

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD AT 10.30 a.m. ON 3rd APRIL 1979

Present: G. LEYMANG (Chairman), W. LINI, L. DINI, G. PREVOT, M. CARLOT, T. REUBEN, J. NAUPA, D. KALPOKAS, G. KALKOA, A. STANDLEY (Minutes).

Apologies: A. MALERE

Invited: Prof. Yash Ghai

G. LEYMANG opened the meeting by welcoming Professor Yash Ghai. He explained that the purpose of the meeting was to agree upon a work procedure in the light of the comments that professor Yash Ghai might make.

Professor Yash Ghai replied that it was unfortunate that the arrival of his French colleague Professor Zorgbebe, had been delayed. However, he had had the opportunity of spending a day with Professor Zorgbebe in Paris and noted that a fair measure of agreement existed between them.

He continued by explaining that his role was that of an adviser to the Constitutional Committee - it was for the Government and the people of the New Hebrides to decide upon the Constitution they wished to have.

Professor Yash Ghai went on to go over the time-table contained within the Dijoud Plan: the two constitutional experts were to assist in the preparation of the basic principles of the constitution. These would be discussed with the French and British Ministers in May: if agreement was reached, drafting would then be begun for completion in July. He noted that this time-table imposed constraints: it was for the Council of Ministers to decide whether it was workable.

He discussed the possibility of the GNU Committee coordinating its work with that of the Representative Assembly's Constitutional Committee.

Professor Yash Ghai then went on to say that it was important to obtain agreement on the basic principles to be contained in the Constitution. This could be achieved by frequent meetings of the Ministers to go through the most important points; consultation with outside bodies could follow this agreement. These basic principles could be the basis of the May talks with the French and British Ministers.

W. LINI raised the question of the time-table in the Dijoud Plan: he felt it was important to settle this point before examining the basic principles of the Constitution. He said that if it was decided to reject the time-table, then more time would be available for the preparation of the Constitution; if, however, the time-table was accepted, meetings would need to be held with much greater frequency in the weeks to come.

G. LEYMANG asked the Committee to decide whether to adopt the Dijoud time-table or not.

G. KALKOA said this question was fundamental and to be settled before the discussion on basic principles could begin. He felt the Dijoud time-table was not practical and should be rejected: the New Hebrides should not be rushed by France and Britain. He said the Constitution should be what the people wanted and should be presented to an elected, representative Assembly. He concluded by saying that the Constitution could not be prepared within 6 months.

L. DINI. Supported G. KALKOA and stated his belief that it was necessary for gradual steps to be taken: even if work was to be showed down, it would still be possible to have independence in 1980. The Constitution was important, he said, but only one of many important things.

M. CARLOT said that at first meeting of the Committee it had been decided to meet once a week. He proposed that, as the work of the Committee was underway, it should continue with the assistance of Professor Yash Ghai but without a definite time-table being set. M. CARLOT said he was willing to continue to work on the basis of weekly meetings.

G. KALKOA said that, as Professor Yash Ghai was only staying one week in the New Hebrides, it was important to press on.

W. LINI said he saw no problem in following Mr. Carlot's proposal and to start working on the basic principles of the Constitution. He said the question of the relationship between the GNU Committee, the Assembly's Committee and the Vanuaaku Pati's Committee had not been discussed with Professor Yash Ghai. For the latter's information, he said it had been agreed that the Council of Ministers should form the Committee, but that in some sessions it could be joined by the Assembly and VP Committees.

Professor Yash Ghai said the question of the Dijoud time-table was critical and that he understood the position of the Ministers - the Dijoud Plan deadlines were tight, but could be met by the Committee. However, this would allow little time for consultation with the people. However, this would allow little time for consultation with the people.

As the Constitution was the fundamental document of an independent nation, it was essential that it have the approval of the people. He felt it would be preferable for the people to be consulted on the basis of options rather than formulated proposals. However, the latter might be forced upon the Committee given the narrow time constraints. He added that the Government should not feel bound by any document that was submitted to the French and British Governments before the May meeting - they could always be amended. He concluded by suggesting that the questions that were felt to be important by the Committee should be focused on. A working method, that took account the number of questions to be discussed, could then be established.

W. LINI said that even if it was agreed not to take a decision about the Dijoud Plan time-table, problems might ensue. The important questions were political - if no decision was taken as to whether elections should be held before or after the Constitutional referendum, the people would become frustrated and restless. Thus future problems might be avoided if a decision was taken on when the referendum should be held.

M. CARLOT agreed that this question was very important. He wondered, also, if the population would wish to know what the time -table was.

J. NAUPA said that, as Professor Yash Ghai was present, it was important that the Committee should show him its position.

W. LINI pointed out that Mr. Dijoud wished the referendum to be held before Assembly elections - the danger was, however, that half the population wanted elections before the constitutional referendum. By failing to take note of these people, the Government would be contradicting the Dijoud Plan.

He went on to say that, if France and Britain detected a split within the GNU on this issue, they

would find it hard to approve any proposal on the question of the order of the elections and the referendum. If there were uncertainty on this point, it would be difficult to obtain agreement on the adoption of a working method.

Professor Yash Ghai said it was difficult for him to comment on this as these were political issues. The situation in the New Hebrides was complicated: whereas in other countries the Representative Assembly worked on the Constitution, the fact that the Assembly in the New Hebrides was questioned by some, made this more delicate. He said that in a previous report he had suggested that the Constitution-making should follow elections, and that the elected Assembly should work on the Constitution. His personal opinion was, he said, that elections should be held as soon as possible, and that the elected Assembly should be given a large share in the preparation of the Constitution. He repeated, however, that these were political questions and not for a consultant to answer.

He requested clarification on W. Lini's last point and said he understood that some feared that a referendum might be a way of delaying elections. The substantive question was whether elections should be held before or after the preparation of the Constitution, and whether the new Assembly would have a role to play in the preparation of the Constitution or whether the Constitution would already have been agreed upon.

G. LEYMANG requested Professor Yash Ghai to outline what he considered to be the main points that emerged from the Questionnaire that had been circulated to Committee members.

Professor Yash Ghai replied that the following issues were tentatively the most important:

- Nature of Executive: Parliamentary Cabinet, Presidential, or a combination of both?
- Nature of Legislature, but he felt this would probably not be controversial, though the method of election would need to be discussed.
- Unitary or other kind of state: he felt the Questionnaire should be rephrased as in its present for it did not give a full idea of the options available or of the possible units of decentralization.
- Land
- Role of Custom Chiefs (and the role of a Second Chamber)
- Human rights and an independent Judiciary (though these should not be controversial).
- Rights of Minorities: what Minorities? What rights? What protection?
- Amendment processes.

