competence of the Commission".

3. Professor GHAI then introduced Articles 5, 6 and 7 of paper C4, on the Ombudsman. He explained that the post of Ombudsman had been created in a number of countries as a result of the increasingly important activity of Government in all aspects of citizens' lives. The Ombudsman sought to redress the balance in favour of private citizens by offering them a channel through which they could make complaints about the treatment they had received from the

Administration. Redress through the Courts was still available, but the Ombudsman had the advantage of offering a free and less formal service than the Courts.

Professor GHAI said the powers of the Ombudsman varied from country to country - the usual practice was for him to have the power to investigate actions of the Administration - either of his own initiative or as a result of a complaint - and to submit a report with recommendations to the Minister concerned and /or the head of the Department concerned. It was then up to the recipients of the Report to decide what action should be taken.

4. After this introduction, the Chairman asked the Committee whether any member objected to the principle of having an Ombudsman. No objections were made.

5. In the discussion that followed, S. REGENVANU asked who, if the Ombudsman was not to be allowed to do so, would be able to control the activities of the President, the Judiciary and the Civil Service Commission. Professor ZORGBIBE replied that it was not conceivable that the Ombudsman should have the power to make investigations into President's Office (as this would, in effect, raise the Ombudsman's status above that of the President's) or the Judiciary (as it was essential to keep the Administration and the Judiciary separate), but that the Civil Service Commission could be within the Ombudsman's "jurisdiction".

6. It was decided to delete the reference to the Civil Service Commission in Article 6.

7. Replying to J. NATUMAN, Professor GHAI said the Ombudsman was widely used in developing countries. Although it provided a much more limited range of public services than in industrialized nations, Government in developing countries was often the country's largest employer, spender and distributor of money - conflicts between private citizens and Government therefore occurred often.

8. K. MATAS raised the problem of Ministers who consistently refused to follow the course of action recommended in the Ombudsman's reports. Professor ZORGBIBE made the following two points in reply:

- If an aggrieved citizen saw that his appeal to the Ombudsman had failed to give him satisfaction, he could still take his case to the Courts. If the Court found in the citizen's favour against the Administration, the latter would be legally bound to follow whatever Orders the Court made.

- The Ombudsman, every year, would submit a general report to Parliament. If this report noted that certain Ministers had consistently failed to follow the Ombudsman's recommendations, Parliament could take action on the matter.

9. A discussion followed on whether the reports of the Ombudsman should remain confidential. Professor ZORGBIBE felt there was advantage in keeping them confidential. Professor GHAI agreed, though he believed that the Ombudsman should inform the complainant of the recommendations he had made in his report to the Minister. If not, Professor GHAI, felt the public might lose faith in the Ombudsman. He proposed that the following sentence

be added to the end of the first paragraph of Article 7:

"The report of the Ombudsman to the Prime Minister or the Minister responsible of the service concerned shall be confidential".

10. V. BOULEKONE wished how long would be given to the Minister concerned to reply after receiving the Ombudsman's report and recommendations. He pointed out that Administrations always worked slowly, but that the citizen should have an idea as to when a decision would be taken on his complaint by the Minister concerned.

11. Professor ZORGBIBE felt that it could be said that if no reply was received from the Minister within 4 months of receiving the Ombudsman's report, this would be assumed as meaning that the citizen's complaint had been rejected.
12. M. BERNAST, returning to the question of the confidentiality of the Ombudsman's reports, proposed that they be sent to the newspapers, or failing this, that a copy be given to the complainant. Professor GHAI pointed out that if all of the information handled by the Ombudsman was made public, civil servants would be less likely to be frank in their dealings with him, thereby reducing his effectiveness. Professor GHAI suggested that the law setting up the Ombudsman's Office could make provision for the Ombudsman to decide what information should be made public.
13. Replying to comments from V. BOULEKONE and K. MATAS, Professors ZORGBIBE and GHAI proposed to redraft Article 7 of C4 to provide, if necessary for more than one report to be submitted by the Ombudsman every year, and for a time limit to be set for the Administration to reply to the Ombudsman's recommendations.
14. Break 11.30 - 14.45.
15. Professors ZORGBIBE and GHAI proposed the following new Article 7:  
"Paragraph 1 - add a new last sentence: "His reports shall remain confidential".  
New Paragraph 2 : "The Ombudsman shall inform the complainant of the date on which he submitted his report to the Public Authorities. If, after a reasonable period of time, the duration of which shall be fixed by law, no reply has been received from the Prime Minister or the Minister concerned, the complaint shall be deemed to have been rejected. The period of limitation for the institution of proceedings in the supreme Court shall run from the date of the rejection of the Ombudsman's findings.  
Paragraph 3 : " The Ombudsman shall present a general report to the National Assembly each year and may make such additional reports as he may consider necessary".
16. The Chairman asked the Committee to examine Article 8 of document C4. Professor ZORGBIBE explained that in some multilingual countries, a Commission was responsible for the supervision of the linguistic situation. He felt, however, that this was a bureaucratic solution and that, in the New Hebrides, it would be more efficient for the Ombudsman to carry out this role.
17. After a short discussion, the Chairman requested the Committee to examine the redrafted Article 2 of paper C4 (see paper C4 (2)).
18. It was finally decided, after lengthy discussion that the second sentence of paragraph 1 of Article 2 would be amended to read:  
"Senior Civil Servants, Ambassadors" (and Regional secretaries - general).
19. It was also decided that the second paragraph of the redrafted Article 2 would be inserted as the last paragraph of Article 1. Professor ZORGBIBE pointed out that, in this paragraph, "rotation" should be replaced by "renouvellement".
20. The meeting was closed at 4.45. p.m.

# NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/25

## CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 30 JULY 1979: 8.50 a.m.

Present: G. LEYMANG (Chairman), W. LINI, G. KALKOA, A. MALERE (from 10.30 only), G. WOREK (for D.KALPOKAS - morning only), J. LALOYER (for L. DINI), T. REUBEN, J. NAUPA, M. CARLOT, G. KALSKAU, G. CRONSTEADT, T. TUNGU, V. BOULEKONE, M. BERNAST (for L. VATOU), S. REGENVANU, RINGAO, J. NATUMAN, M. TACETAMATA, B. SOPE, G. MOLISA, K. MATAS, G. PAKOA, F. TIMAKATA (afternoon only) .

Invited: Professors ZORGBIBE (afternoon only) and YASH GHAI.

Observers: C. BICE (alternate for W. LINI), A. SANDY (alternate for G. MOLISA), B. NARAKOBI (afternoon only).

Minutes: A. STANDLEY

	Morning	Afternoon
Monday 30 july	Justice	Parliament
Tuesday 31 july	Citizenship	Land
Wednesday 1 august	Fundamental Rights	Executive (incl. Leadership Code)
Thursday 2 august	Regionalism	Regionalism (Revision of Constitution)
Friday 3 august	Other questions	

1. The Chairman opened the meeting by outlining the Committee's work program for the week:

He added that questions such as the flag and the name of the country could be discussed by the Committee without the assistance of the two advisers. Before examining the question of Justice, the Chairman asked Prof. GHAI to speak briefly on citizenship.

