

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/47

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 13 SEPTEMBER 1979 :8.15 a.m.

Present: G. LEYMANG (Chairman), W. LINI, G. KALKOA, D. KALPOKAS, T. REUBEN, J. NAUPA, A. MALERE, G. PREVOT, M. CARLOT, M. TANGARASI (for L. DINI), J. VATOU, F. TIMAKATA, J. NATUMAN, M. KALCHICHI (for S. REGENVANU), K. MATAS, T. TUNGU, J.M. LEYE, G. KALSAKAU, RINGAO, G. MOLISA.

Observers: M. BERNAST (alternate for L. VATOU), T. TIPOLOAMATA (alternate for F. TIMAKATA).

Invited: Prof. YASH GHAI, J. ARIBAUD.

Minutes: A. STANDLEY

1. Papers F1 (2) "Revision of the Constitution" and G8 "Draft Preamble" were distributed.

2. The Chairman requested the Committee to examine emergency powers.

3. PROF. GHAI and J. Aribaud introduced paper R5 (2), Prof. GHAI felt that article 3 could lead to too great an infringement on fundamental rights. He proposed that all regulations made by the Government under the Emergency Powers Chapter be submitted to the Supreme Court, who then would decide whether they were justifiable. J. ARIBAUD felt that Emergency Powers were perhaps not so necessary during natural calamities - such events, he said, could be dealt with by means of emergency/rescue plans. He also proposed that an article be added to forbid the dissolution of Parliament during a state of emergency.

4. After a short discussion, during which several members indicated their general approval of R5 (2), the Chairman requested Prof. Ghai to draft a new proposal incorporating the comments made during the discussion. He then requested the Committee to examine the Preamble to the Constitution.

5. M. KALCHICHI introduced the NHCC proposal (G4), and proposed an additional article to emphasize the rights of children and young people.

6. M. BERNAST introduced the Tabwemassana proposal (G7).

7. Several speakers, including K. MATAS and A. MALERE, agreed with W. LINI that the Preamble should be a short, concentrated, document. W. LINI felt it should emphasize the unity of the country and its struggle for nationhood.

8. Prof. GHAI proposed a new draft preamble:

"We, the people of the New Hebrides, proud of our ethnic, linguistic and cultural diversity, mindful of our common destiny, and determined to preserve our hard fought freedom, establish a united and free state founded on faith in God and the Melanesian values of communal solidarity and justice, and for this purpose, give ourselves this Constitution".

9. A discussion followed this proposal, notably on the phrase "faith in God". K. MATAS said the Vanuaaku Pati now preferred the phrase "Christian principles", as this corresponded to the reality of the history of the New Hebrides. M. TANGARASI preferred "faith in God" as being less

exclusive.

10. Following general agreement that the Preamble should be short and not contain a section on National Obligations, the Christian Council and Tabwemassana withdrew their proposals, with M. BERNAST agreeing to the Prof. Ghai draft with the addition of the last phrase of Prof. Zorgbibe's G8 proposal, and the replacement of "faith in God" by "Christian principles".

11. After more discussion, the Chairman proposed that Prof. Ghai and J. Aribaud draft a new proposal with the help of the Steering Committee.

12. The Committee then examined paper Fl (2). J. ARIBAUD made a number of amendment proposals for the French text to bring it into line with the English original. He proposed that article 2 in French read:

"La proposition de revision doit etre adoptee par le Parlement a la majorite d'au moins les deux tiers de tous ses membres au cours d'une seance speciale a laquelle les trois quarts des membres sont presents. Si les trois quarts des membres ne sont pas presents a la seance convoquee a cet effet, le Parlement peut neanmoins se reunir une semaine plus tard si au moins les deux tiers de ses membres sont presents".

13. The question of the status of languages was brought up by J. M. LEYE who preferred the nomenclature "official languages" rather than "working languages" Prof. GHAI and K. MATAS pointed out that this was simply a matter of consistency as, in the chapter on Sovereignty, the term "working languages" had been adopted.

14. After a short discussion, the Committee approved El (2) and agreed that it should form a separate chapter in the Constitution.

15. Lunch break 11.20 - 14.30

16. Papers G9 "Preamble", C7 (6) "Executive", R7 "Transitional Provisions" and R5 (3) "Emergency Powers", were distributed to members.

17. The Chairman requested the Committee to discuss G9.

18. A. MALERE felt strongly that the word "values" should be qualified: some aspects of Melanesian tradition, such as sorcery, were bad, he said. He therefore proposed that the word "good" or "positive" be inserted before "traditional".

19. G. PREVOT preferred a reference to God, rather than to Christian principles.

20. W. LINI and M. BERNAST felt that the Constitution, especially in the chapter on human rights, provided protection against the worse aspects of Melanesian traditions they therefore supported the draft as it stood.

21. Replying to G. Prevot's comment, M. TANGARASI proposed the inclusion of "faith in God." after "Melanesian values". This was accepted by the Committee.

22. K. MATAS felt that the word "fruits", in the English text, was unsuitable. His proposal that it be replaced by "achievements". This, too, was approved by the Committee.

23.G. MOLISA made a general comment on the wording of the draft which, she felt, could be improved., She thought it would be useful for the two consultants to go over the draft, improving the language, without changing the actual sense of the draft.

24.K.MATAS raised the issue of the word "Republic". Prof. GHAI and J. ARIBAUD explained the strict meaning of this term and said it was used in opposition to "monarchy" -i.e. the head of State was elected by the people.

25.F. TIMAKATA and M. CARLOT felt this issue could be discussed at the same time as the name of the country. For the time being, the word "Republic of the New Hebrides" could stand.

26.The Committee then approved G9, with the amendments proposed by K. Matas and M. Tangarasi above.

27.Document C7 (6) was next to be examined; it was decided that, in the French text, "votee" should be replaced by "adoptee".

28. Following a comment from G.PREVOT, the Committee agreed that the quorum should be three quarters of the members of the college, including at least three quarters (and not a half) of the President of the Regional Councils.

As the Committee felt that this would allow one or two persons to prevent the college from meeting, if they wished, the Committee also approved a proposal made by K. MATAS that if no quorum was present, the College could meet a week later if at least two thirds of the' members were present, with no special provision relating to the Regional Council Presidents.

29.The Committee agreed to another proposal made by K. MATAS, that a motion to remove the Head of State could only be introduced if sup-ported by at least one third of the total membership of the college.

30.The Committee then approved C7 (6) with the above amendments.

31.Document R5 (3) was introduced by Prof.GHAI and J. ARIBAUD.

It was noted. that a difference existed between the French and English texts of article 3 (a). After a discussion, it was decided that the words "et les travaux forces" should be deeted from the French text.

32. The Committee then approved R5 (3).

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

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/48

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 14 SEPTEMBER 1979: 8.30 a.m.

Present : G. LEYMANG (Chairman), W. LINI, G. KALKOA, D. KALPOKAS, M. CARLOT, G. PREVOT, T. REUBEN, A. MALERE, J. NAUPA, M. TANGARASI (for L. DINI), L. VATOU, J. NATUMAN, G. KALSAKAU, T. TUNGU, RINGAO, M. KALCHICHI (for S. REGENVANU), F. TIMAKATA, K. MATAS, G. CRONSTEADT (afternoon only), G. MOLISA (afternoon only).

Observers: T. TIPOLOAMATA alternate for. F. TIMAKATA), M. BERNAST (alternate for L.VATOU).

Invited.: Prof. GHAI, J. ARIBAUD, I.HENDRY

Minutes: A. STANDLEY

1.Papers R7 (2) "Transitional Provisions", D1 (8) "Parliament", C7 (7) "Executive", D1 (9) "Parliament" were distributed.

2.I. HENDRY introduced paper R7.

3.Prof. GHAI proposed an additional paragraph to article 4 to help promote the localisation of public offices:

"Paragraph 1 is without prejudice to the power of Parliament to provide for compulsory retirement of non-citizen officers to promote localisation of public offices."