W. LINI went back to Professor Yash Ghai's request for clarification and explained that he was referring to whether the referendum would be before or after the elections. He expressed two fears on this subject:

- What would happen if the people rejected the Constitution put to them in a referendum?
- Could amendments by the new Assembly to the Constitution that had been rejected lead to political disagreements?

He feared that Independence could be delayed if the people rejected the Constitution in a referendum. The danger was, he said, that constitutional amendments made by the Assembly might not be acceptable to the people. These were political worries that would act to put pressure on the Government.

G. LEYMANG closed the meeting at 11.45 a.m. by announcing that the next meeting would be held on Friday 6 April.

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD AT 10.45 ON 6 APRIL 1979.

Present: G. Leymang, (Chairman), W. Lini, L. Dini, G. Prevot, G. Kalkoa, M. Carlot, J. Naupa, T. Reuben, D Kalpokas, A. Standley (Minutes).

Apologies: A. Malere

Invited: Prof. Yash Ghai

1. After the distribution of the Minutes of the previous meeting and notes by Prof. Yash Ghai on possible ways of organizing the Executive, the Chairman opened the meeting.

2. Prof. Yash Ghai spoke expressing his uncertainty as to what was expected of him: before leaving London, he had been made to understand that there existed a high degree of consensus in the New Hebrides on the question of the preparation of the Constitution. Accordingly, he had allowed two weeks in the New Hebrides during which time he had hoped to work intensively with the Committee to prepare basic proposal.

On arrival in the country, however, he found that much disagreement remained and that only one hour a week had been set aside for the Committee to meet. He noted that all political groupings showed a reluctance to work on the Constitution and that many outstanding questions were yet to be resolved.

Referring to the previous meeting of the Constitutional Committee, he felt it was important to discuss questions of methodology, rather than the substance of the Constitution. Unless the political parties abandoned their dogmatic positions and showed a willingness to compromise, the atmosphere would never be propitious for work on the Constitution.

He went on to outline two days of proceeding - one would be based on his presenting information papers on various aspects of the Constitution for discussion; the other would be for him to make concrete proposals as to what might go into the Constitution. Whereas the second alternative would perhaps lead to more rapid results, he preferred using the first method.

He was anxious, however, that a consensus be reached and that the Constitution become a way of creating unity. In order to try to find a way to achieve a compromise between the Vanuaaku Pati and the Moderates, he suggested that there be further discussion on outstanding political problems.

3. W. Lini said the important question to resolve was that of the time-table of the main steps leading to Independence. He considered that this was the cause of the split between the different political groupings.

He went on to say that the GNU was in no way committed to the Dijoud Plan.

4. G. Leymang said that the Committee, at its previous meeting, had discussed the need to work on both the Elections and the Constitution. The Government was not obliged to work according to the Dijoud Plan. He pointed out that this Plan was not Mr. Dijoud's personal plan, but rather a joint Franco-British one.

He concluded by asking if the GNU could agree on working on the Elections and the Constitution at the same time.

5.G. Kalkoa said that work on Elections and the Constitution should proceed at the same time. Once the date for the Elections was decided upon, work on the Constitution could cease for the new Assembly to resume after the Elections. He wondered why the referendum contained in the Dijoud Plan was necessary.

6. G. Leymang said he had also been wondering about the referendum. He felt that, as long as there was a massive consultation with the people during the preparation of the Constitution, there was no need for a referendum. Why polarize on the referendum question, he said - that part of the Dijoud Plan could be left aside.

7. Prof. Yash Ghai said a referendum was not strictly necessary - however thought would have to be given in that case to the enactment of the Constitution. He said that in a situation where one political party did not accept the Representative Assembly, a referendum had certain advantages; it also gave moral and legal force to the Constitution.

He explained that a referendum had, to his knowledge, never been used in any British-administered territory. He discussed the way the Constitution had been prepared in Papua New Guinea and the Solomon Islands, with the creation of Parliamentary Committees that consulted the people and made proposals for final ratification by the Assembly.

In the Solomon Islands, final ratification has been preceded by a Constitutional Conference where Britain had insisted on certain modifications to the proposals.

In both countries, however, the Constitution had been prepared by political leaders with little interference from the Metropolitan powers. He felt the same should happen in the New Hebrides. The Constitution should become, he said, the instrument of National Unity: the people should feel involved in its preparation and be consulted.

The value of a referendum was that it overcame the enactment problem (i.e. whether the Constitution should be enacted simply upon completion of the GNU proposals, or by the new Representative Assembly, or by Joint Regulation). With a referendum, the draft Constitution could be submitted to France and Britain and then put to the people.

8. The meeting then adjourned from 11.45 to 14.00 hrs.

9. Prof. Yash Ghai resumed the discussions, saying that in the morning it had been said that before work could start seriously on the Constitution, important questions such as the referendum, possible alternatives and time-tables should be resolved. He felt saying that in the morning it had been said that before work could start seriously on the Constitution, important questions such as the referendum, possible alternatives and time-tables should be resolved. He felt that work on the actual Constitution might begin profitably, as if agreement was found to exist on many points, other worries could disappear.

He went on to discuss the political situation in the New Hebrides, saying that there existed a solid base for unity: the divisions were artificial. France and Britain were divisive factors and should cease their interference. The country's political leaders should also provide leadership and not always wait to be dictated to by their parties.

He examined briefly the main fears and worries of the two main political tendencies. He said the VP did not wish to be frustrated by a minority, and to make compromises that might restrict their freedom of action later. They also did not wish to have a rushed Constitution that would lack legitimacy.

The Federal Party, he said, was worried about their position as a minority and their lesser ability to influence events.

He said that he felt, however, that the "minority" that existed in the New Hebrides was not a

a minority in the classic sense – it represented almost half the population. Furthermore, France and Britain would not leave the New Hebrides unless a satisfactory Constitution was enacted. Therefore compromises would have to be made so that the country could be governable.

It was important to find the common ground that existed between the various groups - but basic decisions had to be taken first, he said. Did the parties want to work in unity, did they want independence, did they wish to cooperate with each other? These questions were not to be obscured by details that hid the underlying unity and agreement that existed.

10. G. Kalkoa, asked Prof. Yash Thai how he had obtained the Impression before leaving London that a consensus existed, and that he thought of the Questionnaire prepared by the Chief Minister's Office.

11. Prof. Yash Ghai said his impression was the result he had received before leaving. He thought the Questionnaire was good and could perhaps be taken part by part.

12. J. Naupa said it was essential to see where things were leading. Unless basic differences were resolved, work could not begin on the Constitution. Elections were the priority as they would pave the way for the Constitution.