2. Prof. GHAI introduced the question of citizenship by saying it was up to the New Hebrides to decide what its citizenship law should be. Citizenship, he emphasized, created a sense of belonging to a nation: its importance could not be exaggerated.

Prof. GHAI explained that the following categories of persons required attention:

persons born in the New Hebrides before independence,

persons born in the New Hebrides after independence,

persons with ancestral links with the New Hebrides.

He went on to discuss aspects of citizenship by birth or descent or marriage and raised the possibility of special consideration being given to French or British nationals who wished to obtain New Hebridean Citizenship. (The British Government, he said had a firm stand on insisting that persons who had obtained their British citizenship through a connection with the New Hebrides, be granted automatic New Hebridean citizenship).

Prof. GHAI concluded by raising the following questions:

Dual nationality,

Depriving of citizenship,

Equal rights for all citizens, whether by birth or by naturalization.

3. Following this introduction, and at the request of the Chairman, Prof. GHAI went on the issue of Justice (Paper 1). He said it was for the Committee to decide whether the proposed number of judges (5) was excessive or not. He felt the New Hebrides should try to integrate the best of the three judicial systems existing in the New Hebrides: French, English and Custom.

4. In the discussion that followed, G. KALKOA proposed that the last sentence of paragraph 1 of Article 1 be replaced by: "In the absence of a legal rule, the judge shall decide according to substantive justice and fairness and prevailing custom". He also proposed that "Judges Commission" be changed to "Judicial Service Commission".

5. The Judges' tenure of office was discussed with certain members feeling that the Constitution should state that only Judges who were citizens of the New Hebrides could be appointed for life (i.e. until retirement age) - expatriate Judges would be appointed for the duration of their contract only.

It was finally decided that this was a transitional problem - in time, all Judges would be New Hebridean citizens - and reference would be made to it in the section on transitional provisions.

6. V. BOULEKONE was worried by the fact that, on Independence, there would be no New Hebridean Civil, Criminal or Company Law. Whereas a Court could refer to Custom when judging a Civil or Criminal case in the absence of a relevant law, V. BOULEKONE felt it would be impossible to do so in a case concerning Company law as international dealings were often involved.

7. Prof. GHAI believed one solution would be for interim laws to be made until such time as Parliament made a new law; he offered to work with V. BOULEKONE on this question.

8. Following a proposal from S. REGENVANU, it was decided to amend "Minister of Justice", in Article 2, to "Minister responsible for Justice".

9. G. KALKOA proposed that the Council of Chiefs appoint one person to the Judicial Service Commission for 3 years. This was accepted.

10. V. BOULEKONE suggested that, as the Supreme Court would refer to Custom in certain cases, a representative of the MAL FATU MAURI should sit with the Judges. He did not feel, however that this representative should hear Appeals, as these were often too technical.

11. A discussion followed on the number of judges. K. MATAS pointed out that if the Appeal Court was to consist of 3 judges, there would need to be a total of 4 judges, as the judge who had heard the case in the first instance could not also hear the appeal. Prof. GHAI felt it would be possible to have an Appeal Court consisting of two judges only, even though most Courts usually consisted of an odd number of judges.

12. Prof. GHAI thought the proposal of a Chief sitting with the Court was a good one - Parliament, he said, could make provision for a person with a good knowledge of custom to sit with the Court when the Court was dealing with matters concerning Custom.

13. After the break for lunch, Prof. GHAI introduced new drafts for Articles 3 and 4 of paper E1 (paper E1 (3)). He added that two further points needed to be included appointment by the Council of Chiefs, of a Chief to be a member of the Judicial Service Commission for 3 years, provision for a person with a knowledge of Custom to sit with the Court when the court was judging according to Custom Law.

14. K. MATAS felt that having a representative of Custom on the Court could be inflexible - be

preferred an arrangement whereby the Court could summon such persons to ask them for information. M. MATAS pointed out that this would enable the court to obtain wider range of information and that one could not expect one person sitting with the Court of know about all the Custom Laws in the New Hebrides.

15. Prof. GHAI suggested that one way of overcome the problem raised by K. MATAS, would be to have 3 or 4 persons designated to sit with the Court, each one coming from a different part of the country or from a different Community.

16. W. LINI was worried by the fact that, on account of the very technical nature of much of the Supreme Court's work, a Chief sitting with the Judges might find it very difficult to follow the proceedings. The Supreme Court, he said, was a European concept and completely different from anything within the Chief's experience and knowledge. W. LINI wondered whether Profs. ZORGBIBE and GHAI could according draft something very open on this.

17. M. TACETAMATA spoke on the question of assessors, pointing out that they were an invention of France and Britain. Assessors, he said, had often tried to usurp the power of Chiefs - it was therefore essential that, in any future system, Chiefs, and not Assessors, be involved.

18. Following W. LINI request, Prof. GHAI put forward the following proposal for inclusion in Article 3: "Parliament may provide for a member for the ascertainment of the relevant rules of custom and in particular may provide for personas knowledgeable in custom to sit with the judges of the Supreme Court".

19. Replying to a question from M. CARLOT, Profs. ZORGBIBE and GHAI explained that many Constitutions, in their section on the Judiciary, only dealt with the Supreme Court and the Court of Appeal. Prof. GHAI added that the existing District Courts could be mentioned in the transitional provisions.

20. The title of the Senior Judge was discussed with K. MATAS preferring "Chief Justice" in English. Prof. ZORGBIBE explained that in French this post was always known as "President de la Cour" - but some other name could be found if the Committee wished.

21. M. CARLOT felt that the reference to the Leader of Opposition in the section dealing with the appointment of the President of the Court should be deleted.

22. After further discussion, the Committee approved the new drafts of articles 3, 4 and 5 as proposed in paper E1 (3) as amended by Prof. GHAI (see point 18 above).

23. The Committee then examined articles 5 and 6 of paper E1. Replying to G. PAKOA, Prof. ZORGBIBE confirmed that an individual who felt his Constitutional rights had been infringed could apply directly to the Supreme Court for remedy.

24. The role of the Court as supreme authority in matters of elections was discussed. Prof. ZORGBIBE said that the control of elections could either be said that the control of elections could either be entrusted to Parliament or to the court. The advantage of the Court was that there was less danger of any suspicious of fraud.

25. Replying to a proposal from K. MATAS, Prof. ZORGBIBE suggested that the role of the Supreme Court in supervising the preparation of the electoral rolls be given to an independent Electoral Commission.

26.K. MATAS proposed that the following sentence be included in the final version of the text: "The Public Prosecutor shall be appointed by the President of the Republic on the advice of the Judicial Service Commission and shall not be subject to the direction of any other body in the carrying out of his functions". He also proposed that a similar sentence be included with respect to the Public Advocate.

27.The Committee approved Article 5 and 6 of paper E1 with the amendments above (see points 25 and 26).

28.Prof. ZORGBIBE then introduced paper D1 - Parliament.

He identified the two main problems as being:

- the Electoral Law,
- a unicameral or bicameral Parliament.

He went on to say that, when the paper D1 had first been discussed In April the following decisions had been made:

- 1.To reduce the number of members from 55 to 35
- 2.To raise the minimum age for candidates to 25 years
- 3.To have a proportional system of representation but with four electoral constituencies (one in each District) as opposed to one.

