

Arikis) was omitted and it was provided that the functions which were to have been performed by the Council of three would be performed by the High Commissioner alone.

On 9 July, the residential qualifications which had previously barred him from standing having been removed, Mr. Albert Henry contested and won a by-election. He became Leader of Government Business.

On 26 July, the Legislative Assembly debated the amended constitution and adopted the following resolution:

"The Legislative Assembly of the Cook Islands

"Hereby resolves that the Cook Islands shall be self-governing in free association with New Zealand.

"Requests New Zealand, in consultation with the Government of the Cook Islands, to discharge the responsibilities for the external affairs and defence of the Cook Islands.

"Approves the Constitution of the Cook Islands as amended in accordance with the wishes of this Assembly.

"Requests that the Constitution be brought into force on the fourth day of August 1965."

Twenty of the twenty-two members of the Assembly supported this resolution. The dissenting votes were cast by the members for Penrhyn and Rakahanga, two northern islands.

At midnight on 3 August, in accordance with the wish of the Assembly, the Constitution of the Cook Islands was brought into force.

At a special session on 4 August, Mr. Albert Henry was elected Premier and announced his Cabinet.

The Constitution being in force, it has passed beyond the control of the New Zealand Parliament. From now on, the Cook Islands Legislative Assembly has sole power to amend the Constitution or, in the case of the entrenched clauses (that is the six clauses where a popular referendum as well as a vote by the Legislative Assembly is required) to initiate amendments. Thus the people of the Cook Islands now have sole control of their own future, with the power to change their status as they wish. They have complete legislative autonomy. There is no legal barrier to their assumption of sovereign independence except the need for the assent of two thirds of the members of the Cook Islands Legislative Assembly and two thirds of the people as expressed by referendum.

I am pleased to forward for distribution fifty copies of the Cook Islands Constitution Amendment Act 1965, amending the Cook Islands Constitution Act 1964. The Constitution as amended, and as now in force in the Cook Islands, is to be found in the Second Schedule to the 1965 Act. For convenience of reference, a copy of the prefatory sections of the Cook Island Constitution Act 1964 is included with each copy of the 1965 Act.

(Signed) F. H. CORNER  
Permanent Representative of  
New Zealand to the United  
Nations

## DOCUMENT A/5962\*

### Report of the United Nations Representative for the Supervision of the Elections in the Cook Islands

[Original text: English]  
[20 August 1965]

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*Letter of transmittal*

Geneva, 30 June 1965

Sir,

I have the honour to transmit herewith my report on the organization, conduct and results of the elections in the Cook Islands, held on 20 April 1965, and on the debate and decision upon the Constitution by the newly elected Legislative Assembly in May. In accordance with resolution 2005 (XIX), adopted by the General Assembly on 18 February 1965, I should be grateful if you would submit the report to the Special Committee of Twenty-four and to the General Assembly.

Accept, Sir, the assurances of my highest consideration.

(Signed) Omar A. H. ADEEL  
*United Nations Representative for  
 the Supervision of the Elections in  
 the Cook Islands*

His Excellency U Thant  
 Secretary-General  
 United Nations  
 New York

**Introduction****A. BACKGROUND TO THE CREATION OF THE MISSION***United Nations established policy regarding Non-Self-Governing Territories*

1. The United Nations policy regarding Non-Self-Governing Territories is laid down in Chapter XI of the Charter and in the General Assembly's Declaration on the Granting of Independence to Colonial Countries and Peoples (resolution 1514 (XV) of 14 December 1960). Article 73 of the Charter lays down the principle of international responsibility for the welfare and advancement of the inhabitants of Non-Self-Governing Territories. It states, among other things, that Members of the United Nations administering these Territories recognize the principle that the interests of their inhabitants are paramount, and that administering Powers accept as a sacred trust the obligation to promote their well-being; to develop self-government; to take due account of the political aspirations of the peoples and to assist them in the progressive development of their free political institutions.

2. The General Assembly resolution on the granting of independence to colonial countries and peoples was adopted by 89 votes (including that of New Zealand), and, without any dissent, proclaimed the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations. It declared *inter alia* that:

"Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom."

and further that

"Inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence."

*Consideration of the Cook Islands by the United Nations*

3. Specific consideration of the Cook Islands began at the 244th meeting of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, with a statement by the representative of New Zealand, in which he said that, although the Territory was small, the relevant provisions of the Charter and the Declaration on the Granting of Independence to Colonial Countries and Peoples, which New Zealand fully supported, applied to it just as much as to larger territories. The Territory was then referred to Sub-Committee II. After considering the Sub-Committee's report (A/5800/Rev.1, Chap. XV, annex), the Special Committee, at its 304th meeting, approved it and, with two amendments, adopted without objection the conclusions and recommendations contained therein.

4. In its conclusions, the Special Committee welcomed *inter alia* the statement of policy by the New Zealand Government. It noted that the constitutional advance made in the Territory, with the assistance of the Government of New Zealand, had been substantial, but that further steps were needed to attain the objectives of the Declaration contained in resolution 1514 (XV). It noted with satisfaction the efforts made by the New Zealand Government in carrying out its obligations as administering Power and its co-operation with the Committee of Twenty-four, and the relations which existed between the people of the Territory and the administering Power. It recommended that the size, isolation and limited resources of the Territory should not in any way delay the application to it of resolution 1514 (XV), and that the people of the Territory should be enabled to express their wishes in accordance with that resolution through well-established democratic processes under United Nations supervision.

5. On 18 February 1965, the General Assembly considered the recommendations of the Special Committee concerning the Cook Islands and a letter dated 2 February 1965 from the representative of New Zealand addressed to the Secretary-General. This stated *inter alia* that:

"The plans for self-determination in the Cook Islands were outlined at the General Assembly in 1962 and 1963 and explained in detail to the members of the Committee of Twenty-four during last year's session of the Committee and its Sub-Committee II. In brief, the form and nature of the Cook Islanders' future status will be a major issue in the general election to be held there on 20 April 1965 and at the meeting of the new Legislative Assembly resulting from that election which will be convened towards the latter end of May. The Legislative Assembly will debate and decide whether and when the draft Constitution which has been prepared during the last two years should be brought into force. These two events—the election process and the subsequent debate and decision of the Legislative Assembly upon the Constitution—will, taken together, constitute key parts of the process of self-determination of the people of the Cook Islands." (A/5880.)

6. The Permanent Representative went on to state in his letter that his Government welcomed the recommendation to the General Assembly of the Special Committee of Twenty-four that the people of these Islands be enabled to "express their wishes in accordance with the provisions of resolution 1514 (XV) through well-established democratic processes under United Nations supervision". He stated that his Government was prepared to make the necessary arrangements for facilitating such supervision and requested that the Secretary-General nominate "an appropriate person or persons to be present in the Cook Islands on behalf of the United Nations for the election campaign and the election in the latter part of April 1965 and for the debate and decision upon the Constitution by the newly elected Legislative Assembly in late May". (*Ibid.*)

7. The Secretary-General, in a note to the General Assembly (A/5882, para. 4) drew attention to this communication and recalled the following statement in the report of the Special Committee of Twenty-four concerning the elections:

"At the general elections, scheduled to take place in the Cook Islands in early 1965, the chief issue will be the future status of the Territory. If the General Assembly approved that these elections be supervised by the United Nations, it would be necessary to make the necessary arrangements for such supervision as a matter of urgency." (A/5800/Rev.1, chap. I, para. 169.)

8. The Secretary-General suggested that the General Assembly, taking into account the recommendation of the Special Committee and the communication from the Permanent Representative of New Zealand, and considering the urgency and importance of the matter, should authorize the supervision of the elections by the United Nations and authorize him to appoint a United Nations Representative for this purpose.

9. On 18 February 1965, the General Assembly adopted resolution 2005 (XIX) authorizing supervision by the United Nations of the elections to be held in the Cook Islands. The relevant operative paragraphs of this resolution are as follows:

"1. *Authorizes* supervision by the United Nations of the elections to be held in the Cook Islands in the latter part of April 1965;

"2. *Authorizes* the Secretary General:

"(a) To appoint a United Nations representative who will supervise these elections with the assistance of the necessary observers and staff, observe the pro-

ceedings concerning the Constitution in the newly elected Legislative Assembly and report to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and to the General Assembly...".

*Installation of the Mission and itinerary of the United Nations Representative*

10. In accordance with resolution 2005 (XIX), the Secretary-General did me the unique honour of designating me United Nations Representative for the supervision of the elections to be held in the Cook Islands. He also appointed the following members of the Secretariat to assist me in the accomplishment of my task: Mr. James L. Lewis, Principal Secretary and Observer; Mr. C. Sivasankar, Administrative Officer and Observer; Mr. Felipe A. Pradas, Observer; Mr. Thomas H. Tanaka, Observer; Mr. Bernard D. Dorkenoo, Observer; Miss A. Ferral, Secretary.

11. Travel and transport arrangements were handled by Headquarters at New York in conjunction with representatives of the New Zealand Government. On 7 April 1965, I and my staff assembled at Apia in Western Samoa and were joined by Mr. L. J. Davis, Assistant Secretary, Department of Island Territories, and Mr. G. Hensley from the Department of External Affairs, Wellington.

12. On 8 April, the Mission proceeded to Rarotonga where headquarters were set up immediately. The widely scattered nature of the Territory and the extreme difficulties of air and sea communications made it impossible to place Observers on all permanently inhabited islands. It was decided therefore that they would be stationed on the four most populous islands: Rarotonga, Aitutaki, Mangaia and Atiu. These contained 80 per cent of the total population of the Cook Islands and were electing 16 of the 22 members of the Legislative Assembly. Mr. Pradas was stationed at Aitutaki, Mr. Tanaka at Mangaia, Mr. Dorkenoo at Atiu; Mr. Lewis, Mr. Sivasankar, and Miss Ferral remained at headquarters.

13. Although radio-telephone communication existed between the outer islands and Rarotonga, I was concerned that no provisions had been made to permit me to visit other islands of the Territory and speak to the people. In particular I considered it unfortunate that neither I nor any of my Observers could visit the Northern Group of the Cook Islands. I realized that the brief time the Mission had before the elections and the great distance which separated these islands from Rarotonga posed an apparently insuperable problem. Nevertheless, I felt that all possibilities ought to be explored to remedy this situation. Even before I set out on my mission, I had my concern regarding the matter conveyed to Ambassador F. Corner, the Permanent Representative of New Zealand to the United Nations. On 9 April, the day after my arrival at Rarotonga, I raised the matter again with Mr. A. O. Dare, the Resident Commissioner of the Cook Islands, and with Mr. M. L. Hegan, the Chief Electoral Officer. It was a matter of considerable satisfaction to me that we were finally able to arrange a tour before the elections of as many of the main islands of the Territory as the limitations of time and the distances involved would permit. In addition to Mangaia, Atiu, and Aitutaki in the Southern Cook Islands, Penrhyn and Manihiki, two of the most remote and populous of the Northern Cook Islands were

included in this tour. In order to visit these two atolls, respectively 737 and 650 miles distant from Rarotonga, a Sunderland aircraft of R.N.Z.A.F. was placed at my disposal by the New Zealand Government.

14. While on this fleeting tour and at my request, public meetings were arranged for me. The crowds at these meetings were—as far as I could ascertain—sufficiently representative. In the five outer islands I was able to visit, the meetings were attended by the members of the local councils. In four of these islands most of the candidates for the Assembly were present. In the fifth island the candidate was away in Rarotonga as he had already been elected unopposed. At these meetings I explained the nature and purpose of the presence of the United Nations Mission in the Cook Islands. I stated that I had come to supervise all election operations in order to assure myself that they were in accordance with the electoral regulations, that the officials concerned with the elections were impartial, that the necessary precautions were taken to safeguard the voting papers, and that a correct count of the votes and an accurate report of the results were made. Also I wanted to assure myself that they, the people of the Cook Islands, were fully aware of the significance of the elections, in that the new Legislature which they were going to elect would be empowered, acting on their behalf, to adopt the Constitution as drafted, reject it, or work out some other status for the Territory; and that they were able to exercise their rights prior to and during the polling in complete freedom.

