

MINUTES OF THE INFORMAL MINISTERIAL MEETING HELD IN PORT VILA at 8.30 a.m. on 25 May 1979

Present: All the Ministers with the exception of W. LINI (on tour in the islands). This meeting was the follow-up to the meeting held on 17 May 1979 between the Chief Minister and the Vanuaaku Pati Executive Committee (attended by Messrs. W. LINI, B. SOPE, P. TAURAKOTO, F. TIMAKATA).

Purpose of meeting: Constitutional Committee: Study of the documents submitted by the Chief Minister and the Vanuaaku Pati Committee, notably their articles 5 and 7.

Reference documents: a) Chief Minister's proposal dated 20 April 1979, b) Vanuaaku Pati counter-proposal dated 2 May 1979.

1. STUDY OF THE DOCUMENTS

1.1. Article 5

The following three additions were made to the Vanuaaku Pati's proposal:

- General principles of the Electoral Law
- Relationship between Church and State
- Status of the official languages (English and French) and of the National language (bislama).

Note: Regionalization or Federalism was included in article 5 (i) of the Vanuaaku Pati proposal.

1.2. Article 7

The Ministers examined this Article which was, from a political point of view, very contentious. After a survey by the Chief Minister of the different steps to be taken during the preparation and the approval of the Constitution, the Ministers decided unanimously to adopt the following procedure:

1.2.1. First Stage: CONSTITUTIONAL COMMITTEE

- Study in collaboration with local experts
- Wide publication and through consultation with the people with the assistance of the media (R.N.H-Newspapers-Meetings, etc).

1.2.2. Second Stage: COUNCIL OF MINISTERS

The Council of Ministers would unofficially approve the Draft Constitution.

1.2.3. Third Stage: CONSTITUTIONAL CONFERENCE

A Constitutional Conference with the representatives of the two metropolitan powers would give definitive and official approval to the Constitution.

- This conference would consist of the members of the Constitutional Committee;
- It would be bound to meet in the New Hebrides.

1.3. The Ministers requested strongly of the two metropolitan that they display ingenuity in establishing a legal framework to make the approval of the Constitution in three stages easier.

1.4. In spite of the long list contained in Article 5, the Ministers agreed unanimously that the Constitution should be as simple as possible, and should contain basic outlines. The NAGRIAMAL draft constitution, which had been read by some ministers, was mentioned.

RELATED QUESTIONS

1) The question of the elections, which could be held on 26 September 1979 according to M. KALKOA, was discussed in connection with the life of the existing Representative Assembly. The Ministers thought that it was up to the Resident Commissioners to maintain or to dissolve the Representative Assembly during the period preceding the elections.

- 2)As for the composition of the Constitutional Committee, the number 20 was not restrictive: other members, such as the members of the Representative Assembly's Ad Hoc Committee, a representative of the New Hebrides Christian Council and Mr. Jimmy STEPHENS, could be added to bring the number up to 25.
- 3)There would be no voting within the Constitutional Committee. It would be better for all to agree on the basis of a consensus.
- 4)The Constitutional Committee's Secretariat would be provided by the Chief Minister's office. A financial and personnel aid would be requested of the two Resident Commissioners.
- 5)The Constitutional Committee would meet twice a week.

After a summary of these points by the Chief Minister, the Ministers gave their approval.

The meeting was closed at 11.00 a.m.

Gerard LEYMANG

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY CHIEF MINISTER

WORKING PAPER/INCLUDING ALTERNATIVES PROPOSAL FOR A CONSTITUTIONAL COMMITTEE

1. A Committee shall be established known as the Constitutional Committee. (VP/ALT.1. A Committee shall be established known as the Constitutional Discussion Committee)
2. (a) There shall be not more than 20 members, each of whom shall have an alternate.
(b) The names of the members and alternates shall be published in the New Hebrides Government Gazette.
(c) An alternate shall,
 - (i) only attend meetings when the member for whom he is an alternate is not present,
 - (ii) have the same rights of participation and voting in meetings that they attend as do members.
3. (a) The Committee shall appoint a Secretary who shall perform such functions as it may assign to him.
(VP/ALT. 3. a) The Committee shall appoint a Secretary who shall perform such functions as it may assign to him, and other staff as the Committee may see fit.)
4. (a) The function of the Committee shall be the preparation and drafting of a Constitution for the New Hebrides.
(VP/ALT. 4. (a) The function of the Committee shall appoint such public officers and advisors to assist the Committee as may be necessary).
(b) The Committee shall receive and take into account oral submissions, written evidence and memoranda and after such consultations with the Council of Ministers as may be necessary and subject to Clause 5 shall make a report which shall contain:
 - 1) a summary of the views put to the Committee,
 - 2) its own comments and recommendations, and
 - 3) a draft Constitution and drafts or proposals for consequential legislation.
(c) In carrying out its functions hereunder the Committee may:
 - 1) make comparative studies of the Constitutions and Constitutional bodies of other states.
 - 2) consult such constitutional experts as may be made available to it
 - 3) form such-committee as it may consider expedient for the better carrying out of its functions
 - 4) sit in public and private in full committee of sub-committees anywhere in the New Hebrides
- 5) coopt non-voting members
5. The Committee shall make provision in the draft constitution for:
 - a) So far as is possible in the interests of good administration a separation of the powers of the Legislature, the Executive and the Judiciary,
 - b) guarantee of the enjoyment of human rights
(VP/ALT. 5. b) guarantee of the enjoyment of human rights as well as the call for fundamental human obligations)
 - c) protection of minorities without derogating from the legitimate rights of the majority
(VP/ALT. 5. c) protection of minority rights;)

d) effective machinery for all citizens to secure the enforcement under the law of such of their rights as may be violated. (VP/ALT 5. d) effective machinery for all citizens to secure the enforcement under the law of such of their guarantees and protections as may be violated.