Prof. ZORGBIBE said some members of the Committee might favour leaving the making of the ELECTORAL Law to Parliament before each election - in that case, the sentence on elections would simply need to say that the Electoral Law would have to respect the principle of a certain degree of proportional representation.

Prof. ZORGBIBE went on to correct a mistake on the draft of Article 3: votes of the Assembly would not normally be secret, though the election of the Chairman and Vice - Chairman would be by secret ballot.

29.Prof. GHAI emphasized the fact that the proposal in E1 with respect to the Upper House was that it be a consultative body only with no rights of veto - it was therefore a compromise proposal.

30.The meeting was closed at 4.35. p.m.

# NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/26

## CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 31 JULY 1979: 8.30 a.m.

Present: G. LEYMANG (Chairman), W. LINI, G. KAIKOA, M. CARLOT, G. PREVOT, A. MALERE, J. NAUPA, T. REUBEN, J. LALOYER (for L. DINI), T. TUNGU, J.M. LEYE, G. KAISAKAU, G. MOLISA, M. TACETAMATA, RINGAO, G. PAKOA, G. CRONSTEADT, J. NATUMAN, S. REGENVANU, K. MATAS, V. BOULEKONE, M. BERNAST (for L. VATOU), F. TIMAKATA (afternoon only).

Invited: Professors ZORGBIBE and GHAI.

Observers : C. BICE (alternate for W. LINI), B. NARAKOBI, M. KALCHICHI (alternate for S. REGENVANU).

Minutes : A. STANDLEY

1. The Chairman asked the Committee to examine document D1 "Parliament", which had been introduced the previous day by Profs. ZORGBIBE and GHAI. He commented that the two important points to be discussed were the Senate/ Council of Chiefs and the Electoral Law.

2. M. TACETAMATA approved of the proposals contained in document D1 - he said the Chiefs were anxious to play a role within the future structure of Government in the New Hebrides. The proposal for a Council of Chiefs, as

contained in D1, he said, fitted in with the views held by Chiefs on this question.

3. Replying to a question from S. REGENVANU concerning the relationship between the Council of Elders that had been discussed at previous meetings and the Council of Chiefs, Prof. ZORGBIBE said that the issue of the Head of State and the Council of Elders could be discussed with the Organization of the Executive. He went on to say that the important issue concerning the Council of Chiefs was to know whether Parliament should be unicameral or bicameral.

4. After some discussion it was decided to refer in discussions to the "Council of Chiefs" rather than to the "Senate".

5. M. CARLOT, speaking on behalf of Nakamal. Movement, said he believed firmly in:

- Only one National Parliament
- A unicameral Parliament.

6. Profs. GHAI and ZORGBIBE emphasized that their proposal was for a consultative Council of Chiefs with no law-making powers. They offered to redraft D1 and to make the Council of Chiefs the subject of a different Chapter in the Constitution: Parliament would thus be unicameral, consisting of the National Assembly only.

7. G. KALSAKAU felt the number of members proposed for the National Assembly (55) was excessive, and that a less expensive solution would be to have a unicameral Parliament, with Chiefs



sitting in the National Assembly. Professor ZORGBIBE reminded G. KALSAKAU of the decisions taken in April on this paper:

- 1) To reduce the number of members to 35,
- 2) To raise the minimum age for candidates to 25 years,
- 3) To have elections based on proportional representation with the country divided into 4 constituencies (one per District).

He felt to include Chiefs in the National Assembly would be dangerous as it would be elected and non-elected members and force Chiefs to play an active political role important.

8.T. TACETAMATA agreed with Prof. ZORGBIBE - he felt it was important /to keep Chiefs in a separate body where, united together, they could strive to unite the country and its custom.

9.W. LINI favoured giving Chiefs a consultative role - if Chiefs wished to play an active part in politics, he said they could stand for election to the National Assembly.

10.G. PAKOA wished to know whether the enactment of laws by the Head of State was a legislative action - if so, the Chapter on Parliament should also cover the Head of State . Prof. ZORGBIBE replied that this was a symbolic action only: Parliament made laws which the Head of State then published officially.

11.Prof. GHAI, replying to a comment from G. KALSAKAU that conflict could arise between the Assembly and the Council of Chiefs, said this was possible - however the Assembly would, constitutionally, be supreme. On the question of cost, Prof. GHAI felt there was no need. to pay salaries to the members of the Council of Chiefs they could .receive allowances whenever they not according to the cone system as had been applied to the MAL FATU MAURI.

12.J. M. LEYE raised the question of the election of the Council of Chiefs. Supported by G. CRONSTEADT, he felt that Island Chiefly Councils should elect District Councils. Those in turn would elect representatives to Ste National Council, K. MATAS commented that this was almost the system in force with the MAL FATU MAURI: each District Collage of Chiefs elected 5 Chiefs to the National body.

13.A discussion followed on the name to be given to this National Council - it was finally decided that the Council should be free to adopt its own none, but that for the purpose of discussion it would be referred to as the National Council of Chiefs.

14.V. BOULEKONE felt there was a need for the powers of the National Council of Chiefs to be clearly defined the proposed that all Bills concerning Custom, Tradition, Land, Education, Civil and Criminal law should be submitted by the Notional Assembly to the National. Council of Chiefs for comment.

15.K. MATAS put forward the idea of the National Council of Chiefs acting as the Council of Elders that had been discussed by the Committee at previous meetings. Thus the National Council of Chiefs would act in times of crisis - it was therefore important that it be kept independent from the Assembly so as not to lose its ability to act in times of crisis.

16.V. BOULEKONE felt that the Constitution should only specify the main principles of the National Council of Chiefs - the number of members, electoral procedure and precise powers should be set out in an Organic Law made by Parliament.

17.Replying to Prof.ZORGBIBE comment that this would mean that the National Council of Chiefs would only be established some months after the National Assembly, K. MATAS proposed

that, until the making of the Organic Law referred to by V. BOULEKONE, the existing Council of Chiefs Regulation be preserved as an interim measure.

18.G. PAKOA felt that, as the custom laws of each island were different, a free choice should be given to each, island over the method of election of the Island Chiefly Council.

19.G. KALSAKAU pointed out that, traditionally, Chiefs were decision-makers, and not were advisors - he feared, therefore, that some might be dissatisfied with a consultative role. M. TACETAMATA assured the Committee that Chiefs were keen to work with the Assembly, and not against it.

20. Profs. ZORGBIBE AND GHAI proposed. a compromise redraft of Articles 8 and 9 of D1, providing for the election of the National Council of Chiefs by the District Councils of Chiefs (themselves elected by island and village Councils of Chiefs) and for an organic law to define the powers of the Council. As an interim measure, the Council of Chiefs Regulation would remain in force.

21.W. LINI felt the independence of the National Council of Chiefs with respect to Parliament needed to be examined and defined. He also felt that it should be decided if, if he was to be separate from the Head of Government, the Head of State was to be elected by the Council of Chiefs. Prof. ZORGBIBE felt this last point could be discussed with the Organization of the Executive.