15. Questions were invited and many were entertained. Many others still could not be answered directly since, in my view, these related to matters outside my terms of reference. Following up on a press release issued earlier (see annex I), I encouraged members of the public who had any point of view to express on the elections or any complaints regarding the administrative or physical arrangements for their conduct to come forward with them to the members of the United Nations Mission and they were assured that whatever they chose to impart to the United Nations Mission would be treated in strict confidence, if they so desired.

## B. GENERAL INFORMATION ON THE COOK ISLANDS

16. A report issued annually by the New Zealand Department of Island Territories,<sup>1</sup> was the main source for the following general information on the Territory's geography, population, economy, education and system of government.

### *Geography*

17. The Cook Islands, consisting of a southern and a northern group of islands, are mostly small and widely scattered throughout an area of some 850,000 square miles (2,210,500 kilometres) of ocean extending from 8 degrees south to almost 23 degrees south and from 156 degrees west to 167 degrees west. They have a total land area of approximately 93 square miles (241 square kilometres).

18. The southern group includes eight inhabited islands: Rarotonga, Aitutaki, Atiu, Mangaia, Mauke, Manuae, Mitiaro and Palmerston. With the exception of Manuae, which is a coral atoll, the southern group

is mainly volcanic in origin with hilly or mountainous interiors, and the islands are surrounded by coral reefs. Rarotonga is the seat of the Government. Mangaia, the nearest island, lies 110 miles south-east of Rarotonga, and Palmerston, the most distant of the group, lies 270 miles north-west.

19. The northern group includes five inhabited islands: Penrhyn, Manihiki, Rakahanga, Pukapuka and Nassau. All are typical coral atolls. Manihiki, the nearest to Rarotonga among the inhabited islands of the group, lies 650 miles north-west and Penrhyn, the most distant, lies 737 miles north-east.

### *Population*

20. The latest full census held on 25 September 1961 showed a population of 17,993 indigenous persons and 385 Europeans. As at 31 December 1964, the population of the Territory was estimated at 19,944. Of this number, 9,733 lived in Rarotonga, nearly 3,000 in Aitutaki, 2,000 in Mangaia and 1,500 in Atiu. In the northern group, out of a total of about 3,000 inhabitants, over 1,000 lived in Manihiki (see annex II).

### *Economy*

21. The economy of the Territory is based principally on agriculture. The only industries of any significance are two clothing factories, locally owned and managed, and a canning factory which processes fruits and fruit juices. The value of exports from these three factories amounted to approximately 60 per cent of the value of all exports from the Territory in 1963. Most of the population is engaged in growing subsistence crops and cash crops for export. The chief exports are copra, citrus fruit, bananas and tomatoes. The greater part of all copra exports comes from the Northern Group of islands. The other agricultural exports are produced by the Southern Group of islands. Most of the Cook Islands trade is with New Zealand. In 1963 exports amounted to £834,777,<sup>2</sup> compared with £710,635 the previous year, an increase of £124,142. Imports increased from £937,273 in 1962 to £1,226,136 in 1963.

22. A New Zealand Government ship, "Moana Roa", maintains a monthly service to the Cook Islands. Inter-island shipping services are also provided by privately owned vessels. Shipping within the Cook Islands is of prime importance to any economic development and services have in the past been maintained with great difficulty. All of the islands are surrounded by coral reefs, and only a few have passages through the reef and anchorages for small ships. Elsewhere ships must remain at sea. Lighters and other boats must be used to take freight ashore and to take on cargo. This cannot be done in rough seas. Sometimes boats capsize and the cargo is dumped in the sea. Sometimes ships have to await calmer weather for loading or unloading, or they have to depart without exchanging goods and passengers. At best, operations of this sort are time consuming and economically unattractive. At present subsidies are paid to the owners of three vessels in the inter-island service.

23. By air, a weekly service between the Cook Islands, Western Samoa, and the international trunk line at Pago Pago is maintained by Polynesian Airways. Radio communications are maintained from Rarotonga

<sup>1</sup> New Zealand, Department of Island Territories, *Reports on the Cook, Niue and Tokelau Islands*, Wellington, Government Printer, 1964.

<sup>2</sup> The pounds referred to in this document are New Zealand pounds.

with New Zealand and principal Pacific centres as well as with twelve sub-stations in the outer islands.

24. Revenue is derived mainly from import duties, income tax and stamp sales. This is insufficient to balance the budget and the deficit is met by grants from the New Zealand Government. In 1963-64 receipts totalled £1,437,610 and consisted of £663,110 in revenue obtained in the Territory and £774,500 in grants (increased to £872,000 in 1964/65) from the New Zealand Government. Expenditure amounted to £1,465,505.

### *Education*

25. Primary education is free and compulsory for all children between the ages of six and fourteen and is provided by the Government and two church missions on every permanently inhabited island. At 31 March 1964, a total of 4,979 primary pupils were enrolled in government schools and 403 in mission schools.

26. Secondary education is provided by four Government schools. The curriculum is based on the requirements for the New Zealand School Certificate. There are junior high schools in Aitutaki, Mangaia and Atiu, with a total enrolment of 442 students in 1965. Tereora College in Rarotonga provides a full secondary course. Its enrolment in 1965 is 454. For sixth form studies, higher education, and technical training, students are awarded scholarships for schooling in New Zealand. A Teachers' Training College in Rarotonga offers a three-year course leading to a teacher's certificate. Some 200 students are in training at the College.

### *Government*

27. The Territory is administered under the Cook Islands Act 1915, as amended. The inhabitants are British subjects and New Zealand citizens.

28. The Cook Islands Act, 1915, provided for the appointment by the Governor-General of New Zealand of a Resident Commissioner of the Cook Islands, who was charged, subject to the control of the Minister of Island Territories, with the administration of the executive government.

29. A limited power of legislation was exercised by the Cook Islands Legislative Assembly which had been in existence since 1958. Consisting partly of elected and partly of appointed members including officials of the Administration, the Assembly had the power to make laws for the peace, order and good government of the Territory. It also had the power to exercise full control over the expenditure of all revenue collected in or derived from the Cook Islands, and of the expenditure of the subsidy money provided by the Government of New Zealand. It could not however legislate on certain reserved subjects, nor make ordinances contradictory to New Zealand acts or regulations that were declared to be reserved.

30. An Executive Committee of five members has shared with the Resident Commissioner in some measure, since November 1963, responsibility for the administration of executive government. The Committee was made up of a Leader of Government Business elected by the Legislative Assembly from among its members, and four others chosen by the Leader. Each of the members of the Executive Committee was assigned a portfolio involving responsibility for several government departments.

## C. FORM OF THE REPORT

31. The report has two parts in addition to the introductory section. Part I concerns the supervision of the elections and describes: various features of the Cook Islands Legislative Assembly Regulations, 1965 for the conduct of the elections; the public enlightenment conducted by the Administration, political activities preceding polling day; activities on polling day; the counting of the ballots; and the results of the elections. The final section contains my conclusions on the various aspects of the conduct and organization of elections by the administering Power.

32. Part II contains notes on the historical background to the constitutional evolution of the Territory; the draft Constitution in its original form; and the Cook Islands Amendment Act, 1964. It also embodies an account of the debate in the new Legislation Assembly. A final section sets forth my observations and conclusions.

## **Part I. Elections in the Cook Islands**

### A. ORGANIZATION OF THE ELECTIONS BY THE ADMINISTERING POWER

33. As has already been indicated, by the time my colleague and I arrived in the Territory on 8 April 1965, the organization of the elections had been virtually completed. The electoral regulations had been enacted, electoral procedure had been established, political parties and independent candidates contesting the election had already issued their manifestos and there were only twelve days left before polling day. The notes which follow are based therefore on published documents, the information made available by the Administration regarding measures it had taken concerning the organization and conduct of the elections, and on discussions with leaders of political parties and some of the independent candidates.

### *Cook Islands Legislative Assembly Regulations, 1965*

34. The Cook Islands Legislative Assembly Regulations, 1965 revoked the Cook Islands Legislative Assembly Regulations, 1958 and provided for the organization and conduct of the elections in the Cook Islands. Under its provisions Public Notices were issued implementing the various Regulations.

### *Date of elections*

35. In accordance with Regulation 28, the Resident Commissioner fixed 20 April 1965 as the date for the election of members of the Legislative Assembly and public notice of this was given by the Chief Electoral Officer on 4 February 1965.

### *Electoral officers and scrutineers*

36. Regulations 3, 4 and 41 provided for the appointment of electoral officers by the Resident Commissioner and of scrutineers by each candidate for election.

37. On 27 January, Mr. M. L. Hegan was appointed Chief Electoral Officer, and registrars were appointed to fill posts in the various constituencies. All were civil servants in the Administration, and most were the Resident Agents of their respective islands. On this date the same officials were also appointed to serve as returning officers. Returning officers were not permitted to hold an official position in connexion with any political organization.

38. Each candidate was permitted to appoint one scrutineer for each polling booth in his constituency. Scrutineers had to subscribe to the same declaration of secrecy concerning the election which was required of electoral officers.

### *Constituencies*

39. For the purpose of the elections the Cook Islands were divided into twelve constituencies with the distribution of seats in the Legislative Assembly as follows:

	<i>Members</i>
Te-Au-O-Tonga constituency .....	4
Puaikura constituency .....	2
Takitumu constituency .....	3
Aitutaki and Manuae constituency .....	3
Mangaia constituency .....	2
Atiu constituency .....	2
Mauke constituency .....	1
Mitiaro constituency .....	1
Manihiki constituency .....	1
Pukapuka and Nassau constituency .....	1
Rakahanga constituency .....	1
Penrhyn constituency .....	1

### *Qualifications of members and electors*

40. Regulations 6 and 9 of the Legislative Assembly Regulations 1965 promulgated under Section 61 of the Cook Islands Amendment Act 1964 contain the qualifications required of electors and members to vote or be elected to the Legislative Assembly. These are *inter alia* as follows:

(a) He or she must be a British subject.

(b) In the case of an elector, he or she must have been ordinarily resident in the Cook Islands throughout the period of twelve months immediately preceding his or her application for enrolment.

(c) In the case of a candidate, he or she must have been ordinarily resident in the Cook Islands throughout the period of three years immediately preceding his or her nomination as a candidate.

41. All people over 18 years of age and who fulfilled the above qualifications were entitled to participate in the elections as electors or candidates.

### *Registration*

42. Pursuant to Section 33(2) of the Cook Islands Legislative Assembly Regulations, 1958, the Chief Electoral Officer issued a Public Notice on 2 March 1965 stating that nomination of candidates for election as members of the Cook Islands Legislative Assembly should be submitted by noon on Friday, 19 March 1965. The notice also stated that a person nominated must be registered on the roll of a constituency and sign a consent on the form provided which included a statement as to the constituency or constituencies in which the candidate had resided during the period of three years preceding his nomination.

43. Under the Cook Islands Legislative Assembly Regulations, 1965, every person who met the necessary qualifications must register.

(a) Within one month after the date of the commencement of the Regulations, if he was qualified on that date. (These Regulations came into force on 22 February 1965.)

(b) Within one month after the date on which he first became qualified or the date of the commencement of these regulations.

(c) Within one month after, being registered on the roll of one constituency, he became qualified to be registered on the roll of another constituency.

44. Failure to register was an offence under the Regulations, under a penalty of a fine not exceeding £2.

45. All applications for registration were to be submitted to the Registrar in charge of the roll on which the applicant was entitled to have his name entered.

46. On the question of the registration of electors, the Chief Electoral Officer in an announcement dated 11 February 1965 stated:

"...The preparation of the rolls will follow the same pattern as in previous years. Enumerators will be allotted a particular district or tapere and will issue cards, and where necessary give assistance in completing them. They will also witness applicants' signatures. All persons who are qualified to be on the electoral roll for their constituency should see the enumerator for their district as soon as possible. A person can, however, apply to the registrar of electoral rolls for a card and complete this himself. The applicant's signature may be witnessed by any enumerator, electoral Officer, postmaster or registered elector. It is repeated that it is the individual person's responsibility to see that he is on the electoral roll.

