

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/11

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 18 JUNE 1979 - 8.40 a.m

Present: G. Leymang, W. Lini, J. Naupa, G. Kalkoa, M. Carlot, A. Malere, T. Reuben, D. Kalpokas, L. Dini, F. Timakata, Ringiao, W. Bongmatur, S. Regenvanu, J. Natuman, J. Quarani, R. Delaveuve (for G. Prevot), G. Cronsteadt, G. Kalsakau, N. Tacetamata, E. Tambisari, (for G. Molisa), V. Boulekone, B. Sope, K., Matas, J. M. Leye, J. Kalotiti (for T. Tungu), A. Standley (Minutes).

Observers: Adrien Malere (Alternate for A. Malere), C. Bice (alternate for W. Lini), D. Lauto (alternate for G. Kalsakau).

1. The meeting opened with the distribution of the minutes of the previous meeting (PV/10). After G. Leymang had outlined the next 3 days program (June 18 - Nature of State; June 19 - Head of State; June 20 - Executive and legislature), G. Cronsteadt began the discussion on the Nature of the State. He identified the two major questions as being the distribution of powers between the local/regional and the national levels, and the association of islands into provinces or regions.

2. A discussion followed on the best procedure to adopt. V. Boulekone felt it would be useful for each political party to express its stand on the question of the Nature of the State. It was finally decided to follow the questions contained in Part A of the Chief Minister's Constitutional Questionnaire.

3. D. Kalpokas spoke in favour of a unitary state for the following reasons:

- it was the way that would limit expenditure most;
- it would help to create a strong, united nation.

Once this unitary state had been established thought could be given to delegating powers from the center to decentralized institutions.

4. J. Quarani felt it was important for the future Government not to have a divisive and weakening effect: he therefore favoured a system mid-way between a unitary and federal state. G. Kalsakau proposed a federal solution on the grounds that it corresponded to the mentality of the New Hebrides; however, to limit the cost of such a system, he suggested that the New Hebrides be divided into only two federated states: North and South.

5. T. Reuben commented that when the last Government had approved the creation of a Regional Assembly for Santo, the majority of the population of the island had felt very unhappy. Peeling on Santo was in favour of first of all establishing a strong central Government and then discussing the possibility of Federation. M. Tacetamata, as President of Natuitano, confirmed that the Party's last General Assembly had decided against Federation.

6. The morning session closed at 10,15 with S. Regenvanu saying that Federalism could exist within the context of a strong base comprising 3 elements:

- Unity
- Participation of the people
- Sharing of resources.

The last two elements, he said, did not yet exist.

7. The afternoon session began at 2.40 p.m. with the distribution of document A3, prepared by G.Cronsteadt. G. Leymang then called upon each political party to make clear its stand on the issue of the Nature of the State.

8. V. Boulekone spoke first on behalf of Nakamal Movement. The choice was he said, between a Unitary State and a federal one. Having rejected the Federal solution, Nakamal Movement, he went on, considered the best way of organizing the State within a unitary framework: this was through decentralization. The question that remained to be answered was, he concluded, how to share powers between the central government and local authorities.

9. K.Matas then expressed the Vanuaaku Pati's position. He began by saying that as the Pati considered the meeting to be exploratory it had no definite stand. He went on to say, however, that the Vanuaaku Pati (which had been the first party to discuss decentralization - in 1973) favoured decentralization in order to give the islands more participation. This decentralization would probably be an end of customary systems and western ideas.

10. G. Cronsteadt spoke next on behalf of the Federal Party. The Federal Party, he said, believed New Hebridean custom was organized along essentially Federal lines; The Party wished the Government to be similarly run to allow each island to govern itself. However, he continued, the need for a national Government to avoid a disintegration of the parts was recognized. G.Cronsteadt ended by making two comments:

- Federalism in the New Hebrides would not necessarily be the same as for example, in Australia or the United States.
- A final argument in favour of Federalism was to see, with the present, unitary form of Government, how many civil servants worked in Vila/ Luganville and how many in the islands.

11. The next speaker was G.Kalsakau, who clarified Natatok Efate's stand. His party, he said, favoured regionalization: the people in the New Hebrides felt they did not participate in Government, and, indeed, felt that the proceeds from their coprah paid civil servants who worked almost exclusively in the two towns. However, he continued a regional system in the New Hebrides would have to be specifically New Hebridean.

12. Natuitano, T.Reuben explained, was opposed to the setting up of a Regional Assembly on Santo as proposed by the last Government. As their island was politically very divided, the people of Santo wanted a strong, unifying central Government. Only thereafter would it be possible to give consideration to decentralization.

13. The last expose of a group's stand came from F. Timakata for the Mal Fatu Mauri. In the past, he said, Chiefs had been totally independent of each other and had never met to discuss issues of common concern. In recent years, however, Chiefs had begun to work and meet together; this led to their considering the question of how the independent New Hebrides should be structured. As they did not wish to return to their old situation, he went on, the Chiefs favoured a unifying Government.

14. Following those explanations of the parties' positions, a discussion was opened. V.Boulekone felt a consensus was emerging in favour of a unitary state. The federal "option" could therefore be discarded, he said, and closer attention paid to the modalities of decentralization within the framework of a unitary state.

15. J.Naupa, and D.Kalpokas agreed with this analysis, the latter saying that the names given to these various systems were not important, what was important was deciding what form of Government was needed in the New Hebrides. Thinking in terms of names would simply lead to inevitable comparisons with Australia and the United States. D. Kalpokas concluded by saying that all were agreed that the colonial system was too centralized and involved the people too little.

16. G.Kalsakau disagreed with V. Boulekone: he did not feel that everyone favoured a unitary structure.

17. W. Lini said that on recent tours in the Banks and in Tanna, he felt that the people were looking for unity and expected a constitution that provided for a unitary state. In 3 or 4 years' time, he went on, the people might wish for a federal system, but he feared that, at present, they might reject a constitution that did not propose a unitary state. W.Lini concluded by saying that he found Nagriamels' absence from the constitution Committee worrying: they might be trying to go their own way with their own constitution.

18. A. Malere proposed that the people be asked to decide, by means of a referendum, whether they wished for a unitary or a federal state.

19. M. Carlot spoke, saying that there was no doubt that all were agreed on the need for some kind of central national government, and that the population was unhappy with the Colonial Condominium system. He said he favoured a small but strong Central Government initially which could if necessary, in due course, examine the ways in which it could share out its powers with local authorities. The two main factors of this Central Government should be participation of the people and distribution of power.

20. D. Kalpokas proposed that the Committee adopt a stand: that initially, a strong unifying, central Government be established to rid the country of existing divisions. Thereafter, the Government could take the necessary measures to ensure a decentralization of power.