13. T.Reuben considered that the essential priorities were the Elections and the Constitutions the Committee did. not need to worry about the referendum but should start work on the Constitution. By the time the new Assembly was elected, the draft could well be completed and ready for submission to the Assembly.

14. G. Kalkoa felt it would take more than 3 to 4 months to prepare the Constitution. Work should start however on preparations for both Elections and the Constitution.

15. W. Lini said it was important for a timetable to be agreed upon so that the people could know what the Government's program was. He felt it should be possible for the GNU to decide on a time-table for electoral registration, elections, Constitution and Independence. If this was not decided and publicized, it would be difficult for the GNU to continue to operate.

16. M. Carlot disagreed, saying that it was more important for work to start on the Constitution the time-table could be agreed upon later. If the people disapproved of this, they could express their dissatisfaction.

17. D. Kalpokas was of the opinion that there should be a timetable, but as the Committee had met to work, it was better to start preparing the Constitution,

18. G.Prevot agreed with Mr Kalpokas last remark. He reminded the Committee of the decision taken at the first informal meeting to issue the Constitution Questionnaire to political parties for return through the VP Constitution Committee and R.A, Ad Hoc Constitution Committee.

19. Kalkoa outlined a possible time-table: the Census Office could produce provisional rolls by May. The Election could take place in July/August. The draft Constitution could then be submitted to the Representative Assembly in September. If the Assembly rejected the draft, it could be put to the people. Independence could come around April 1980. He concluded by saying that the Constitution could take 6-12 months to prepare.

20. W.Lini said work should start on the basic principles of the Constitution. The details of the time-table could be finalized by Mr Kalkoa.

21. J. Naupa said Constitutional discussions would break down if no clear program was defined.

22. G.Leymang said something should be agreed upon. He discussed the time-table and the proposals; the Elections, he said, could be held in July/ August; a referendum could be held after the Elections.

23. Prof. Yash Ghai then started a discussion on the working method that could be adopted. Three possibilities existed; the Questionnaire; information papers that he could prepare; concrete proposals that he could make to the Committee.

24. It was then decided to select the more important issues in the Questionnaire, and to ask Prof. Yash Ghai to prepare information papers on each of these. It was decided. that the most important areas were the following: Nature of State; Executive; Minority Rights (incl. perhaps Language, Elections and Chiefs); Fundamental Rights; Citizenship; Uni or Bicameral legislature; Basic Beliefs; Amendment and Ratification process; Secular/Religious Instruction; Local Government.

25. Prof. Yash Ghai said the Committee would have to discuss at some stage the way it wished the Constitution to be drafted: detailed (which tended to be the British way), or brief with provision for Organic Laws to organize Constitutional Institutions (which tended to be French way). He said he preferred the French system.

26.. The meeting closed at 16.45 with the Chairman advising the Committee that the next meetings would be held from 10.00 - 11.30 and 14.00 - 16.30 on Monday 9 April and from 10.30 - 11.30 and 16.30 - 17.30 on Tuesday 10 April.

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD AT 10.05 ON MONDAY 9 APRIL 1979

Present : G. LEYMANG (Chairman), W. LINI (afternoon only), G. PREVOT, M. CARLOT, C. KALKOA, T. REUBEN, J. NAUPA, D. KALPOKAS, L. DINI (afternoon only), A. STANDLEY (Minutes).

Apologies : A. MALERE

Invited : Prof. Yash Ghai

1. The Chairman opened the meeting by distributing papers prepared by Prof. Yash Ghai on certain aspects of the Constitution (papers A1, C2, C3 and G1).

2. Prof. Yash Ghai said he wished to discuss two proposals:

- The enlargement of the Constitutional Committee
- The time-table and working method to be adopted.

With respect to the first proposal, he considered that an enlargement of the Committee could increase its representativity and enhance the unifying effect of the preparation of the Constitution. He proposed that the enlarged Committee could meet before his departure and then work with Prof. Zorgbibe for the duration of the latter's stay.

Thereafter, the Committee could break up into sub-committees for the purpose of touring the country to obtain the views of the people in the Constitution. Prof. Yash Ghai proposed that the Committee could reconvene in Port-Vila at the end of May when he hoped that he and Prof. Zorgbibe would be able to return for 2 weeks, during which concrete proposals could be drafted for submission to the French and British Ministers in June / July.

The advantage of this time-table was that it did not rush the process of preparing the Constitution and it left the initiative with New Hebridean political leaders. Furthermore it ensured that the people would feel involved in the process.

Prof. Yash Ghai went on to say that he hoped that the enlarged Committee would be able to work on the basis of a consensus he suggested that if different points of view emerged, they should be recorded in the Committee's report

He then turned to the modalities of enlarging the Committee and proposed the inclusion of the Chairman and Vice-Chairman of the Representative Assembly, the Chairman of the Representative Assembly Ad Hoc Committee on the Constitution and three nominees of the Vanua-Aku Pati. A further group to be considered, he said, were the Chiefs. These should be involved in the Committee's work.

Prof. Yash Ghai concluded by saying that it would be useful for a Communiqué to be issued indicating that the Committee had been enlarged and explaining the working method that had been adopted.

3. J. NAUPA said that if the main purpose of enlarging the Committee was to allow more consultation with the people, who would approve the draft to be Submitted to the people in a referendum?

4. Prof Yash Ghai went over the enactment procedure employed in the Solomon Islands and

Papua New Guinea. He said the VP was not willing to have the Constitution approved by the present Assembly, whereas the Federal Party feared that a Constitution approved by the next Assembly would not safe their interests. Thus, a referendum was an attractive idea.

5. After clarification of M. NAUPA's question, it was decided that the Constitutional Committee should approve the draft Constitution to be put to the people in a referendum.

6. A discussion on the selection of 4 chiefs to enlarge the Committee to 20 followed. G.KALKOA said the Mal Fatu Mauri could select 1 Chief per District ; M. CARLOT said the idea of 1 Chief per District was good, but the Council of Ministers should ensure that each chief was selected by a meeting of all the chiefs of the Districts.

7. Prof .Yash Ghai said he found the idea was good but wondered how quickly the chiefs could be selected with such a procedure. Perhaps, he said, the two political groupings could nominate 2 chiefs each, unless this was insulting to the chiefs.

8. The meeting adjourned from 11.45 to 15.00.

9. W. LINI said the proposal to enlarge, the Committee through the inclusion of 4 chiefs had been put to the Mal Fatu Mauri - their reaction was favourable he said, but they were confused by the way to appoint the 4 chiefs. This was because they had been informed that the Federal Party considered the Mal Fatu Neon 'to be a Vanuaaku Pati Agency, and would only accept to work with the Committee if the Federal Party nominated 2 chiefs and the Mel Fatu Mauri 2.