"The completed cards are to be returned to the registrar, and from them the electoral roll will be prepared and printed. Copies will then be placed on notice boards and left with enumerators and other people in each district where they may be inspected by the public.

"Every person who is qualified to be an elector should inspect the roll for his district to make sure his name is on it. Persons whose names are not on the roll but think they are entitled to be enrolled should then get in touch with the enumerator for their area or with the Registrar in charge of the roll.

"A supplementary roll will be prepared listing people enrolled after the printing of the main roll and notifying any names which may have been removed from the main roll as the result of objections.

"Any name on the rolls may be objected to either by the registrar in charge of the roll or by any registered elector in each case on the grounds that the person objected to is not qualified to be registered on the roll. If the person objected to does not satisfy the registrar that he is entitled to be enrolled his name will be struck off the roll.

"The main roll will close on Friday 5 March 1965, and will be open for inspection on Friday 12 March 1965. The supplementary roll will close on Tuesday 2 April 1965."

### *Voting arrangements and procedures for voting*

47. Part V of the Regulations provide for voting arrangements and procedures for voting. Based on these, printed instructions were issued to each presiding officer and poll clerk in charge of polling stations. These instructions included information on the procedure to be followed on polling day to ensure an orderly conduct of the elections and to ensure also that the secrecy of the ballot was maintained. It described also the role of

the scrutineers and that of the United Nations Observers. The relevant paragraph of the text with regard to United Nations Observers reads as follows:

"United Nations Observers have been invited by the New Zealand Government to observe the election. They are observing only, and, by authority of a Public Notice issued by the Resident Commissioner under section 88 of Regulations, have been given the right to go into all booths and be present at the preliminary and at the official count of votes.

"The Observers have no administrative functions to do with this election. They have the rights of scrutineers only. As such they can draw the presiding officer's attention to any irregularity and require him to ask questions of the voter (those listed in Regulation 47 *a, b, c* and *d*, and also in Section 15 of the instructions).

"If a United Nations Observer draws your attention to anything irregular it is to be rectified immediately, and the returning officer must be informed when he visits your booth. You will be able to identify United Nations Observers by the armband they wear."

48. There were only two classes of voters, an ordinary voter whose name appeared on the roll and who attended personally to vote, and special voters who, upon presentation of a certificate to the presiding officer, would be entitled to vote in his booth for a candidate of another constituency. Blind or otherwise disabled or illiterate voters were permitted at their request to cast their ballot in the following manner. The presiding officer had to accompany the voter behind a screen and assist the voter to mark the voting paper or mark it for him if he was asked to do so. There were also to be present not more than two scrutineers and, if necessary, an interpreter. The booklet of instructions also contained the following instructions as to how to issue a ballot paper to an ordinary voter:

"(a) Ask the voter for his *full name* and such other particulars as are necessary for identification on the roll. Remember that in most cases the father's name appears in capitals on the roll, though in the case of Europeans or electors married to Europeans the surname will more frequently appear first. An ordinary vote should be issued wherever there is a roll entry which applies to the elector, although name or particulars may not be entirely correct.

"(b) Before giving a person any voting paper the presiding officer may, and, if required by a scrutineer or by a United Nations Observer, shall put to the voter the questions contained in Section 15.

"(c) Have the poll clerk tell you the roll number, i.e. page number followed by line number. He then rules a neat pen (or pencil) line through the number, name, and other particulars and into margin to the left of number."

49. The presiding officer might, and, if required by a scrutineer or United Nations Observer was, before issuing any voting paper, to put the following questions to any person proposing to vote:

(a) Are you the person whose name appears as A.B. on the roll for the (Name) constituency?

(b) Are you 18 years of age or over?

(c) Are you still possessed of the qualifications in respect of which you are registered?

(d) Have you already voted at this election?

50. The voter, having received the voting paper, was to immediately retire into one of the inner compartments provided, and there alone and secretly on the voting paper indicate the candidate or candidates for whom he desired to vote by marking a cross in the square set opposite the name of each such candidate. The Regulations also made provision that no voting paper should be rejected as invalid that clearly indicated the candidate or candidates for whom the voter intended to vote, whether that indication was made in the manner prescribed by the regulation or otherwise.

#### *Preliminary count of votes*

51. Regulation 55 provided for: a preliminary count of all ordinary votes by the presiding officer of each polling station in the presence of any scrutineers that might be present; the transmission of the results to the returning officer in charge; and finally the announcement by the Chief Electoral Officer of the total number of votes received by each candidate.

#### *Scrutiny*

52. Regulation 57 provided for a scrutiny of the rolls after the polling to determine whether any person had received more than one voting paper. This was done by the returning officer in charge and his assistants in the presence of scrutineers appointed by the candidates.

#### *Counting and declaration of the vote*

53. Regulations 58 and 59 provided for the official count of the votes and a report by the returning officer in charge to the Chief Electoral Officer of the total number received by each candidate. This count was also to be done in the presence of scrutineers. The Chief Electoral Officer was then to report the results to the Resident Commissioner and the latter, by public notice, was to declare the successful candidates together with the number of votes received by each.

54. At this count all informal voting papers were set aside. A voting paper was deemed to be informal:

"(a) If it does not bear the official mark and there is reasonable cause to believe that it was not issued to a voter by the presiding officer; or

"(b) If anything not authorised by these regulations is written or marked thereon by which the voter can be identified; or

"(c) If the number of candidates for whom the elector has voted exceeds the number of candidates to be elected; or

"(d) If it does not clearly indicate the candidate or candidates for whom the elector desired to vote;

"Provided that a voting paper shall not be deemed informal merely on the ground of some informality in the manner in which it has been dealt with by the elector if it is otherwise regular, and if in the opinion of the returning officer in charge the intention of the elector is clearly indicated."

#### *Printing and distribution of ballot papers*

55. The following measures were taken for the security of voting papers before, during and after the elections. In preparation for the elections all voting papers were printed at the Government Printing Office in Rarotonga. This was done in the presence of the returning officer and his assistant. They examined all

papers and destroyed any imperfect ones. The press was then immediately broken so that no additional papers could be printed. It was necessary to print the papers before the United Nations Mission arrived in order that they could be distributed throughout the Territory in time for the elections on 20 April. In the period after their printing and before their distribution they were sealed and placed under lock in the office of the returning officer.

#### B. PUBLIC ENLIGHTENMENT PROGRAMME

56. Information on constitutional developments and the elections to be held in April 1965 appeared from time to time in the *Cook Islands News* which is issued daily from Monday to Friday by the Social Development Department and printed in the Cook Islands by the Government Printing Office. In August 1963, five articles concerning the debate on the Constitution in the Legislative Assembly were printed. At intervals, until the end of 1964, the debate on the Constitution continued to be reported as well as reports on constitutional development and other information concerning it. All debates concerning the Constitution were reported in English only. Some reports and other information were printed in both English and Maori. In February 1965, the *News* began to publish notices and information concerning the elections.

57. Radio Cook Islands, which broadcasts news twice daily from Monday to Friday, covered the complete Assembly debate in 1964 and 1965 in both English and Maori. In March a series of nightly talks explaining the Constitution were given in both English and Maori.

58. Mr. Mel Taylor of the Tourist and Publicity Department of New Zealand, a public information officer who has specialized in work for the Departments of Maori Affairs and Island Territories, was chosen to conduct an information programme, before the election campaign itself got under way, on the constitutional issue which was being placed before the people of the Cook Islands at the elections.

59. In preparation for this, he drew up three pamphlets which were printed in Rarotonga. The distribution of these to all the islands of the Territory was handled by plane. The pamphlets were in both Maori and English and a set was distributed to each household on the thirteen inhabited islands of the Territory. In addition, copies were issued to candidates for elections and to other individuals, and 250 were given to the Department of Education.

60. The most detailed explanation of the various provisions of the draft Constitution appeared in the twenty-paged pamphlet entitled, *The Meaning of the Cook Islands Constitution*. A prefatory section stated that it was appreciated that not every person could fully understand a Constitution in its legal form and that the pamphlet had been prepared to help the people of the Cook Islands to understand what was involved in the draft Constitution. The second pamphlet was entitled, *Questions and Answers about the Constitution*. The final question and answer explained the United Nations interest in the elections and the role of the United Nations Representative in the Cook Islands during the elections and the subsequent debate and decision on the Constitution by the Legislative Assembly. The third pamphlet, *Some Common Questions on the Constitution*, contained answers to the more common questions being asked about the proposed Constitution.

A prefatory note stated that although most of the questions in the pamphlet were also discussed in the two preceding pamphlets, it was felt desirable to expand the answers on these particular questions because of the frequency with which they were asked.

61. Mr. Taylor also visited as many of the Northern Islands as possible before the election campaign got started. On each island he visited, he held public meetings to explain the pamphlet and answer any questions concerning the Constitution and the exercise by the people of their right of self-determination.

62. In Rarotonga he conducted a series of question and answer programmes on the radio in which he answered queries radioed in from outlying islands. These programmes were given in both Maori and English. Finally he gave four radio talks. These were on progress and change in government; the kind of government suggested in the proposed constitution; relations with New Zealand under self-government; and how to support or oppose the Constitution.

63. Finally, on 31 March 1965, the Permanent Representative of New Zealand to the United Nations gave a taped broadcast on Radio Cook Islands (see annex III). In this he discussed why the United Nations was interested in the Cook Islands elections and the part it would play in Cook Islands in the next few months.

#### C. POLITICAL PARTIES AND THEIR ACTIVITIES IN THE ELECTIONS

64. Five main political groups, including independent candidates, contested the elections. Some of them had, prior to the elections, issued statements of policy both with respect to the constitutional changes as well as their position with respect to matters of domestic policy. Their basic positions as revealed in their statements are as follows.

65. The Cook Islands Party is led by Mr. Albert Henry. Their position was expressed in a statement entitled: "Platform and Policy—in 1965 General Elections". Their basic aim expressed in this was: "To lift up to increased knowledge and prosperity the chiefs and peoples of the Cook Islands." The statement outlined the following points:

"To ensure the election to Government of those men and women dedicated to the cause of greater prosperity and increased social welfare of the Cook Islands.

"To extend to all Outer Islands of the Cook Group, opportunities for greater economic development.

"To maintain ties which exist between New Zealand and the Cook Islands.

"To re-establish some of our traditional ways of life, customs and culture, and to restore recognition to the holders of traditional titles.

"To plan facilities for the encouragement of our young people to remain in the Islands.

"To strengthen our economic resources by good planning.

"To ensure the establishment of good laws for all peoples in the Cook Islands."

It further said:

"From the beginning, in applying the various aspects of its policy, a Cook Islands Party Government will aim to mould all the islands and their inhabitants into one united land and people, in

which, with the co-operation of all districts, the benefits of social and economic advancement will be shared; and so that the Cook Islands as a whole may increasingly stand on its own feet."

66. On the question of the new Constitution, the Party declared in its statement that it:

"...accepts the principle of full internal self-government for the Cook Islands, believing it to be in the best interests of the people that they be given the right to run their own internal affairs through their democratically elected representatives. At the same time, the Party supports the continued association with New Zealand through a common Head of State, the Queen, and common citizenship, that of New Zealand."

67. The Party expressed agreement with the general lines of the Cook Islands Constitution Act of 1964 except for one point which relates to the residential qualifications for electors and candidates for the Legislative Assembly. They would like to reduce the residential qualifications for electors and candidates born in the Cook Islands to three months of continuing residence and for those who were not born but ordinarily resident in the Cook Islands to one year. The Party also stated that it would be its policy, if elected, to increase the participation of local communities in Government and "in particular to have greater responsibility for running the affairs of their districts". In addition the Party also outlined in some detail its attitude towards economic and social policy.

68. The Labour Party in its published statement declared that it would "accept self-government as prescribed in the Constitution Bill, but it will amend or repeal any part of that Constitution if decided by the majority of the people of the Cook Islands". In internal government matters, the Labour Party also indicated that it would "give more power to each Island Council in running the affairs of its own island".

69. The United Political Party is led by Mr. D. C. Brown, the Leader of Government Business in the previous Legislative Assembly. In the published party material the emphasis was more on its record of achievement in domestic matters and a pledge to continue with greater vigour, if elected, in the same direction. There was however no clear indication of this party's position with respect to the constitutional issues, which happened to be the main issue in the elections of 1965.