21. W. Bongmatur and M. Tacetamata spoke on the need to ensure that, whatever structure was adopted, provision be made for the chiefs to play a role. J.Quarani agreed, saying it would be extremely difficult for the Government to function effectively whilst excluding the Chiefs.

22. As no consensus emerged on the question of the Nature of the State, it was decided to continue the discussion the following day at 8.30 a.m. The meeting was closed at 5.40 p.m

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/12

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 19 JUNE 1979 - 8.45 a.m.

Present: G. LEYMANG, W.LINI, D. KALPOKAS, J. NAUPA, G. KALKOA, M. CARLOT, A. MALERE, T. REUBEN, M. TACETAMATA, J. QUARANI, W. BONGMATUR, F. TIMAKATA, G. CRONSTEADT, RINGAO, S. REGENVANU, R. DELAVEUVE (for G. PREVOT), G. WOREK (for G. PAKOA), V. BOULEKONE, G. KALSAKAU, J.M. LEYE, K. MATAS, B. SOPE, L. VATU, J. KALOTITI (for T. TUNGU), E. TAMBISARI (for G. MOLISA), J. NATUMAN, J. GARAEBAKEO (for J. STEPHENS), A. STANDLEY (Minutes).

Observers: C. BICE (alternate for W. LINI), Adrien MALERE (alternate for A. MALERE), D. LAUTO (alternate for G. KALSAKAU), A. SANDY (alternate for J. NATUMAN), M. SALI (alternate for V. BOULEKONE).

1. After a summary of the previous day's debates by K. MATAS, the morning was spent in discussing the need for decentralization. It was acknowledged by all members that two needs were to be kept in mind whatever state structure was adopted: - the need for unity, - the need for a greater sharing of powers between the centre and the islands.

2. The terms "Unitary" and "Federal" were discussed at length, with K. Matas going over the main differences between decentralization and federalism. M. TACETAMATA felt that, whatever the difference between the terms, it was clear that the people of the New Hebrides favoured a unitary state. V. BOULEKONE asked that if the Committee could not choose between a unitary or a federal state, a study of the relative costs of the two systems be made.

3. G. LEYMANG proposed that it be agreed that a consensus had emerged on the following four points:

1/ A Government to foster unity in the country:

2/ A System that would not give excessive power to the Central Government:

3/ A government that would give greater responsibility and participation to the local population with respect to legislative, executive and judiciary power.

4/ A system that would not be too costly.

4.A. MALERE suggested that the four existing Districts be turned into federated states.

5. The afternoon session of the meeting was devoted to the question of knowing how many Assemblies there should be in the New Hebrides. G. KALSAKAU (for Natatok Efate) said there should be a National Assembly and Regional Councils. V. BOULEKONE (for Nakamal Movement), T. REUBEN (for Natuitano), G. KALKOA (for the Vanuaaku Pati), and W. BONGMATUR (for Mal Fatu Mauri) all spoke in favour of a single Assembly. G. CRONSTEADT (on behalf of the Federal Party) considered there should be a National Assembly and Island/Local Assemblies.

6. J. GARAEBAKEO said he was representing Jimmy STEPHENS who was too sick to be able to attend. He went on to say that Nagriamel had its own Constitution (prepared 7 years previously by the Custom Chiefs of 15 islands and recently re-issued in a new form), and that Nagriamel wished this Constitution to be recognized. He concluded by saying that all were welcome to join within the Nagriamel Constitution.

7. A. MALERE proposed that two draft constitutions be prepared - one for a federal state and the other for a unitary state: the people would then choose their preference. V.BOULEKONE spoke strongly against this proposal, emphasizing the fact that it was the first time that all the political groups in the New Hebrides had met in a spirit of cooperation. The people, he said, were expecting the Committee to produce one draft constitution. If it was decided to prepare two drafts, he concluded, it would be better for the Committee to divide into two to work separately.

8. W. LINI considered that a consensus existed within the Committee in favour of One Assembly, One Government, One State, One Constitution and Decentralization. He did not think that, in a Federal State, it would be possible to unite all the people of the New Hebrides.

9. The Committee finally agreed to G. LEYMANG'S proposal that consensus existed in favour of:

- One Assembly
- One Decentralized Government

10. The meeting was closed at 4.50 p.m.

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/13

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 20 JUNE 1979: 8.45 a.m

Present: G. LEYMANG (Chairman), W. LINI, G. KALKOA, D. KALPOKAS, K. MATAS, G. CRONNSTEADT, J. QUARANI, T. REUBEN, M. TACETAMATA, M. CARLOT, V. BOULEKONE, G. KALSAKAU, J.M. LEYE, A. MALERE, R. DELAVEUVE (for G. PREVOT), L. DINI, S. REGENVANU, RINGAO, W. BONGMATUR, F. TIMAKATA, J. NATUMAN, B. SOPE, , J. NAUPA, J. KALOTITI (for T. TUNGU), J. GARAEBAKEO (for J. STEPHENS), A. STANDLEY (Minutes).

Observers: A. SANDY (alternate for J. NATUMAN), M. SALI (alternate for V. BOULEKONE), C. BICE (alternate for W. LINI), D. LAUTO (alternate for G. KALSAKAU).

1. G. LEYMANG opened the meeting by reminding all members of the need to submit the names of their alternates. He also requested that all alternates attending as observers sit in the last row of seats.
2. K. MATAS then introduced the question of the Head of State, explaining the different kinds that existed in the world. He drew the difference between a Head of State in a Presidential system, and a Head of State in a Parliamentary system - the former playing an executive role and the latter a ceremonial one. K. MATAS went on to discuss the possibility of combining the functions of Head of State and Head of Government in one person.
3. Each group within the Committee then put forward its point of view of this question.
4. J. M. LEYE, for the Federal Party, favoured a Head of State appointed by the Assembly.
5. D. KALPOKAS, speaking on behalf of the Vanuaaku Pati, proposed that a single person be both Head of State and Head of Government. He argued that to have a Head of State separate from the Head of Government would confuse the population and not to be a uniting factor within the country. Means of dealing with crisis situations could be devised within the context of a single Head of State/ Head of Government.
6. J. KALOTITI and J. GARAEBAKEO (Natatok Efate and Nagriamel respectively) held the same views on the issue as the Federal Party.
7. Natuitano, T. REUBEN said, favoured a single Head of State/Head of Government.
8. V. BOULEKONE declared Nakamal Movement's stand to be in favour of a figurehead President, the executive power being vested in the Head of Government. He explained, however, the Nakamal Movement's only strong position was that a parliamentary, rather than a presidential, system be adopted. M. CARLOT said Nakamal Movement believed in a majority rule system with the Head of Government selected by the majority in Parliament.
9. G. CRONNSTEADT and R. DELAVEUVE proposed that the Head of State, appointed by the Assembly, select the Head of Government from the majority group in the Assembly.