(OTHER VP ALTERNATIVES)

- e) emergency powers;
- f) central and local government relations and administration;
- g) leadership code;
- h) citizenship, imbuing the concept of single-citizenship;
- i) the machinery of government - control, organization and structure of the Public Service;
- j) an ombudsman and tribunal of administrative review;
- k) a legislative system;
- l) an executive system;
- m) a judicial system incorporating a Director of Public Prosecutions and the Public Solicitor;
- n) procedure for the amendment of the constitution;
- o) status of the constitution as a "home-grown" constitution;
- p) a police force, a defence force, and internal security;
- q) relations with France and the United Kingdom;
- r) name of the country, flag, emblem, motto and national anthem;
- s) financial control; parliamentary financial control; an office of the Auditor General; the parliamentary scrutiny of public accounts;
- t) miscellaneous matters that may be recommended by the Committee to be included into a draft constitution;
- u) judicial review - the power of a court to decide whether or not any action by the Government or law passed by Parliament is in accordance with the constitution;
- v) the fundamental principles of customarised land ownership.

6. (1) The Committee shall cause a preliminary draft constitution to be widely published and allow a period of not less than 42 days thereafter for public comment. (VP/ALT 6. (1) The Committee shall cause a preliminary draft constitution to be widely published and allow a responsible period thereafter for public comment).

(2) The Committee shall include a summary of comments and representations made on the draft in the Report provided for in Clause 4 b) and may amend the draft in conformity with such comments as it may consider appropriate.

7. 1) The Committee shall submit the Report to a Constitution Assembly for approval.

2) The Constituent Assembly shall consist of all the members of the Representative Assembly and such uncoopted members of the committee as are not members of the Assembly. (VP/ALT 7. 2) The Constituent Assembly to be elected towards the end of 1979).

3) After approval of the Constitution by the Constituent Assembly it shall be submitted to a referendum of the people of the New Hebrides in accordance with the law.

8. The Committee shall determine the procedure for it and its sub-committees except that the quorum for meetings shall be not less than half of its members, and the draft Report shall be approved by not less than three quarters of the members of the Committee. (VP/ALT8. The Committee shall determine the procedure for it and its sub-committees except that the quorum for meetings shall be not less than half of its members).

Port Vila, 20 April 1979
(VP AMENDT. MAY 8, 1979)

NEW HEBRIDES CHRISTIAN COUNCIL

SUBMISSION NO.1 TO THE NATIONAL CONSTITUTIONAL PLANNING COMMITTEE

THE PEOPLE, THE STATE AND SOVEREIGNTY

1. New Hebrides/Vanuaaku is a Free, United, Sovereign and Independent State/Republic and shall be known as the Democratic State/Republic of New Hebrides/Vanuaaku.
2. The Democratic State/ Republic of New Hebrides/Vanuaaku is an Indivisible, Unitary State founded on Christian principles and traditional wisdoms.
3. An Act of Parliament may make provision in respect of the government of a part of the country within the unitary state for the participation of the people in government.
4. The sovereign power, authority and jurisdiction of God vests in people and shall be exercised and enjoyed for the collective welfare of the people in the following manner: a) the legislative power of the people shall be exercised by the Parliament or a delegate of the Parliament. But the parliament shall not divest itself permanently of the legislative power; b) the executive power of the people shall be exercised by the Parliament or a delegate of the Parliament. But the parliament shall not divest itself permanently of the legislative power; c) the judicial power of the people shall be exercised by the Judicial system, except that by written law other bodies may be authorised to exercise judicial power. d) the people shall exercise their power through franchise or referendum wherever this is provided for.
5. In principle, the respective powers, authorities, jurisdictions and functions of different state and government organs shall be kept separate from each other.

THE LEGISLATURE. PARLIAMENT.

6. a) There shall be a Parliament which shall consist of a single-chamber legislature. b) The legislature shall consist only of duly elected representatives of the people, on the principle of one person, one vote.
7. Parliament shall have power to make law for the welfare, social justice and good government of the people. But the Parliament must not make laws to - a) have retrospective effect; b) to suspend or abolish the whole or part of the Constitution, except through the Constitutional procedure..
8. a) A general election shall be held within 2 months from the last day of the previous general election. b) A by-election shall be held within 2 months of a vacancy having been declared or an alternate member shall be appointed within that time (if alternates are accepted).
9. The parliament shall, at all times, have power, authority and control over the Executive, including the President and the Head of State.

10. The members of Parliament shall be bound by the paramount interests and welfare of the people, according to the dictates of their conscience in the exercise of their powers and functions.

THE EXECUTIVE

11.a) There shall be a President of the Republic/the Democratic State of New Hebrides/Vanu-
aaku, who is the Head of the Executive and the government.

b) The President shall have no powers, rights, titles, privileges or benefits whatsoever on account of being the Head of State/Chief of State/ Committee of State.

c) The President's powers, rights, titles and privileges exist only on account of and by virtue of his office as the Executive Head of the Executive and the Government as provided expressly by the Constitution and written law.

d) The President shall be elected by the Parliament and shall hold office for a period of unless earlier terminated by Parliament.

e) Any citizen who has been elected to the Parliament may be nominated as a candidate for the office of the president by - i) a recognized political party or ii) any elected member of the Parliament.

12. The President shall have the power to appoint his Ministers, provided that the total number of Ministers shall not exceed one quarter of the number of members, and not less than three.

13. A motion of no confidence in the President or his entire government shall not be allowed in the first six months of the return of the writs of the previous general election.