4.Following a request from the Chairman the Committee began with article 1 of R7.

5.G. PREVOT felt that the words "if then established" in article 1 (a) were on unnecessary repetition of a similar phrase in paper C7 (4) which had been approved as article 2 of the chapter on the President. After Prof. GHAI had explained that, in paper C7 (4), the portion in brackets would only appear in the chapter On Transitional Provisions, and not in the chapter on the President, G. PREVOT withdrew his comment.

6.After K. MATAS had proposed that "Regional Councils" be replaced by "Provincial Councils", the Committee agreed that "Regional Councils" would be used for the time being, but that a final discussion would be held later to decide on the definitive names for the "Head of State"; "Regional Councils", "National Councils of Chiefs" etc.

7.The Committee then adopted article 1 of R7.

8.Article 2 was then examined G. PREVOT suggested that this be discussed after the conclusion of the debate on the powers of the Head of State.

9.Prof.GHAI explained that the powers of the President, although not listed in the blue paper C7, were mentioned throughout the Constitution: appointment of Judges, Ombudsman, Public Service Commission, Emergency Powers etc. He also pointed out that the Committee had

agreed on a Parliamentary system, with full executive powers vested in the Government. Prof. Ghai then introduced C7 (7), dealing with the removal of the President and explained that it was based on C7 (6) and included the amendments that had been agreed the previous day.

10. After a very brief discussion the Committee approved C7 (7). Prof. GHAI proposed that the Annex to paper C7, dealing with the rules for the Presidential election be amended by replacing "Parliament" with electoral college". This was accepted.

11. Following a question from M. TANGARASI on the dissolution of Parliament, Prof. GHAI introduced paper D1 (9), explaining the different options available to Parliament to have the power to dissolve itself; the President to have the power to dissolve Parliament, or the Prime Minister to have this power. He concluded by saying he favoured leaving it up to Parliament to dissolve itself if a stalemate was reached in the political situation.

12. J. ARIBAUD made a number of points, saying it was unlikely that Parliament would ever decide to dissolve itself. He proposed that the President, on the advice of the Prime Minister, should be able to dissolve Parliament. J. Aribaud also suggested that the Constitution specify when elections were to be held following the dissolution of Parliament, and whether a dissolution of Parliament would be allowed within a certain time of its election.

13. M. BERNAST felt the Government, rather than the President, should have the power to dissolve Parliament. Referring to article 10 of C7, he reminded the Committee that Tabwemassana had made a proposal that any vote of no confidence that was introduced should also contain the name of the person who, if the motion was successful, would become Prime Minister. After discussion, however, during which a number of speakers felt it would be difficult for Parliament to vote on two separate issues simultaneously, M. Bernast agreed to withdraw his proposal.

14. After further discussion, the Chairman called the break for lunch, requesting Prof. Ghai, J. Aribaud, K. Matas, G. Prevot and M. Bernast to draft a proposal to replace D1(9).

15. Break 12.00 - 15.00

16. After lunch, the Committee examined paper D1 (10), K. MATAS remarked that it gave powers to the President that were more than honorific, but said he could approve it.

17. The Committee approved D1 (10).

18. The Committee then examined article 4 of G7, with G. PREVOT proposing that, in case of vacancy in the office of President, the Chairman of the National Council of Chiefs, rather than the speaker of Parliament, act as President. This, he said, was to avoid the situation where the same person occupied legislative and executive functions.

19. Replying to this proposal on behalf of the Chiefs, F. TIMAKATA said that it struck him as being an attempt to give token satisfaction to Chiefs and Custom, the Committee having decided not to give real power to Chiefs.

20. J.M. LEYE agreed saying that, in Custom, one either gave every thing or nothing. He therefore disagreed with giving this token to chiefs.

21. The Committee, after further discussion, during which it was proposed that the Presidential

Electoral College could nominate an acting President or that the Chief Justice could act, or that the Council of Ministers should act collectively as President, finally agreed to leave article 4 of C7 unchanged.

22. The Committee then returned to paper R7, with articles 2, 3, 4 and 5 being rapidly approved, with the amendment proposed earlier by Prof. GHAI to article 4 (see point 3 above) also being approved.

23. A long discussion followed on article 6, with many speakers concerned about the heavy financial burden to be faced by the New Hebrides if responsibility was accepted for the debts of the Condominium and the pre-Independence Government.

24. J. NAUPA wished to know whether the New Hebrides Government would be able to re-negotiate contracts signed between the Resident Commissioners and private companies for the provision of public services - such as electricity, communications etc.

25. I. HENDRY replied that it would be of considerable use to try to discover the exact situation with regards to the current obligations, debts and rights of the New Hebrides Government. He emphasized that the Government would in no way be bound by contracts or agreements made by one or other of the Resident Commissioners acting on behalf of his respective national service. The New Hebrides Government after independence would, with article 6, only be concerned with contracts, debts, agreements and so on made by the Resident Commissioners in the name of the Condominium Administration or by the pre-independence New Hebrides Government.

26. K. MATAS felt that a second paragraph should be added to article 6 to empower the Government to renegotiate contracts after Independence. M. TANGARASI thought this would render article 6 meaningless - the Committee he said, could decide to reject article 6 and therefore release the Government after Independence from its obligations, but, he warned, this could lead to the New Hebrides acquiring a poor international reputation.

27. After some comments from Prof. Ghai, and upon a proposal from the chairman, the Committee decided to reserve its decision on article 6 until further discussions had taken place to determine the extent of the obligations that would face the New Hebrides Government and to obtain an indication from France and Britain as to the assistance they would provide in paying back debts and meeting other obligations.

28. The Committee then approved article 7 rapidly.

29. A discussion followed on articles 8 and 9 with I. HENDRY, Prof. GHAI and M. TANGARASI explaining that article 8 was designed to provide a transitional solution to the situation arising from the complexity of the pre-Independence legal system.

30. The Committee then approved article 8, with G. KALSAKAU expressing the hope that, by Independence, the French and British Governments would have succeeded in dealing with most of the cases pending before the Courts.

31. Discussing article 9, Prof. GHAI explained that, until the New Hebridean Parliament had made its own laws, it would be necessary to continue to work with existing Joint Regulations and French and British laws. He went on to make a new proposal for article 9, leaving paragraph (1) unchanged, adding to the end of 2 (a) the words "and, wherever possible, taking due account of custom", deleting 2 (b) and 2 (c), and inserting a new paragraph (3) reading: "Customary law shall continue to have effect as part of the law of the New Hebrides". Prof.

“Customary law shall continue to have effect as part of the law of the New Hebrides”. Prof. Ghai explained that this paragraph (3) was intended to keep in effect those Joint Regulations that provided for the application of customary law.

32.G.CRONSTEADT raised the possibility of the codification of custom as a result of this paragraph (3). J.M. LEYE was opposed to such a codification on the grounds that it would replace each island’s individual custom law with a single national custom law.

33. M.CARLOT felt there was no need to make too much mention of custom law in the Constitution - Parliament, when making laws, would naturally take custom law into account. For the transitional period, until New Hebridean laws were made, the important thing was to maintain existing laws and Regulations.

34. K. MATAS wondered whether the new paragraph (3), would not clash with paragraph (2) as amended. Prof. GHAI suggested that, if it was the Committee’s wish, and as custom law was referred to elsewhere in the article and in the chapter on Justice, paragraph (3) could be deleted.

35. F. TIMAKATA favoured keeping paragraph (3) as, he said, French and British Regulations had taken no notice of custom law in the New Hebrides - it was thus important to assert its existence and effect.