10. M. TACETAMATA and W. BONGMATUR insisted on the need, whatever system was adopted, to ensure that Chiefs were not excluded, and that custom be respected.

11. J.M. LEYE explained the Federal Party's proposal in greater detail: each Regional Council would select one candidate to be Head of State and the National Assembly would make the final choice. Speaking as a man New Hebrides and not as a member of the Federal Party, he said each District could propose 1 leading Chief for the election of the Head of State.

12. B. SOPE, L.DINI and V. BOULEKONE all concluded that a consensus had been reached on the need for a Head of State, and on his selection by the National Assembly. This was accepted by all the members of the Committee.

13. V. BOULEKONE felt the following points needed to be discussed: the term of office of the Head of State; whether the Head of State was removable by a vote of no confidence; from what body the Head of State could be chosen.

14. It was decided that the Committee would discuss whether the Head of State should be the same person as the Head of Government.

15. M. CARLOT was worried by the fact that, if the Head of State was the same person as the Head of Government, a vote of no confidence passed by the Assembly against the Head of Government would also remove the Head of State.

16. D. KALPOKAS saw little use in having two separate persons. In times of crisis, he proposed, a body such as the Council of Chiefs could be given exceptional powers.

17. W. LINI felt that the small size of the New Hebrides did not justify a Head of State separate from the Prime Minister: the same person could carry out the functions of Head of Government as well as the ceremonial role of Head of State. Furthermore, he added, there would be a greater sense of unity and a better acceptance of leadership if there was only one person.

18. V. BOULEKONE considered the main branches of the State - Executive, Judiciary, Legislative and Custom - all of which would have their heads and their individual problems. It was important, he said, that the Head of State, (who was also a symbol of Unity in the country), should stand outside these individual branches. He concluded by saying that the President's work would not just be symbolic: he would be responsible for uniting the country.

19. K. MATAS summarized the arguments for and against having only one person in the role of both Prime Minister (Head of Government) and President (Head of State). He felt that there were balanced arguments on both sides - ultimately, to take a decision, members of the Committee would have a certain amount of conviction.

20. At the beginning of the afternoon session, W. LINI suggested that, initially, the New Hebrides could try to have the same person as Head of State and Head of Government. If this was found to be unsatisfactory, the system could then be changed.

21. V. BOULEKONE explained that, being more used to the French system, the proposal to have the same person as Head of State and Head of Government was somewhat strange to him and would need getting used to. He continued that he was worried by the fact that, in such case, a vote of no confidence would remove both Head of State and Head of Government.

22. G. LEYMANG summarized that most members of the Committee were not in favour of a

President with ceremonial functions only - he should have executive power to give to the Prime Minister.

23. The meeting was closed at 4 p.m. It was decided the next meeting would be held at 8.30 a.m. on Monday 2nd July.

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/14

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 2 JULY 1979 - 8.30 a.m

Present: G. LEYMANG (Chairman), W. LINI, G. KALKOA, G. PREVOT (afternoon only - represented by R. DELAVEUVE in morning), D. KALPOKAS, A. MALERE (afternoon only), L. DINI, T. REUBEN, J. NAUPA, K. KALTEFER (for M. CARLOT), F. TIMAKATA, RINGAO, W. BONGMATUR, M. TACETAMATA, J. STEPHENS (afternoon only), G. CRONSTEADT, T. TUNGU (afternoon only - represented by J. KALOTITI in morning), D. LAUTO (for G. KALSAKAU), J. NATUMAN, M. KALCHICHI (for S. REGENVANU), L. VATOU, A. STANDLEY (MINUTES).

Observers: M. BERNAST (alternate for L. VATOU), K. KALSAKAU (alternate for G. KALKOA).

1. The Chairman opened the meeting by informing members that the Committee would meet on Monday, Tuesday and Wednesday of that week (July 2 - 4). He then declared the discussion open on the functions of the Head of State.

2. G. PAKOA spoke first, suggesting that a major function of the Head of State was to act in times of crisis or emergency. He felt that, in the New Hebrides, this role could play by an institution and not necessarily by an individual.

3. T. REUBEN gave two arguments in favour of combining the functions of Head of State and Head of Government into one person:

- it was less costly
- it would help to unite the country

4. In reply to a point made by L. DINI, G. KALKOA felt that, with correct delegation of responsibility, one man could carry the load of both Head of State and Head of Government.

5. G. CRONSTEADT considered that the two major points to be examined when discussing the possibility of combining the functions of Head of State and Head of Government were:

- guarantees against dictatorship
- the effect of a vote of no confidence passed against this person by the Assembly

6. V. BOULEKONE explained the Constitution of the Cameroon where the Head of State (elected by universal suffrage) was also Head of Government, and was able to assume greater powers when a State of Emergency was declared.

7. D. KALPOKAS said an effective protection against dictatorship came from the fact that the Head of State/ Head of Government would be elected, and could be removed, by the Assembly.

8. V. BOULEKONE believed that having decided in favour of a Parliamentary rather than Presidential regime, the New Hebrides preferred to give power to groups, or bodies, rather than individuals.

9. J. NATUMAN concurred - in order to protect the independence of the Judiciary he continued,

the order to dissolve the Assembly, for example, would have to come from some other branch of the State.

10. G. PAKOA and V. BOULEKONE then developed the idea that rather than have a "Custom Council" to act in times of crisis, a "Council of Elders" could be established. It would be necessary, V. BOULEKONE concluded, for this Council to work efficiently and take rapid decisions without any internal wrangles.

11. W. LINI was concerned by the tendency in the New Hebrides to set up and dissolve institutions. Such a "Council of Elders", he felt, should be institutionalized in the Constitution.

12. F. TIMAKATA felt that the creation of such a "Council" might lead to a hostile reaction from some chiefs who feared that their natural role was being usurped. Furthermore, he went on, it would be impossible for this body to be neutral all New Hebrideans had some political affiliation.

13. The discussion followed on the possible clash between Chiefs and this Council. T. REUBEN felt that to establish such a body would be dangerous. He favoured giving power to act in times of crisis to the Chiefs. V. BOULEKONE felt that, given the intrinsically political role that the Council would be made to play, it might be better for it not to be given to Custom Chiefs. He concluded that if no agreement could be reached on the composition of the Council, it would be better for the Committee to move on to another subject of discussion.

14. Reconvening at 2.40 p.m. after lunch, the Committee approved Minutes PV/10, PV/11, PV/12 and PV/13.

15. V. BOULEKONE began the afternoon's discussion by summarizing the morning's proceedings: a consensus was emerging in favour of giving the power to act in times of crisis to a group - the only difference of opinion, he said, was over the nature of this group.