22. In the discussion that followed on the relations between the Council of Chiefs and the National Assembly, J. NATUMAN felt that the former should remain independent so as to be able to act as a pressure group on Parliament. K. MATAS felt the Committee should decide whether it was intended that the Council of Chiefs have legislative power or not.

23.J.M. LEYE explained the Federal Party's view : Chiefs should have power at a local level - at a national level, power should be held by the National Assembly.

24. Before breaking for lunch, as Professors ZORGBIBE and GHAI said it was difficult for them to draft a new Chapter on the basis of the morning's discussions, V. BOULEKONE and K. MATAS restated their parties positions.

25.K. MATAS explained that the Vanuaaku Pati wished the Council of Chiefs to be totally independent from the Legislature - this so as to enable it to act effectively in times of crisis.

26.V. BOULEKONE said Nakamal Movement wished the Council to work in collaboration with the Assembly. The Assembly would only be able to make certain laws with the participation of the National Council of Chiefs. Nakamal therefore wanted some procedure whereby the national Council of Chiefs had some power to return to the Assembly for reconsideration bills concerning certain matters.

27. Break 11,35 - 14.30.

28..Prof. GHAI opened the afternoon session by describing the consensus that had almost emerged during the morning:

- the National Council of Chiefs was to be kept outside Parliament,
- it would play a consultative role, Parliament being free to consult it on any matter,
- its members would be elected indirectly by the District/Village/ :Leland Councils of Chiefs.
- the most important role of Chiefs was at an island/regional level.

Prof. GHAI emphasized that it was likely that New Hebridean society would undergo many changes in the next few years it was, however, difficult to predict exactly in which directions those changes would be made. It was for this reason that he felt the Constitution should be a flexible document by containing basic principles only - this applied to the Chapter on Chiefs as well.

Prof. GHAI concluded by reading out draft articles for a Chapter on the national Council of Chiefs (document D2).

29.S. REGENVANU and G. KALSAKAU felt it would be better to include some Chiefs in the National Assembly. Prof. GHAI explained the difficulties of this and the danger that it would compel Chiefs to 'take part in party politics.

30.F. TIMAKATA felt Prof. GHAI's proposal was similar to the MAL FATU MAURI: he felt it was possible that there be conflicts between the Government and the Chiefs. He concluded by pointing out that Chiefs were not only involved in aspects of custom such as dancing etc, but also in promoting the development of the villages in the islands.

31. S. REGENVANU asked whether the Constitution would make any provisions for a situation where the Government consistently ignored the Council's recommendations. Prof. GHAI replied that he felt there was no need for such provisions as, in the normal political process, the Government would be bound to seek the views of various groups, including Chiefs, within the country.

32. K. MATAS wished the Constitution to make it clear that the Council of Chiefs was independent from the Assembly.

33. It was finally decided to suspend discussions on the Council of Chiefs until Prof. GHAI's draft had been circulated to members. The Committee then turned to the question of the electoral law.

34. The Chairman and Prof. GHAI emphasized that the Committee was to discuss the electoral system to be used in elections following those scheduled for October 1979. A political decision had already been taken, the Chairman said, to follow the Electoral Reform Ad Hoc Committee's recommendations for the October 1979 elections. He added that with regards to the Constitutional provisions on elections, the Committee could simply agree to the principle of proportional representation without going into all details.

35. Prof. ZORGBIBE explained how proportional representation worked. As there was little time, he felt the Committee, if it wished, could agree to the principle of proportional representation whilst leaving the preparation of the full electoral law to Parliament. Prof. GHAI agreed and said he felt proportional representation was the most democratic electoral system: he pointed out that system of multi-seat constituencies used in the New Hebrides contained an element of proportional representation.

36.S. REGENVANU and A.MALERE suggested that the principle of proportional representation be adopted. J. NAUPA, G. PAKOA, and T. REUBEN expressed their opposition to it. K. MATAS favoured a system of a single-seat constituencies.

37. Prof. ZORGBIBE explained that before leaving for the New Hebrides, the French Government had informed him that a consensus existed in the New Hebrides in favour of multi-seat constituencies and proportional representation - he now saw that this was perhaps not the

constituencies and proportional representation - he now saw that this was perhaps not the case. K. MATAS pointed out that the Electoral Reform Committee had recommended the adoption of single-seat constituencies: the Assembly, however, had rejected this recommendation.

38. J. NATUMAN felt a discussion on the electoral law would be long - could not the Constitution, he asked, simply mention that the Assembly would be elected by universal suffrage, leaving all the other details of the electoral system to a law to be made by Parliament.

39. Prof. ZORGBIBE explained that in countries with an unclear political situation, the electoral system was often described in the Constitution so as to provide guarantees for all communities within the country.

He went to say that the French Government considered that one of the most important points in the Constitution was the electoral law, and that it hoped that a system of proportional representation would be agreed to. Prof. ZORGBIBE concluded that it was perfectly legitimate for the Committee to reject this position, but that if it did so, it should state its rejection clearly.

40. Prof. GHAI said it was for the Committee to make a political decision on the electoral system it wished to adopt. He emphasized again, however, that the law the Committee was discussing was to apply to all elections following these scheduled for October 1979, and not to the October 1979 elections themselves.

41. The meeting was closed at 5.10 p.m.

# NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/27

## CONSTITUTIONAL COMMITTEE

### MINUTES OF MEETING HELD ON 1 AUGUST 1979: 8.45 AM

Present: G Leymang (Chairman), W Lini, G Kalkoa, A Malere, G Prevot, M Carlot, L Dini, J Naupa, T Tungu, J.M Leye, G Kalsakau, A Sandy (for G Pakoa), K Matas, B Sope, J Natuman, Ringao, F Timakata, M Bernast (for L Vatou), V Boulekone, G Cronsteadt, S. Regenvanu, M Tacetamata, S.Molisa (for T Reuben : afternoon only)

Observer: C Bice (alternate for W Lini)

Invited: Professors Zorgbibe and Ghai

Minutes: A. Standley

1. The meeting opened with the examination of document D2 "Council of Chiefs" prepared by Professors Zorgbibe and Ghai. Professor Zorgbibe pointed out that, in the French text, the word "reunions" in Art. 1 should be replaced by "sessions" and that the first line of Art. 3 should read "Le Parlement reglera par une loi les details de l'organisation du Conseil National des Chefs".
2. Replying to G Kalsakau, Professor Ghai explained that the intention was to establish an advisory body which would be consulted by Parliament. Its members would have no voting rights within Parliament.
3. V. Boulekone felt that the Prime Minister should not have the right to decide whether the Council could hold extraordinary meetings. Professor ZORGBIBE said this provision had been included to avoid the danger of the Council meeting permanently - which would be expensive and cause the Council to assume a dominant position in the political life of the country.
4. Replying to a further comment from V Boulekone, Professor Zorgbibe suggested that the words "or the Government" he added to the end of paragraph 2 of Article 1.
5. K. Matas insisted on the need for the Council to be given an independent status: he felt it should be able to meet as frequently as it wished without having to obtain the agreement of the Prime Minister.
6. Professor Zorgbibe felt the word "independent" needed closer definition - no public institution in a democratic state, he explained could be independent: the meaning of democracy was the sharing of power by the institutions of State. If it was the intention of the Committee to allow it to meet whenever it wished, Professor Zorgbibe said, the Council of Chiefs would have a right which even Parliament did not have in many countries.
7. M. Carlot felt that if the Council of Chiefs was to be totally independent, then there was no need for it to be mentioned in the Constitution it would, in effect, have the same status as he such as the Christian Council or Youth Associations.