W. LINI concluded by saying that there was hope in that the Mal Fatu Mauri had intimated that they would be willing to nominate four persons, not necessarily from the Mal Fatu Mauri, of which 2 would be acceptable to the Federal Party, and 2 to the VP,

10. G. KALKOA then said he had just spoken to Pastor Timakata (Chairman of Mal Fatu Mauri) who told him the Mel Fatu Mauri would have nothing to do with the Representative Assembly.

11.W. LINI said that the question of enlarging might create more problems than anticipated - it might be worth going ahead with the work of preparation the Constitution nonetheless.

12. A long discussion, initiated by J. NAUPA. followed on the role of Chiefs in the future Government structure, and on the role of the President/Head of state. Prof. Yash Ghai, pointed to several possibilities concerning the Head of State as suggested in his papers C2 and C3. He made further suggestions:

- The Council of Chiefs could perhaps elect the President (if his role was to be largely ceremonial), or

- The Chairman of the Council of Chiefs could be automatically elected President.

13. The discussion turned to the respective merits of Parliamentary and Presidential systems - The opinion of the Committee was that the Parliamentary system was preferable.

14. The subject of Chiefs was brought up again, with a discussion on the local and national role of chiefs. W. LINI pointed out that Chiefs in the New Hebrides were for more political than in other countries, and that the main chiefs were national rather than local figures. M. CARLOT tried to find a way to incorporate the Chiefs into Government structure, proposing two possibilities:

- an upper. house of Chiefs

- a Chiefs' College within the Assembly

The Committee agreed that, whilst a position needed to be found for the Chiefs, their role in the conduct of national affairs should be limited.

15. Following this discussion, Prof. Yash Ghai discussed the role of chiefs in a number of countries. .G. LEYMANG asked him to prepare a paper on this subject.

16. Prof. Yash Ghai went back to the question of a Communiqué, pointing out its importance. He said he did not know what the effect of the Peal Fatu Mauri's position would be - he thought it might be worth simply enlarging the Committee with 3 Federal Party and 3 Vanua - Aku Pati nominees.

17. The meeting was closed at 17.00.

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON TUESDAY 10 APRIL 1979.

10.45 a.m

Present: G. Leymang (chairman); W. Lini; L. Dini; G. Prevot; G. Kalkoa; T. Reuben; D. Kalpokas; M. Carlot; J. Naupa; A. Malere (afternoon only); J-M. Leye (afternoon only); G. Molisa (afternoon only); G. Kalsakau (afternoon only); K. Matas (afternoon only); V. Boulekone (afternoon only); B. Sope (afternoon only); A. Standley (Minutes).

Invited: Professor Yash Ghai; Professor Zorgbibe (afternoon only).

1. The Chairman opened the Meeting by going over the main points of the previous day's discussions. He then turned to the draft Communiqué prepared by Prof. Yash Ghai and raised the problem of the nomination of the Chiefs.

2. Prof. Yash Ghai summarized the previous day's discussion on Chiefs. Two suggestions had been made:

- A second Chamber for Chiefs

- A number of seats in the Assembly reserved for Chiefs

He said he felt the role of Chiefs in the New Hebrides was somewhat different from that of chiefs in other countries. He felt would perhaps be wise not to take any firm decision for the time being but rather to review in a general way a number of issues. There were two reasons for this:

- All parts of the Constitution were inter-related

- The people should be consulted first through the subcommittees before firm decisions could be taken.

3. A discussion then followed on the names of the Chiefs proposed by the Mal Fatu Mauri. J. Naupa pointed out that the 4 Chiefs proposed had been elected to the Representative Assembly in 1975/76. He wondered why they were the subject of controversy. G. Leymang explained that the Moderate Parties did not feel that the Mal Fatu Mauri represented Custom. He went on to say that the Mal Fatu Mauri had indicated that, if its 4 nominees were not acceptable, it would agree to 2 of the names being replaced by the Federal Party's choices. W. Lini confirmed this.

4. The discussion continued on the subject of Chiefs with J. Naupa saying that if the choice of the Chiefs was not left to the Mal Fatu Mauri, it would be best not to have any Chiefs at all on the Committee.

D. Kalpokas agreed that the nomination of the 4 Chiefs should be left to the Chiefs, but, given that many people did not recognize the Representativity of the Mal Fatu Mauri, Chiefs could be chosen from outside that body.

5. M. Carlot proposed that the 4 Chiefs should represent the 4 Districts and that each should be appointed at a meeting regrouping all the Chiefs of the District. G. Leymang suggested that the Committee accept the Mal Fatu Mauri's nominees provisionally, saying that the Chiefs, in view of their importance, had to be included in the Committee. M. Carlot agreed, adding that it should be made clear that the final appointment of the 4 Chiefs would be made at a District level: those dissatisfied by the Mal Fatu Mauri's choices would therefore know that the final

choice would be made by the District Chiefs.

6. The discussion on the question of the Chiefs ended with W. Lini emphasizing the need to avoid a clash with the Mal Fatu Mauri, whose importance, he said, was great and could influence the people to reject the Constitution. G. Leymang said the 4 names would be accepted provisionally.

7. G. Leymang then requested Prof. Yash Ghai to prepare papers on a number of points:
Position of Chiefs in the Constitution

Future relations with neighbour countries and other organizations Leadership Code.

W. Lini added the Relation between Church and State. M. Carlot requested that National Security also be discussed.

8 Prof. Yash Ghai went over these topics, saying that Foreign Relations and National Security need not be included in the Constitution as they were aspects of Foreign Affairs; the ratification process for treaties, however, could be included in the Constitution. He urged the Council of Ministers to give very careful thought to these points, as it was important to keep Big Power politics out of the Pacific.

He went on to discuss three points:

- The draft Communiqué: if it was approved, the enlarged Committee could meet in the afternoon.

- Voting system within the Council of Ministers: the system in use, he said, could cause unnecessary tension.

- What working method to adopt with Professor Zorgbibe

He ended. by saying that further funds would be necessary for the Staff and travel involved in the preparation of the Constitution.

9. The Meeting adjourned from 11.50 to 15.00.

10. Prof. Yash Ghai said that informal discussions had taken place over lunch -time, and that the following names had been proposed as the Chiefly Representatives:

- Bongmatur

- Timakata

- Tom Shem

- Orambat

He hoped these would be acceptable.