16. D. KALPOKAS thought there were at least two ways of selecting the members of this Group. The President could appoint them from various sectors of the Community -- business, custom, etc. The danger with such a method was that it would associate the group too closely with the President. The second way, he went on, was to create an Electoral College in respect of this group.

17. W. BONGMATUR was opposed to the creation of this group, or Council. What, in such a case, he asked, would the role of the Chiefs be; he also felt that -such a Council would be expensive. He warned against creating division among different groups in the country.

18. L. DINI wished to discuss the possibility of the Assembly electing a President who would appoint a Prime Minister and charge him with the creation of a Government. The President would then be the person with the authority to act in times of crisis. However, as a consensus had been reached in favour of a President who was also Head of Government, this was not discussed.

19. J. STEPHENS felt the discussion was somewhat rootless and that the issues needed to be examined at greater depth. He warned against dividing Custom away from the political life of the country.

20. The meeting then discussed the relationship between the Council and the Chiefs. W. BONGMATUR again expressed his opposition to the Council - the Constitution, he said, should provide

for the Chiefs to act in times of crisis. V. BOULEKONE felt it was important to remember that the persons taking crucial decisions during crises should have a great experience of law and politics.

21. The Chairman proposed that the Committee agree that the following consensus had emerged:

- A Parliamentary system: President elected by Assembly and Ministers appointed by President
- Judiciary to be kept independent
- Need for a group to act in times of crisis.

22. It was decided that the Steering Committee would discuss this proposal at its next meeting. The meeting was closed at 4.45. p.m.

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/15

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 3 JULY 1979: 8.40. a.m.

Present: G. LEYMANG (Chairman), W. LINI, G. KALKOA, D. KALPOKAS, L. DINI, A. MALERE, T. REUBEN, J. NAUPA, R. DELAVEUVE (for G. PREVOT), K. KALTEFER (for M. CARLOT), L. VATOU, T. TUNGU, J.M..LEYE, D. LAUTO (for G. KALSAKAU), G. CRONSTEADT, M. TACETAMATA, F. TIMAKATA, W. BONGMATUR, RINGAO, V. BOULEKONE, J. STEPHENS, J. NATUMAN, G. PAKOA, B. SOPE, S. REGENVANU, A. STANDLEY (MINUTES).

Observers: J. KALOTITI (alternate for T. TUNGU), M. VERNAST (alternate for L. VATOU).

1. Following a proposal made by the Chairman, the Committee agreed that a consensus existed in favour of the following:

- a) A parliamentary system with the Assembly electing the President - who would be both Head of State and Head of Government. The President would choose his Cabinet.
- b) In times of political or ministerial crisis, a body, or a group, would deal with routine and urgent matters. The composition and nomination of this body would be decided upon at a later date.
- c) The judiciary would always remain independent and would not be involved in any political crisis.

2. V. BOULEKONE and G. CRONSTEADT asked whether the President and the Ministers would have to be Members of the Assembly or not. They felt that they should not be Members so as to ensure a separation between the Executive and the Legislative. G. CRONSTEADT added that even if the Ministers and President were not Members of the Assembly, they would nonetheless be subject to the Assembly's Control.

3. G. KALKOA, J. NAUPA, D. KALPOKAS and B. SOPE all supported the idea that the Ministers and President should be Members of the Assembly - this was, they said, an essential aspect of a parliamentary system.

4. V. BOULEKONE referred to Recommendation 30 of the Ad Hoc Electoral Reform Committee's report, which proposed that all Members of the Assembly should have alternates to replace them in case of incapacity. He suggested that Ministers drawn from the Assembly should resign their seat there and be replaced by their alternate. V. BOULEKONE continued by saying that he felt strongly that his recommendation should be implemented and the Electoral law amended accordingly - this would be a condition for his participation in the election.

5. J. NATUMAN explained that in a traditional parliamentary system, there was no strict separation of powers between the Executive and the Legislature: the latter was, to a certain extent, in control of the former. He wondered how, if Ministers were not members of the Assembly, the Government could be removed by a vote of no confidence passed by the Assembly.

6. W. LINI reminded members of the need to prepare a Constitution that would meet with the approval of the people. If alternates were really necessary, he said, they could be provided for;

however, he personally felt that they would be of no real use and costly.

7. V. BOULEKONE repeated the need to have this question resolved before the elections - he felt there could be no elections unless recommendation 30 was implemented. He went on to explain that a separation of powers was necessary as the Assembly could otherwise become dictatorial.

8. G. PAKOA felt that the normal way to replace vacant seats in the Assembly was by means of by-elections. Having Ministers who were members of the Assembly, he said, ensured that the Executive carried out the wishes of the Legislature.

9. L. DINI agreed with V. BOULEKONE that an Assembly could become dictatorial and overwhelm small minorities - the latter, he said, should be given protection by the Constitution. B. SOPE felt that the question of minorities should be discussed later - he said, however, that minorities could also be dictatorial.

10. G. CRONSTEADT and V. BOULEKONE repeated their firm belief in a separation of powers to limit the risk of Ministers having excessive influence. A separation of powers, V. BOULEKONE said, was the only way of making sure that the authority of the three branches of the State was respected.

11. A discussion then followed on how alternates would be chosen and elected; V. BOULEKONE explained that each candidate would declare the name of his alternate as he stood for election. If the candidate was elected but then, for some reason could not take his seat in the Assembly, his alternate would automatically replace him. V. BOULEKONE explained that the question of alternates was not Constitutional: it was rather to do with the electoral law. It was of Constitutional significance, however, in that it touched upon the separation of powers.

12. In the afternoon session, after a general introduction of the subject by B. SOPE, the Committee discussed the separation of powers. Arguments in favour of ministers being Members of the Assembly were put forward by D. KALPOKAS, B. SOPE, G. PAKOA, J. NAUPA and J. NATUMAN. Arguments for a sharper separation of powers were presented by V. BOULEKONE, G. CRONSTEADT, A. MALERE and L. DINI.

13. Arguments put forward by the first group included: the cost of alternates, duplication of work, loss of control over the Executive by the Legislature, conflict between the Executive and the Judiciary.

14. Those in favour of a separation of powers argued that Government could function more effectively, it provided for an inter-play between the Executive and the Legislature, the Executive - being chosen by the President who was elected by the Legislature - would be of the same political tendency as the Assembly.

15. As no compromise emerged, it was decided that the Steering Committee, at its next meeting, would discuss how the Constitutional Committee should proceed.

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

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/16

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 4 JULY 1979 - 8.40 a.m.