36. The Committee than agreed to article 9 as amended by Prof. GHAI.

37.Before the close of the meeting, G.PREVOT requested that Decentralization be discussed the following day, as no final agreement had been reached on A9 (2), in particular article 5

38.K.MATAS felt that the meaning of article 5 had not been fully understood by all at the time of the discussion on decentralization, and that it did not represent the real sense of the agreement reached on this issue. He commented that it was hard to reconcile articles 4, 5 and 6 of A9 (2) as, whereas article 5 said an Organic Law (which only Parliament could make) would be annexed to the Constitution, article 6 said Regional Councils were to be established upon the adoption of the report of the Commission created after the elections under article 4.

39.Prof. GHAI remarked that he had not been present at the time of the discussions on A9 and A9 (2) He said he had found article 5 somewhat surprising as it would be logically impossible as, until the Commission under article 1 had made its report, Parliament could make no law. He went on to say that, after discussions with members of the Committee, he understood that article 5 simply meant that the law on Decentralisation would be an Organic Law.

40. The meeting was closed at 6.15 p.m.

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/49

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 15 SEPTEMBER 1979: 9.00 a.m.

Present: G. LEYMANG (Chairman), W. LINI, G. KALKOA, D. KALPOKAS, G. PREVOT, M. CARLOT, A. MALERE, J. NAUPA, T. REUBEN, N. TINGARASI (for L. DINI), M. KALCHICHI (for S. REGENVANU), G. MOLISA, G. CRONSTEADT (morning only), G. KALSAKAU, F. TIMAKATA, L. VATOU (morning only), K. MATAS, J.M. LEYE, J. NATUMAN T. TUNGU, , G. PAKOA (morning only), A. SANDY (for B. SOPE) morning only), W. TULANGI (for J. QUARANI - afternoon only).

Observers : T. TIPOLOAMATA (alternate for F. TIMAKATA), M. BERNAST (alternate for L. VATOU), J. KALOTITI (for T. TUNGU -afternoon only), J. PERES (afternoon only).

Invited: Professor YASH GHAI, J. ARIBAUD

Minutes: A. STANDLEY

1. Papers C8 (2) "Administration", and D1 (8) "Parliament" were distributed.

2. The Committee resumed its discussions on article 6 of R7 "Transitional Provisions", with Professor GHAI proposing an additional paragraph (2) to article 6:

"Nothing in paragraph 1 shall prevent the Government of the Republic renegotiating rights, liabilities and obligations assumed under that paragraph".

3. Professor GHAI explained that this proposal was the result of the discussions held the previous day. He said that, as a result of the unusual Condominium situation, it was unclear what liabilities and rights the New Hebrides would inherit - it seemed, however, that they would be the rights and obligations of the pre-Independence Government and not of the Resident Commissioners. He added that he understood that the assets to be inherited by the New Hebrides on independence would be greater than the liabilities.

Following a question from J. NAUPA, Prof. Ghai explained that article 6 only; related to contracts made in accordance with law prevailing within the New Hebrides it did not deal with international treaties made between the New Hebrides foreign Governments. Prof. Ghai hoped that time would be available for a discussion on the New Hebrides treaty obligations.

4. Replying to a further question from J. NAUPA, Professor GHAI confirmed that, under article 6, the Government would be able to renegotiate existing contracts with private companies providing such service as electricity and communications.

5. The Committee after a short discussion, approved article 6 of R7, with the additional paragraph proposed by Professor Ghai.

6. The Committee then examined paper R7 (2), which it approved after a brief debate.

7. The Chairman requested that paper D1 (6) be studied with Professor GHAI explaining that this

was a private proposal which, he felt, would improve the chapter on Parliament, by providing for Parliamentary control of public expenditure.

8. J. ARIBAUD explained the difference that existed between French and British practice with respect to Money Bills - whereas in France, Private Members Bills could propose to increase levels of taxation, in England, such Bills could only decrease them. He concluded by saying that both systems were good: it was for the Committee to make a choice.

9.G.PREVOT found article 61 of D1 (9) unnecessary - he said he preferred an administrative system of financial control. M. TANGARASI was anxious that the Auditor-General should not take on the role of prosecutor and be used by Parliament for political reasons.

10.In the discussion that followed, Professor,GHAI indicated his willingness to withdraw D1 (a) if it did not meet with the Committee's approval. J. NAUPA,M. CARLOT, W. LINI, D. KALPOKAS, and M. BERNAST expressed their support for D1 (8), emphasizing its importance.

11.M.CARLOT was concerned that the Public Service Commission should be able to act completely independently when appointing the Auditor-General. After some discussion, the Committee agreed to the addition of the words "on its own initiative" at the end of the first sentence of article 6A.

12.The Committee then approved D1 (8) as amended.

13.Professor GHAI next introduced paper C8 (2), in which he proposed some alterations to the provisions relating to the Ombudsman. He suggested that the Ombudsman, in order to be more effective, be able, at his discretion, to publish his report. Furthermore, clear statement of the Government's decision, on the Ombudsman's conclusions would have to be given to the complainant. These measures, felt Prof. Ghai, would make the Ombudsman considerably more effective.

14.In the ensuing discussion, Professor GHAI explained that the expression "reasonable time" was perhaps better than a fixed time, as different situations would require different reactions from the Government.

15.The Committee then approved paper C8 (2).

16.The Chairman then enquired of the Committee whether, apart from Decentralisation, any other issues remained to be discussed.

17.G.PREVOT and G. CRONSTEADT remarked that they felt that no definitive texts had been produced as original drafts had been extensively amended. They also felt that other issues, including citizenship, needed re-examination. M. KALCHICHI raised the issue of the levying of a defence force this, she said, had not been dealt with in the Constitution.

18.Replying to G. Prevot and G.Cronsteadt, M. CARLOT, J. ARIBAUD and Professor GHAI felt that drafts, revised by the legal draftsmen, would soon be given to the members of the Committee. This would then be examined and comments made so that final drafts could be prepared.

19.J. M. LEYE and M. TANGARASI were opposed to being rushed in the Committee - the Constitution was they said, the New Hebrides' and not France's or Britain's.

20.At the request of the Chairman, the Committee turned to decentralization.

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21. J.M. LEYE spoke first, saying that there was strong support for regionalisation. Regionalisation, he said, was a system that had been in existence in the New Hebrides before the coming of the Colonial powers. It was thus up to the Government to reestablish this system. J. M. Leye ended by saying that if no agreement could be reached on the issue of decentralisation, the Federal Party would request that a referendum be held to allow the people to choose between two different draft Constitutions.

22. D. KALPOKAS remarked that the question of who wanted and who did not want decentralisation had already been discussed. The matter at hand was articles 5 and 6 of A9 (2).

23. K. MATAS spoke at length on Article 5 of A9 (2) saying that the words "Organic law annexed" appeared to have been mis-used, as an Organic Law and an annexe were not one and the same thing.

He therefore proposed that the words "annexed to the Constitution" be deleted from article 5. This, he said, would only require a few minutes discussion. Another possibility, he said, but which could take months of discussion, would be to try to prepare an Annex to the Constitution.

24. M. BERNAST spoke for Tabwemassana, suggesting that, either, paper A9 (2) with article 5 deleted, or AG (2), be approved, if this proved impossible, J. Bernast said, Tabwemassana would make a new proposal for decentralization :

"Article 1 would be article 1 of A9 (2).

Article 2: (1) The Government shall establish Village and island institutions.

(2) Provincial Institutions may be established after a referendum of the populations concerned."

25. G. CRONSTEADT said that article 5 was the very reason for which the Federal Party had agreed to paper A9 (2), This agreement had been reached on the understanding that it would be possible to have an annex ready in time for the approval of the Constitution.

26. K. MATAS felt that if no agreement on article 5 of A9 (2) was reached, a referendum could be held.

27. W. LINI said a referendum was a useful way of demonstrating the degrees of popular support enjoyed by the political groups; no party in the New Hebrides was afraid of participating in a referendum, he thought. Yet, a referendum, by producing a winner and a loser, would be in contradiction with the consensus method adopted by the Committee.