8. Professor Ghai said he had thought that the contents of document D2 had been approved the previous day. He found difficulty in understanding what was meant by an "independent Council of Chiefs": a Constitution was a charter setting out the relations that existed between the State's institutions- if the Council of Chiefs was to be "independent", its status should virtually be that of a private body and there would be the need for mention to be made of it in the Constitution. Later, Professor Ghai concluded, most members of the Committee seemed to wish for provision to be made for Chiefs in the Constitution.

9. K. Matas proposed that no mention be made of the Council of Chiefs independent status in the Constitution; he asked, however, that the Council be allowed to meet whenever it wished.

10. Professor Ghai proposed the following new second sentence paragraph 2 of article 1: "It shall hold at least one meeting a year; further meetings may be held at the request of the majority of members of the National Council of Chiefs, Parliament or the Government".

11. After a short discussion on this, Professor Zorgbibe, on behalf of the two advisers, expressed some worries about the speed at which the Constitution was being prepared by the Committee - if, he said, the Committee went into all the details, as was perfectly legitimate it would find it extremely difficult to meet its deadlines. Professor Zorgbibe proposed as a compromise for paragraph 2 of Article 1: "The Council meets for the duration of the sessions of Parliament".

12. After a short break from 11.00 to 11.10 to clear up a certain amount of confusion over the amendment proposed by Professor Ghai in point 10 above, F. Timakata pointed out that it would, in practice, be very difficult, on account of communications problems, for a majority of members of the Council to decide to hold an extraordinary meeting. He proposed that the decision be left to an Executive Committee of the Council.

13. Professor Ghai felt it would be better to leave it up to the Council in its rules of procedure, to decide how to call extraordinary meetings.

14. The Committee finally agreed to document D2 with the following amendment: Article 1, paragraph 2, second sentence should read: "It shall hold at least one meeting a year; further meetings may be held at the request of the National Council of Chiefs, Parliament or the Government".

15. After a short introduction of document D1 (2) - an electoral law - by Professor Zorgbibe, the meeting broke from 11.30 to 15.00.

16. The Committee, after lunch, examined Articles 5, 6 and 7 of D1. G. Prevot, so as to protect the tax haven status of the New Hebrides, objected to the use of the word "tax" in an amendment to Article 6, proposed by Professors Ghai and Zorgbibe, that sought to clarify that taxes could not be raised, nor expenditure incurred by Government, without the authority of Parliament.

17. S. Regenvanu, on behalf of the Christian Council made proposals concerning Parliament (NHCC submission No 1).

18. After some discussion, Articles 5, 6 and 7 of paper D1 were approved unamended.

19. The Committee then turned to Articles 3 and 4 of D1. Professor Zorgbibe pointed out a num-

ber of changes to be made the Article 3:- Extraordinary sessions should be called by a majority (and not 2/3) of members. - Votes would, unless otherwise indicated, be open. - The Chairman and Vice - Chairman would be elected by a secret vote.

20.A discussion followed on whether the quorum in Parliament should be 2/3 or a majority. M. Bernast said that if decisions were taken by a majority of the votes cast by those present or represented, and if the quorum was only the majority of members, it would be possible, in an Assembly consisting of 41 members, for laws to be made by members voting in favour. This, he felt, was undemocratic. He therefore felt the quorum should be 2/3 of the members.

21.K. Matas pointed out that a quorum of two-thirds would allow a minority party to block legislation of which it disapproved, by not attending Parliament. He therefore preferred a quorum consisting of a majority of members.

22.W. Lini wished to know a firm decision had been taken on the mandate of Parliament - it was decided this would be discussed together with Article 2.

23.Replying to M. Bernast and K. Matas, Professor Zorgbibe felt the most undemocratic threat was that of a minority party boycotting Parliament, thereby preventing it from meeting. Concerning M. Bernast's point, he said it was the responsibility of members, if they could not attend, to give their proxy to another member: in this way they would still be able to participate.

24.K. Matas said one possible solution would be for the quorum to be 2/3 of members. If no quorum was reached, the meeting of Parliament would be postponed for a few days and the quorum would then become a majority of members only.

25.Professor Ghai explained that the use of the word "absolute" in the English text of Article 3 could be confusing to some members - he said the intention in Article 3 was that decisions be taken by the Assembly by a Majority of votes cast.

26.It was decided that the two advisers would draft a new Article 3 for discussion by the Committee the following day.

27.The Committee agreed to work on Saturday morning and to invite the British Resident Commissioner to give the information on the British Government's position on citizenship then.

28.The meeting was closed at 5.10 p.m.

# NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/28

## CONSTITUTIONAL COMMITTEE

### MINUTES OF MEETING HELD ON 2 AUGUST 1979

Present: G. LEYMANG (Chairman), W. LINI, G. PREVOT, G. KALKOA, J. NAUPA, L. DINI, A. MALERE, M. CARLOT, V. BOULEKONE, G. CRONSTEADT, G. KALSAKAU, J.M. LEYE, J. KALOTITI (for T.TUNGU), M. BERNAST (for L. VATOU), RINGAO, TACETAMATA (morning only), F. TIMAKATA, S. REGENVANU, J.MATAS, J. NATUMAN, S. MOLISA (for T. REUBEN, after-noon only), G. MOLISA.

Invited Professors ZORBIBE and GHAI.

Observers: M. KALCHICHI (alternate for S. REGENVANU), B. NAROKOBI

Minutes A. STANDLEY.

1. The meeting opened with the examination of document D (2) prepared by Professors Ghai and Zorbibe to replace the original article 2 of document "Parliament".

2. G. KALKOA raised the question of the term of office of Parliament. He said that at the time of the meetings of the Ad Hoc Electoral Reform Committee, the Moderate Parties had favoured a term of four years, and the Vanuaaku Pati 5 years. J. NAUPA, M. TACTAMATA, and K. MATAS also favoured 5 years.

3. J. M. LEYE, L. DINI, and G. KALSAKAU proposed 4 years. M. CARLOT said he had originally thought 3 years was a suitable term of office: he proposed 4 years as a compromise.

4. The Committee agreed to Parliament being elected for 4 years.

5. The Committee then discussed the proposal for multi seat constituencies. J. NAUPA proposed that the first sentence of Article 2 be amended to read: "Parliament is composed of members, elected for 4 years by universal suffrage according to the system of one man one vote".

6. At request of K.MATAS, the Chairman read out Recommendations 24,25 and 26 of the report submitted to the Assembly by the Ad Hoc Electoral Reform Committee.

7. Professor ZORGBIBE explained that the proposal in the new Article 2 made a number of electoral systems possible, though a "first past the post" system would not be possible.

8. J. NAUPA disagreed with the proposal in D1(2) - He felt a disadvantage of multi-seat constituencies was that, in the case of a member resigning his seat or dying, a by-election would have to be held throughout the constituency.