70. Independent Group and Independents. Although some distinction has been made between the two sets of candidates, it is hard to distinguish them one from the other; except perhaps that the former may act as a group while the latter would act as individuals. This is a distinction which seems to have a very thin shade of difference. In one of his pamphlets Mr. Kingan, who belongs to the Independent Group, said "Independent is the description a candidate gives when he is free to be at any time the way his own judgement dictates and is not in the position of having to give blind allegiance to a party". Both sets of candidates claimed that they would, if elected, act in the best interests of the Cook Islands on every issue that came up in the Legislature in so far as internal matters were concerned. On the question of the Constitution, Mr. Stuart Kingan took the position that he:

"would urge the new Assembly to postpone the passing of the Constitution Bill until the possibilities have been fully studied. The Assembly should then give full information to the people on the advantages

and disadvantages of each. The Assembly should then refer the matter to the people and give them the right to vote in a referendum to decide the type of government desired. The issue is too far-reaching a one to be decided by 22 Assembly Members alone".

71. While he does not seem to be opposed to integration or closer ties with New Zealand, Mr. Kingan in his statement said:

"The fourth alternative of Pacific Federation should be looked into. New Zealand should first be asked what territories they had in mind when making that offer. Negotiations should be entered into with other territories and any proposals made should be studied. Only after a full investigation should a final recommendation be made. Today we are in a queer position. Of four alternatives offered for our future only one has so far been considered. If that one is now accepted any future change will require a two-thirds majority of electors."

Based on this position Mr. Kingan advocated a policy of going slow with respect to the handling of the constitutional questions.

72. The Independent Candidates together issued a statement in which they stated that, "although individually we are independent, we find that we had much in common and because of this we have come together as a Group. We would like to make it clear we are *Not* a political party because individually we do not want to be tied down to strict political party lines". On the constitutional issues they have stated as a group that they would "like to consult with with the New Zealand Government on the question of integration as integration may result in substantial child, sickness, unemployment benefits and old age pensions".

73. Sixty-six candidates participated in the elections as follows: Cook Islands Party 19; Cook Islands Labour Party 7; United Political Party 13; Independent Group 17; Independents 10.

74. In seven constituencies, including all three of the constituencies in Rarotonga, the Cook Islands Party candidates polled nearly 62 per cent of the total votes cast.

75. As far as the campaign itself is concerned, it is not possible to give any detail as to how this was organized and conducted in the months preceding the elections. There is not a single newspaper in the Islands except for a daily news bulletin published by the Government—*The Cook Islands News*—which carries among other items some bits of news of local interest including announcements of meetings held by political parties in Rarotonga.

76. In March 1965, the Resident Commissioner issued a statement on the use of the Radio and Press by candidates for the Assembly. He stated that each Rarotonga candidate would be permitted one insertion of up to four inches of space at a fee of four shillings per inch. Any Rarotonga candidate could use his allocation of space for himself, or for a group of candidates or for a party. In addition to the insertion, each Rarotonga candidate was permitted one page attached to the Press at the normal fee of £1. These facilities were to end on 15 April. In going over some of the back issues of this paper as far back as January 1965 one finds scattered references to political meetings held in Rarotonga. One cannot state with certainty that these were the only meetings held. Practically all the announcements relate to the meetings which were sponsored by the Cook Islands Party. There is no similar

reference to the activities of other political parties or groups, which leads one to believe that the other parties or groups may not have conducted such an active campaign as the Cook Islands Party.

77. Another point of interest is that among the 66 candidates who contested the elections from the various political groups, 31 were public servants. Although it is not customary in other countries to permit civil servants to contest elections while they are still in service, the Government raised no objections in this regard. The Government's reason for permitting this lies in the fact that most of the educated local inhabitants are employed in the public service. In fact, under the Cook Islands Amendment Act, 1964, civil servants are permitted to continue to sit in the Legislature while holding their civil service posts. The relevant part of the Cook Islands Amendment Act, 1964 (Section 55) reads, "where an employee of the Cook Islands Public Service is a member of the Legislative Assembly of the Cook Islands, he shall not be entitled to receive any pay or allowances as such an employee in respect of any period for which he is entitled to receive remuneration as a member of the Assembly".

78. Only in the case of civil servants who are appointed to Cabinet posts does it become necessary for them to resign from the civil service. The Act also provides for certain special conditions under which such civil servants can protect their superannuation rights.

79. On the whole, from what we could gather, the atmosphere prior to the arrival of the team was not charged with the kind of excitement that usually precedes such events in other countries while in the process of giving expression, through democratic means, to their desires on their future status.

#### D. CONDUCT AND RESULTS OF THE ELECTIONS

##### *Polling day*

80. In the supervision of polling operations on 20 April 1965, I and my staff were able to cover all polling stations on the islands on which we were located. During the day at least one visit was made to each station and usually there were several. No disturbance or disorder was noted during these visits and none was reported to us. From my own observations and the reports of Observers at all these stations the elections were conducted in an orderly manner with strict impartiality and in complete freedom.

81. The preliminary count of votes was to have been made at each polling place immediately after the closing of the poll at 6 p.m. Since one Observer usually had to cover a number of places, it would have been impossible for him to be present when ballot boxes were opened and the preliminary count was made at many polling stations. In order to avoid this, presiding officers were instructed to await the arrival of Observers before proceeding with the count. Stations were allotted to Observers and as soon as the count was completed at one place, they proceeded to another. In order not to unduly delay the announcement of the results over the radio, ten o'clock was fixed as the hour for the count to begin at any remaining stations. Electoral officers had begun early in the morning and were unable to leave their stations until preliminary count was made, and this arrangement for the preliminary count placed an extra burden on many. But I considered it essential that Observers should be present at all counting operations whenever possible, and I am most grateful for the co-operation of the electoral staff. Observers were thus able to be present when the ballot boxes were opened and the preliminary count was made at all but a few polling stations.

82. The preliminary results of the elections, with the exception of the island of Nassau which had 46 registered voters, were announced on 21 April.

83. The scrutiny of the rolls was attended by Observers in the constituencies where they were stationed and they were also present when the official count was made. This was completed on 29 April and reported by the Chief Electoral Officer to the Resident Commissioner. On 7 May, the latter, in accordance with Regulation 59, gave public notice of the election together with the number of votes received by each candidate, again with the exception of Nassau. Since radio communications had not yet been restored, the vote there had to be reported later.

84. After the polling and preliminary count, all papers were sealed and delivered in person by presiding officers to each returning officer, and certificates were given by the latter for the papers he received from each presiding officer. They were kept under lock until opened for the scrutiny and count. After this all papers were placed in the custody of the Registrar of the High Court and deposited in the office safe.

##### *Results of the elections*

85. The total vote was as follows:

<i>Constituency</i>	<i>Registered voters</i>	<i>Voting papers issued</i>	<i>Percentage of registered voters</i>	<i>Informal votes</i>
Rarotonga:				
Palmerston and Te-Au-O-Tonga..	2405	2201	91.5	12
Puaikura .....	817	764	93.5	11
Takitumu .....	877	837	95.4	13
Aitutaki and Manuae .....	1032	987	95.6	2
Mangaia .....	726	691	95.4	9
Atiu .....	488	456	93.4	2
Mauke .....	265	252	95.0	7
Mitiaro .....	103	100	97.0	—
Manihiki .....	259	239	92.2	8
Pukapuka and Nassau .....	381	381	100	2
Rakahanga (Unopposed) .....	—	—	—	—
Penrhyn (Unopposed) .....	—	—	—	—
<b>TOTAL</b>	<b>7353</b>	<b>6908</b>		<b>66</b>

86. Thus almost 94 per cent of all registered voters participated in the voting. Informal votes are described under section 8 in chapter I of this report.

87. Votes for each candidate were as follows:

Candidates	Number of votes	Party
<b>ISLAND OF RAROTONGA AND ISLAND OF PALMERSTON:</b>		
<i>Te-Au-O-Tonga Constituency</i> (4 Members)		
1. TAMARUA, Manea*	1,405	(CIP)
2. STRICKLAND, Mana*	1,321	(CIP)
3. STORY, Marguerite*	1,225	(CIP)
4. ROI, Teaukura*	1,152	(CIP)
5. BROWN, Dick Charles	535	(U)
6. RAPLEY, Richard Warwick (Dick)	472	(IG)
7. SADARAKA, Metuskore Sadaraka	456	(IG)
8. KINGAN, Stuart Garratt	240	(I)
9. NUMA, John	230	(I)
10. MOERUA, Jim Tetauru	213	(U)
11. BEST, John Alexander Campbell	188	(L)
12. PAITAI, Mary	175	(IG)
13. IOABA, Munakoa	159	(U)
14. MOKOROA, Matapo	159	(U)
15. UTANGA, Anthony	132	(IG)
16. TUPUARIKI, Araitu	119	(U)
17. TARIPO, Tuka John Dugall	94	(L)
18. UNUIA, Tongia	82	(L)
19. UPU, Pere	33	(U)

*Puaikura Constituency* (2 Members)

1. MAURANGI, Pera*	459	(CIP)
2. MOANA, Taru*	476	(CIP)
3. TAUEI, Napa	271	(I)
4. WICHMAN, Rere	185	(L)
5. ROBATI, George Faimau	56	(I)

*Takitumu Constituency* (3 Members)

1. SHORT, Apenera P.*	532	(CIP)
2. NUMANGA, Tiakana*	501	(CIP)
3. SAMUELA, Samuela*	487	(CIP)
4. TUAVERA, Teariki	251	(U)
5. IRA, Kamate Areora	181	(U)
6. HOSKING, David Marama	155	(IG)
7. AMA, Tupai	123	(L)
8. TUREPU, Manea	104	(IG)
9. COWAN, William	61	(L)

**OTHER ISLANDS**

*Aitutaki and Manuae Constituency*  
(3 Members)

1. ESTALL, William*	534	(IG)
2. SIMIONA, Matai*	438	(IG)
3. HENRY, Geoffrey Arama*	403	(IG)
4. WILLIAMS, Joseph	360	(I)
5. UPU, Ngas	352	(CIP)
6. HENDERSON, Maria Tuau	325	(CIP)
7. CAMERON, Tukas	313	(CIP)
8. MITIAU DICK, Tanga	69	(I)
9. JOSEPH, Benioni	55	(I)

*Mangaia Constituency* (2 Members)

1. MATEPI, Ngatupuna*	558	(U)
2. ABERAHAMA, Pokino*	554	(U)
3. ATATOA, Maarateina	153	(I)
4. GOLD, Edwin	32	(I)

*Atiu Constituency* (2 Members)

1. SIMIONA, Tangata*	293	(IG)
2. PARATAINGA, Mariri*	186	(IG)
3. VAINÉ RERE, Tangata Poto	143	(U)
4. TOKI, Michael	127	(IG)
5. KEA, Mataio	88	(IG)
6. VAINÉ, Tutai Pakari	45	(CIP)

Candidates	Number of votes	Party
<i>Manuke Constituency</i> (1 Member)		
1. DASHWOOD, Julian*	198	(CIP)
2. TOREA, Ngaoire	47	(I)
<i>Mitiaro Constituency</i> (1 Member)		
1. POKOATI, Raui*	75	(CIP)
2. TETAVA, Tiki	24	(U)
<i>Manihiki Constituency</i> (1 Member)		
1. TEMU, Nato*	133	(CIP)
2. STRICKLAND, (Jnr) Glassie	46	(I)
3. TUPOU, Tuatai	26	(I)
4. TOKA, Adamu	17	(I)
5. NAPARA, Tihau	9	(I)
<i>Pukapuka and Nassau Constituency</i> (1 Member)		
1. TARIAU, John*	173	(CIP)
2. MARO, Mangere	113	—
3. TARIAU, Arona	93	—
<i>Rakahanga Constituency</i> (1 Member)		
PUPUKE, Robati* (Unopposed)	—	(IG)
<i>Penrhyn Constituency</i> (1 Member)		
TANGAROA, Tangaroa* (Unopposed)	—	(U)

\* Winning Candidates.  
CIP — Cook Islands Party.  
L — Labour Party.  
U — United Political Party.  
IG — Independent Group.  
I — Independent.