11. A discussion on these proposals followed: it was found that the Northern District was not represented - G. Leymang accordingly proposed that Moli Tacetamata be included as the Northern representative. The discussion continued with J. Naupa declaring that he did not wish the Chiefs to be nominated by any authority other than the Mal Fatu Mauri. T. Reuben informed the Meeting that Pastor Timakata had told him the Mal Fatu Mauri was unhappy about changing the list of names.

12. After a long debate it was decided to invite the representatives of the Political Groups to join the Meeting, and to leave the question of the Chiefs for the time being,

13. The draft Communiqué was then discussed. The following amendments were accepted:

- Para. 1 (last sentence) "election" was substituted for "electoral arrangements".

- Para. 2 (after sentence 2) the words "Directives have gone out to the District Agents and Electoral Cards have been ordered. The necessary legislation is being prepared." should be added.

- Para. 5: Nos.7-10 should be deleted and. replaced by Discussions are underway for the participation of Custom Chiefs.”

14. At 16.15, the representatives of the Political parties and the Representative Assembly (Molisa, Sope, Leye, Kalsakau, Boulekone, Matas) joined the meeting.

15. Prof. Zorgbibe proposed. a number of possible subjects for discussion: Sovereignty; Individual Rights; nationality; Legislature (incl. Elections); Regions; Executive; Administration; Justice; Land; Religion. G. Leymang said it was important for information papers, setting out the advantages and disadvantages of various systems, to be submitted rather than preconceived proposals.

16. V. Boulekone, supported by G. Kalsakau said it was important for everybody to be honest and not to break the willingness to work on the Constitution. He asked whether the Representative Assembly Ad Hoc Committee and the Vanua-Aku Pati Committee were going to work in parallel on their drafts.

17. A discussion followed on the need to define the powers of the Constitutional Committee. K. Matas asked who the Committee was responsible to and what its terms of reference were. G. Leymang replied that the Committee was at a national level, and was a forum for reflection and an exchange of ideas.

18. Prof. Yash Ghai said he had deliberately not discussed the legal aspect of the Committee. One of the problems of the New Hebrides, brought about by the lack of institutions that had won the allegiance of the people, was, he said, an obsession with legality. It was more important, he continued, to make the preparation of the Constitution a popular process that involved the people.

It was best not to define the powers of the Committee too closely, but to create a place for leaders to work together in a spirit of unity and cooperation.

19. The Meeting closed with a new discussion on the Chiefs. It was decided that the al Fatu Mauri would be asked to reconsider its list of 4 names, but that there would be no interference from the political parties in the selection of new names by the Mal Fatu Mauri,

20. K. Matas requested that interpretation facilities be provided at the next meeting to enable participants to speak in Bislama. G. Leymang said he would see whether this was possible with the Secretariat.

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD AT 10.40 ON WEDNESDAY 11 APRIL 1979

Present: G. Leymang (Chairman); W. Lini; G. Prevot; L. Dini; J. Naupa; T. Reuben; D. Kalpokas; G. Kalkoa; A. Malere; M. Carlot; V. Boulekone; B. Sope; K. Matas; G. Kalsakau; J-M. Leye; A. Standley (Minutes).

Invited: Professor Zorgbibe.

1. The Chairman opened the meeting by announcing that no solution had yet been found to the question of the Chiefs. Before turning to the topics mentioned the previous day by Prof. Zorgbibe., he said it had not been possible to find Bislama interpreters and that, furthermore, these inter-preters would cost 8000 FNH per day.

2. Prof. Zorgbibe said that, from his discussions with Prof. Yash Ghai, he believed that a consensus might exist on the following points:

- Preference for a Parliamentary, rather than Presidential, system
- Fundamental Rights
- Nationality
- Protective Institutions
- Public Service Commission
- Ombudsman

He went on to say that he was in agreement with Prof. Yash Ghai in feeling that the Constitution for the New Hebrides should draw more from the British system - with its simplicity and deeply democratic inspiration - rather than from the French, which tended to be more complicated.

He then discussed those areas in which a consensus had not yet been reached:

- Electoral System; in most countries this was not contained within the Constitution but, given the New Hebrides' special situation, some might wish to include it.
- Regionalization

- Bilingualism: some countries, e.g Canada. and Belgium, had tried to protect bilingualism through institutions which, however, became bureaucratic. Prof. Zorgbibe felt that in the New Hebrides this task could be given to the Ombudsman, who could write annual reports on the cultural and. linguistic situation.

Prof. Zorgbibe concluded by saying that he agreed with Prof, Yash Ghai in believing that the Constitution should be a short, flexible document.

3. A. discussion then followed on a number of aspects of the Constitution:

J.Naupa requested that a paper be prepared. on the advantages and dis-advantages of the Parliamentary and. Presidential systems. W. Lini proposed a discussion on the number of Chambers in the Legislature. G. Leymang summed up by listing the following. aspects:

- Church/State relations
- Legislative Chambers
- Parliamentary /Presidential systems
- Nationality
- Protective Institutions (incl. Minority Rights)
- Executive

- Local Government

4. V. Boulekone said it was important, when examining these points, to make comparisons rather than follow determined choices. Otherwise, he thought, Committees might be set up by other bodies to work in parallel to the Constitutional Committee.

5. The Committee then discussed the need for terms of reference and for its legal status to be defined. K. Matas considered this important: it would, he thought, also help to resolve the time-table question. G.Kalkoa suggested that the Committee be formally established by the Resident Commissioners.

6. V. Boulekone raised the question of who would approve the draft Constitution. It was important to ensure the draft was boycotted by no-one. L. Dini agreed. W. Lini felt all members of the Committee were trying to be diplomatic, but that essential decisions were not being taken on those matters.

7. M. Carlot was of the opinion the Committee should start to work: the question of its powers could be resolved while it was working. He emphasized the fact that the Committee was representative of the New Hebrides. J. Naupa felt it was necessary for the Committee to see exactly where it was going.

8. The meeting was closed at 11.45 .a.m.

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 17 APRIL 1979, 2.10 p.m.

Present: G. LEYMANG (Chairman); W. LINI; D. KALPOKAS; G. PREVOT; A. MALERE; M. CARLOT; G. KALKOA; J. NAUPA; L. DINI; K. MATAS; V. BOULEKONE; J.M. LEYE; B. SOPE; G. KALSAKAU; A. STANDLEY (Minutes).