9. Professor GHAI gave an explanation of the advantages and disadvantages of different electoral systems. He concluded, by saying that, all in all, he felt a system of proportional representation was preferable in the New Hebrides, he pointed out the importance of the role that the electoral in law would play\* either uniting or dividing the country.

10. W. LINI explained that there existed a precise Melanesian notion of democracy based on the following principles:- one man one vote,



- the candidate receiving the largest number of votes to be elected.
- the party with the most seats in Parliament to form the Government.
- the other parties in Parliament to form the Opposition.

He questioned whether permanent minorities existed in the New Hebrides - he felt that there were none: when France and Britain spoke of the need to protect minorities, they were in fact concerned about their own nationals.

W. LINI concluded by saying that the people in the Islands would not agree to a system of proportional representation - such a system not being in accordance with their notion of democracy.

11.V. BOULEKONE agreed with many of the points made by W. LINI. He felt, however, that too close an association between a member of Parliament and a constituency could encourage regionalisation: it was important, he said, that the role of members be essentially national. V. BOULEKONE said that a system of proportional representation would still produce a majority and a minority in Parliament: it did not, therefore, prevent the country from being governable.

12. M. TACETAMATA felt that the installation of a truly New Hebridean Government after independence would be an important factor in uniting the people of the New Hebrides. F. TIMAKATA believed the Melanesian approach was a less aggressive one than in Western systems that were based on the confrontation between majority and minority. The Melanesian way, he said, always sought to reach a consensus rather than to divide.

13. Lunch break 11.40 a.m. to 2.45 p.m.

14. Professor GHAI went over the morning's discussions. He emphasized that if the Committee was able to present a united front to France and Britain at the Constitution/Conference, it would be in a strong position to obtain the constitution it wanted for the New Hebrides. If, on the other hand, the Committee was divided, France and Britain would find it easier to impose their points of view on the New Hebrides.

15.K. MATAS and G. CRONSTEADT felt it was unlikely that a consensus would emerge on the question of the electoral law. K. MATAS proposed that the Ad Hoc Committee report's recommendations be used as a basis for discussions. Speaking in favour of single-seat constituencies, he said the demarcation of constituencies could be left to a neutral Constituency Boundaries Commission.

16.S. REGENVANU proposed that, as no consensus had been reached, a vote be taken to find out who favoured the various proposals made. The Chairman replied that it had been decided not to vote in the Committee.

17.V. BOULEKONE warned against the danger of rushing through constitutional preparations he felt the pressure to go at breakneck speed should be resisted. Replying to K. MATAS he said that, as a member of the Representative Assembly, he would find it difficult to use the Ad Hoc Committee's recommendations as a basis for discussions, as a number of important recommendations (including that in favour of single-seat constituencies) had been rejected by the Assembly. He ended by pointing out the possibilities of gerrymandering that .

18. W. LINI supported V. BOULEKONE in believing that the electoral law. M. CARLOT agreed,

he pointed out, also that the Ad Hoc Committee recommendations were to be followed for the October 1979 elections only:

the Committee was not obliged to follow these recommendations when discussing the electoral law that was to be included in the Constitution to apply to subsequent elections.

19. S. REGENVANU, speaking in his own name and not that of the Christian Council, felt that a system of proportional representation held the following disadvantages: - it discouraged independent Candidates, - it prevented the creation of close links between a member and his constituency, - it encouraged the proliferation of small parties.

20. Replying to W. LINI, the Chairman said he hoped the Committee would continue to work after the departure of Professors ZORGBIBE and GHAI.

21. K. MATAS agreed that a system of single-seat constituencies contained undemocratic aspects, but he felt this was sometimes inevitable. He added that the Vanuaaku Pati was not afraid of proportional representation or any other electoral system the Pati was, he said, going to participate in the next elections, based on multi-seat constituencies. He said, however, that a compromise was possible on the question of the electoral law, and made the following proposal:

1) Adopt the system of single-seat constituencies

2) Boundaries to be drawn by a neutral Commission

3) The Commission's boundary proposals to be approved by Parliament, not by a simple majority, but by a 2/4, 3/4 or even 4/5 majority to prevent the majority party in Parliament from rigging the elections.

22. F. TIMAKATA made the following proposal for paragraph 1 of Article 2 of the Chapter on Parliament: "Parliament is composed of members, elected for four years, from single-seat constituencies, with some elements of proportional representation, enabling the various political parties to be fairly represented".

23. Professors GHAI and ZORGBIBE then offered to prepare a paper on two other possible electoral systems, in force in Mauritius and in West Germany, which might be accepted as a compromise by the Committee.

24. The meeting was closed at 4.45 p.m.

# NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/29

## CONSTITUTIONAL COMMITTEE

### MINUTES OF MEETING HELD ON 3 AUGUST 1979 AT 8.30 a.m.

Present: G. LEYMANG (Chairman), W. LINI, G. KALKOA, G. PREVOT, A. MALERE, J. NAUPA, M. CARLOT, L. LALOYER (for L. DINI), V. BOULEKONE, J. KALOTITI (for T. TUNGU), G. KALSAKAU, J-M LEYE, M. BERNAST (for L. VATOU), G. CRONSTEADT, F. TIMAKATA, RINGAO, W. BONGMATUR, S. REGENVANU, K. MATAS, J. NATUMAN, G. MOLISA, S. MOLISA (for T. REUBEN), G. PAKOA.

Invited: Professor GHAI, Professor ZORGBIBE (morning only)

Observers: C.BICE (alternate for W. LINI), B. NAROKOBI

Minutes: A. STANDLEY

1. The Committee approved the redraft of Article 3 of document D1 "Parliament" (see document D1 (3)) with the deletion of the words "or a week" in the last sentence of paragraph 1.
2. The Committee then examined article 10 of document D1. Prof. ZORGBIBE pointed out that, as the Committee had decided that the Council of Chiefs should not be part of Parliament, the words "and the National Council. of Chiefs" should be included after "Parliament" where relevant.
3. A long discussion followed on this article. It was generally agreed that paragraph was acceptable, although the English text required rewording to make it clear that Members of Parliament could not be prosecuted or arrested for opinions or votes expressed in the Assembly. It was felt, however, that paragraph 2 gave too great an immunity to Members of Parliament - certain members felt that if paragraph 2 were approved, Members of Parliament would be above the law.
4. Professor ZORGBIBE explained that the purpose of the proposal was to avoid the danger of a Government harassing a Member of Parliament belonging to an opposition party - this, he said, was something that did happen in certain countries.
5. J..M. LEYE felt the immunity proposed in paragraph 2 of Article 10 was too great; it would also have the effect of encouraging bad Members of Parliament.
6. K.MATAS felt that paragraph 1 was acceptable provided that the wording. of the English text was clarified. On paragraph 2, he felt that, outside sessions of Parliament, Members should be subject to the laws of the country in the same as ordinary citizens. He therefore proposed that paragraph 2 be amended to read: "They cannot be prosecuted or arrested, for a serious or minor offence, during Parliamentary or Committee occasions, without the authorisation of the Speaker."
7. After a number of further comments and suggestions, the Chairman called a break the meeting from 11.00 to 11.15 to allow F. TIMAKATA, V. BOULEKONE and K. MATAS to draft a new paragraph 2.
8. After the break K. MATAS read out the following new draft paragraph 2:  
"They cannot be arrested or prosecuted during a session of Parliament or a Committee for any

offence. Parliament may provide for the waiver of this provision in special circumstances.”