W. LINI hoped that the Committee would be able to continue to show the spirit of compromise that had appeared at its meetings. It would be a great shame if mistrust were to prevent the final completion of the Constitution.

W. LINI emphasized the responsibility borne by the members of the Committee - they were being watched by the whole country, and the individuals or groups who frustrated the work of the Committee would have to answer to the people. If the Constitution was not completed, concluded W. Lini, the "Dijoud plan" would collapse and political chaos would follow.

28. J.M. LEYE proposed that, if article 5 of A9 (2) was not acceptable, then paper A9, with its

article 5 deleted, should be adopted.

29.K. MATAS commented that article 6 of A9 meant that, if the Constitution were to be approved the following day, Regional Councils would have to be established at the same time.

30.M. TANGARASI proposed that a group of representatives from Federal Party, Vanuaaku Pail and Tabwemassana meet, to try to reach an agreement. He felt that to hold a referendum over one issue when agreements had been reached over many other matters, was illogical.

31.J.M. LEYE explained that the interest of article 6 of A9 was that it provided a guarantee for the establishment of Regional Councils. The article 6 of A9 (2), however, provided no such guarantees as no-one knew when the Commission's report would be made and when it would be examined and adopted by Parliament. Article 6 of A9, he repeated, was necessary because, although it did not set a date for their creation, it stated clearly that Regional Councils would be established.

32.M. CARLOT said the essential issue was whether people in the islands wanted Regionalisation. If they wanted it, then Parliament and the Government should grant them their wish, if they did not, Parliament and the Government should make no attempt to force it upon them. The Constitutional Committee, he said, was in no position to determine which parts of the country favoured the establishment of Regional Councils.

33.F. TIMAKATA took up this point, feeling it was important that the Constitution should not force Regional institutions upon unwilling populations. He felt articles 4 and 6 of A9 (2) were sufficient, as all were agreed on the need for some form of decentralisation.

34. Closing the morning session at 12.15, the Chairman requested, L. Vatou, K. Matas, G. Prevot, G. Cronsteadt, J.M, Leye, D. Kalpokas, M. Carlot and W. Lini to meet with Professor Ghai and J. Aribaud to try to reach agreement.

35. Break 12.15 - 16.45

36. Professor GHAI began the afternoon session by summarizing the meeting held earlier by the drafting group. He said the group felt the main issue was how best to provide the Federal Party with guarantees that decentralisation would be implemented - the principle of decentralisation being accepted by all. The Federal Party believed that the only sufficient guarantee was for an Organic Law to be annexed to the Constitution. Other members of the group, however, considered that, in the light of the other articles of A9 (2), this was impossible.

Professor Ghai went on to explain that one proposal that had been discussed was for an Exchange of roles to give effect to article 4 of A9 (2), before Independence, and for a time limit to be set for the submission of the Commission's report. The words "annexed to the Constitution", would then be deleted from article 5.

He then outlined a proposal made by M. BERNAST for the word "Organic" to be added to "law" in article 3 (thus making the law a Constitutional Law requiring an absolute, majority of Parliament) for "6 months" to be replaced by "3 months" in article 4; and, lastly, for "annexed to the Constitution" to be deleted from article 5.

Professor Ghai ended by commenting that the Constitutional Committee had worked extremely hard and that it would be a great shame if, having achieved so much under difficult conditions, no final agreement could be reached over one point.

37.W. LINI emphasized the responsibility borne by the Committee before the people of the New

Hebrides. Many agreements had already been reached, and only one unresolved issue remained before final agreement could be reached. He hoped the Federal Party would therefore be able to accept the proposal made by M. Bernast. If no agreement could be reached, felt W. Lini, the people of the country would surely know who had been responsible for this failure.

38.F. TIMAKATA commented on the Bernast proposal and approved it on behalf of the Mal Fatu Mauri.

39. G. PREVOT agreed with Y. Ghai and W. Lini that much good work had been accomplished by the Committee. The Federal Party, however, he explained, was quite sure that article 5 meant that a document should be annexed to the Constitution - it had therefore, that morning, distributed drafts of this document. G. Prevot remarked that the proposed amendment to article 4 was insufficient - if article 5 was brought into doubt, the whole of A9 (2) would require re-discussion.

40. J. M. LEYE said a consensus had been reached on A9 (2) - who therefore, he asked, was slowing down the Committee's work. He wondered what other guarantees could be provided if the words "annexed to the Constitution" were deleted from article 5. The proposed annex, he said, could be a short document that would require completion by Parliament - it could therefore be discussed by the Committee.

41..M. KALCHICHI stated the NHCC view on decentralization contained in NHCC submission No. 5 (paper A7).

42.W. TULANGI, on behalf of man Efate spoke strongly in favour of decentralisation, and received the support of G. KALSAKAU who proposed that the French and British Ministers be told that a temporary consensus existed on A9 (2) with the Federal Party draft, but that the Committee needed to travel in the islands to obtain the views of the people before taking a final decision on the issue of decentralisation.

43. M. BERNAST gave additional explanations of his proposal, saying he felt that it provided the Federal Party with reasonable guarantees. Referring to the possibility of an Exchange of Notes, he wondered whether the Federal Party would be satisfied with an assurance that one would be signed without delay.

44. Professor GHAI went over the issue of article 5 of A9 (2) in some detail, explaining that the inclusion of "annexed to the Constitution" made no sense whatsoever in the light of articles 3 and 4. He felt that decentralisation was such a complex issue that it would be most unwise for the Committee to attempt to prepare detailed proposals in a day or two.

By removing "annexed to the Constitution" in article 5, A9 (2) made sense and a consensus could be reached. He explained that the Committee had no power to make an Organic Law, as this was Parliament's right. Professor Ghai ended by saying that France and Britain did not wish to be obliged to force upon the Committee their decision on decentralisation it was thus preferable that the Committee itself reach agreement.

45.J. ARIBAUD agreed with Professor Ghai saying that article 5 of A9 (2) contradicted the rest of the paper, and that France and Britain would not wish to act as a referee on such an important issue.

46.M. TANGARASI made a proposal to delete the last 3 articles of A9 (2), and to say in article 1 "Parliament shall enact Legislation to implement decentralisation". This he felt, provided a strong guarantee for the Federal Party as the Constitution would oblige Parliament to imple-

ment a policy of decentralisation. The Commission provided for under article 4 of A9 (2) was, he felt, of no great use and would be expensive and. time consuming. He thus thought articles 1-3 of A9 (2) would suffice.

47. G.KALKOA commented shortly on the draft proposals made by the Federal Party, saying the composition of the Southern Region was completely illogical. He felt the article 5 issue was a technical one, and that it should be left to the 2 consultants to decide whether or not to delete any part of it.

48.W. LINI proposed that "annexed to the Constitution" be deleted from article 5, insisting on the fact that the Federal Party would lose nothing by accepting this. He felt that Messrs. Leye and Kalsakau, and Prevot, could accept, though he flailed the latter sought to prevent the Committee from making progress. W. Lini concluded by fearing that if no agreement was reached on this issue, all the previous work done by the Committee would be wasted.

49.M BERNAST indicated that, if a consensus emerged on the Tangarasi proposal, he would be happy to go along with it.

50.M. BERNAST expressed his dismay at the fact that the drafts proposed by the Federal Party, which, he felt, were consistent with the spirit of A9 (2), had not been studied.

51.D. KALPOKAS and T. REUBEN felt that article 5 was a technical problem only, to be dealt with by the consultants. They spoke of their worries at seeing that such a small point was holding up the Committee.

52.W. LINI said he agreed that A9 (2) had been approved by the Committee - ever, the two consultants had explained that article 5, from a technical point of view, made no sense. He therefore urged the Federal Party to agree, with the rest of the Committee, to let the consultants make whatever changes were necessary to article 5. He repeated that, by agreeing to the deletion of "annexed to the Constitution", the Federal Party would lose nothing.