1. The meeting was opened by the Chairman with the distribution of documents PV/4, PV/5, C4, E1, G2, H1, R1 and the note on the proposed work program.
2. Professor Zorgbibe then discussed paper R1 on Sovereignty: two points were discussed at length - languages and republicanism: On the first point, W. Lini enquired whether reference was always made in Constitutions to official languages and what the purpose of such a reference would be in the context of the New Hebrides. Would it be, he said because there were both Francophones and Anglophones in the New Hebrides, or simply because the French and British Governments would insist on it as a condition for continuing to give aid to the educational system.
3. Professor Zorgbibe replied that all multilingual states in the world made reference to their languages in the first part of their Constitution. If it was felt in the New Hebrides that languages posed no particular problem, this reference could be omitted. Replying to a question on Republicanism, Professor Zorgbibe said that Republics were, in their historical origins, set up in opposition to monarchies; in the 20th Century, however, the meaning of the term had lost some of this precision and had become generic. He added that Republics did not necessarily have to have a President.
4. Referring to the discussion on languages, V. BOULEKONE said that, if no reference was made to languages in the Constitution, the significance of this fact should be made clear: did it mean, he went on, that the Government was not intending to consider bilingualism.
5. W. LINI questioned the basis for New Hebridean Sovereignty; he felt that this was being constructed on foreign laws and influences, whereas New Hebridean culture, values and customs should be sovereign. Professor Zorgbibe replied saying that, whilst it was regrettable philosophically that most countries Constitutions based the structure of their institutions on Western inspired ideals, a nation's cultural identity could be preserved within the structure.
6. The discussion on languages continued with J. NAUPA saying that no reference should be made in the Constitution to language. G. KALSAKAU felt that it would be in the country's best interests to have only one official language; however, as the New Hebrides were not yet ready for this, French and English should be kept. Professor Zorgbibe felt that a possible solution would be for Bislama to be designated the national language - thereby indicating the New Hebrides' cultural identity - and for French and English to be official languages.
7. D. KALPOKAS touched on the educational aspects of bilingualism: was it plausible to believe that children could be made 100% bilingual in school. M. CARLOT said it was also a question of safe-guarding the rights of all, including the right to use two languages. Whilst it would be difficult for all New Hebrideans to be bilingual, the possibility should remain for them to have a first and a secondary official language.

8. The Committee then examined paper G2 on Fundamental Rights. Professor Zorgbibe introduced the paper, explaining that Article 1 was a common list of Rights, and that Article 2 was inspired by a British - style system with a Supreme Court able to give injunctions etc. to protect those Rights. A number of questions were raised : G KALKOA asked what measures could be used to give protection against dictatorial regimes that might set themselves up: W. LINI wondered how closely Governments in fact concerned themselves with Fundamental Rights. He felt that by copying such Western institutions as a Supreme Court, the independent New Hebrides might find themselves tied down by these very institutions and unable to be truly independent. Lastly, D. KALPOKAS considered that on account of the divisive action of religion in the New Hebrides in the past, too much religious freedom could divide rather than unite the country.

9. Professor Zorgbibe replied to these points, saying that all countries in the world included a declaration on Human Rights in their Constitution; however, many nations paid little respect to this declaration. He said effective control against dictatorial regimes came from the Courts and their powers, and from national traditions of independence. Replying to W. LINI'S question, he pointed out that Constitutions dealt with both political power and citizens' rights: they therefore defined how a country was to be run and established the relationship between the Government and the citizens. It was thus necessary to proclaim certain fundamental rights. Concerning the Supreme Court, Professor Zorgbibe explained that all African countries had supreme legal bodies: a search could certainly be made for a good relationship between Custom law and the Supreme body. He concluded by discussing the question put by D. KALPOKAS: reference was made to religion to ensure that no one could be discriminated against on account of his religious beliefs. He said that, if there was to be a separation between Church and State, there was no need for it to be discussed in the Constitution. If, however, special status was to be given to one or more religions, this should be included in the Constitution.

10. A long discussion followed on the relationship between Church and State and on the need to control religion. Professor Zorgbibe explained the relationship that existed between Church and State in a number of Countries.

A number of speakers expressed the feeling that the activity of new religions or sects implanting themselves in the New Hebrides should be controlled.

V. BOULEKONE said that the traditional beliefs of pagan New Hebrideans should be protected. Professor Zorgbibe concluded the discussion by suggesting that reference to freedom of traditional and religious beliefs could be made in the Constitution, and that the relationship between Church and State could be set out in another document.

11. Document H1 - Citizenship - was then discussed, with a number of questions being asked on aspects of dual nationality. D. KALPOKAS and M. CARLOT felt strongly that those persons wishing to be New Hebridean citizens had to be committed to the idea of being real New Hebrideans and that they should not have the possibility of reclaiming their previous nationality if they found New Hebridean citizenship unsatisfactory.

12. The discussion turned to the category of persons who, whilst being stateless, did not consider themselves to be natives of the New Hebrides. Professor Zorgbibe felt that Britain and France would accept applications for British or French citizenship from such persons.

13. The meeting closed at 4.45 p.m.

PV/7

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD AT 10.30 A.M. ON WEDNESDAY 18 APRIL 1979

Present: G. Leymang (Chairman); L. Dini; W. Lini; D. Kalpokas; A. Malere; G. Kalkoa; G. Prévot; J-M. Leye; G. Kalsakau; v. Boulekone; J. Naupa; K. Mata (morning only); J. Natuman (morning only); B. Sope (morning only); A. Standley (Minutes).

Invited: Professor Zorgbibe

1. Professor Zorgbibe introduced paper C4 on the Administration pointing out a number of its salient features:

- provision for political and permanent appointments
- Civil Service Commission
- Ombudsman

He went on to explain the work of the Ombudsman and indicated that two possible methods of appointment existed, elected by the Assembly or nominated by the President.

2. Replying to a question from D. Kalpokas, Prof. Zorgbibe said that Magistrates were outside the scope of the Civil Service Commission as they had their own Magistrates' Commission, that the Police were similarly outside the scope of the Commission on account of the need for the Force to be directly under the control of the Executive. Finally, the question of whether Teachers should be part of the Civil Service was one that depended on the decision taken concerning their status.

3. A discussion followed on the role of the Ombudsman, and, in particular, on his relationship with the Civil Service Commission and the Secretary for the Public Service. Prof. Zorgbibe explained that the Ombudsman's work was to examine complaints made by citizens concerning their treatment they had received from the Government, and to try to obtain amicable settlements. It was decided that as D. Kalpokas would be in the Solomon Islands the following week, he should take the opportunity to examine the functioning of the Ombudsman's Office there.

4. The irremovability of Civil Servants was then discussed with, Prof. Zorgbibe explaining the different status of political and permanent appointments.

5. K. Matas put a question to Prof. Zorgbibe on the separation of powers between the Executive and the Administration; Prof. Zorgbibe replied that this was touched on in paper C4 through the differentiation between political appointments (in which there was no separation) and permanent appointments (where the Civil Service Commission ensured a separation between Executive and Administration).