THE PARLIAMENTARY HEAD OF STATE

OR

HEAD OF STATE

OR

THE CHIEF OF STATE

OR

THE COMMITTEE OF STATE

14. There shall be a parliamentary Head of State/ Head of State/ Chief of State/ Committee of State, who shall be appointed by no less than 2/3 rds majority of the total membership of the parliament.

15. Theshall be a paramount chief, nominated by the Council of Chiefs or the Malfatu Mauri, who shall hold office for a period ofunless earlier terminated.

16. 1) A Committee of Advisors is hereby established Consisting of - a) a woman, b) a representative from NHCC, c) the Chief Justice; d) the Chairman of the Public Services Commission, e) The speaker of the Parliament.

2) Whenever the Committee meets, the Chief shall be the Chairman.

17. The advice of the Committee of Advisors is not binding/ is binding on the Chief of State.

18. The Chief of State, shall act strictly in accordance with the advice of the Council of Ministers or Other body or authority prescribed by law.

19. The powers, functions and authority of the Chief of State in times of crisis shall exist strictly and be exercised strictly in accordance with the Constitution or written law, and none other.
20. A law defining powers and functions of the Chief of State shall be passed with no less than 3/4 of the total membership.
21. Any advice or instrument made y the Chief of State shall recite that it is made in accordance with the advice of the Council of Ministers and of the date and the number of that advice.

(1) Points adoptés par le Comité			(2) Points sur lesquels n'a été obtenu d'accord			
Dénomination	1	Réf ère	Procès-Verbaux	Dénomination	Références	Procès-Verbaux
Souveraineté	R1		PV/21	Régionalisation / Décentralisation	A6(2)	PV/29 (points 11 à 28) PV/30 (points 15 à 2 PV/35 (point 31)
Droits Fondamentaux	G6		PV/22 (points 11 à 17) PV/35 (points 21 à 25)			
Administration (Médiateur ; Con- mission de la Fonction Publique)	C8		PV/22 (points 19 à 23) PV/23 ; FV/24	Revisi ondela Constitution	F1	PV/30 (points 11 à 14) PV/35 (points 26 à 32)
Justice	E2		PP/25	Terre	J1(2)	PV/32 (points 17 à 27)
Citoyenneté	E		PV/25 (points 2 à 26) PV/30 (points 1 à 3) PV/31 PV/32 (points 3 à 16)	Chef de l'Etat	C7 (artical 1 à 5)	PV/32 (points 28 à 31) PV/33 (points 1 à 20) PV/35
Parlement et Loi Electorale	D1 (7)		PV/25 (points 28 à 29) PV/26 ; PV/27 ; PV/28 (point 4) ; PV/29 (points 1 à 10) PV/30 (points 4 à 10 ;			
Conseil National des Chefs	R4		PV/26 ; PV/27 (point 1 4)			
Code des Obliga- tions des Fonctio- naires	R3		FV/35 (point 1)			
Exécutif	C7 (articles		PV/35			

(3) Points n'ayant pas encore été discutés

17 Aout 1979

THE REGIONS

ART 1. The Republic of the New Hebrides comprises five regions

- 1) Torres and. Banks,
- 2) Santo, Anbanand Naewo,
- 3) Mallicolo, Pentecôte and Antrym,
- 4) Epi, Shepherds and Vate,
- 5) Erromango, Tanna and Anatom.

Each region is freely administered by a Council elected by universal suffrage, the execution of the decisions of the Council being assured by its President.

ART 2. Each regional council is composed of fifteen members, elected for three years by proportional representation according to the system of "the strongest remains", each region being one electoral district.

Any citizen of the New Hebrides, of at least twenty one years old and having been resident in the region for at least six months, is eligible for the regional council.

In the case of a seat becoming vacant because of a Regional Councillor's death, his resignation, or his being given a sentence leading to his loss of liberty by the courts of the Republic, the first non-elected candidate on the same list automatically becomes Regional Councillor. If a non-elected candidate from the same list does not, or no longer exists, the Regional Councillors from that list nominate the new Councillor by a relative majority, from among those people fulfilling the conditions of eligibility.

Art. 3. The Regional Council draws up its own internal rules; during the first sitting following its election, it elects its President and should the need arise, one or more Vice-Presidents and it sets up Commissions and nominates their members.

The Regional Council meets in ordinary session once a semester and in extraordinary session on the demand of the President or of two-thirds of the members. All its decisions require an absolute majority of votes cast, two thirds of its members being present or represented.

The Regional Council discusses all matters affecting the re-ion. It votes the regional budget ; it creates regional public services and assures their functioning ; it manages the patrimony and the public property of the region; it concludes public works contracts ; it authorises law suits affecting the region ; it regulates the etc-bus of regional officials, creating and suppressing posts ; it maintains relations with the Regional Chiefs on matters of custom.

ART. 4 The President of the Council presides over the Council debates; it is his duty to keep order during the sittings which are, in principles, public.

He is the. Executive organ of the region. He assures the investigation and the execution of all the matters dealt with by the Regional Council. He prepares the regional budget, proposes it to the Council and is charged with its execution. He has particular powers as the head of personnel of the region and as the authority. responsible for police: he takes the general and individual measures necessary to the maintenance of public order in the region.

He is also the representative of the Republic in the region. He is charged, because of this with the execution of national laws and regulations, as well as taking measures of general security.

ART 5. The President of the Regional Council may be assisted by a general secretary of his choice, appointed on the regional budget. He can delegate to Vice-Presidents, elected under the same conditions as himself.

ART 6. The control of the Republic over the region is assured by the Minister responsible for the regions.