9. Following further discussion, Prof. GHAI proposed a new version:

“They cannot be arrested or prosecuted during a session of Parliament or a Committee for any offence, unless authorised by Parliament in exceptional circumstances.”

10. Professor ZORGBIBE approved, though he said another phrase in French would have to be found for ‘exceptional circumstances’ as this had a different meaning in French.

11. Break 11.40 - 14.20

12. Prof. GHAI began the after noon session by saying he felt a consensus had been reached on Article 10 of D1, although the French text required revision (see points 9 and 10 above).

13. Prof. GHAI then moved onto the question of Regionalisation/ Decentralisation and went through paper A1 that he had prepared during his previous visit in April. He outlined the advantages and disadvantages of centralised, decentralised and federal systems and concluded by saying that his personal bias was in favour of a decentralised state. He had, accordingly, drafted paper A6.

14. S. REGENVANU gave an account of the Christian Council’s position on this issue. The Council, he said, favoured a decentralized unitary state, with the national Government controlling: police, armed forces, currency, taxes, foreign affairs, national education and Courts (except perhaps custom courts).

Parliament would have the right to abolish any provincial, district or island government by an absolute two thirds majority vote, stating clearly the reasons for its decision. Each island would be free to adopt the system it wanted and no island would be obliged to have local government if it did not wish it.

S. Regenvanu concluded by saying that everyone had the right to:

- participate in government
- share resources

but that the system to be adopted in the New Hebrides should not have a divisive effect.

15. G. CRONSTEADT disagreed with paper A6 - he felt a better basis for discussion would be paper A2. K. MATAS said a consensus had already been reached in favour of a unitary state: he felt it would be more useful to have a general discussion before examining a particular proposal in detail.

16. M. BERNAST gave Tabwemassana’s position on this question: originally it had favoured federalism as a means to achieving decentralization. However, after seeing that other groups on Santo sought Federalism in order to secede from the rest of the New Hebrides, Tabwemassana was now anxious that there be no possibility of secession. The basis of the nation, he said, was the village: local government should therefore start at this level, then go to the district and national levels - this was the Weaning of Tabwemassana’s joint proposal with Nakamal, contained in A5.

17. V. BOULEKONE spoke of the local government situation on Pentecost: it was, he said, difficult to make people understand even Community Councils, and half the island rejected the idea of such Councils. He felt that, as a leader on the island, he would, he said, be like offering them an expensive toy that they could not use.

18. W. LINI also described local government on Pentecost whether, in the North, there already

existed 24 villages councils that functioned well, dealing with the registration of births, deaths and marriages, village development and recording their meetings. These village councils were grouped into 4 subdistricts, responsible for tax collection. W. Lini believed that local government should have its roots at the village level; it could then be seen whether district level government was possible. The experience of the last 30 years, however, had shown that by imposing regional government from above, islands were not allowed to develop individually.

19. J.M. LEYE replied that district government during the Condominium days was meaningless as it was controlled by the central government, and had no power to steer its own course. He explained that the Federal Party's intention was not to remove all power from the central government: it was rather to create a semi-federal state in which the islands were able to give directions to the central government on their needs and the development they desired.

20. J. KALOTITI approved J.M. Leye's remarks, on behalf of Natatok Efate.

21. M. CARLOT considered that the question of decentralisation should be left open as no one knew yet what kind of system was best suited to the New Hebrides. He therefore approved A6 as allowing the implementation of whatever system was found to function best in the country. He concluded by adding that the difference between deconcentration and decentralisation should be appreciated.

22. G. CRONSTEADT repeated his opposition to the proposals in paper A6: centralised government had yielded ludicrous results in many instances, he said, and detailed provisions for decentralisation were a necessity.

23. V. BOULEKONE summarised the comments made by the various parties. Nakamal, Tabwemassana and that Vanuaaku Pati had made their positions clear. J.M. Leye and J. Kalotiti, he said, although employing the term "federal", were in substantial agreement with the proposals contained in A6. The Federal Party, however, had not, he felt, made any clear proposals: they were, rather, going against the consensus already reached by the Committee.

24. G. KALOKA pointed out to the Federal Party that A6 was no obstacle to decentralisation.

25. M. BERNAST agreed with document A6, though he wished the word "regions" to be deleted and replaced:

- in the heading by "decentralisation"
- in article 1 by "village through its island government"
- in article 2 by "decentralised" and deleting the words "in the region"

26. S. MOLISA described the differences between administrative and political decentralization: if a Regional Council had been created in Santo, he said, it would simply have been to satisfy a small section of the population of the island living in Luganville.

27. J.M. LEYE repeated that he wished districts to have a say in the management of their own affairs. He did not advocate, he said, total power being given to any District, or secession, but the sharing of power between the Districts and the central government. He felt that A6 could be acceptable, provided that the problem be dealt with clearly in the Constitution and that it be put to the people in a referendum.

28. Prof. GHAI considered that a considerable measure of agreement existed over A6. He explained that his original intention had been to include Articles 1 and 2 only of A6: however, on account of the position held by the Moderates, he had added Article 3 which set out in very

clear to us the procedure that Parliament would follow on the question of Decentralization. He pointed out that Prof. Zorngibe and he had not done this in other chapters of the Constitution, though he hoped that the procedure set out in Article 3 would be employed widely by Parliament to resolve other difficult issues.

Prof. Ghai went on to explain that A6 was a compromise proposals it was difficult to set out detailed proposals for decentralisation as a wide choice of possible systems existed - further discussion by Parliament was needed before the most appropriate system could be chosen.

# NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/30

## CONSTITUTIONAL COMMITTEE

### MINUTES OF MEETING HELD ON 6 AUGUST 1979: 8.30 a.m.

Present: G.LEYMANG (Chairman), W. LINI, G. PREVOT, A. MALERE, M. CARLOT, J. NAUPA, G. KALKOA, L. DINI (represented by J. LALOYER in morning), B. SOPE, G. MOLISA, J. NATUMAN, G. CRONSTEADT, G.KALSAKAU, J.M. LEYE, T. TUNGU, M. BERNAST

Invited: Professor GHAI, Professor ZORGBIBE (morning only), A. STUART.