Present: W. LINI (Chairman), G. KALKOA, A. MALERE, J. NAUPA, L.DINI (replaced by J. LALOYER in afternoon), T. REUBEN, D. KALPOKAS, R. DELAVEUVE (for G. PREVOT), K. KALTEFER (for M. CARLOT), M. TACETAMATA, W. BONGMATUR, RINGAO, G. PAKOA, B. SOPE, J. NATUMAN, M. BERNAST (for L. VATOU), T. TUNGU, J. M. LEYE, G. CRONSTEADT, M. SALI (for V. BOULEKONE), J. STEPHENS (morning only), A. STANDLEY (Minutes).

Observers: J. KALOTITI (alternate for T. TUNGU), A. SANDY (alternate for J. NATUMAN, afternoon only).

1. The Chairman opened the meeting by going over the Committee's work program for the period up to 18 July 1979, (circulated herewith). He proposed that the Committee try to end its meeting at 4.30 p.m. each day, and that there be a short break from 10 a.m. to 10.15 a.m.

2. G. CRONSTEADT and J. NATUMAN led the discussion on the separation of powers. G. CRONSTEADT felt it would be less confusing to speak in terms of the separation of "bodies" rather than "powers". J. NATUMAN said the issue was complicated by the fact that the Committee had already agreed to a Parliamentary system - it would be difficult to make a separation of powers within such a system. Both speakers felt it might be of value for the Committee to obtain expert advice on this question.

3. D. KALPOKAS agreed about the need for technical advice - it would be dangerous for the Committee, he said, to try to invent some new system on its own. He therefore proposed that the subject be dropped until the return of Professors YASH GHAI and ZORGBIBE.

4. In order to make the issue clearer, B. SOPE went over the system currently in force in the New Hebrides. He wondered how, if Ministers were not to be members of the Assembly, the Legislature could control the Executive. It was up to the Committee, he concluded, to decide whether it wished to have a new system.

5. G. CRONSTEADT proposed that one solution would be for the President to be a member of the Assembly - he would therefore be the link between the Executive and the Legislature. Ministers chosen from within the Assembly, however, would be obliged to resign their seats.

6. A. MALERE explained how a total separation of powers could be made - W. LINI felt it would be necessary to obtain technical advice as to its feasibility.

7. G. CRONSTEADT explained why he felt it was essential that Ministers should not be members of the Assembly - if they were, he said, they would never vote against the Government in a motion of no confidence. Given the relatively large proportion of the Assembly that the Ministers would form, he continued, a motion of no confidence would be unlikely ever to succeed. The Executive would therefore be out of the control of the Legislature.

However, if Ministers were replaced in the Assembly by their alternates, it was not impossible that the latter would, in a vote of no confidence, vote against the Government.

G. CRONSTEADT concluded by repeating his proposal that the President act as the link between the Executive and the Legislature by being a member of the Assembly.

8. J. NATUMAN replied to this, saying it was most unlikely that an alternate would vote against the Ministers he had replaced.

He went on to discuss the proposal made in favour of a total separation of powers - what would happen, he asked, if an Assembly was elected which was of a different political tendency from that of the President.

9. B. SOPE pointed out that dictatorship often had popular support when the people were tired of unstable political regimes.

10. Before the meeting broke for lunch, D. KALPOKAS suggested that members might find it useful to read paper C1, prepared by Prof. YASH GHAI, on the organization of the Executive.

11. At the beginning of the afternoon session, B. SOPE, G. CRONSTEADT and J. NATUMAN introduced paper C1. M. BERNAST said Tabwemassana favoured option (iii) contained in paper C1; he offered to put his party's views on the matter down in writing for all members.

12. After a short discussion on C1, the Chairman concluded that it was unlikely that a consensus would be reached on this question. After further discussion, it was decided that groups or individuals in the Constitutional Committee could, if they wished, make their views on option (iii) of C1 known to the Steering Committee. The Steering Committee would then meet in the morning on Monday 9 July to decide whether to continue the discussion on the Executive. The Constitutional Committee would meet at 2.30 p.m. on Monday.

13. The meeting was closed at 4.15 p.m.

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/17

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 9 JULY 1979: 2.30 p.m.

Present: W. LINI (Chairman), A. MALERE, T. REUBEN, J. NAUPA, D. KALPOKAS, J. LALOYER (for L. DINI), R. DELAVEUVE (for G. PREVOT), K. KALTEFER (for M. CARLOT), V. BOULEKONE, M. BERNAST (for L. VATOU), G. CRONSTEADT, D. LAUTO (for G. KALSAKAU), T. TUNGU, M. TACETAMATA, RINGAO, W. BONGMATUR, K. KALSAKAU (for G. KALKOA), G. PAKOA, J. NATUMAN, B. SOPE, K. MATAS, A STANDLEY (Minutes).

Observer: M. SALI (alternate for V. BOULEKONE).

1. The Chairman opened the meeting by making the following points:

- a) As the Federal Party and other political groupings wished to meet in Santo on 12 and 13 July, the Constitutional Committee would not meet on 11 and 13 July as pleased.
- b) The Steering Committee had decided to invite the Resident Commissioners to give information to the Constitutional Committee on the Ministerial Meeting held in London; the Resident Commissioners, however, had replied that no official information had yet been received, but that a joint communiqué would be issued in due course.
- c) The Steering Committee had decided that Professor ZORGBIBE, who was due to arrive on 10 July, should wait for the return of Professor YASH GHAI before attending the meetings of the Constitutional Committee.
- d) Professor YASH GHAI and ZORGBIBE would also take part in the Steering Committee's meetings.
- e) The Steering Committee had decided, in order to find a way to obtain a consensus on the Organization of the Executive, to put 4 questions to the Constitutional Committee. If this failed, the Constitutional Committee would be asked to examine the Legislature, Citizenship and Fundamental Rights.

2. G. CRONSTEADT and B. SOPE on behalf of the Steering Committee, then put the following questions to the Constitutional Committee:

- i) should there be any body above the Assembly?
- ii) should the Assembly be supreme?
- iii) should the Council of Ministers have legislative power?
- iv) what should be the work of the Council of Ministers and of the Assembly respectively?

3. In the discussion that followed, all speakers were unanimous in declaring that the Assembly should be supreme. V. BOULEKONE repeated his belief that a separation of powers was necessary - he did not feel that, because the Committee had decided in favour of a Parliamentary system, the New Hebrides needed necessarily to adopt every aspect of such a system. He concluded that the only main area of difference between the main groupings in the Committee was on the question of whether Ministers should be members of the Assembly.

4. B. SOPE said that, in the interest of stable government, each of the state's organs needed certain guarantees to enable it to enjoy the power vested in it. With respect to the Executive, this could be achieved either by making it obligatory for Ministers to be members of the Assembly - and therefore reduce the likelihood success of a vote of no confidence - or by having the

Head of the Executive, and/or Ministers, directly elected by universal suffrage.