88. Of the 66 candidates who contested the elections, 15 were members of the Old Assembly. Only seven of these were returned. Eight were defeated, including Mr. Dick Brown, Leader of the United Political Party and former Leader of Government Business.

## E. CONCLUSIONS

### Introduction

89. My functions, as defined by General Assembly resolution 2005 (XIX) of 18 February 1965, and confirmed by the letter of the Secretary-General appointing me United Nations Representative, were as follows:

(a) To supervise the elections with the assistance of the necessary Observers and staff;

(b) To observe the proceedings concerning the constitution in the newly elected Legislative Assembly; and

(c) To report to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and to the General Assembly.

90. In my approach to this task, I was guided by certain major considerations. The United Nations had in the past undertaken supervision of elections in Trust Territories, but the supervision of elections in a Non-Self-Governing Territory at the invitation of an administering Power was at the same time unprecedented in the history of the Organization and therefore was of far reaching significance. The part which the United Nations had been called upon to play, although supervisory in nature, was nevertheless crucial in so far as it involved attesting whether or not the people of the Cook Islands had indeed a fair opportunity to exercise their rights of self-determination. Finally, there was

nothing closer to my heart than to ensure that the end result of my Mission would stand as a glowing tribute to, and a vindication of the exemplary recourse by the Government of New Zealand to United Nations assistance, as well as a lasting testimony to the advantage to be gained from constructive co-operation between the Organization and administering Powers regarding the question of the granting of independence to colonial countries and peoples.

91. With these considerations in view, I followed two general criteria in so far as supervision of the elections was concerned. I was anxious to leave no doubt in the minds of all parties concerned that the conduct of the elections was the responsibility of the administering Power, and that the function of the United Nations, through its Representative, was supervisory in character and was being undertaken at the express invitation of the administering Power. I also considered it my duty to spare no human efforts in ensuring that the population, in its exercise of the right of self-determination, derived full and effective benefit from the presence of the United Nations.

92. I was required, for the purpose of my report to the Special Committee and to the General Assembly, to satisfy myself of the following:

(a) That the administrative and physical arrangements were in accordance with electoral regulations promulgated by the administering Power which is responsible for the conduct of the elections;

(b) The impartiality of the officials in the Territory concerned with the elections;

(c) That the people of the Cook Islands were fully apprised of the significance of the elections, in that the new legislature which they would elect would be empowered to adopt the Constitution as drafted, reject it, or work out some other status for the Territory;

(d) That the people of the Cook Islands were able to exercise their rights prior to and during the polling in complete freedom;

(e) That the necessary precautions were taken to safeguard the voting papers;

(f) That a correct count of the votes and an accurate report of the results had been made.

#### *Administrative and physical arrangements*

93. With regard to the administrative and physical arrangements concerning the elections, my duty was to determine whether these were adequate and in accordance with existing electoral legislation, and whether they were objectively observed and scrupulously implemented.

94. The procedure for the registration of electors and the organization and conduct of the elections were provided for in two separate acts of legislation. These were: (1) The Cook Islands Amendment Act, 1964; and (2) The Cook Islands Legislative Assembly Regulations, 1965. The first is an act of the New Zealand Parliament, and came into force in January 1965. Under Section 61 the New Zealand Parliament laid down the conditions for qualifications as elector and candidate. The second act, the Cook Islands Legislative Assembly Regulation 1965, was promulgated by the administering Power in pursuance of an Order-in-Council issued by the Governor-General of New Zealand on 22 February 1965.

95. The administrative and physical arrangements, in so far as the actual conduct of the elections was

concerned, were generally in accordance with the two acts of legislation. There were however two imperfections: one was a minor error of omission of a legal nature, and the other was what might be described as an error of judgement.

96. The error of omission concerned the appointment of enumerators who assisted registration officers with the registration of electors. In some areas of registration, the enumerators were appointed by the responsible registration officer, while, under the provisions of the electoral regulations, only the Resident Commissioner could appoint or authorize the appointment of such enumerators. I raised the matter with the Resident Commissioner who, acting under the provisions of Section 88 of the electoral regulations, issued the necessary authority with retroactive effect.

97. The error of judgement was in relation to the voting method prescribed for the actual casting of votes. The names of the candidates for each constituency were printed on the ballot paper, and the method in question involved the marking of a cross by the elector against the names of the candidates of their choice. The shortcoming of the method was: how an illiterate elector could identify the names of the candidates of his choice. Under a provision of the electoral regulations, the presiding officer of each polling station was empowered to provide to electors who required it assistance in identifying and marking a cross against the name of the candidates of their choice. This assistance was to be given in the presence of two of the scrutineers (agents of candidates) at the polling station concerned. Question asked at public meetings attended by the Observers and myself reflected, without doubt, much uneasiness in the minds of many an elector and candidate as to what effect this procedure would have on the elector's freedom of choice and the secrecy of voting.

98. The Administration was of the view that this would have no adverse effect. It also was estimated that no more than a mere 4 or 5 per cent of the electors would require such assistance. This assessment was presumably based on the assumption that since a system of compulsory free elementary education had been introduced in the Territory since 1915, the number of illiterate electors needing such assistance would be very small. In fact, the official report for 1964 states that "... there is no illiteracy in the Territory...".<sup>3</sup> But as it turned out, on election day, very many more electors than anticipated in fact received such assistance. It was impossible to establish exactly what percentage of the electorate, in relation to the Territory as a whole, were assisted. There were more polling stations than there were Observers to keep an accurate count. But in Atiu, one of the outer islands in the southern group, there was only one polling station and the Observer there was able, with the assistance of the presiding officer and one of the scrutineers, to keep a count of the number assisted. It is pertinent to note that 33 and  $\frac{1}{3}$  per cent of all voters, mostly elderly people, required and received assistance.

99. While the Observer at Mangaia, another of the outer Islands, also reported a high incidence in the resort to such assistance, the situation in the two polling stations where I acted as Observer personally reflected a rather low incidence. Of the nine hours of

<sup>3</sup> New Zealand, Department of Island Territories, *Reports on the Cook, Niue and Tokelau Islands*, Wellington, Government Printer, 1964, p. 40.

polling, I spent three in each of the two polling stations concerned. During the three hours which I spent in each of the two polling stations, only four electors received assistance in one, and three in the other; this accounted for 15 per cent of the voters in the entire Territory.

100. It is difficult, therefore, to assess how reflective these figures are on the situation in the Territory as a whole. Even more difficult is assessment of the influence, if any, this assistance may or may not have had on the elector's choice of candidates and on the over-all outcome of the elections. Under a provision of the electoral regulations, presiding officers and scrutineers were made to sign a declaration of secrecy, and to the best of my knowledge, there was not a single instance in which this declaration was breached. Still, I feel it ought to be noted that the practice could not have helped much in furthering the arch principle of the secrecy of voting in an exercise of such importance.

101. With the exception of the method of appointing enumerators, however, it would be fair to conclude that the administrative and physical arrangements concerning the actual conduct of the elections were in accordance with existing election legislation.

102. Judged within the framework of the two acts of legislation, noted in paragraph 94, the Administration deserves nothing but praise for its efforts to apprise the electorate of the voting procedures as laid down under the provisions of the two acts. The people of the Cook Islands are not entirely unfamiliar with the process of election to a legislature. The system of election by secret ballot based on universal adult suffrage was introduced by legislation in the Territory as a whole in 1958. In that year, and again in 1961, the people had gone through the experience of electing the members of the Legislative Assembly and of the Island Councils by the same system.

103. In addition to the experience already gained by the people, the Administration undertook a public enlightenment programme on the provisions of the two principal acts of legislation governing the elections. Through the publication of several pamphlets, a series of radio talks broadcast from the Territory's five-kilowatt transmitter station, and public meetings by officers of the Administration, the voting procedures were explained for the benefit of the population. Visual aids were used to illustrate some of the procedures at the public meetings.

104. Nothing gave me more satisfaction than to be able to place on record the ability of the people of these islands, when they were given the opportunity to vote for the candidates of their own choice. There cannot be a more eloquent testimony to this ability and to the efficiency of the efforts of the Administration to enhance its exercise than the results of the elections.

105. In view of the foregoing, I am generally satisfied that the administrative and physical arrangements were in accordance with the electoral regulations promulgated by the administering Power and that the electorate's familiarity with these arrangements was reasonably adequate. In reaching this conclusion, I have not permitted views which I hold on some of the provisions of the existing electoral legislation itself to prejudice my approach. I refer specifically to the provisions relating to residential qualifications for electors and candidates, a question which I have dealt with exhaustively in the second part of this report.

### *Impartiality of officials concerned with the elections*

106. In collecting the data which I required in evaluating the impartiality of the officials concerned with the elections, my immediate concern was to establish who were the persons appointed to the key electoral posts and what was their relationship with the Administration as well as with party and independent candidates. The most important of these key posts was that of the Chief Electoral Officer, who under the electoral regulations, had over-all responsibility for the organization and the conduct of the elections. The electoral regulations provided for the appointment of a Deputy Chief Electoral Officer, who, in addition to his duties as principal aid to the Chief Electoral Officer, could act in the case of the illness, absence, death, or removal of the latter. The regulations provided further for the appointment of a registrar for each electoral roll, a returning officer for each constituency and a presiding officer for each polling station.

107. Appointments to these posts, with the exception of that of a presiding officer, were by the Resident Commissioner acting under the powers vested in him by the electoral regulations. The Secretary to the Government, who is the most senior official of the Administration second in importance only to the Resident Commissioner, was appointed Chief Electoral Officer. Mr. Alan Armistead was appointed Deputy Chief Electoral Officer. In almost every one of the outer islands the Resident Agent, who is head of the Administration of the island, was appointed to combine the functions of registrar with those of returning officer. In a few cases the Resident Agent added to these functions that of a presiding officer on polling day.

108. In considering this question, I was naturally guided by the procedures adopted in similar circumstances in the past when dependent Territories went through the process of public consultation as a prelude to a crucial change in their political status. The appointment of functionaries of the local administration to key positions in the electoral machinery is not unprecedented and, to the best of my judgement, the officials of the Cook Island Administration who were appointed to these posts are men second to none in their ability, experience and sense of honour. The establishment of an independent electoral commission has become the common practice adopted in Territories passing through a similar phase of political evolution, and the creation of such a commission, divorced from the administrative machine, would in my view have been the ideal arrangement. I could not help recalling cases in which the administering Power appointed an outstanding personality from outside who, with a fitting title, was vested with over-all responsibility for all aspects of the exercise. Officials of the local administration who assisted him in the discharge of his responsibility were detached from the local administrative machine and for all practical purposes were responsible solely to him. For example, one could perhaps cite the plebiscite held in the former Togoland under United Kingdom Trusteeship, and the elections held in the former Togo under French Trusteeship and in the former Cameroons under United Kingdom Trusteeship. For the former British Togoland and the former British Cameroons, the United Kingdom Government appointed a distinguished retired public officer as Administrator with over-all responsibility for the operation. In the former French Togo, the French Govern-

ment took similar action. The case of my own country, a former condominium administered jointly by the United Kingdom and Egypt, is not without some relevance. The organization and conduct of the elections which resulted in the achievement of self-government by the Sudan were entrusted to an independent international commission headed by an Indian.

109. It could be technically argued that since the Cook Islands comprise neither a Trust Territory nor a condominium, these examples were not, *per se*, applicable. It was however my considered view that in spite of the difference in status, the circumstances were essentially the same.

110. The admirable role played by the senior officials of the Cook Islands Administration in the community in which they work cannot but strengthen the case of a similar course of action. Take the case of the Resident Agent. As I mentioned earlier, he is the principal representative of the Administration on the island to which he is posted. His functions are all-embracing. As senior Administrative Officer, he has over-all control of all Government departments comprising in most cases: agriculture, public health, education, police, public works, social development and housing. Then he is Commissioner of the High Court, Deputy Registrar of Births, Marriages and Deaths, Marriage Officer, Postmaster, and Shipper and Receiving Agent for the Administration. He is also President of the Island Council, the equivalent of a local authority council for each island. In this capacity, he adds to his other functions, preparation of the Council's revenue and expenditure, and other duties. In this position, the Resident Agent plays the role virtually of a Father-Confessor, the all-knowing figure to whom the community turns for guidance and help.