Observers: B. NARAKOBI

Minutes: A. STANDLEY

1. The Chairman invited Mr. A. STUART, British Resident Commissioner, to speak on the British Government's position on the question of citizenship.  
A. STUART explained that the British Government's view was that the same fundamental principle of citizenship should apply in the New Hebrides as in the United Kingdom: persons born in the country should be given the country's nationality, Britain had adopted this position, he said, as a result of events in other territories it had administered, notably in East Africa, where, after independence, persons born in the territory, but belonging to a non-indigenous minority, had been expelled and made homeless. Being British subjects, they went to settle in Britain, The British government did not fool, however, that a similar situation should be allowed to reoccur it therefore sought to ensure that British Subjects end Citizens, born in a territory it administered, be given that territory's citizenship.  
A. STUART appreciated the worries felt by some New Hebrideans on this issue - specially the possibility that, by being made New Hebridean citizens, these ex-British subjects would either retain control over land they had bought, or would make further land purchases. He felt, however, that if it so wished, the New Hebrides Government could make land laws restricting free hold ownership to certain categories of New Hebridean citizens. He added that the issue of New Hebridean citizens. He added that the issue of citizenship was the only one on which the British Government would be insistent.  
A. STUART concluded by going through the figures contained in the Annexe to paper H2: he pointed out that less than 100 people were involved in this issue.
2. Replying to a question from W. LINI, Professor ZORGBIBE said France's attitude to citizenship when granting independence to its colonies was to accept whatever citizenship laws the ex-colony made, and to resettle in France those persons unable to remain in the newly independent country.
3. The Chairman thanked Mr. Stuart for speaking to the Committee.
4. The meeting continued with the examination of the Electoral Law proposal made by Professors Ghai and Zorgbibe, in paper. D1 (4).
5. M. BERNAST and K.. MATAS expressed their reservations on this proposal, especially on

account of its complexity they felt it would be extremely difficult to explain it to people in the islands. They favoured a system of single seat constituencies, though K. MATAS said the Vanuaaku Pati was willing to discuss other systems provided they were not too complex.

6. Replying to a question from J.M. LEYE, the Chairmen explained that the electoral law under discussion was to be applied to elections after those scheduled for October 1979, The October 1979 elections, would, he said, be held on roughly the same basis as the 1975 elections, with one or two modifications (voting age, overseas voters etc.).

7. Professors YASH GHAI and ZORGBIBE agreed that the D1 (4) proposal was complicated, though the latter pointed out that it was used in some countries in the world, including Mauritius. Prof. GHAI thought a more general provision could be more acceptable he proposed:

“Members of Parliament shall be elected on the basis of universal franchise through an electoral system which includes an element of proportional representation so as to ensure fair representation of all political groups and opinions.”

8. The meeting broke from 9.40 to 10.15 to allow G. Cronsteadt, K. Matas, J.M. Leye, M. Bernast, M. Carlot and G. Kalkoa to prepare a proposal.

9. After the break, K. Matas explained that it had been decided that a general statement, making reference to proportional representation, of the kind suggested by Prof. Ghai, was acceptable, with two additions:

-Parliament would set up a Committee, with all political parties (whether represented in Parliament or not) equally represented, to examine the electoral system.

-The Committee would make recommendations to Parliament; these would become law after delay, approved by a 2/3 majority of Parliament.

10. This was approved by the Constitutional Committee. Prof. GHAI felt the proposal was a good one he was glad that the Vanuaaku Pati had accepted to compromise on this issue.

11. The Committee then examined paper F1 - Revision of the Constitution, introduced by Professor. ZORGBIBE. A discussion followed on whether certain Revision proposals should be approved by referendum rather than by Parliament. G. CRONSTEADT and J.M. LEYE disagreed with a proposal supported by K. MATAS and M. BERNAST that only a Revision affecting the status of the Official languages be put to the people in a referendum. They felt that Decentralisation and the Electoral Law were as important as the Official Languages, and should also be decided upon by referendum.

12. K. MATAS said Vanuaaku Pati had no firm stand on this issue, as long as the procedure adopted was fair and not too complicated. He raised the possibility, if Revision proposals had to be approved by a 2/3 majority with 3/4 of the members present, of a minority party blocking a Revision by boycotting the session of Parliament. He proposed that the quorum be 3/4 of the members: if this was not the quorum would fall to 2/3 of the members a week later.

13. Before the meeting broke for lunch the Chairman thanked Professor ZORGBIBE, who was leaving in afternoon, for all of his work.

14. The Committee continued to discuss paper F1 for a short time. It was decided that the issue of decentralisation would have to be resolved before a decision could be taken on whether or not revision proposals concerning it would have to be approved in a referendum, The Committee therefore turned to paper A6 “Regions”.



15.J.M LEYE wished to know if the Constitution would be approved by the people in a referendum. Prof.GHAI felt that this issue, being purely political, could perhaps be discussed by the Committee after his departure.

16.M. BERNAST, referring to A6, proposed that :

- the title be changed to "Decentralisation"
- in article 1, "region" be replaced by "village, island. and district"
- in article 2, "regional" be replaced by "decentralised", and "in the region" deleted

in article 3, the Commission be made to consist of an equal representation of all political parties, whether represented in Parliament or not.

17.Following a query from J. M LEYE, Prof. GHAI explained that according to A6, Parliament would be bound to implement some form of decentralisation. It would be up to Parliament to decide on the system it wished to adopt.

18.G. CRONSTEA:DT pointed out that the Representative Assembly had already voted a law to create Regional Councils, yet nothing had been done to implement it. The Federal Party therefore wished to have guarantees that a policy of decentralisation would be implemented the Constitution should state the number of regions, their powers, financial structure etc. He feared that if it would never be possible to revise the Constitution if a 2/3 majority vote in Parliament was required, as no party would ever have such a substantial majority, It was therefore' essential that it be possible to amend the Constitution by referendum.

19, W, LINI felt that one of the particular advantages of t!6 was that it accomodated all the views held by various political parties it would then, in accordance with article 3 of A6, be up to the Co mission to examine the proposals made by political parties and other groups, S. REGENVANU proposed that representatives of the National Council of Chiefs and the Churches be included on the Commission,. G. KALSAKAU approved; M. BERNAST felt it would be preferable not to involve the Churches in such a political question.

20. M. BERNAST emphasized the need to have trust in Parliament - having a hundred lines in the Constitution on Decentralisation, he said to the Federal Party, would still not provide guarantees if one did not trust Parliament.

21.M. TACETAMATA, recently returned from Santo, said the majority of the population on the island was opposed to a Santo Regional Council. M. BERNAST said a way to find out whether a Regional Council was wanted would be to hold a referendum.

22.Replying to G. KALSAKAU , the Chairman confirmed that a Consensus had. been reached in favour of a decentralized, Parliamentary system.

23.Prof. YASH GHAI also spoke of the need to trust Parliament. He felt that to seek too many guarantees could lead to an excessively long and inflexible Constitution that, rapidly became completely unworkable, and thus failed to provide any guarantees.

He spoke of the need to show a spirit of conciliation and compromise in the Committee - the Vanuaaku Pati had made a number of concessions a he hoped the Federal Party would be able to accept 116, which had already received the approval of all the other parties. It would be of use, he went on for the Federal Party to prepare concrete proposals on the issue of Decentralization/Regionalization .some of them could perhaps be inserted within A6.

Replying to comments from K. MATAS and J.M. LEYE, Prof. YASH GHAI regretted that Prof, ZORGBIBE and he held different views on Regionalisation.. He added, however, that Prof. Zorbibe had readily agreed that paper A6 be submitted to the Committee. Prof. YASH GHAI concluded by giving a brief account of the provisions relating to Provincial Government in the Solomon Islands Constitution.

24.The meeting was closed at 5.00 p.m.