The decisions of the Regional Council can be annulled, if they are concerned with a matter outside the competences of the region, if they have been taken outside of an ordinary or extraordinary session, or with the participation of a councillor personally, interested in the matter. The police dispositions for keeping order of the Regional Council President can also be the object of an annulment or a suspension of execution.

The minister responsible for the regions may, after giving a formal notice, take over the office of President of the Regional Council when the latter refuses or neglects to carry out one of the dispositions prescribed by the national laws and regulations, or to use his powers of keeping order.

If it considers the measures available to it are insufficient, the Regional Council may demand technical and financial assistance from the Republic. This assistance may in turn entail the partial relinquishing of some of its power by the Regional Council and its President.

NEW HEBRIDES CHRISTIAN COUNCIL

SUBMISSION No.5

DECENTRALIZATION

1. Consistent with our first submission, we support and indeed we advocate decentralization within one unitary state. 'For this reason we think this chapter should be entitled "decentralization" and not regionalism.
2. It is common and natural for newly independent states to start off with strong centralist government as a way to unify a divided people often as reaction against colonial divisive policies.
3. We note however that the result of that has often meant forced unity with the barrel of the gun. Such unity is forced unity. We believe there can be only one country in New Hebrides and only one National Government having power over the police, the armed forces if any, foreign affairs currency, income tax, customs and excise, aerodromes, wharfs. and national education system as well as language policy. With the possible exception of custom courts, all courts to remain with National Government. Public Service may be organised by agreement.
4. However, and apart from these we strongly believe that any district or province or part of the country may by a law of parliament set up a district or provincial government.
5. We believe all that the constitution needs to do is to state that an Act of Parliament shall make provision for the government of a part or parts of the country.
6. The constitution should state also that a committee shall be set up within a period of 2 years from independence to investigate and report on the best ways of implementing the principle of devolution of power.
7. We believe the parliament should have the power to abolish a district island or provincial government by a two thirds absolute majority of all the members present and voting. Reasons for abolishing such governments should be very clearly laid down so that there can be no arguments.
8. We also believe that no district or island government should be forced onto the people. It must be the clear wish of the people of a given island or district that they want an island or district government. How that wish is established is a matter for the government and the parliament: of the day.
9. We further hold that there need not be a uniformity of powers and functions for every island or district that wants a provincial or district government. Some may have greater, some may have lesser powers and functions depending on their capacity.
10. Added to this point on diversity, we also hold that the actual forces or structures of government may vary from legislative decentralization with fully elected representatives to delegation of administrative functions.
11. We also submit that the government; would do well to send a. delegation to places that have attempted decentralization to see whether that exercise is successful or whether there are problems and now we can avoid them.
12. The people have a right to participate in government at village and district level. But we

must make sure we set up correct structures to suit our temperament, culture, manpower and finance.

Thank you.

Original: French A5

TABSEMASSANA

SANTO

NAKAMAL VILA

DRAFT PROPOSAL FOR ADMINISTRATING DECENTRALIZATION

- I. The Republic of New Hebrides is ONE and indivisible.
- II. The Government shall by Order of the Council of Ministers establish Rural Community Councils or Village Councils, wherever possible.
- III. The Government shall devolve certain powers upon these Councils.
- IV. Village Councils may form themselves together into Island Councils which shall be established by an Order of the Council of Ministers.
- V. The Government shall devolve certain powers upon these Island Councils.
- VI. Powers thus devolved may be withdrawn at any time by the Government in accordance with the provisions of an Organic Law made by Parliament.

PARTI FEDERAL

LES REGIONS

ARTICLE 1. La Republique des Nouvelles Hebrides est formee de quatre collectivites Regionales.

ARTICLE 2. Chaque Region s'administre librement par un Conseil. compose pour partie de membres elus au suffrage universel, pour part de membres designes representant les courants coutumiers.

ARTICLE 3. Chaque Conseil Regional comprend:

- de douze a vingt membres elus
- quatre membres designes par le Conseil Regional des Chefs.

ARTICLE 4. La duree du mandat des Conseillers Regionaux est de quatre ans.

ARTICLE 5. Le President du Conseil Regional est en son sein. Il est l'organe executif de la Region. Il est aussi, de droit, la delegue de la Republique dans sa Region.

ARTICLE 6. Le Conseil Regional delibere de toutes les affaires interessantes de la Collectivite Regionale.

Il participe a l'elaboration des plans nationaux et en assure l'execution au niveau regional. Il regle egalement, dans le respect des lois nationales, les problemes fonciers interessant la Region.

ARTICLE 7. Les ressources de la Region proviennent essentiellement d'un reversement d'un pourcentage automatique des recettes fiscales percues au niveau national.

ARTICLE 8. Une loi organique annexee a la presente Constitution fixe les modalites d'application des dispositions qui precedent concernant la Region.

ARTICLE 9. Les Conseils Regionaux seront mis en place des l'approbation de la Constitution.

ARTICLE 10. Les conflits de competences entre Regions et Pouvoir central sont portes devant la Cour Supreme des Nouvelles-Hebrides.

Original: Anglais

DECENTRALISATION

Article 1. La République des Nouvelles-Hébrides reconnaît l'importance de la décentralisation pour permettre au peuple de participer pleinement au Gouvernement de sa région, et promulguera les lois pour réaliser cet idéal.

Article 2. La République des Nouvelles Hébrides ne comprendra pas moins de 4 provinces, ou tel autre nombre, tel que le Parlement le déterminera.

Article 3. Le Parlement donnera effet, par loi, aux principes de l'article 1, en établissant un système d'administration provinciale et de conseils élus, d'administration de communauté et de village et d'autres institutions; et il prévoiera les fonctions, les pouvoirs et les finances de telles institutions.