111. In the circumstances, the part which the Resident Agent played in the organization and conduct of the elections was of interest, particularly as he was combining the functions of registrar with those of a returning officer. Indeed his role was the subject of an objection by a candidate who expressed the fear that, in the counting of votes in his constituency, the Resident Agent who was returning officer there, might discriminate against him. I referred the candidate to his right, under the electoral regulations, to nominate a scrutineer of his own choice to represent and protect his interest at the polls. He was satisfied, and withdrew his objection.

112. I repeat that my respect for the ability, experience and honour of the officials who were appointed to these key electoral posts cannot be overstated. And this particularly with reference to the Resident Agents who, from all accounts and in spite of the influence which they wielded in the community, did all that was humanly possible to avoid influencing the vote one way or the other. It is also my considered view that the electoral provision relating to the appointment of scrutineers guaranteed for each candidate adequate protection, especially as, in every case, the candidates availed themselves fully of this right. The impartiality of all of the officials concerned with the elections was beyond doubt. In an election in which victory went to those who were least expected to win, the results were in themselves conclusive proof that the Administration did not interfere with the elector's freedom of choice. The only excuse I had for dwelling at length on the desirability of the establishment of an independent electoral commission, was my conviction that impartiality, as is the case with justice, must not

only be ensured but must also appear to have been ensured. And experience has shown that there is no surer way to comply with this adage than the establishment of conditions in which the electoral machinery can be seen to be divorced, in some measure, from the local administration.

*Assessment of the awareness of the people regarding the significance of the elections*

113. My task regarding the significance of the election was to assess whether or not the people of the Cook Islands were fully apprised of this significance, particularly in that the new Legislature which they would elect would be empowered to adopt the Constitution as drafted, reject it, or work out some other status for the Territory. My efforts in this regard were initially handicapped by the fact that my team of Observers and I arrived in the Territory barely eleven days before polling day. Another handicap was the fact that the population was dispersed on islands separated by considerable distances over 850,000 square miles of ocean in a part of the world where the system of communication was still in its infancy.

114. The two Observers posted to Rarotonga, the main island, and myself set to work immediately on our arrival. The other three Observers assigned to three of the outer islands were at their posts, one on the day after our arrival, and the other two respectively three and four days later. Special travel arrangements enabled me to visit five of the outer islands personally in a whirlwind sea and air voyage that took seven days. In each of the islands, a special meeting was arranged to give me the opportunity to address the population on the role of the United Nations Mission. The tour also brought me in contact with the leading personalities in each of the islands.

115. As the hazards of Gallup Poll operations in the more developed countries of the world would bear out, modern science and technology have not yet endowed mankind with a foolproof method of evaluating public opinion. My task was further complicated by the fact that the political party system, in the strict sense of the term, was virtually unknown and the people's experience of purposeful public debate was limited to social and economic rather than political issues. In spite of these limitations, my efforts, enhanced by the work of the Observers, resulted in findings which made it possible for me to arrive at conclusions that are in parts positive and in parts negative.

116. The findings which reflect considerable popular awareness of the significance of the election are related to Rarotonga and Aitutaki, the two most populous islands whose inhabitants constitute more than 60 per cent of the population of the Territory. In these two islands the New Zealand Government, in the pursuit of its public enlightenment programme, found an able ally in the newly formed political parties and the independent candidates. The publicity material it put out reached the widest possible audience, particularly in Rarotonga. Its effect was further enhanced by the vigorous electoral campaigning by parties and candidates. In election manifestos and in speeches at public meetings, party and independent candidates gave excellent expositions on the constitutional proposals and clearly set forth what would be their policies and programmes of action, particularly with regard to the offer of self-government, if elected. The public meetings, of which there were very many, were marked by lively discus-

sions in which searching and well-informed questions from the audience were very ably handled by the speakers.

117. In the circumstances, one cannot but conclude that in these two islands the electors were fully aware that their votes would constitute a mandate to the new legislature to determine the future status of their country. Of this there cannot be a more eloquent testimony than the outcome of the elections. It was not by an act of Providence that the Cook Islands Party swept the polls in Rarotonga. Of the contesting parties and groups of candidates, it was by far the best organized and the most active. The Party's candidates and spokesmen were articulate, forceful and specific in their pamphleteering and speeches. They were emphatic in their pledge to undertake, if returned, an early revision of some of the provisions of the draft Constitution, especially those relating to the question of residential qualifications. To people in many quarters, not excluding the Administration, the Party's victory came as a surprise. Similarly surprising was the defeat of Mr. D. C. Brown, Leader of Government Business and President of the United Political Party which, by contrast, chose not to make any pronouncements throughout the campaign on the constitutional issue. In the campaign material put out by the latter, the emphasis was rather on the Party's achievements in the social and economic spheres and on the pledge that it would continue to make progress with vigour in these fields if returned.

118. The findings which reflect a lack of understanding on the part of the population of the implications of the election are related to four islands: Atiu and Mangaia in the Southern Group of islands where Observers were posted; and Manihiki and Penrhyn in the Northern Group, which I visited during my whirlwind tour. In so far as full grasp of the implications of the constitutional proposals and the significance of the elections were concerned, there cannot be a more conclusive verdict than the views expressed and questions asked by the people of these four islands.

119. The lively public discussions and exchange of views between candidates and electors which marked the election campaign in Rarotonga and Aitutaki did not find an echo in the islands in question. A few public meetings were held by the Resident Agents, but these were devoted entirely to publicizing the provisions of the electoral regulations and to acquainting electors with the voting procedures. There were no public meetings by the candidates, neither was there evidence of open campaigning in any other form. The only exception was in Atiu, where at a public meeting on the eve of polling day, four of the six contesting candidates took advantage of an offer by the Resident Agent and made brief speeches. Even on that occasion, none of the four candidates dwelt on the implications of the draft Constitution. Reference to the draft Constitution by two of them was confined to the remark that it was not final, but required modifications. The Resident Agent of one of the islands informed an Observer that he had been instructed by the Administration not to go into the constitutional issue either at his public meetings or in private. These instructions were given by telegram, a copy of which was shown to the Observer. The Resident Agent of another island stated that he had received no instructions, and in the circumstances decided not to concern himself with the constitutional proposals.

120. The views and questions which I considered pertinent to the matter were expressed during interviews which my Observers and I had with candidates and ordinary members of the public. These views and questions also cropped up repeatedly at the public meetings held by the Resident Agents on the voting procedures. Summarized, these views and questions reflected a lack of understanding of the implications of the elections. Some believed that the constitutional reforms which they were being offered would mean complete independence and, consequently, would lead to an abrupt withdrawal of the yearly financial assistance which the Cook Islands received from New Zealand. Others wondered whether the proposed change in political status would mean substituting the United Nations for New Zealand as the Territory's mentor and benefactor. Many of the people of these four islands appeared to have no idea as to the implication of the vote they were being called upon to cast. Indeed in some passionate appeals, some of my Observers and myself had been asked on several occasions to help clarify the situation, a request which could not be complied with since it did not fall within my terms of reference.

121. Some of the causes of this disparity in the people's awareness of the significance of the elections, were, in some cases, inevitable. Unlike Rarotonga and Aitutaki, the political party system was still unknown to the islands in question. Electioneering and canvassing for votes openly in any form was considered improper. Canvassing for support was still limited to the traditional method of quiet and discreet house to house visits. And it was in very few cases that the candidates themselves were really well acquainted with the provisions of the draft Constitution to be able to discuss them either in public or private.

122. It would appear however that the effect of these shortcomings could have been considerably minimized had the Government's public enlightenment programme taken a more active form. The series of pamphlets, setting forth the constitutional proposals in Maori and simple English, were distributed to the people in the outer islands. Its special programmes, broadcast from the five-kilowatt Radio Rarotonga, might have been heard throughout the Territory. But the possession of radio sets is restricted to a limited few, and with the islands so widely dispersed over such a large area of the South Pacific Ocean, one could not help wondering how much of the radio talks survived weather hazards. In the Northern Group, particularly, reception is notoriously poor. The *Cook Islands News*, a Government news bulletin and the Territory's sole newspaper publication, seldom finds its way to the islands concerned. Owing to the difficulties of communications, an issue takes anything from three to six months to reach some of the islands, particularly those in the Northern Group. For contact with the outside world, these islands depend on a half-hour news bulletin transmitted by radio telephone from Rarotonga and posted on notice boards in front of the offices of the Resident Agents. And it is difficult to assess what percentage of the people take the trouble to travel the distance involved to reach this bulletin, even though it is published both in English and Maori.

123. In the light of the limitations of the communications system referred to earlier, the impact of these broadcasts and publications could not have been as universal and effective as was without doubt the intention of the Administration.

124. In a Territory beset with tremendous communication problems, one cannot but appreciate the difficulties which the Administration had to grapple with in the organization and conduct of its public enlightenment programmes. However, I could not help wondering why the Administration had not assigned to Resident Agents a more effective role in this programme. As recorded elsewhere, the Resident Agents handled their public meetings on the provisions of the electoral regulations and voting procedures with outstanding impartiality. It seems to follow that they could have helped in the enlightenment programme on the constitutional proposals with equal impartiality. Although the literacy rate, particularly in Maori, is high, a public discussion of the constitutional proposals led by the Resident Agents would have been an invaluable follow-up to the pamphlet airdrops and radio talks. Again during the public meetings on voting procedures, the views expressed and the questions asked by the audiences reflected an incredible grasp of some of the complicated provisions. I could not help regarding this understanding of the electoral regulations as convincing evidence of the people's ability to understand the constitutional proposals also if they had been given the benefit of a public debate.

125. Of all the tasks which my Mission involved, assessment of the awareness of the people regarding the significance of the elections was by far the most difficult. In the light of my findings, it was difficult to make an unqualified assertion on this all-important matter, particularly as it involved assessment of the public mind on proposals entailing a crucial change in the political status of an entire people. I did not consider that paucity of population should have any bearing on my approach, and it was not allowed to have any.

126. It is in this spirit that I felt compelled to record that the public enlightenment programmes of the Administration lost much of its drive and purpose, in so far as its pursuit in most of the outer islands was concerned. The further one got from Rarotonga, the main island and urban centre, the more difficult it became to find any evidence of its impact on the public mind. On election day, polling even in these islands was heavy and the percentage of the poll in relation to the number of registered voters averaged 95.2 per cent. For large sections of the inhabitants of these islands, constituting about 40 per cent of the Territory's population, the vote meant hardly any more than the ordinary election of new members of the Legislative Assembly.

127. Indeed during consideration of one of the motions before the new Legislative Assembly, grave doubts were expressed on this question by members of the Independent Group in opposition to the majority party. The motion itself was loaded with a feeling of doubt. It proposed that the Assembly defer

"adoption of the Constitution until such time that the alternatives to Self-Government are fully investigated and explained and the wishes of the people determined by referendum".

The debate which it provoked is dealt with in greater detail in the second part of this report. But a point of view expressed by Mr. Pupuke Robati, Independent member for Rakahanga, the mover of the motion, is of particular pertinence. He said...

"I was with my people on my island. The only explanation they were given during the elections was on two types of government, namely the government

of Albert Henry and the government of Dick Brown. It is probably not a mistake of the people that there had not been sufficient explanation of the issues. If the blame for inadequacy of explanation did not lie with the people, why should the people be made to suffer for it?"

128. In view of the positive impact of the Administration's public enlightenment programmes and the effect of the vigorous campaign by party and independent candidates on the people of Rarotonga and Aitutaki, it would be reasonable to conclude that there was a fair degree of consciousness in a fairly large section of the population regarding the significance of the elections. At the risk of being repetitious, I cannot help noting that the fact that the people of these two islands constitute over 60 per cent of the total population provides enough justification for this view. An even stronger justification can be found in the pattern of polling on election day and in the outcome of the votes. The weather on election day was very inclement, and yet I saw men and women, young and old, defy torrential rain and wait patiently in long queues for their turn to vote, thus contributing to a poll which was without doubt one of the heaviest in the history of the islands. At the final count, the high percentage of 93.9 of all registered voters participated in the vote. And the choice of the overwhelming majority was not the United Political Party, the majority party in the outgoing Legislative Assembly, but the Cook Islands Party which made an election issue of the constitutional proposals, and was most emphatic in its pledge that, if returned, it would seek such modifications in the draft Constitution as would bring to the people effective control of their internal affairs.