W. LINI felt sure that Messrs. Leye and Kalsakau could agree to his proposal, as they were both responsible, respected leaders. He did not want to leave the meeting and to have to say that they had been responsible for preventing agreement. He ended by saying that the article 5 issue was technical, but that there, was a danger that prolonged discussion would make it political.

53.J. M.LEYE replied that the words "annexed to the Constitution", if deleted, would need to be replaced by some other phrase providing a guarantee that a decentralisation law would be made. Otherwise, he felt, there were chances that Parliament would. take no action on the question of decentralisation.

54.At the request of the chairman, Professor GHAI explained that an Exchange of Notes could bring article 4 of A9 (2) into effect before Independence Day. Thus the Commission provided for in the article could be set up within a specific end time - 3 or 6 months, perhaps a after the next elections. The Exchange of Notes could also provide for the Commission to report to Parliament within 9, or perhaps 12, months of its creation.

These provisions, Professor GHAI continued, would give substantial guarantees for a thorough study of decentralization. The Constitution could. not, however, determine the decision Parliament would take on the Commission's report, as this would be infringing upon Parliament's sovereignty.

Professor Ghai ended by remarking that if the Committee accepted the draft proposals mode by

the Federal Party, nothing would be left for Parliament to do, yet, he believed, the spirit of A9 (2) had been that a Parliamentary Commission should investigate decentralisation.

55.W.LINI repeated his proposal to the Federal Party, saying that it would be unfortunate for a meaningless phrase to be left in the Constitution simply to keep one or two people happy. He remarked that the Vanuaaku Pati had accepted to do without many Constitutional guarantees that it would preferred to have had.

56.Following further exchanges, the Chairman proposed -hat the Committee agree to the deletion of "annexed to the Constitution" in article 5 of A9 (2), and to an Exchange of Notes to bring article 4 into effect before Independence.

57.G.KALKOA supported this, and urged the Committee to try to agree in the "Pacific Way", by reaching a consensus and then seeing how things worked out.

58.G.KALSAKAU remarked that Natatok Efate had prepared a paper on decentralisation and given it for distribution to members, but that the Secretariat had never circulated it. He repeated the need for the Committee to obtain the views of the people in the islands before deciding on the decentralisation issue, F. TIMAKATA commented on this last proposal, saying it would only be possible once the Committee was united and in agreement.

59. Professor GHAI that, in all countries, the issue of decentralisation was a difficult one. What was remarkable in the New Hebrides, however, was that although there existed unanimous agreement in favour of the principle of decentralisation, no agreement could be reached over the Constitutional provisions. he felt that the proposal made by the Chairman took everyone's views into account - to reject it would be to impose the Federal Party's views on the Vanuaaku Pati, Nakamal, Tabwomassana, Mal Fatu Mauri and the NHCC. He said he would be willing to try to draft a new proposal, but was pessimistic as to its likely chance of success.

60.J.M. LEYE said that if no agreement could be reached on A9 (2), the issue decentralisation should be left as it was, and France and Britain could decide.

61.Examining the Federal Party drafts, K.MATAS said the issue was whether these should be part of the Constitution or left to an Organic Law. If they were to be in the Constitution, they would need detailed examination by the Committee: it would be almost impossible to complete discussions in time for the Constitutional Conference.

K. Matas felt that to include the Federal Party proposals in the Constitution would be to create a Federal, rather than unitary, state.

62.Replying to Professor GHAI, G. PREVOT explained that the Federal Party believed, when it approved A9 (2), that the Committee would be able to prepare an annexe to the Constitution. The Federal Party, he said, had not known the precise meaning of Organic Law - if had thought of it in terms of an annex to the Constitution. He proposed that K. Matas suggestion to examine the Federal Party drafts be followed.

63.K. MATAS thought the Federal Party had known what an Organic Law was. He felt that, at the time of the debate on 119 (2), all had been agreed on removing "annexed to the Constitution". That those words had been left in was a mistake, he said.

64.W.LINI felt that if a decision was postponed until the following monday, the Federal Party's position would not alter. Whereas he had tried to work with Messrs. Leye and Kalsakau in a spirit

of trust, he now felt that trust was not mutual.

W. Lini thought that during the day's discussions, the atmosphere of trust that had been built up over the months had broken down: J.M. Leye had before him the nation's leaders and chiefs, and yet insisted on seeing all proposals down in writing, before accepting to take a decision on them.

He felt that Messrs Leye and Kalsakau were being manipulated by G. Prevot, who had consistently refused to make concessions. The Vanuaaku Pati could make no more compromises - enough had been made without any sign of a concession from the Federal Party.

The Federal Party, thought W. Lini, was deliberately trying to confuse the Committee - G. Cronsteadt had stayed for the morning only before returning to Suite, where it was likely that he was preparing more proposals designed to block the Committee's work.

W. Lini ended by saying that he was not worried by the reaction of France and Britain should the Constitution not be completed, but he felt that the people of the New Hebrides were being badly let down by the Committee. M. Kalsakau, he said, had proposed the Committee should tour the islands - in that case, he would like to travel with him to hear him explain to the people why the Committee had failed to reach agreement.

65.K.MATAS asked the Federal Party to agree to the deletion of "annex to the Constitution". He pointed out that the Federal Party had deleted article 57 of their Constitution (which corresponded to article 5 of A9 (2)) and then added it in later by hand. He said it was time for the Federal Party to make a compromise.

66.G. KALASAKAU wondered why K. Matas was no longer interested in examining the Federal Party proposals, He suggested that Chapter IX of the Federal Party Constitution be examined article by article.

67.J.M.LEYE said he could agree to the deletion proposed as long as some other, suitable guarantee was inserted in A9 (2).

68.J. ARIBAUD explained the guarantees that would be provided by an Exchange of Notes bringing article 4 into effect before independence. Such an Exchange could be signed before the next elections the matter could be discussed with Messrs Dijoud and Blaker the following week.

69.After a short discussion, J.M. LEYE said he could agree to the proposal to delete "annexed to the Constitution" and to have an Exchange of Notes, but that he wished to discuss it with the other representatives of his Party.

70. The Chairman closed the meeting at 9.45 p.m. by requesting the Committee to meet again the following Monday.

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/50

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON MONDAY 17 SEPTEMBER 1979:
8.30 a.m.

Present: G. LEYMANG (Chairman), W. LINI, G. KALKOA, T. REUBEN, M. CARLOT, G. PREVOT, A. MALERE, D. KALPOKAS, J. NAUPA, M. TANGARASI (for L. DINI), S. REGENVANU, K. MATAS, V. BOULEKONE, T. TUNGU, F. TIMAKATA, RINGAO, T. TIPOLOAMATA, G. KALSAKAU, J.M LEYE, G. MOLISA, G. PAKOA, J. NATUMAN, W. BONGMATUR (afternoon only), B. SOPE (afternoon only).

Observer: M. BERNAST (for L. VATOU)

Invited: Professor YASH GHAI, J. ARIBAUD, J. PERES.