5. K. KALSAKAU felt that the term "power" needed closer definition - he assumed it meant "law-making power". He discussed possible checks against the Executive becoming too powerful. G. PAKOA took up this point - he felt that a separation of powers was only one possible way of ensuring against an all-powerful Executive. He went on to say it would be useful for a list of all possible checks to be drawn up.

6. The Chairman, summing up, said agreement existed on the fact that the Assembly should make the laws. He said the Steering Committee would examine the possibility of drawing up a list of possible checks, in accordance with G. PAKOA'S suggestion. The Steering Committee, he said, would, at its next meeting, decide whether the Constitutional Committee should continue discussing the Executive, or whether it should move into the Legislature, Citizenship and Fundamental Rights.

7. The meeting was closed at 4.30 p.m.

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/18

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 10 JULY 1979: 8.45 a.m.

Present : W. LINI (Chairman), J. NAUPA, T. REUBEN, A. MALERE, D. KALPOKAS (morning only), K. KALSAKAU (for G. KALKOA), R. DELAVEUVE (for G. PREVOT), J. LALOYER (for L. DINI), G. WOREK (for D. KALPOKAS -afternoon only), K. MATAS, J. NATUMAN, G. PAKOA, B. SOPE, M. TACETAMATA, RINGAO, W. BONGMATUR, S. REGENVANU, T. TUNGU, M. BERNAST (for L. VATOU), G. GRONSTEADT, V. BOULEKONE, D. LAUTO (for G. KALSAKAU), T., TIPOLOAMATA (for F. TIMAKATA - afternoon only), A. STANDLEY (Minutes).

Observers: J. KALOTITI (alternate for T. TUNGU), M. SALI (alternate for V. BOULEKONE), B. NARAKOBI.

1. The Chairman opened the meeting by announcing that the Steering Committee recommended that only half an hour more be spent discussing the Executive. He reminded members that an agreement had been reached at the previous meeting that the Assembly should be the supreme body.
2. W. BONGMATUR raised the question of who would have the power to dissolve the Assembly. K. KALSAKAU said that in most countries the Assembly was controlled by two things
 - its fixed term of office
 - dissolution by the Head of State.
3. The discussion then turned to alternates for members of the Assembly. A. MALERE was in favour of Ministers being replaced by their alternates as this would reduce the work load on Ministers. After some discussion, it was felt that this was a personal question and that it was difficult to judge whether a Minister, who was at the same time a Member of the Assembly, would find his work load excessive.
4. T. REUBEN, J. NATUMAN, B. SOPE, and J. NAUPA put forward arguments against alternates:
 - the electorate would object to the isolation of Ministers from the Assembly,
 - replacing Ministers by alternates would be an inefficient use of manpower,
 - Ministers would lose contact with the Assembly,
 - Ministers unable to attend meetings could give their proxy to another Member, rather than be replaced by an alternate.
5. V. BOULEKONE replied to these arguments saying that whilst members of the Assembly represented their constituency, Ministers represented the whole nation. It was therefore right for a Member who had become a Minister to be replaced at Constituency level. He concluded by saying that an individual should not hold both legislative and executive power.
6. G. CRONSTEADT felt that if Ministers were also members of the Assembly, it would be difficult for the minority in the Assembly to prevent the majority from becoming dictatorial.
7. After a discussion on the election and duties of alternates, D. KALPOKAS spoke, saying he felt that there were two main issues:
 - the relationship between the Executive and the Legislative: views on this were sharply divided.
 - fear of a minority in the Assembly becoming dictatorial.Before the meeting broke for lunch, V. BOULEKONE said Nakamal Movement had no fears about majority Government.

8. After lunch, the Chairman said that agreement existed on the following points:

- Parliamentary system
- Majority rule
- One person to be both Head of State and Head of Government
- Council of Elders to act in times of crisis
- Assembly to be supreme

The two points on which disagreement remained were:

- alternates
- whether Ministers should also be Members of the Assembly.

The Chairman concluded by saying that the Steering Committee felt that the Executive should be discussed at further length.

9. After a further discussion on alternates, the Chairman said he considered there were three possibilities:

- 1) alternates could be accepted
- 2) alternates could be rejected
- 3) provision could be made in the Constitution for alternates in case it became apparent at a later date that they were necessary.

10. G. PAKOA felt that, given the Nature of Politicians, there would inevitably be conflict between members and their alternates. M. TACETAMATA and S. REGENVANU favoured by-elections as the means to replace vacancies.

11. V. BOULEKONE explained that the purpose of removing Ministers from their seat in the Assembly was to limit the influence of the Executive, and to prevent the Executive from controlling the Legislature through the Ministers.

12. K. MATAS summarized the arguments put forward by both sides. He felt that a minority was afraid of majority rule and that the majority was afraid of alternates. He concluded that a possibility was to adopt the Chairman's third option, and leave the question of alternates to a body such as a "Constitutional Review Committee". In the meantime, the Constitutional Committee could examine other points - such as the Legislature - and, if necessary, return to the Executive later.

13. The Chairman closed the meeting at 4.30 p.m. by saying that as no agreement had been reached on the question, the Committee should move on to a new subject. The next meeting would be held at 2.30 p.m. on Monday, 16 July.

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/19

CONSTITUTIONAL COMMITTEE

MINUTES OF MEETING HELD ON 16 JULY 1979: 2.30 p.m.

Present: G. LEYMANG (Chairman), W. LINI, G. KALKOA, A. MALERE, T. REUBEN, J. NAUPA, M. CARLOT, D. KALPOKAS, J. LALOYER (for L. DINI), R. DELAVEUVE (for G. PREVOT), T. TUNGU, G. KALSAKAU, J.M. LEYE, V. BOULEKONE, G. CRONSTEADT, J. QUARANI, G. PAKOA, K. MATAS, B. SOPE, J. NATUMAN, W. BONGMATUR, RINGAO, F. TIMAKATA, M. TACETAMATA, S. REGENVANU, L. VATOU, A. STANDLEY (Minutes).

Invited: Professors ZORGBIBE and YASH GHAI.

Observers: M. BERNAST (alternate for L. VATOU), T. TIPOLOAMATA (alternate for F. TIMAKATA), M. KALCHICHI (alternate for S. REGENVANU), B. NARAKOBI,

1, The chairman opened the meeting by welcoming Professors ZORGBIBE and YASH GHAI - he then called upon the latter to introduce the subject of the Legislature.

2. Professor YASH GHAI spoke on the subject, explaining that the Legislature's functions included:

- acting as a forum for discussion of national policy and affairs
- making laws
- authorising the raising of taxes
- authorising Government expenditure.

acting as a Court of Law (though this was becoming increasingly exceptional in many countries)

- playing a role in forming the Government (in countries with a Parliamentary system of Government).

Professor YASH GHAI how, in a Parliamentary system, there existed an overlap between the Legislature and the Executive, whereas in a Presidential system, there was a separation of powers.