#### *Freedom of exercise of rights prior to and during polling*

129. The question which I was required to determine was whether the people of the Cook Islands were able to exercise their rights prior to and during the polling in complete freedom. In view of the fact that my team and I arrived in the Territory only eleven days before polling day, I find myself unable to make a categorical observation regarding events antecedent to our arrival. It is, however, noteworthy that in spite of the widely publicized statements by me urging the population to feel free to come to my Observers and myself with any complaints they might have, we received no serious complaints or reports of any instance of interference concerning these events.

130. From the date of our arrival, my Observers and I were eye-witnesses to the freedom with which political parties, their candidates and those contesting the elections as independents, issued electioneering pamphlets and posters, held public meetings, and campaigned in other forms. In Rarotonga and Aitutaki there is no question but that the people were able to exercise their rights in complete freedom during the period of campaigning. In the light of the findings which I have recorded in paragraphs 64 to 79 of this report, this observation could hardly be regarded as unreservedly applicable to the outer islands of Atiu, Mangaia, Penrhyn and Manihiki. But even in these islands there was no attempt on the part of the Administration to restrict this freedom. My team and I received no complaints or had any evidence of an interference with these rights. On the contrary, in its earnestness to ensure that the electors would be entirely free in their choice of candidates in the polling booths on polling day, the Administration was unsparing in its efforts to

acquaint the people with the provisions of the electoral regulations relating to campaigning in polling booths and coercion of electors on election day. In certain areas, the Administration's efforts with specific reference to coercion unfortunately led to some confusion. In these areas, some of the people mistakenly believed that, under the regulations, campaigning and canvassing of votes in any form and at any stage of the electoral exercise was illegal. Indeed in Atiu it was strongly suggested that this confusion contributed, in no small measure, to the decision of candidates not to hold public meetings. In fact, at one of the Resident Agent's public meetings in Atiu, a member of the audience, a school teacher, asked the question:

"In view of the regulations relating to influencing of voters at polling stations on polling day, would it not be illegal for a candidate to hold a public meeting and to campaign or to canvass for votes at any stage of the election?"

131. He was assured that it was not. Afterwards the school teacher told the Observer that he had asked the question in order to create an opportunity for clearing the mind of the people of a confusion which was partly responsible for the absence of campaigning, a confusion which had been referred to by many of the people interviewed by the Observer.

132. On polling day the Observers and I, visited, in all, 24 polling stations out of a total of 29 established for the elections. These 24 stations catered for 86 per cent of the registered voters. Voting was brisk, smooth and orderly. There were no reports of undue restraint or illegal influencing of the elector, and neither did my Observers nor I see evidence of any, a view that applies with equal force to the outer islands as well as to Rarotonga.

133. I am satisfied that the people were able to exercise their rights prior to and during the polling in complete freedom. Even in areas where the public enlightenment programmes of the Administration resulted in some confusion regarding the electoral regulations relating to the influencing of voters, the people were not denied access to their rights. It was a case of failure on their part to avail themselves of the opportunity rather than any intention on the part of the Administration to deprive them of their rights.

#### *Precautions aimed at safeguarding voting papers*

134. The precautions taken by the Administration to safeguard the voting papers are described in paragraphs 55 and 84 of this report. These precautions were adequate, and I had no reports of ballot papers falling into hands of unauthorized persons. Furthermore, the procedures relating to the actual casting of votes were such that no elector who might have had access illegally to extra ballot papers, could have made any use of them. No persons were allowed to vote unless a thorough check had established beyond doubt that they had registered as electors. Although part of the actual act of voting—the marking of a cross against the name of the candidates of the elector's choice—took place in booths ensuring absolute secrecy, the other part, involving slipping of the marked ballot paper into the ballot box, took place in the open. And it was simply impossible for any one elector to slip more than one ballot paper into the box. These procedures, taken in conjunction with the precautions taken by the Administration regarding the printing and storage of the ballot papers before polling day, provided a foolproof safeguard for the security of the ballot papers.

#### *Counting of the votes*

135. It was finally my task to determine whether the counting of the votes at the end of polling was correct, and whether the reporting of the results was accurate. In this task I received the full co-operation of the Resident Commissioner and the Chief Electoral Officer. Under a provision of the electoral regulations, only polling officials and scrutineers were permitted at polling stations during polling. The Resident Commissioner, acting under Section 88 of the regulations, modified this provision to give my Observers and myself free access to the polling stations. Modifications were also made in the arrangement for the counting of votes to enable us to witness the actual counting in as many polling stations as possible.

136. Consequently, counting of votes in six constituencies, consisting of 86 per cent of the registered voters and relating to the election of 16 of the 22 members of the Legislative Assembly, was witnessed personally either by an Observer or myself. It is as a result of this thorough on-the-spot verification that I wish to report that, in the preliminary as well as the final count, there were no discrepancies worth recording. In no case did scrutineers, the custodians of the interests of a candidate at each counting centre, object to the results as established by the count. And I am satisfied that the counting of the vote was correct and the reporting of results was accurate.

137. One finding of particular interest concerning this question was the view expressed by several people as to the contribution that the presence of a United Nations team of observers might have made. In this regard, I find it particularly gratifying to note the views expressed by Mr. Albert Henry and many of the leading personalities of his party, the Cook Islands Party. Repeatedly, they have told me that but for the United Nations supervision, their party might have had a difficult time winning the elections. The presence of the United Nations, in their view, dispelled whatever fears the party and its supporters might have had regarding the possibility of denying to a candidate the right to campaign and of depriving electors of their right of freedom to vote for the candidate of their choice.

#### F. SUMMARY OF CONCLUSIONS

138. The United Nations had in the past undertaken the supervision of elections in many Trust Territories. But this was the first time since the establishment of the Organization that the General Assembly, on the invitation of an administering Power, had authorized the supervision of elections in a Non-Self-Governing Territory. It is therefore my earnest hope that the experiment may herald a new era of constructive co-operation between the administering Powers and the United Nations regarding the question of the granting of independence to colonial countries and peoples.

139. The administering Power had sole responsibility for the organization and conduct of the elections. Although the role of the United Nations was only supervisory, I considered it my duty to spare no human effort in ensuring that the population, in the exercise of its right of self-determination, derived full and effective benefit from the presence of the United Nations.

140. The procedure for the registration of electors, qualification for electors and candidates, and the organization and conduct of the elections were provided for in two separate acts of legislation: The Cook Islands

Amendment Act, 1964; and the Cook Islands Legislative Assembly Regulations, 1965. One of my functions was to determine whether or not the provisions of the two acts were objectively observed and scrupulously implemented.

141. In this regard, I was satisfied that the administrative and physical arrangements made by the Administration concerning the conduct of the elections were in accordance with the regulations. There were two minor imperfections: one of a legal nature and the other an error of judgement, neither of which was of such significance as to impair the validity of the results of the elections.

142. The people of the Cook Islands are not unfamiliar with the processes of election by secret ballot. In 1958 and again in 1961, they had elected representatives to a Legislative Assembly and to Island Councils in an election based on universal adult suffrage. The experience already gained by the people was further reinforced by a public enlightenment programme on the voting procedures and methods for which the administering Power deserves nothing but praise.

143. Responsibility for the registration of electors and the actual conduct of the elections was assigned to the Secretary to the Government, who was appointed Chief Electoral Officer, and was assisted by functionaries of the Administration, most of whom combined the functions of registration officer with those of returning officer and presiding officer. It is my view that owing to the crucial importance of the elections, the establishment of an independent electoral commission headed by a person not identified with the local administration, would have been the ideal. This was the procedure adopted in the past in almost every one of the instances in which dependent peoples were consulted in a general election or a referendum on matters affecting their future political status.

144. As noted earlier, my respect for the ability, honour and dedication of the officials who were appointed to the key electoral posts, cannot be overstated. Their impartiality in the performance of their difficult and perhaps thankless duties as electoral officers, while my team of Observers and I were in the Territory, was beyond doubt, impeccable. I draw attention to the desirability of the establishment of an independent electoral commission for one reason alone. Impartiality, as is the case with justice, must not only be ensured but must also appear to have been ensured. And experience has shown that the creation of conditions in which the electoral machinery can be seen to be divorced, in some measure, from the local administration, is the ideal.

145. Of all the tasks assigned to me, the most delicate was assessing whether the people were fully apprised of the significance of the elections. Involving, as it was, assessment of the public mind on proposals entailing a crucial change in the political status of an entire people, I was anxious not to rush to a conclusion which could be misleading. My anxiety was accentuated by the conflicting views expressed by the people's own representatives on the question during a debate at the first meeting of the new Legislative Assembly.

146. There seemed to be no doubt that in the two main islands, where about 60 per cent of the population is concentrated, the electors were fully aware that their votes would constitute a mandate to the new Legislature to determine the future status of their country. This view does not, however, apply to the rest of the group whose inhabitants represent about 40 per cent of the population. Here, the public enlightenment programme

of the Administration lost its drive and purpose, and the pre-election period was not marked by the vigorous campaigning by parties and independent candidates which helped so much to enlighten the population of the two main islands of the significance of the exercise.

147. However, it would be reasonable, I believe, to conclude that there was a fair degree of awareness by a fairly large section of the population regarding the significance of the elections. This view is founded on the following considerations: the two main islands where the awareness of the people is beyond question, constitute about 60 per cent of the population; as high a percentage as 93.9 of the registered voters defied inclement weather to participate in the vote; the choice of the overwhelming majority was the party which was the least expected to be returned—since its leader did not occur very much in the good books of the Administration—and was the only one to make an election issue of the constitutional proposals and to make self-government an election pledge.

148. Other matters which I was required to determine concerned: the free exercise by the people of their rights prior to and during the polling; precautions regarding the security of ballot papers; and accuracy regarding the counting of the votes and reporting of the results of the elections.

149. I was satisfied that the people were able to exercise their rights, while the Observers and I were in the Territory, prior to and during polling in complete freedom.

150. The voting procedures and the precautions taken by the Administration regarding the printing and storage provided a foolproof safeguard for the security of the ballot papers.

151. I was satisfied that the counting of the votes was correct and the reporting of the results was accurate. Not in one case did a candidate, returned or defeated, challenge the results.

152. The elections were orderly, and polling took place in a peaceful atmosphere throughout the Territory. This was due, in large measure, to the competence and dedication of the officials to whom the conduct of the elections was entrusted, and to the dignity and sense of responsibility of the political leaders who provided such enlightened and devoted leadership. But, essentially, it is to the people of the Cook Islands that the credit must go. But for their sense of discipline, patience, tolerance and endearing good nature, and innate friendliness, the operation could not have been the success which it was.

## Part II. Constitutional developments

### A. HISTORICAL BACKGROUND TO CONSTITUTIONAL DEVELOPMENT IN THE COOK ISLANDS

153. The people of the Cook Islands were first exposed to a certain measure of parliamentary democracy in 1891. The Territory was then a dependency of the United Kingdom, several decades of contact having resulted in the declaration of British protectorate over the Southern Group in 1888. The British Consul stationed in Rarotonga was replaced in 1896 by a British Resident, Frederick Moss. He established island councils in each of the southern islands, as well as a federal parliament and an executive council centred in Rarotonga. The membership of Parliament comprised senior chiefs from each of the constituent islands and ordinary

citizens nominated by them. The British Resident acted as adviser. This system remained in force until 1901.