Minutes: A. STANDLEY

1. Papers R7 (3) and A9 (3) were distributed with the Chairman informing the Committee that the French versions were, in fact, translations of a text that had been translated into English from a French Original.
2. Professor GHAI introduced R7 (3) and A9 (3), as well as the draft Constitution that had been given to members after revision by the legal draftsman. He explained that Article 55 had not, in fact, been discussed by the Committee - it was therefore for it to decide whether to retain or to delete it.
3. Break 9.15 - 10.30.
4. After the break, G. PREVOT commenting on A9 (3), said the paper failed to contain sufficient guarantees about the composition of the Regional Councils and their creation. He therefore felt unable to approve A9 (3).
5. J.M. LEYE made the same remarks as G. Prevot, adding that he had still been given no assurances concerning the signing of an Exchange of Notes. He did not, therefore, agree with A9 (3) and R7 (3).
6. Professor GHAI remarked that, anyhow, the Exchange of Notes could only be made once the Committee had agreed on A9(3) and R7(3). Once this had been done and the Committee had made a formal request to France and Britain requesting an Exchange of Notes, Professor Ghai felt, the French and British Ministers would be likely to agree to making the Exchange. He thus wondered whether J. M. Leye could agree to A9 (3) and R7(3) on a provisional basis; until the French and British Ministers had stated their position on the Exchange of Notes.
7. M. BERNAST approved of this proposal, saying that all that remained to be done before the completion of the Constitution was to reach agreement on decentralisation. This, he said, was within the powers of the Metropolitan Governments insofar as they could determine whether the Exchange of Notes could be signed forthwith.

8. V. BOULEKONE disagreed with the Exchange of Notes proposed in A9(3) and R7(3), feeling that they would tie Parliament's hands. He wished the Federal Party to make clear its reasons for disagreeing with A9 (3). Professor GHAI intervened to explain the purpose and the effect of the Exchange of Notes.

9. J.M. LEYE replied to V. Boulekone by stating that if the Federal Party decentralisation draft was not accepted by the Committee, his Party would fall back to paper A9(2). If this was still not accepted, he would agree to A9(3) but on the strict condition that the Exchange of Notes was made before final approval was given by the Committee to the decentralisation chapter of the Constitution. This, he said, was because he had already seen how governments in the New Hebrides had made no attempt to decentralize power.

10. Professor GHAI said the possibility of having an Exchange of Notes within the next two days could be discussed with the Residencies and the French and British Ministers.

11. Following a remark by M. TANGARASI, the Chairman commented that what was under discussion was the creation of the decentralisation Commission by the next Representative Assembly, and not by the Government of National Unity.

12. The Chairman, after a restatement of the Federal Party position by J. M. LEYE, proposed that the discussions on papers A9(3) and R7(3) be suspended until after the signature of the Exchange of Notes.

13. W. LINI spoke of his sadness at seeing that the Federal Party refused to make concessions. If Messrs Leye, Kalsakau and Prevot continued to force the rest of the Committee to follow their way, the remaining atmosphere of trust would vanish and consensus would be impossible. The Exchange of Notes the Federal Party insisted upon, he continued, would not be the result of a real consensus, but rather a sham designed to patch over a difference.

14. Following a question from G. KALSAKAU, Professor GHAI explained that the Committee had no power to order the creation of Provincial or Regional Councils by a certain dead-line as this would be impinging upon Parliament's right. It could, however, recommend that Provincial Councils be established before Independence, if a consensus existed on this. He concluded by commenting that J. ARIBAUD and he had drafted A9(3) and R7(3) as a result of the consensus that had been reached previously.

15. G. KALSAKAU stated that a consensus existed in favour of Regional Government. The Constitution should therefore ensure that preparations be begun before Independence and that Regional Councils be brought into existence on Independence Day. The people, he ended, would not want an Exchange of Notes, but, rather, clear guarantees within the Constitution.

16. J.M. LEYE remarked that the views held by G. Kalsakau were different from his own.

17. W. LINI felt that to insist on such guarantees as those requested by G. Kalsakau was unrealistic; what would happen, he asked, if in spite of such a provision in the Constitution, Regional Councils were not established by the deadline. He again urged that A9(3) and R7(3) be accepted, and stated that the Vanuaaku Pati, on account of the Federal Party's unwillingness to compromise, would stand firmly by A9 (3), or even A9(2) with the deletion of "annexed to the Constitution" in article 5. If no clear decision was reached as to how to proceed on the discussion of decentralisation, he said, the Vanuaaku Pati would withdraw from the meeting.

18. V. BOULEKONE warned the Committee that the Federal Party was playing a deliberate

political game - it was organizing demonstrations to coincide with the visit of the Metropolitan Ministers. For these demonstrations to be effective, it was important that no agreement should be reached over the Constitution. The Federal Party, V. Boulekone suspected, was therefore anxious to prevent the Committee from arriving at a consensus.

19. The Federal Party, repeated J. M. LEYE, only wanted constitutional guarantees so as to be certain that, whatever party won the next elections, a policy of decentralisation would be implemented. He added that his Party was still firmly demanding that the Constitution be approved by a referendum. Furthermore, he said, he was still not satisfied with the "approved drafts".

20. F. TIMAKATA said the Chiefs and the people of the New Hebrides did not wish to be rushed into decentralisation. He felt the Federal Party was using dishonest and deceitful tactics.

21. After further discussion, the Chairman closed the morning session by proposing that A9(3) and R7(3) be left aside until the arrival of Messrs Dijoud and Blacker. In the afternoon, the Committee would go through the final draft, chapter by chapter.

22. Before the meeting broke, J. ARIBAUD informed the Committee that Mr. Dijoud's first reactions to the draft were: - the need for more Independence for some of the major institutions and the main offices: - the need to provide satisfactorily for custom; - the importance of decentralisation and the need to provide for it. Mr. Dijoud, he said, had, generally, been most impressed by the work performed by the Committee.

23. Break 12.00 - 14.30

24. After lunch, W. LINI expressed his confusion at hearing Mr. Dijoud's remarks over the radio. He could not avoid thinking that Mr. Dijoud's intention was not to sign the Constitution. He therefore wished to obtain clarification over how the Committee was to proceed.

25. Although he had not heard the Radio broadcast, Professor GHAI felt it was most unlikely that Mr. Dijoud would, so precipitously, assert that he would not sign the Constitution draft. He therefore urged the Committee to continue with its work, and to strive to reach final agreements.

26. J. ARIBAUD confirmed that it was not Mr. Dijoud's intention not to approve the draft Constitution.

27. V. BOULEKONE and F. TIMAKATA criticized the remarks made by Mr. Dijoud as being hurried and premature. V. Boulekone went on to ask why G. Cronsteadt was not present - he felt it was a deliberate attempt to prevent the Committee from reaching a unanimous consensus.

28. At the request of the chairman, the Committee then went through the draft preamble.

29. The Committee approved the Preamble.

30. Discussing Chapter 1 "Sovereignty", the Committee to include, in article 4 (2), the bracketed phrase "subject to such conditions...by Parliament".

31. A discussion followed a reminder from G. Prevto that the Committee had previously agreed to hear two linguists before taking a final decision on article 3.

32.K. MATAS proposed that, rather than leave article 3 in brackets until the linguists had been heard, as we suggested by some members, the article be left unchanged. If, after hearing the experts, the Committee was convinced of the need to amend article 3, changes could then be made.

33.J.M. LEYE disagreed with the draft of article 3 and felt that French and English should be known as "official languages".

34.At 4 p.m., Messrs Leye, Malere, Kalsakau and Prevot left to meet with Messrs Dijoud and Blaker.

35. After further discussion, the Committee decided, provisionally, to leave article 3 unchanged, but agreed that a final decision would only be taken after the two linguists had advised the Committee.

36.A number of speakers spoke of their discontent at the departure of the Federal Party members, which was, they said, part of a deliberate attempt to prevent the completion of the Constitution.

37.At the request of the chairman, the Committee went on to examine chapter 2 of the Constitution.

38.A short discussion followed a remark by S. REGENVANU on the restriction of the freedom of worship, with the Chairman reminding the Committee of the decision taken to leave any restriction of this freedom to an organic law, if Parliament felt such a restriction to be necessary.

39.Professor GHAI also pointed out that fundamental rights were, anyhow, subject to public interest, public order etc. Thus the activities of churches that were prejudicial to the public interest could be controlled in this way. Professor GHAI and J. ARIBAUD explained that an Organic Law was passed by the majority of the total membership of Parliament.

40.A short discussion took place on article 7 (h), after which it was decided to insert the words "legitimate and illegitimate" after "children".