Article 4. Une Commission du Parlement composée de Parlementaires, de représentants des groupes politiques, couturiers, sociaux et des organisations ecclésiastiques aussi bien que de représentants des organes locaux sera nommée dans les 6 mois qui suivront l'approbation officielle de la Constitution, pour faire des recommandations au Parlement.

Article 5. Une loi organique annexée la Constitution décrira les modalités de la mise en oeuvre des dispositions de ce chapitre.

Article 6 Les Conseils Régionaux seront créés en même temps que l'approbation de la Constitution.

A9 (2)

Original: English

DECENTRALISATION

Article 1. The Republic of the New Hebrides recognizes the importance of decentralization to enable the people to fully participate in the government of their hand shall enact legislation to realize that ideal.

Article 2. The Republic of the New Hebrides shall consist of no less than 4 provinces or such other number as Parliament determines.

Article 3. Parliament shall by law, give effect to the principles in article 1, by establishing a system of provincial administration and elected councils, community and village administration and other institutions ; and shall provide for functions, powers and finances of such institutions.

Article 4. A commission of Parliament composed of Parliamentary representatives, political representatives, customary, social and church, organizations as well as representatives of local bodies shall be appointed within 6 months of the election of Parliament to make recommendations to the Parliament.

Article 5. An organic law annexed to the Constitution shall describe the modalities of the imple-

mentation of' the provisions of this chapter.

Article 6. The Regional Councils shall be established upon the adoption of the report.

A9(2)

Original: Anglais

DECENTRALISATION

Article 1. La République des Nouvelles-Hébrides reconnaît l'importance de la décentralisation pour permettre au peuple de participer pleinement au Gouvernement de sa région, et promulguera les lois pour réaliser cet idéal.

Article 2. La République des Nouvelles-Hébrides ne comprendra pas moins de 4 provinces, ou tel autre nombre, tel que le Parlement le déterminera.

Article 3. Le Parlement donnera effet, par loi, aux principes de l'article 1, en établissant un système d'administration provinciale et de conseils élus, d'administration de communauté et de village et d'autres institutions et il prévoiera les fonctions, les pouvoirs et les finances de telles institutions.

Article 4. Une Commission du Parlement composée de Parlementaires, de représentants des groupes politiques, couturiers, sociaux et des organisations ecclésiastiques aussi bien que de représentants des organes locaux sera normée dans les 6 mois qui suivront l'approbation officielle de la Constitution, pour faire des recommandations au Parlement.

Article 5. Une loi organisée annexée la Constitution décrira les modalités de la mise en oeuvre des dispositions de ce chapitre.

Article 6 Les Conseils Régionaux seront créés dès l'adoption du rapport de la Commission.

A9 (3)

Original: English

DECENTRALISATION

ARTICLE 1. The Republic of the New Hebrides, conscious of the importance of decentralisation to enable the people to participate fully in the government of their regions shall enact the legislation necessary to realize that ideal.

ARTICLE 2. The Republic of the New Hebrides shall consist of 4 provinces or such greater number as Parliament determines.

ARTICLE 3. Parliament shall by law, give effect to the principles in article 1, by establishing a system of provincial administration and elected councils, community and village administration and other institutions ; and shall provide for functions, powers and finances of such institutions.

A9 (3)

Original: English

DECENTRALISATION

ARTICLE 1.- La République des Nouvelles-Hébrides, reconnaissant l'importance de la décentralisation pour permettre au peuple de participer pleinement au Gouvernement de sa région, promulguera les lois nécessaires pour réaliser cet idéal.

ARTICLE 2.- La République des Nouvelles-Hébrides sera composée de 4 provinces, ou tel autre nombre supérieur, tel que le Parlement le déterminera.

ARTICLE 3.- Le Parlement donnera effet, par loi, aux principes de l'article 1, en établissant un système d'administration provinciale et de conseils élus, d'administration de communauté et de village et d'autres institutions; et il prévoiera les fonctions, les pouvoirs et les finances de telles institutions.

C4

THE ADMINISTRATION

ART.1 The civil servants owe their allegiance to the Constitution and their devotion to the New Hebridean people, The type of qualities necessary for their nomination are defined by the Civil Service Commission.

No-one can be appointed to a post which has not been created by a law. A special regulation of the Prime Minister or of a President of a Regional Council may, exceptionally, provide for the recruitment of personnel for a determined period in order to satisfy unforeseen and urgent needs.

The Civil Servants holding a post are irremovable as long as the post continues to exist. They enjoy an increase in salary according to the dispositions of the law. They leave the Civil Service when they have reached the age limit or if they are dismissed as the result, of a judicial decision. They cannot be downgraded or dismissed without consultation with the Civil Service Commission.

ART.2. The ministerial and regional general secretaries, Ambassadors, and the Prime Minister's and Ministers' departmental staff are all excepted from irremovability.

ART 3. The Civil Service Commission is comprised of six members, nominated for three years by the President of the Republic after consultation with the Prime Minister.

A third of the Commission is renewed each year - the order of renewal of the first six members being determined by "drawing lots", The President of the Republic designates each year, from among the members of the Commission, a President, who is charged with organising its discussions.

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

ART. 4 -- The Civil Service Commission recruits the civil servants for the state and for the regions ; it has competence for the nomination, the promotion, and the discipline of the various civil servants and for the selection of those among them who are suitable to be trained by

placements in the New Hebrides or abroad.

The Judges, Police and teaching services are excluded from the competence of the Commission.

ART. 5 - The Mediator of the New Hebrides is nominated, for five years, by the President of the Republic, after consulting the Prime Minister, the President of the National Assembly, the Presidents of the political groups formed within the National Assembly, the President of the Senate, the Presidents of the Regional Councils, the Presidents of the Civil Service Commission and of the Judges Commission.