He concluded by discussing the dissolution of Parliament - in certain countries the Executive enjoyed this power, though the tendency in most developing countries was for the Executive not to be given this power

3. Professor ZORGBIBE made two additional points concerning votes of no confidence and alternative members of Parliament. No said there existed in some countries, in addition to the usual votes of no confidence, "constructive votes of no confidence" where the Parliament played a part in determining the composition of the new Government.

Professor ZORGBIBE explained that the system of alternative members had been adopted in some countries for practical reasons, even though it was somewhat contrary to the original spirit of Parliamentary Government. The reasons for the adoption of this system included:

- at it avoided the need for by-elections
- it prevented a rush of members of Parliament seeking to become Ministers - Ministers represented the whole nation and not a single constituency.

Prof, ZORGBIBE concluded by saying that the system was not entirely satisfactory - however, in the New Hebrides, a better, more adapted, one could be created.

4.V. BOULEKONE stated his belief that Ministers should not also be Members of Parliament. He requested more discussion on the Head of State/Head of Government question.

5, Prof. YASH GHAI felt that it would be possible, within a, Parliamentary system, to combine the Head of State and Head of Government, though, he pointed out, in a Parliamentary system, the Head of State usually had no real power. Prof. YASH GHAI believed that a Council of Elders was workable, provided that its powers and functions were clearly defined in the Constitution, He concluded that there was such a system in kiribati where a "Crisis Council" existed, consisting of the Chairman of the Assembly, the Chief Justice and the Chairman of the Public Service Commission.

6.J.M LEYE spoke, saying he disagreed with the decision taken by the Committee in favour of a combined Head of State/Head of Government. V. BOULEKONE believed that the fundamental point on which agreement existed was that the New Hebrides should have a Parliamentary system of Government. Discussion should be on how to achieve this.

7.Prof. ZORGBIBE explained that ho felt that, in a, normal Parliamentary system, the Head of State was the symbol of continuity and unity - he was therefore above party politics. The Head of Government, however, was in a more fragile position as he could be removed at any time by the Parliament.

Prof. ZORGBIBE suggested that if, of economy, it was necessary to combine the Head of State with some other position, the Chairman of the Assembly could also be Head of State,

8. Replying to a question from J. QUARANI , Prof. YASH GHAI said that a Head of Government who became dictatorial could be removed by the Assembly. He said that the general tendency was for combined Heads of State/Government to become very powerful, even if theoretically answerable to Parliament.

9.A discussion followed on the Head of State. V. BOULEKONE explained that the proposed Council of Elders should only act on very specific occasion. Prof. YASH GHAI said that in many countries, it was not easily understood that the Head of State had no real power, but only a formal role. Prof, ZORGBIBE felt that combining the Head of State and the Head of Government would either lead to a virtually Presidential system if the holder of the post was powerful, or to political instability if he was weak. He concluded by saying that whenever a system was being discussed, it was important to try to imagine hoer it would work in practice.

10. W. LINI spoke in favour of preparing something New Hebridean, not excessively based on European concepts. He proposed that a solution could be for the Head of State to be he Chairman of the Assembly who would also be a custom chief.

11. Prof. YASH GHAI felt that such a compromise might be possible though he wondered whether it would work in practice on account of its lack of internal coherence. V. BOULEKONE felt a single Chief could, not hold this position - in order for all the islands to be satisfied, it would be necessary for a group of Chiefs, to hold this position. F. TIMAKATA thought a solution could be for the Mal Fatu Mauri to elect the Council of Elders. M. CARLOT felt that as New Hebridean tradition and Western political concepts were so different, it would be better not to try to mix the two.

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

NEW HEBRIDES GOVERNMENT OF NATIONAL UNITY

PV/20

CONSTITUTIONAL COMMITTEE

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

Present: G. LEYMANG (Chairman), W. LINI, D. KALPOKAS, G. PREVOT (afternoon only - in morning represented by R. DELAVEUVE), M. CARLOT, L. DINI, J. NAUPA, A. MALERE, T. REUBEN, G. KALTOA, S. REGENVANU, W. BONGMATUR, RINGAO, F. TIMAKATA, T. TUNGU, L. VATOU, V. BOULEKONE, J-M LEYE, G. MOLISA, G. CRONSTEADT, J. PUARANI, J. NATUMAN, K. MATAS, M. TACETAMATA, B. SOPE, G. KALSAKAU, A. STANDLEY (minutes).

Invited : Professor. ZORGBIBE and GHAI

Observers: M. BERNAST (alternate for L. VATOU), B. NARAKOBI.

1. The chairman opened the meeting by saying that it appeared that the consensus in favour of a single Head of State/Head of Government was now being questioned by some group within the Committee so he felt it was important that this be clarified.
2. In reply to a comment by R. DELAVEUVE, W. LINI explained that the submissions made by individuals or group on the Organization of the Executive, were to be examined by the Steering Committee only.
3. J.M LEYE felt no consensus had been reached on the Head of State/Head of Government question as no satisfactory answer had been given to A. CRONSTEADT's two basic comments :
 - the need for protection against dictatorship
 - the need for stability in the office of Head of State.L. DINI and G. KALSAKAU agreed. The latter felt it would be of value for Chief to go on a study tour to Fiji and Solomon Islands to find out what role had been given to chief there in the Government of the country. L. DINI believed that the possibility of a Council of Elders, had been discussed precisely because no consensus had emerged.
4. G. KALTOA, J. NAUPA and T. REUBEN all declared that a consensus had been reached in favour of a single Head of State/Head of Government: There was they said, no point in going back to this question. V. BOULEKONE felt that a clear consensus had been reached - the only disagreement was, he said, about whether Ministers should be members of Parliament.
5. W. LINI felt the discussion was useful but that the Committee should decide whether it wished to rediscuss the consensus reached.
6. J.M LEYE said the Moderate Parties could never agree to a combined Head of State and Head of Government. Such a system, he said through its excessive concentration of power, would not provide sufficient guarantees for all the islands in the New Hebrides to enjoy their own rights and custom.
7. V. BOULEKONE felt there was still much lack of understanding of what a Constitution really was. The political life of the New Hebrides was young, he went on, and it was therefore understandable that many of the country's politicians were unfamiliar with many of the expressions and issues. He then proposed a compromise:

1. The Assembly would elect the Speaker (Chairman) of the Assembly. This person would be Head of State.
2. The Assembly would elect the Prime Minister who would then nominate his Ministers.
3. The Prime Minister and Ministers would remain Members of the Assembly with full rights.

With respect to the Speaker/Head of State, he proposed two alternatives:

- a) The Speaker would have the right to vote in Assembly debates - in this case, V. BOULEKONE said, it would be necessary for a Council of Elders to act in times of Crisis as the Speaker/Head of State would have been personally involved in the crisis;
- b) The Speaker would not have the right to vote - this would give him more neutral position should there be a crisis.