41.Professor GHAI introduced the new proposed article 8. K. MATAS felt that, taken in relation with article 7 (b), it could prove to be dangerous for the interests of the country. After some discussion, article 8 was approved.

42.The Committee approved Chapter 2 with the amendment made to article 7 (h) and the inclusion of article 8.

43.The Committee approved Chapter 3 "Citizenship".

44.The Committee then examined Chapter 4 "Parliament" with Professor GHAI proposing an article 16 (3).

When a bill has been passed by Parliament, it shall be presented to the President of the Republic who shall assent to it forthwith, and when such assent is given the bill shall become law".

45.During the discussion that followed, a number of members expressed their concern that an obstructive President could refuse to sign. Professor GHAI felt an alternative solution would be for the bill to be certified by the speaker of Parliament.

46. After a short discussions, the Committee agreed to the following draft for article 6 (3):
“ When a bill had been passed by Parliament, it shall be presented to the President of the Republic, who shall assent to it forthwith. In case the President has not signed the bill within 2 weeks of its presentation to him, the bill shall become law”.

47. The meeting was closed at 6.30 p.m.

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/51

MINUTES OF CONSTITUTIONAL CONFERENCE HELD AT PORT VILA ON 18 SEPTEMBER 1979

Present: G. Leymang (Chairman), W. Lini, D. Kalpokas, G. Prevot, M. Carlot, G. Kalkoa, J. Naupa, A. Malere, T. Reuben, M. Tangarasi (for L. Dini), G. Pakoa, S. Regenvanu, V. Boulekone, T. Tipoloamata, F. Timakata, L. Vatou, Ringao, M. Bernast, B. Sope, T. Tungu, J.M. Leye, G. Kalsakau, K. Matas, G. Molisa, J. Natuman, J. Kalotiti, N. Nike, A.. Standy, W. Bongmatur.

Constitutional Committee Advisers: Professor Y. Ghai, J. Aribaud, M. Sam, M. Geiger.

French Government: P. Dijoud (Secretary of State, Overseas Territories and Departments) J.J. Robert, (Resident Commissioner), J. Peres (Chancelier French Residency).

British Government: P. Blaker (Minister of State, Foreign Office), A. Stuart (Resident Commissioner), C. Turner (Chief Secretary, British Residency), J. Snodgrass (Foreign Office), I Hendry (Foreign Office), D. Ridgway (Foreign Office).

Minutes: A. Standley.

1. The meeting was opened at 3.30 p.m. with introductory speeches by Messrs Leymang, Blaker and Dijoud.

2. P. Dijoud proposed a number of amendments and additions to the draft Constitution (see papers A9 (4), C7(8), C7(9), D1(11), E3, J4(6) and R7(4) which, he explained, were motivated by the following considerations:

- to ensure greater independence of the judiciary;
- to reinforce the role of the President of the Republic as an arbiter;
- to give satisfaction to the legitimate aspirations felt by certain islands to have a measure of self-government.

P. Dijoud remarked that, by accepting these proposals, the Constitutional Committee, would complete the Constitution to the satisfaction of all parties concerned. By rejecting them, the Committee would be indicating that the Constitution was not completed; in that case, the metropolitan Ministers would return in 3 or 4 months, once the Committee had completed its work.

3. At 4.00 p.m. the representatives of the French and British Government left the meeting to allow the Committee to deliberate alone.

4. Tabwesaana/Nakamal distributed a proposal (green sheet), being an addition to A9(3).

5. Replying to a request made by the Chairman that each group give its impressions of the proposals introduced by M. Dijoud, K. Matas said the Vanuaaku Pati's first reaction was to reject the decentralization proposals.

6. V. Boulekone and L. Vatou replied that Nakanamal/Tabwessaana, on the issue of decentralization, accepted A9(3) on condition that the green paper circulated by the group was also approved.

7. J.M. Leye declined to make any comment.

8. A short discussion followed on the consequences of a rejection of the Dijoud/Blaker proposals. A number of speakers expressed their disappointment at the intransigent position adopted by the French and British Ministers, following months of work by the Committee, based on the search for compromise and consensus.

9. Professor Ghai and J. Aribé urged the Committee to give serious consideration to the Minister's proposals as possible ways forward to a compromise. Professor Ghai sympathized with the Committee's emotions, but advised against rejecting the proposals in anger; he emphasized to the members of the Committee, the importance of the moment for the future of the New Hebrides.

10. The meeting broke from 4.45 p.m. to 7.17 p.m. to allow each group to reflect on the proposals made by Messrs Dijoud and Blaker.

11. Resuming the discussions at 7.15 p.m., K.MATAS spoke on behalf of the Vanuaaku Pati, saying it hoped that the Metropolitan Ministers would adopt the spirit of open-mindedness and compromise that the Committee had adopted throughout its meetings. He then reserved further comment on the proposals made by the Ministers.

12. J.M.LEYE, on behalf of the Federal Party, informed the Chairman that he could agree to papers E3, D1(11), C7(8), C7(9), though these were still open to discussion, A9(4), he continued, required further clarification, notably paragraphs 2(2) and 2(3). Concerning J4(6), J.M.Leye remarked that the Federal Party disagreed with the draft Chapter on Land in the Constitution. He ended by repeating his Party's insistence on a referendum.

13. V. Boulekone said Nakamal/Tabwessana could agree to R7(4) and A9(4) provided they were taken in conjunction with his group's green paper, the purpose of which was to guarantee the rights of "man ples".

14. Speaking for the Chiefs, F. Timakata indicated he was prepared to agree to the Dijoud/Blaker proposals. The only uncertain point, however, was paragraph (ii) of R7(4) which, he felt, could lead to a real loss of independence for chiefs at the Regional level.

15. K.Matas provided a more detailed account of his Party's views on the new proposals. He felt that all the papers put forward by Messrs Dijoud and Blaker, except R7(4) and A9(4), concerned subjects that had been discussed by the Committee and on which a consensus had been reached. He was therefore saddened by the lack of respect shown for decisions taken by the Committee, and felt that this constituted a deliberate last minute challenge to the Committee as the nation's leaders. K.Matas said the Vanuaaku Pati felt that the Dijoud/Blaker proposals should be rejected; if the two Ministers insisted that they be approved, however, the Party was willing to accept them.

16. The Chairman agreed with K. Matas that the majority of the papers proposals were in contradiction to agreements reached by the Committee. The question was, he asked, whether the Committee would agree to new proposals on subjects on which a consensus had

17. V. Boulekone examining J4(6), proposed the addition of a new article to provide for the ownership of sub-soil by customary owners, and for the payment of royalties to the owners by the state in cases of mining. Returning to the question of decentralization, V. Boulekone declared his comment with A9(4) and R7(4) provided that the green paper was approved as well.

18. M. Tangarasi proposed that, if the Committee considered that they fell within the gen-

eral framework of consensus reached, the Dijoud/Blaker amendments be adopted. He warned against the serious consequences of rejecting the Ministerial proposals.

19. Professor Ghai went through papers D1 (11), J4(6), C7 (8), C7 (9) in detail pointing out to the Committee how they were, in fact, improvements upon the agreed drafts, and consistent with the consensus reached. He felt that E3 was perhaps based on a misunderstanding of the provisions on the Supreme Court agreed by the Committee - Professor Ghai thought the Independence of the Supreme Court was sufficiently protected in the draft Chapter on Justice. However, he said, the committee could examine ways of enlarging the Judicial Service Commission, or could agree to E3 and the issue did not warrant confrontation with the French and British Ministers.

Papers A9 (4) and R7(4), he explained, provided good bases for compromise and took all parties' views into consideration. He therefore urged the Committee to approve the Dijoud/Blaker proposals. Concluding, Professor Ghai felt that the Nakamal/Tabwemassana paper was unlikely to obtain the approval of the Ministers. He therefore pleaded with V. Boulekone, in the interest of reaching a total consensus, to withdraw his paper.