The task of Mediator is incompatible with the membership of the National Assembly, the Senate, a Regional Council, or the exercise of any other public office or a function within a political party.

ART. 6 - The Mediator can enquire into any act of any civil servant or public authority:

- on the complaint of a member of the public or, if he or she (is incapable for any reason, of his representatives or members of his family) who claims to have been the victim of an injustice resulting from the alleged act ;
- at the invitation of a Minister, of a member of the National Assembly, the Senate, or a Regional Council;
- on his own initiative

This article applies to all civil servants or public authorities and to all ministerial departments with the exception of the President of the Republic, the Civil Service Commission, the Judges Commission, the Supreme Court and the different jurisdictions.

The Mediator can ask any Minister, civil servant, member of any administration, any authority concerned, anyone likely to enlighten him, to give him the information and documents necessary to carry out his enquiry. He must offer the civil servants and the public authorities directly concerned the chance to reply to the allegations made against their acts. The inquiry is carried out in private.

ART.7- In every case where, after the enquiry, he establishes that the act in question was against the law, entirely or partially based on an error of law or fact, unjustifiably delayed, unjust or manifestly unreasonable and that, consequently, the decision taken must be annulled or reversed or that the practice followed must be revised, the Mediator addresses his conclusions to the Prime Minister on the one hand, and to the person in charge of the public service directly affected on the other hand.

The Mediator presents a general report to the National Assembly each year on the way in which he has carried out his mission and on the measures taken as a result of his conclusions and opinions.

ART.8- Every citizen of the New Hebrides may obtain, in the official language which he practises, the services which he has a right to expect from the Administration of the Republic. In any case to the contrary, he may address a complaint to the Mediator who, after an inquiry, addresses his conclusions to the person in charge of the public service directly affected. Each year, the Mediator presents a special report to the National Assembly on the respect of linguistic pluralism and on the measures likely to improve the situation.

C7 (2)

Original: English

REDRAFT OF ARTICLE 2 OF C7

“EXECUTIVE”

Parliament shall elect the president by secret ballot from among three candidates proposed by the Council of Chiefs.

C7 (2)

Original: English

NOUVELLE REDACTION DE L'ARTICLE 2

DU DOCUMENT C7 “L'EXECUTIVE”

Le Parlement élit le Président au scrutin secret d'une liste de trois candidats proposée par le Conseil des Chefs.

C7 (3)

Original: English

REDRAFT OF ARTICLE 2 OF DOCUMENT C7 “EXECUTIVE”

“The Presidential candidates are nominated by an electoral college composed of the National Council of Chiefs and the Chairman and the Vice-Chairman of the District Councils of Chiefs. This electoral college shall submit the names of no more than 3 chiefly nominees who are members of the National Council of Chiefs, to the Parliament who shall elect one of the nominees to become Head of State”.

Original: Anglais

NOUVELLE REDACTION DE L'ARTICLE 2 DU DOCUMENT C7
“L'EXECUTIF”

“Les candidats à l'élection présidentielle sont proposés au Parlement par un collège électoral composé du Conseil National des Chefs et des Présidents et Vice-Présidents des Conseils de District des Chefs. Ce collège électoral propose les noms d'un maximum de trois Chefs étant membres du Conseil National des Chefs ou d'un des Conseils de District

K. MATAS

10.9.79

C7 (5)

Original: English

REDRAFT OF ARTICLE 2 OF C7 "EXECUTIVE"

"The Head of State shall be elected by an electoral college composed of Parliament, the Chairman and Vice-Chairman of the Regional Councils, the Chairman and Vice-Chairman of the Regional Councils of Chiefs, and the Chairman and Vice-Chairman of the National Council of Chiefs. Any indigenous New Hebridean Chief shall be eligible for election as Head of State".

C7 (5)

Original: Anglais

NOUVELLE REDACTION DE L'ARTICLE 2 DU DOCUMENT C7 "L'EXECUTIF"

"Le Chef de l'Etat est élu par un collège électoral composé du Parlement, des Présidents et Vice-Présidents des Conseils Régionaux, des Présidents et Vice-Présidents des Conseils Régionaux des Chefs, et du Président et Vice-Président du Conseil National des Chefs. Tout Chef néo-hébridais indigène est éligible à la Présidence".

K. MATAS

11.09.1979

C7(6)

Original: English

NEW ARTICLE 3 OF C7

Article 3.- The term of office of the President shall be five years. He may be removed before the expiry of that period only for gross misconduct or incapacity by the electoral college under Art. 2 on a motion passed by at least two-thirds of the members, when at least here-fourths of the members, including at least half the total number of the Presidents of the regional Councils are present. A least two weeks notice of such a sitting of the college must be given.

C7

Original: Anglais

NOUVEL ARTICLE 3 DU C7

ARTICLE 3. Le Président est élu pour cinq ans. Il peut être révoqué avant la fin de son mandat, seulement pour faute grave ou pour incapacité, par une motion votée par au moins les deux tiers de tous les membres du collège électoral prévu à l'article 2 ci-dessus. Au moins les trois quarts de tous les membres, y compris au moins la moitié des Présidents des Conseils Régionaux, doivent être présents lors du vote de cette motion. Les membres du collège doivent être convoqués au moins quinze jours avant la date prévue pour la séance.

C7 (7)

Le Original: English

NEW ARTICLE 3 OF C7

ARTICLE 3. The term of office of the President shall be five years. He may be removed before the expiry of that period only for gross misconduct or incapacity by the electoral college under Article 2 on a motion passed by the vote of at least two-thirds of the members, when at least three-fourths of the members, including at least three-fourths the total number of the Presidents of the regional Councils are present. At least two weeks notice of such a sitting of the college must be given. If there is no such quorum at the time when the electoral college is convened, the college may meet a week later if at least two-thirds of the members are present. No motion for the removal of the President shall be debated unless it is te signed by at least one-third of the membership of the college.