6. Before the Meeting broke for lunch, K. Matas said that the Vanua-Aku Pati representatives could only continue to participate in the work of the Committee if its terms of reference and powers were clarified. G. Leymang replied that a paper to this effect was being prepared for submission to the Council of Ministers. He went on to say that his personal view was that it was important to start working on the Constitution.

7. The meeting resumed after lunch with the examination of paper E1 - Justice. Prof. Zorgbibe explained the contents of the paper part by part, and answered a number of requests for clarification.

8. Following a question put by G. Kalsakau, Prof. Zorgbibe agreed with V. Boulekone that only references to the Supreme Court should be made in the Constitution: other aspects of the legal structure should be left to legal reform texts.

9. Paper D1 - Parliament - was then discussed with Prof. Zorgbibe explaining that he realized he had been mistaken in believing that consensus existed in favour of two houses. He added that he thought his proposal for 55 Representatives was excessive, that the mandate should be extended to 4 years, that the minimum age for candidates should be raised to 25 years and that the proposal for a single nation-wide constituency was unrealistic. On the last point, he felt it would be better to have 6-7 regions each electing 2-4 Representatives.

10. A long discussion followed on the role of Custom and the Chiefs. L. Dini felt that Chiefs should be kept at a local level. A. Malere said that the power and the functions of the Chiefs should be defined first of all. G. Kalsakau believed that the changing situation should be faced: the Chiefs should be treated on the same level as everyone else and progress made to help the people of the New Hebrides.

11. The possibility of having a second house for Chiefs in the Legislature was examined with Prof. Zorgbibe explaining the nature of the House of Lords in England and the Senat in France. He said there appeared to be at least two possibilities in the New Hebrides: an upper house for the Chiefs, or a reserved number of seats for Chiefs in a single-chamber Assembly. In the second alternative, he said, thought would have to be given to the powers granted to the Chiefs: to give them the same powers as the democratically-elected peoples Representatives could create problems.

12. G. Leymang was opposed to the idea of giving a more honorific title to Chiefs: they had, he said, real power in the New Hebrides. D. Kalpokas emphasized the leadership shown by Chiefs in leading the New Hebrides towards Independence: they were national rather than local figures and provision should be made for their voice to be heard. A failure to do so could lead to the Chiefs creating their own political party, which would be dangerous for the Country. He concluded by pointing out that the New Hebrideans should be grateful for the greater unity that existed in their country than, for example, in the Solomon Islands.

13. V. Boulekone spoke at length about the need to assert New Hebridean culture and values over imported institutions. It was therefore essential, he said, to define the meaning and to describe this culture before any decisions could be taken as to its place in the Constitution. Discussions on whether upper house Chiefs would be paid or not were pointless, he felt, until a much deeper discussion was underway on truly New Hebridean concepts of human rights succession, marriage and other aspects of law. Only in this way would a truly New Hebridean Constitution emerge: otherwise, he asked, would the New Hebrides adopt a system learned from foreign countries. The solution, he concluded, had to be found within Custom: the Committee was daring to speak in the name of Custom, yet was running the risk of giving it a false aspect - an aspect which would become the supreme law of the New Hebrides, to the great surprise of those who truly respected Custom.

14. W. Lini questioned the need for a Constitution: was it to be built on Melanesian values, he asked - he felt this would be difficult given the Western origins of Constitutions. The imposition of Western standards in a Constitution, he pursued, would not maintain the New Hebridean

soul and spirit in existence. W. Lini felt that a Constitution was being prepared simply to satisfy France and Britain. The danger of preparing a Constitution to satisfy France and Britain was that, once the New Hebrides tried to alter it after their independence to suit their needs and culture, they would find themselves already trapped in international, rather than New Hebridean, practices. He concluded by feeling that the Committee was confused by the need on the one hand, to satisfy international requirements and, on the other hand, New Hebridean values and culture.

15. The meeting was closed at 4.40 p.m.

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD AT 10.30 A.M. ON 10 APRIL 1979

Present: G. LEYMANG (CHAIRMAN); W. LINI; G. PREVOT; J. NAUPA; G. KALKOA; M. CARLOT; D. KALPOKAS; A. MALERE; J.M. LEYE; G. KALSAKAU; V. BOULEKONE; A. STANDLEY (Minutes).

Invited: Professor ZORGBIBE.

1. The meeting opened with the examination of Document D1- Parliament, Professor ZORGBIBE explained that many Constitutions did not describe the electoral system but, given the New Hebrides' particular situation, he felt that it was important that it be included. He went on to describe the advantages and disadvantages of majority and proportional systems of election: the latter protected electoral minorities and gave a truer reflection of the electorate, but could hinder the emergence of a clear governing majority; lead to an electoral minority winning a majority of seats. It was, he said, a conflict between two different systems: one that favoured efficient government and the other that favoured a truthful representation of the electorate. Professor ZORGBIBE continued by saying that he felt that, given the New Hebrides tradition of seeking a consensus on all matters, the proportional system was the more adapted to the local situation. He concluded by describing briefly various forms of proportional systems, and undertook to produce a paper to give a fuller account of their workings.
2. V. BOULEKONE and G. KALSAKAU agreed with Professor ZORGBIBE in favouring proportional representation; J. NAUPA made the point that the New Hebrides were used to a majority system and would need time to study the merits of a proportional system. He also felt that the electoral system should not be specified in the Constitution.
3. W. LINI doubted whether the New Hebridean tradition of consensus would continue in a Government with a foreign structure. Professor ZORGBIBE felt that, if used with care and caution, foreign systems could become nationalized. He pointed out that there was not an infinite number of systems of Government in the world; the Nakamal system in the New Hebrides, based on discussion and consensus, for example, was not dissimilar to the systems found in Ancient Greece. He said that one should differentiate between State and Nation: the structure of most States in the world was fairly similar - with a Parliament, a Supreme Court, a Government etc.. - the problem was to make it compatible with the social structure of each country.
4. The meeting resumed after lunch with the examination of paper C5 - Executive - Professor ZORGBIBE explained that the system he proposed was a classic parliamentary system.
5. A discussion followed on the Head of State, with Prof. ZORGBIBE explaining that, within the structure he had proposed, two systems were possible.- he could either be elected by the Representative Assembly or - he could be the same person as the Chairman of the Assembly. He went on with the presentation of his paper, saying that he proposed that the Prime Minister could come from either inside or outside the Assembly.
6. In the discussion that followed, it was felt that combining the functions of Head of State and Chairman of the Assembly could lead to a conflict of interests. A further problem that could arise with such a system was, it was decided, the difference in the length of the Head of State's mandate from that of the Assembly's. J. NAUPA felt it would be preferable for the Head of State to be a politically neutral person.