20. K. Matas commented that some of the Dijoud/Blaker proposals were good, others were not, he felt however that little room was being left for constructive dialogue. K. Matas ended by suggesting that the land and green paper proposals be withdrawn.

21. J.M.Leye stated that he accepted the Dijoud/Blaker proposals with the exception of A9(4), to which he agreed in principle but whose paragraphs 2(2) and 2(3) were unclear. He added that the draft Chapters on Land and Citizenship required revision.

22. V. Boulekone spoke vehemently on the decentralisation issue, saying it was likely that his green proposal would be rejected because of pressure from Messrs Dijoud and Blaker, and because of the exhaustion of the Committee. He saw no reason for accepting A9(4), feeling that it was to set up regional councils on Santo and Tanna only; such a proposal, he believed, was the result of the complaints of a small number of people only.

V. Boulekone ended by stating that he would not withdraw his green paper - the other groups would have to say that they rejected it.

23. F. Timakata, for the Chiefs, approved of the green proposal.

24. The Vanuaaky Pati, K. Matas said, had made important concessions over the decentralisation issue, in particular paper R7 (4). He therefore made 6 requests:

1. The Constitution to be signed before the departure of the Ministers.
2. The Ministers to determine the date for elections before their departure.
3. The Federal Party to withdraw its insistence that a referendum be held.
4. Reservations to be expressed over the E3 paper.
5. Nakamal and Tabwemassana to withdraw their green paper.
6. Despite the immediate signature of the Constitution, the Committee still to go to the islands to explain and inform.

25. J.M.Leye commented, with respect to the first request, that the draft still required revision. He felt, concerning request 6, that there would be little point in going to the islands if the Constitution had already been signed.

26. A number of speakers, including M. Carlot and A. Malere, felt that the Committee should travel around the country before being able to approve the Constitution.

27. T. Reuben and W. Lini disagreed, feeling that the Ministers should be invited back to the meeting to try to complete the Constitution, the Committee having finished as much of its work as possible.
28. It was finally decided to invite Messrs Dijoud and Blaker back to the meeting.
29. Break 10.30 p.m. - 11.15 p.m.
30. The meeting resumed at 11.15 p.m. in the presence of the representatives of the French and British Governments.
31. The Chairman informed Messrs Dijoud and Blaker of the Committee's discussions, noting that all parties accepted the new proposals as a package, with the Federal Party requesting clarification on paragraphs 2 (2) and 2 (3) of A9 (4), and with Tabwemassana/Nakamal and the Council of Chiefs supporting the green Nakamal proposal which the other parties had rejected.
32. Following a brief comment from P. Dijoud in which he pointed out the need to complete the Constitution that night, J. M. Leye explained that the provisions of paragraphs 2(2) and 2 (3) of A9 (4) were unclear to the Federal Party. He feared, furthermore, that the two-thirds majority required in Parliament could prevent the making of any decentralisation legislation.
33. Messrs Dijoud and Blaker replied that the two-third majority was consistent with other provisions in the Constitution relating to important decisions. They felt that the Government and Parliament could not afford to take no notice of elected representatives from the regions, - the negotiations provided for in article 2 (2) of A9 (4) would therefore be serious a positive.
34. V. Boulekone appealed strongly to the French and British Ministers for the acceptance of his party's green paper, which, he said, was designed to balance the effect of the R7 (4) provisions. Whilst accepting the decentralisation proposals, he felt it ridiculous to grant regional institutions to Santo and Tanna because of petitions from small groups of people.
35. Messrs Dijoud and Blaker expressed their belief that their Governments would find it extremely difficult to accept the provisions of the Tabwemassana/Nakamal green paper. P. Dijoud added that to give immediate effect to Nakamal's citizenship proposals would mean revising the electoral rolls and therefore delaying elections. He ended by suggesting that, in return for withdrawing his green paper, V. Boulekone be given an assurance by all the other groups that, in the first session following the elections, the Representative Assembly would give priority to a debate on land and citizenship.
36. A vigorous exchange followed between J. M. Leye and V. Boulekone, with the latter requesting the Federal Party to affirm categorically that it accepted A9(4), and would not go back on its agreement to that effect. J. M. Leye gave his consent to A9 (4), but stated that it was impossible for him to approve the complete draft - this could only be done once the Committee had toured the country to discuss the draft in the islands.
37. P. Dijoud urged J.M.Leye to realize the need to bear his responsibilities as the leader of one of country's largest parties, and therefore to take decisions in the name of the people. P. Dijoud did not feel that it would be practical to put such a complex legal document as the Constitution. Once this decision had been taken, the Committee could tour the islands to explain and discuss the document with the people. M. Dijoud ended by remarking that the Vanuaaku Pati had made many concessions already.

38. Following J.M. Leye's acceptance of A9 (4), V. Boulekone agreed to withdraw his green proposal.

39. After a short discussion the Committee agreed to paper E3 without amendment.

40. A brief discussion followed on the role of chiefs and the chiefly institutions at the Regional and the National level. P. Dijoud explained his belief that, in order to hasten the establishment of Regional Councils, the Chiefly representatives on the Regional Councils should be chosen by the 15 elected members, rather than waiting for the creation of Regional Councils of Chiefs which would then nominate Chiefs to the Regional Councils.

41. The Committee then approved paper A9 (4).

42. F. Timakata on behalf on the Mal Fatu Mauri, felt the only feasible way for the Committee to tour the islands would be for it to approve the Constitution first - only in this way could a united front be presented.

43. K. Matas informed the meeting that he believed that his six requests had been met.

44. A discussion followed on the force of the approval of the Constitution by the Committee. Replying to M. Carlot, P. Dijoud stated that a necessary condition for elections was the approval of the Constitution. He thus urged the Committee not to be afraid of taking this decision. P. Blaker explained that the approval procedure being followed in the New Hebrides had taken place in many other countries, with representatives of the people approving the Constitution in the name of the people.

45. W. Lini indicated his willingness to approve the Constitution in the name of his followers, and then to explain it to them. K. Matas added that the Vanuaaku Pati now accepted that the Constitution need not be debated by the Representative Assembly after the next elections.

46. J.M. Leye maintained his position, saying he could not agree to the approval of the Constitution until it has been discussed with the people.

47. A break was called at P. Dijoud's request, from 1.45 a.m. to 2.30 a.m.

48. At the resumption of the meeting, P. Dijoud remarked that the first priority was to allow the political programme to go ahead by holding elections. For this to happen, it was essential that the Constitution be approved that night. However, as it was not desirable to make the Constitution without any consultation of the people, P. Dijoud proposed that the approval of the Constitution be divided into two steps:

1. The Constitutional Committee and then the Government of National Unity would approve the draft.

2. After 15 days, during which time the Committee would tour the country to give publicity to the Constitution, the document would be signed in Europe by the Metropolitan Ministers and in Vila by the representatives of the Government and the people in the New Hebrides. This proposal, he said, would be a good compromise and would not delay elections which, he proposed, should be held on 14 November 1979. After the signature of the Constitution by the Metropolitan Ministers, the French and British Governments would make the Exchange of Notes provided for in the Chapter on Transitional Provisions.

49. Following this proposal, K. Matas for Vanuaaku Pati, J.M. Leye for Federal Party, V. Boulekone and M. Carlot for Nakamal, F. Timakata and W. BONGMATUR for MAL Fatu Mauri; S. Regenvanu

for New Hebrides Christian Council and L. Vatou for Tabwemassana, approved the draft Constitution of the Republic of the New Hebrides.

50. P. Dijoud and P. Blaker gave their assurance to the Committee that, at the end of the 15 day period, they would sign the Constitution.

51. After closing remarks and thanks from G. Leymang, G. Kalkoa and W. Lini, the meeting was closed at 3.25 a.m.