C7

Original: Anglais

NOUVELLE REDACTION DE L'ARTICLE 3 DE C7

ARTICLE 3. Le President est élu pour cinq ans. Il peut être révoqué avant la fin de son mandat seulement pour faute grave ou pour incapacité, par une motion adoptée par au moins les deux tiers de tous les membres du collège électoral prévu à l'article 2 ci-dessus. Au moins les trois quarts de tous les membres, y compris au moins les trois quarts des Présidents des Conseils Régionaux, doivent être présents lors du vote de cette motion; les membres du collège doivent être convoqués au moins quinze jours avant la date prévue pour la séance. Si un tel quorum n'est pas atteint lors de la séance du collège électoral, celui-ci peut se réunir une semaine plus tard à la condition qu'au moins les deux tiers des membres soient présents.

Aucune motion tendant à révoquer le Président ne peut être déposée sauf si elle est signée par au moins au tiers des membres du collège.

C8 (2)

Original: Anglais

NOUVELLE REDACTION DE L'ARTICLE 7 DU C8 "ADMINISTRATION"

ARTICLE 7. Dans tous les cas où, après enquête, il constate que l'agissement incriminé était contraire à la loi, fondé entièrement ou partiellement sur une erreur de droit ou de fait, retarde de manière injustifiée, injuste ou manifestement déraisonnable et que, en conséquence, la décision prise doit être annulée ou réformée ou la pratique suivie révisée, le Médiateur adresse ses conclusions au Premier Ministre d'une part, au responsable du service public directement concerné d'autre part. Le rapport du Médiateur est rendu public, sauf dans le cas où le Médiateur le déclare confidentiel, en totalité ou en partie, et limite sa communication au Premier Ministère et à l'autorité responsable du service public concerné pour des raisons de sécurité ou d'intérêt public. Dans tous les cas la recommandation du Médiateur doit être portée à la connaissance du plaignant.

Le Premier Ministre ou la personne responsable du service concerne doit prendre une decision au sujet de la recommandation du Mediateur dans un delai raisonnable et sa decision doit etre communiquee au plaignant, sur le champ avec raisons a l'appui. Le delai accorde pour intenter une action en justice commence a partir de la date a laquelle le plaignant a eu communication officielle de la decision.

C4 (2)

ADMINISTRATION

Art.2. Sont exceptes de l'inamovibilite les membres des cabinets du Premier Minister et des Ministres. Peuvent etre deplaces par le Premier Ministre les directeurs des departements ministeriels, les ambassadeurs (et les secretaires generaux des regions).

L'inamovibilite des fonctionnaires ne peut faire obstacle a des mises a la retraite anticipee qui seraient decidees par voie legislative afin d'assurer une certaine rotation sans les emplois publics.

ARTICLE 2. The rule of irremovability does not apply to the staff of Ministerial Cabinets. Heads of Department, Ambassadors (and regional secretaries-general) may be transferred by the Prime Minister.

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

C6

COMITE CONSTITUTIONNEL PROPOSITION

Proposition pour un sytème parlementaire

S'il doit y avoir une forte opposition au consensus en faveur de:

- 1) Un Chef d'Etat/Chef de Gouvernement combine
- 2) Un Chef d'Etat/Chef de Gouvernement qui reste membre du Parlement
- 3) Tous les Ministres qui restent membres du Parlement

et si cette opposition est due au fait que de nombreux membres du Comite Constitutionnel n'ont pas pleinement compris le consensus qui a été atteint, le Mouvement Nakamal, afin de permettre aux leaders politiques de la nation d'arriver a une comprehension et d'éviter une division ulterieure, fait au Comite la proposition suivante pour essayer d'atteindre un reel consensus:

1/ Une personne est a la fois Chef d'Etat/President de l'Assemblée;
- cette personne sera elue par l'Assemblée parmi ses membres;
- cette personne qui a été elue Chef d'Etat et President, cessera d'etre membre du Parlement. Elle perdra en consequence le droit de vote. Cela lui conferera une plus grande autorite en periode de crise.

2/ L'Assemblée elira parmi ses membres un Chef de Gouvernement ou Premier Ministres.

3/ Le Premier Ministre choisira ses ministres a l'interieur de l'Assemblée.

4/ Le Premier Ministre et se Ministres resteront membres de l'Assemblée.

5/ L'Assemblée peut renverser le Gouvernement du moyen d'une motion de censure déposée contre le Premier Ministre.

Vincent BOULEKONE

D1

Port Vila, 18 Avril 1979

THE PARLIAMENT

ARTICLE 1. The Parliament of the Republic of the New Hebrides consists of two houses: the National Assembly and the Senate or Council of Chiefs.

ARTICLE 2. The National Assembly is composed of fifty-five members, elected for three years by proportional representation, according to the system of "the strongest remains", the entire territory of the Republic being one single constituency.

Each citizen of the New Hebrides of at least twenty one years of age is eligible for the National Assembly.

In the case of a seat becoming vacant, due to a Member of the National Assembly's death, his resignation, or his being given a sentence leading to his loss of liberty, by the courts of the Republic, the first non-elected candidate from the same list automatically becomes a member of no longer, exists, the members of the National Assembly from that list nominate the new member by a relative majority, from among those people fulfilling the conditions of eligibility.