7. V. BOULEKONE made a number of comments on paper C5, notably: - A time limit should be set for the election of the President by the Assembly- Should Ministers appointed from the Assembly resign their seats before taking up their appointment
- Motions for votes of No Confidence should be signed by 1/3 of the members rather than 1/6.
- There should be a 72 hour period between the tabling of a motion of No Confidence and the vote.
8. Professor ZORGBIBE replied to the questions. He said that Ministers losing their Assembly seats upon appointment was not in accordance with the philosophy of the Parliamentary system - a system which did not, he said, create a total separation of powers between the Legislature and the Executive, but rather a collaboration.
9. M. CARLOT put a question to Prof. ZORGBIBE concerning the possibility of a conflict between the President and the Prime Minister. Prof. ZORGBIBE said this could only really happen if the President was given greater powers than the Prime Minister or, for example, if he was elected by universal suffrage and thus claimed greater authority than the Prime Minister.
10. Replying to another question, Prof. ZORGBIBE said the President would be obliged to approve bills that were put to him. However, he said, a system could be considered where the President, in exceptional circumstances, could insist on a second reading of a bill by the Assembly.
11. The Committee then turned to paper A2 - Regions - Prof. ZORGBIBE explained he was proposing a compromise solution: a decentralized unitary state rather than a Federal of a centralized unitary state. He went on to describe the main characteristics of these three possible systems and added that he and Prof. Yash Ghai were not in agreement on this question - Prof. Yash Ghai favouring a centralized, rather than decentralized, unitary state.
12. Replying to a question from W. LINI on the basic goal of regionalization, Prof. ZORGBIBE said that all countries of a certain size found they needed, for technical and administrative reasons, to deconcentrate their institutions from the center. Thereafter, he continued, it was a political choice as to whether these institutions should be entrusted to agents of the Central Government or to locally elected representatives. Federalism, he concluded, was the granting of sovereign rights to the constituent parts of the Federation.
13. The discussion turned to the question of how the country could be divided into regions: G. LEYMANG felt that economically powerful islands should be associated with weaker ones to ensure harmonious development. G. KALKOA felt the Central Government should preserve its powers so as to prevent a fragmentation of the country. A. MALERE felt it would be useful to have separate papers on the three possible ways of organizing the state, and that the people could be asked to indicate their preference.
14. Before the meeting was closed, the Committee discussed the financial aspects of the various systems. Prof. ZORGBIBE suggested that the Planning Office could be asked to prepare a paper on this subject, and that the political parties that advocated Federalism and a centralized system could be asked to prepare papers on their preferences.
15. The Chairman closed the meeting at 4.45 p.m. and informed members that the next meeting would take place at 9.30 a.m. on Monday, 23 rd April 1979.

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/10

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON MONDAY 11 JUNE AND TUESDAY 12 JUNE 1979.

Present: G. LEYMANG (CHAIRMAN); W. LINI; G. PREVOT; G. KALKOA; A. MALERE; T. REUBEN; D. KALPOKAS; V. BOULEKONE; J.M. LEYE; T. TUNGU; G. KALSAKAU; V. BONGMATUR; M. TACETA-MATA; RINGAO; F. TIMAKATA; G. CRONSTEADT; J. QUARANI; B. SOPE; K. MATAS; R. MAKIKON; A. STANDLEY (Minutes).

Apologies: J. STEPHENS, M. CARLOT, L. DINI, J. NAUPA.

1. The meeting was opened by the Chairman at 9 a.m. on Monday 11 June with the distribution to all members of the following documents:

- Minutes of 26 May 1979 informal Ministerial Meeting
- Chief Minister's Working Paper on the Constitutional Committee
- Vanuaaku Pati's Working Paper on the Constitutional Committee
- Estimate of Constitutional Committee's expenses
- Council of Minister's comment on the use of photographs for electoral registration.

2. The discussion began on the work procedure to be adopted by the Committee. A steering committee, to prepare and guide the full committee's work, was established and the following persons appointed to it:

- Kalkot MATAS
- Vincent BOULEKONE
- Georges CRONSTEADT
- Fred TIMAKATA
- George KALSAKAU
- Barak SOPE

3. The Committee then decided, after some discussions, to meet initially for a full week; thereafter, it would meet for two days every week - on Monday and Tuesday.

4. The topics to be examined by the Committee were discussed; it was decided that these would be those listed in Section 5 of the Vanuaaku Pati's proposal, with the addition of:

- Basic principles of the Electoral Law
- State/Church relations
- Official languages
- Relationship between Melanesian Custom and State
- Date for Independence

5. The Committee then turned to the question put to it by the Council of Ministers concerning the use of photographs in the forthcoming electoral registration.

6. Objections to the use of photographs were made by the representatives of the Mal Fatu Mauri on the following grounds:

- There would be Custom objections

- The elections would be delayed
- It would add to the cost of the election
- Indelible ink would prevent fraud more effectively.

7. Arguments were put forward in favour of photographs by J.M. LEYE and A. MALERE:

- an inter-party political agreement that photographs be used existed and should be respected
- it would be difficult to convince the members of political parties that photographs were no longer considered necessary
- photographs were a necessary step leading to identify cards which the New Hebrides would require.

8. A long discussion followed. It was pointed out that the Council of Minister's stand on this matter was a compromise between the positions of the two main parties. V. BOULEKONE considered that the Constitutional Committee was not empowered to take a final decision on the matter - this would have to be taken by the Council of Ministers.

9. In reply to a proposal that photographs should only be taken in the urban areas, G. KALSAKAU said he favoured the adoption of a single system throughout the country and that ink was the most effective means of preventing fraud.

10. J. M. LEYE said that whilst he preferred to keep to the existing agreement on photographs, he was willing to accept the Council of Ministers' compromise. To do away with photographs altogether, however, was, he added, no longer a compromise.

11. It was finally decided that all voters in the New Hebrides would be marked with indelible ink; furthermore, in the urban areas, all electors would need to have a photograph affixed to their electoral card before polling day in order to be able to vote.

12. This recommendation of the Constitutional Committee would be examined by the Council of Ministers and included in the Electoral Law.

13. The Committee recommended that the penalties for electoral fraud be increased and that a summary of electoral offences and penalties be displayed in all polling stations.

14. It was decided that alternate members should be able to attend meetings as observers, but that the Committee could only undertake to pay their travel costs and allowances if they were actually replacing a member.

15. The meeting was closed at 12.00 on 12 June 1979 with the Chairman informing members that the next would be held at 8.30 a.m. on Monday 18 June 1979.

G. LEYMANG
Chairman