8. After further discussion the Chairman said that if the Committee was to work properly, members should express their opposition to proposals openly during the course of meetings. L. VATOU said that no opposition had been made to the consensus it therefore stood. He proposed that the proceedings be tape-recorded to avoid any ambiguity in the future.

9. J. M. LEYE said he could not trust a system he did not know - what would happen, he asked, if the party holding power could select the Head of State, Head of Government and Ministers. This was something of which he was afraid. J. M. LEYE went on to say that he wished to have guarantees that, in the future, all the islands of the New Hebrides would be able to enjoy their freedom and custom. He concluded by saying that he was wary of the idea of a Council of Elders if this consisted of Chiefs, for Chiefs were too political.

10. W. BOUGMATUR emphasized the need to create something suitable for all with respect to Chiefs were unsatisfactory - they continued to trust Chiefs as more gods and failed to give them proper recognition. It was important, before the elections, to ensure that chiefs were given a proper role to play in the life of the country he concluded.

11. M. CARLOT said all were agreed on the need to protect the rights and custom of each island - however, it would be use not to mix tradition and Government too much. He emphasized the fact that no-one could expect the Constitution to be perfect: any flaws could be corrected, or amended, later. To prepare a Constitution, he concluded, all parties would need to make sacrifices - he did not think that either the Vanuaaku Pati or the Federal Party would refuse to compromise.

12. J. M. LEYE replied that the Constitutional Committee could, if it wished, continue to work on the basis of a combined Head of State/ Head of Government, but the Federal Party wished to make it clear that it disagreed. For many years, he said, only one side had been making compromises.

13. A discussion followed on alternative members. Prof. ZORGBIBE explained that two kinds of alternative member could exist:

- a) As in France, where alternative members only took up a seat in Parliament to replace a member who had died or became a Minister. The purpose of such system was to have a separation of powers between the legislature and the Executive. Prof. ZORGBIBE added that most political parties in France were now opposed to this system as it was found not to be effective.
- b) An alternative member could be a person who simply replaced a member of Parliament who, for some reason, was unable attend a meeting.

14. Prof. GHAI added that in the United Kingdom, vacant seats in Parliament were filled by means of by-elections, however, there was no satisfactory mechanism for replacing a member

who, for example, was seriously ill over a long period of time. On the subject of the domination of the Legislature by the Executive, Prof GHAI commented that this was partly in the nature of the Parliamentary system: it was not inherent, but due to the fact that the Government enjoyed the support of the majority in Parliament. He concluded by suggesting that one possible way of trying to reduce the risk of domination by the Executive was to limit the number of Ministers.

15. The morning's discussions were concluded by G. CRONSTEADT proposing that the Committee examine another subject, such as the Legislature. He felt it would not be possible to proceed by asking whether a consensus existed on the Head of State/ Head of Government question.

16. The Chairman opened the afternoon session by informing the Committee of the decision taken by the Steering Committee to proceed in 3 steps:

- 1) The Committee would try to find out whether a consensus really existed in favour of combining the Head of State and Head of Government. Measures to protect against dictatorship would also be discussed. If this discussion led to nothing, the Committee would move to 2);
- 2) The Committee would examine the proposal made by V. BOULEKONE in the morning. If this failed to yield results, then
- 3) The Committee would discuss the possibility of a collegiate Head of State.

17. Following a request made by J.M. LEYE, Prof. ZORGBIBE said he considered the best protection against dictatorship was the quality of the nation's Leaders. From a more strictly Constitutional point of view, he pointed out that the Head of State in a Parliamentary system had little real power - it was therefore technically possible to combine him with the Head of Government. Prof. ZORGBIBE added that the existence of other institutions such as the Public Service Commission helped protect against the danger of dictatorship.

18. A discussion followed on the effect of a vote of no confidence in the Head of State/ Head of Government. Prof. ZORGBIBE confirmed that in such a case the Head of State would also fall and the Council of elders would interver. Prof. GHAI said there could be ways of limiting Government instability for example, by forbiddings votes of no confidence during the first year of a Government's term of office, or by making it necessary for the name of a new Head of Government to be proposed at the time of a vote of no confidence. Prof. ZORGBIBE concluded the discussion by commenting that it was difficult to ensure complete stability within a Parliamentary system he said that if the New Hebrides mished a stable and democratic system, then a Presidential system should be adopted.

19. W LINI felt that if the Committee continued to work as it was during, it would be impossible to achieve anything. He suggested it would be better moving on to another subject. He considered that though the Committee would not be able to create a perfect Constitution, something should nonetheless be prepared which could be amended later if necessary.

20. V. BOULEKONE felt another major problem was the issue of decentralization - he felt if a small number of persons held excessive power in a central Government, the outer islands could react and seek greater autonomy through Federalism. V. BOULEKONE emphasized the need for all sides to compromise, and made the following proposals:

- a) Head of State to be separate from the Head of Government.
- b) Head of State to be chosen from within the Assembly.
- c) The Head of State to be the Speaker of the Assembly but without the right to vote.
- d) The Prime Minister to be chosen from within the Assembly.
- e) The Prime Minister to nominate his Ministers.
- f) Ministers to be chosen from within the Assembly.

- g) Ministers to remain members of the Assembly.
 - h) Head of State to intervene in times of crisis (or a group, if it was felt that a single person was not sufficient).
- V. BOULEKONE remarked his proposal called for compromises from both main groups within the Committee.

21. T. REUBEN did not agree with this proposal - he felt the consensus reached should not be re - discussed.

22. L. DINI felt it should be noted that no consensus had been reached.
He identified two main problems:

- members of the Committee were thinking too much in terms of political parties.
- there was an unconscious rivalry between those who advocated a "French" system and those who advocated a "British" system.

23. W. LINI, replying to V. BOULEKONE, explained that the Vanuaaku Pati had no firm stand on any of the issues under discussion. He felt the people in the New Hebrides were tired of politics - many now sought elections before the Constitution. He believed the Committee should accept the consensus reached and move on.

24. V. BOULEKONE regretted that his proposal had not been considered and that no spirit of compromise was apparent.

25. Following a proposal made by S. REGENVANU that the Mal Fatu Mauri could elect a chief to be Head of State, W. BONGMATUR spoke of the need to respect custom and Chiefs - he warned that if Chiefs were not given a proper role play in the life of the Country there would be a complete deadlock.

26. B. SOPE, W. LINI, and M. CARLOT all believed that there would be advantage in examining another subject. W. LINI asked V. BOULEKONE to distribute copies of this proposals to members.

27. The meeting was closed at 5.00 p.m. with the Chairman announcing that the next meeting would be held at 8.30 a.m. on Monday 23 July.