ARTICLE 3. The National Assembly meets once a semester in ordinary session, and meets in extraordinary session at the request of two-thirds of its members, of its president or the Prime Minister. Unless otherwise indicated, it takes its decision by secret ballot, an absolute majority of votes cast being necessary, two-thirds of its members must be present or represented. The National Assembly draws up its own internal rules.

ARTICLE 4. During the first sitting following its election, the National Assembly elects, for three years, its President and one or more vice-Presidents it sets up the Commissions and nominates their members.

The President of the National Assembly presides over the debates of the Assembly; it is his duty to keep order during the sittings, which are, in principle, public; he can be replaced by one of the Vice-Presidents.

ARTICLE 5. The National Assembly has the general mission of passing laws for the peace, order and good government of the New Hebrides.

The legislative power is exercised by the adoption of bills proposed by one or more of the Members of the National Assembly or recommended by the Prime Minister or one of the Ministers, and then voted on by the Assembly.

ARTICLE 6 Each year, the National Assembly is called upon to vote on a budget bill proposed by the Government.

ARTICLE 7 The National Assembly is called upon to authorise the ratification of treaties negotiated by the Government when they concern international organisation, peace, commerce, when they call for public finance, when they affect the state of people, when they modify New Hebridean laws, and when they include the transfer, exchange or annexing of territory.

ARTICLE 8. The Senate or Council of Chiefs is composed of twenty customary Chiefs, elected for three years by their peers - the retiring Senate laying down the methods of its renewal. The Senate draws up its own internal rules.

During the first sitting following its election, the Senate elects its President. The Senate meets once a semester in ordinary session, and in extraordinary session at the request of two-thirds of its members, of its President or of the Prime Minister.

ARTICLE 9. The Senate is competent in all matters relating to tradition and custom: it is obligatorily consulted on these subjects by the National Assembly and the Regional Councils; it may also be consulted on any question relating to ordinary legislation, by the National Assembly.

ARTICLE 10. The members of Parliament cannot be prosecuted, inquired into, held or judged in the case of opinions or votes expressed by them in the exercise of their functions. They cannot be prosecuted or arrested, for a serious or minor offence, without the authorisation of the Assembly to which they belong - or,

when the Assembly is not in session, without the authorisation of the Office of the National Assembly or of the President of the Senate.

Professeur ZORGBIBE

D1(2)

Original: Francais

PARLEMENT

REDRAFT OF ARTICLE 2

Art.2. Parliament is composed of members, elected for four years, from multi-seat constituencies, enabling the various political parties to be fairly represented.

Any citizen of the New Hebrides aged 25 years or over may stand for election to Parliament.

D1 (4)

PARLEMENT

NOUVELLE REDACTION DE L'ARTICLE 2

ARTICLE 2. Le Parlement est compose de quarante et un deutee, elus pour quatre ans, selon un système qui combine les principes du scrutin majoritaire uninominal et de la representation proportionnelle.

Vingt et un deutes sont eus directement dans chacune des vingt et une circonscriptions du pays.

Vingt deutes sont elus a la representation proportionnelle sur des listes etablies au niveau national par les differents partis.

Chaque electeur a deux voix: dans une colonne, il vote pour un dandidta de la circonscription dans l'autre, pour un parti.

D1 (4)
PARLIAMENT
REDRAFT OF ARTICLE 2

Art.2. Parliament shall consist of 41 members, elected for four years, through a system which combines the principle of single member constituencies in which the country is divided. 20 members are elected on the basis of proportional representation on the list established at the national level by the different parties.

Each voter has two votes, in one colonne votes for the constituency candidate in the other for the party.

D1 (5)
Original: English
PARLIAMENT
REDRAFT OF ARTICLE 10 OF PAPER D 1

Art.10 No member of Parliament may be arrested, prosecuted, detained or judged by reason of opinions given or votes cast by him in the Assembly in the exercise of his office.

No member may, during a session of Parliament or one of its Committees, be arrested or prosecuted for any offence, except with the authorisation of Parliament in exceptional circumstances.

D1 (5)
Original: Anglais
PARLEMENT
NOUVELLE REDACTION DE L'ARTICLE 10 DU DOCUMENT D1

Art.10. Aucun membre du Parlement ne peut etre arrete, poursuivi, detenu ou juge a l'occasion des opinions ou votes emis par lui a l'Assemblee dans l'exercice de ses fonctions.

Aucun membre en peut, pendant la duree des sessions du Parlement ou d'une de ses commissions, etre poursuivi ou arrete en matiere criminelle ou correctionnelle, sauf autorisation exceptionnelle du Parlement.

GOUVERNEMENT D'UNITE NATIONAL
DES NOUVELLES-HEBRIDES

D 1 (6)

Original: Anglais

PARLEMENT

NOUVELLE REDACTION DE L'ARTICLE 2

ART.2. Le Parlement est compose de deputes elus au suffrage universel dans le cadre d'un système electoral comprenant un certain degre de representation proportionnelle afin d'assurer une juste representation des differents partis et opinions politiques.

Tout citoyen des Nouvelles-Hebrides, age d'au moins vingt-cinq ns, est eligible au Parlement.

Dans l'annexe sur les dispositions transitoires, il sera prevu comme suit: 1. Apres les prochaines elections generales, l'Assemblée Representative creera une Commission, representant d'une manière egale tous les partis politiques, chargee de faire des recommandations sur un système electoral inspire de l'Article 2 du titre su le Parlement. Les recommandations de la Commission deviendront loi des leur adoption par un vote des deux tiers des membres de l'Assemblée, les trois quarts, au moins, des membres etant presents. Si le quorum n'est pas atteint a la reunion du Parlement convoquee pour decider des recommandations de la Commission, le Parlement peut se reunir et prendre une decision une semaine plus tard, meme si les deux tiers seulement des membres sont presents.