154. The Cook Islands constituted just one of the many Territories in the South Pacific for which the United Kingdom had responsibilities. The others included Fiji, Western and Eastern Samoa and other islands in Polynesia and Melanesia. New Zealand itself, although already enjoying, in large measure, control of its affairs, had not yet achieved dominion status. The objective and hopes of policy makers in Wellington at the time was eventually to work out with the United Kingdom an arrangement under which all the South Sea Territories would amalgamate into a federation, with New Zealand as the senior partner. These hopes were dashed in 1899 when the United Kingdom renounced its authority in Samoa in favour of Germany and the United States. Further reverses followed in 1900 when the Government of the United Kingdom turned down a request by New Zealand that it should be allowed to annex Fiji.

#### *Transfer of the Cook Islands to New Zealand*

155. Further negotiations, however, led to the annexation of the Cook Islands to New Zealand in 1901. Within a few years, all significant powers of government were assumed by the Resident, now a New Zealand Government appointee. The experiment in parliamentary democracy was thus discontinued, and was replaced by a system under which Resident Agents were appointed to each of the more important islands in the group.

156. The Federal Parliament was abolished and the native judges, who had controlled judicial affairs for some decades past, were dismissed and their powers assumed by the Resident Agents. Island Councils were subordinated to the compulsory presidency of the Resident Agents, who thenceforth collected and controlled internal revenues. Native officials—the postmasters, tidewaiters and police—were either dismissed and their functions assumed by the Resident Agents, or were brought under the control of the Residents, who thenceforth appointed and paid them.

157. The powers of the Chiefs over land were considerably limited by the newly formed Native Land Court, and their powers to organize production and marketing were either annulled or made subject to the control of the Resident Agents. Not one of the native schooners was still running and production and marketing on lineage and tribal lines had virtually ceased. Europeans were encouraged to take up land in the islands but owing to resistance by the islanders to making land available for leasing, relatively few became established.

158. By 1906 however, it was apparent that a scheme for European settlement had failed, that the islands were only going to export a fraction of the volume of produce hoped for, and that a proposal for island representation in the New Zealand Parliament was not going to eventuate. A high school, established under the old system, was closed down and scholarships offered by the New Zealand Education Department were refused by the new Resident who was strongly opposed to the education of natives beyond an elementary level.

159. Responsibility for this drastic change in policy, according to the available historical records, is attributable to Colonel W. E. Gudgeon who succeeded Mr. Moss in 1898. A veteran of the Maori wars, Colonel Gudgeon is described as a man who believed that the

first Resident after annexation should be a “strong man”. He proceeded to introduce a system which was tailored to facilitate such a “strong man” rule.

160. The new system found its first legal sanction in the Cook Islands Act, 1915. This was an Act of the Parliament of New Zealand. Its object, as stated in its preamble, was “to make better provisions with respect to the government and laws of the Cook Islands”. This provided for the appointment by the Governor-General of New Zealand of a Resident Commissioner for the Cook Islands, who was charged, subject to the control of the Minister of Island Territories, with the administration of executive government. The powers invested in the Resident Commissioner under the provisions of the Act were wide and all-embracing, giving him sole responsibility for the administration of the Territory.

#### *Reforms under the Cook Islands Amendment Act, 1946*

161. The first attempt at associating the indigenous inhabitants once again with the affairs of government was made in 1946. The Cook Islands Amendment Act, 1946, an amendment to the original Act, was enacted. This provided for the creation for the Cook Islands of a Legislative Council composed of

(a) Ten unofficial members, being members of and elected by Island Councils; and

(b) Official members, comprising the Resident Commissioner of Rarotonga and ten other persons, being the holders for the time being of such other offices in the Cook Islands Public Service as the Governor-General from time to time defines as entitling the holders thereof to be members of the Legislative Council.

162. Under the provisions of the Amendment Act, the Legislative Council was vested with the power to impose “tolls, rates, dues, fees, fines, taxes and other charges”. The enactment of laws, known as Ordinances, for the peace, order and good government of the territory provided for under the principal Act, was however still the sole attribute of the Resident Commissioner acting, under the terms of the Amendment Act, “with the advice and consent of the Legislative Council”.

#### *Reforms of the period 1957 to 1961*

163. This cautious attempt was carried a step further in 1957 when the principal Act was amended by the Cook Islands Amendment Act, 1957. The Legislative Council was abolished under its provisions, and a Legislative Assembly was instituted in its place, consisting of:

(a) Fourteen members elected by secret ballot under a system of universal adult suffrage;

(b) Seven members elected by Island Councils;

(c) One European member elected by European electors;

(d) The Secretary to the Government, the Treasurer and two more official members appointed by the Resident Commissioner. The Resident Commissioner was, by law, entitled to preside over the Legislative Assembly.

164. The Legislative Assembly was empowered to make laws for the peace, order and good government of the Cook Islands. It could not legislate, however, on certain reserved subjects, nor make ordinances contradictory to New Zealand acts or regulations that were declared to be reserved. It was empowered to exercise full control over the expenditure of all revenue

collected in or derived from the Cook Islands, and, since April 1962, of expenditure of the subsidy money provided by the New Zealand Government.

165. The first general election for the Legislative Assembly was held in October 1958, and the second in May 1961.

166. The Cook Islands Amendment Act, 1957, also provided for the establishment of an Executive Committee, comprising the Resident Commissioner and not more than eight other members appointed by him from the elected members of the Legislative Assembly or from the Cook Islands Public Service. The function of this Committee was to confer with and advise the Resident Commissioner in his administration of the Territory's executive government. The Resident Commissioner was not bound to accept the Committee's advice.

167. These reforms were introduced not as a result of the type of political ferment of the twentieth century which marked the granting of independence to most of the new nations. There were some disturbances in March 1919, when returned soldiers rioted, attacked stores and looted goods in Rarotonga. The causes were economic rather than political, and the riots were sparked off by resentment against the trading policies of New Zealand firms operating in the Territory.

168. In 1954, two economists who reported to the New Zealand Government on the economy of the Territory drew attention to what they described as "a general air of apathy and a lack of co-operation between the people and the Administration". They strongly recommended that local responsibility for decisions should be greatly increased, and that the Cook Islanders should have a greatly increased share in the administration of their islands. It was in response to these recommendations rather than any pressures from the indigenous population that the Government of New Zealand introduced the reforms which the Territory had seen up to 1962.

*Reforms of the period 1961 to 1964 and the effect of the role of the United Nations*

169. This process of constitutional development was further spurred by the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples.<sup>4</sup> The Government of New Zealand considered that the concept of complete independence for the Cook Islands was unrealistic. As an ardent supporter of the Declaration, however, the Government, again acting of its free will, set in motion the measures which culminated in the present constitutional proposals.

170. Following upon the reforms of 1957, a new Executive Committee was established in 1962 consisting of the Resident Commissioner, the Secretary to the Government, the Treasurer of the Cook Islands, and not more than seven other members chosen by the Legislative Assembly from its elected members. The Committee was empowered to execute any of the Resident Commissioner's powers and functions delegated to it, and to report and make recommendations on any matter referred to it by the Legislative Assembly.

171. The delegation of the powers of the Resident Commissioner to the people's own elected representatives was broadened under further reforms introduced in November 1963. The Executive Committee was

reconstituted in the form of a "Shadow Cabinet". The former Executive Committee was dissolved and a Leader of Government Business was elected by the Legislative Assembly from among its members. The Leader in turn elected four others to form the newly constituted Executive Committee. Members of the new Committee were assigned portfolios involving, for each, ministerial responsibility for a number of government departments.

172. At the same time as these reforms were being effected, the Government of New Zealand took steps to consult the people about their political future, in particular with regard to their wishes as to what should be the next forward step in the Territory's constitutional evolution. In 1962, Sir Leon Götz, Minister of Island Territories, invited the Legislative Assembly to consider four alternative courses. They were asked to decide between (1) complete independence; (2) integration with New Zealand; (3) internal self-government; and (4) federation with other Polynesian groups. In a speech, the Minister set forth his Government's proposals for future political development.

173. On 13 July 1963, the Assembly unanimously adopted a resolution in which it:

- (i) Recorded its appreciation of the Minister's speech and the New Zealand Government's proposals for the Territory's future political development;
- (ii) Declared that full independence, as recently granted to Western Samoa, was not the goal of the people of the Cook Islands;
- (iii) Requested that the New Zealand Government should proceed with its plan for giving the Territory the fullest internal self-government, while at the same time preserving for the people their present status as New Zealand citizens; and
- (iv) Reaffirmed its loyalty to the Crown and its faith in New Zealand's willingness to continue giving aid and assistance to the Cook Islands without thought of any gain, other than the friendship and goodwill of the people.

174. Subsequently, the Legislative Assembly decided to seek the advice of constitutional experts to assist it in formulating the details of the form which internal self-government should take. Professor C. C. Aikman, Professor of Constitutional Law at Victoria University, Wellington, Professor J. W. Davidson, Professor of Pacific History at the Australia National University, Canberra, and Mr. J. B. Wright, then High Commissioner for New Zealand in Western Samoa, were selected at the request of the Assembly.

175. During discussion in the Legislative Assembly of the question of expert advice, Mr. Julian Dashwood, a Member, proposed in a formal motion that the United Nations be approached to provide an additional constitutional expert. He suggested that the Assembly avail itself of the advice, and to quote his words, "disinterested, I repeat, disinterested advice" of a United Nations representative when discussing the constitutional issue. The proposal did not spark much enthusiasm. When the motion was put to the vote, it received only one affirmative vote, that of Mr. Dashwood.

176. Professor Aikman, Professor Davidson and Mr. J. B. Wright visited Rarotonga for ten days in August 1963. They attended meetings of the Legislative Assembly which were devoted to a general debate on

<sup>4</sup> See *New Zealand Parliamentary Debates* (Hansard) No. 23, October 1964, p. 2829.

constitutional development. They also held discussions with members of the Assembly. In the light of the views expressed by the members both in the general debate and the discussions, the team made recommendations in a comprehensive report which was submitted to the Legislative Assembly in September 1963. In their report, the experts made the following observations:

"To give effect to your own wishes we are recommending in this report a constitution which provides for full self-government, but also allows for continued association with New Zealand under a common head of State, the Queen, and with a common citizenship, that of New Zealand. There are other respects in which there is likely to continue to be a close connection with New Zealand: for instance, the New Zealand Government will act for you in external affairs; you will rely heavily on the New Zealand Government for financial assistance; you will expect to sell most of your products in New Zealand; you may wish the Supreme Court of New Zealand to hear appeals from your High Court, and the New Zealand controller and Auditor-General to audit your public accounts; in the immediate future, you prefer to have a New Zealand official as representative of the Queen; and in this Report we discuss possible ways in which the Cook Islands could be associated with the New Zealand Parliament. On the other hand, the constitution we are recommending provides for the establishment of full cabinet government under which your Cabinet would have full control in the executive and administrative spheres. That Cabinet would be responsible to the Legislative Assembly elected by the Cook Islands people, and having full legislative autonomy. This would mean that the Assembly would have the power to amend all New Zealand legislation applicable to the Cook Islands, including the constitution itself.

"As far as we can judge the recommendations we are making for constitutional development are in full accordance with the wishes of the Cook Islands people, as expressed by you, their elected representatives. Moreover, our proposals would not restrict your freedom to develop along different lines in future, if this should be your wish. In other words, they fulfil the principle of self-determination on which all international discussion of colonial questions is now based."

177. Following a general debate, the Legislative Assembly adopted the recommendations of the experts, with some modifications, on 12 November 1963. In a 44-point resolution (see annex IV), the Assembly made decisions which became the basis for constitutional development. The Assembly's decisions included the following:

(a) The Cook Islands should have a constitution which provides for full self-government but allows for continued association with New Zealand under a common Head of State, the Queen, and with a common citizenship, that of New Zealand.

(b) For the time being, the Queen's representative in the Cook Islands should be a New Zealand official who should also act as representative of the New Zealand Government.

(c) The Assembly should become autonomous and all its members should be elected by direct election of the adult population of the Cook Islands.

(d) A ministerial system of government should be introduced.

(e) An Executive Council comprising the Queen's representative and the members of the Cabinet should be established with power to discuss and to refer back to the Cabinet, but not to vary or negate any Cabinet decision.

(f) The conduct of the external relations of the Cook Islands should remain a responsibility of the New Zealand Government.

(g) The grants made by the New Zealand Government to the Cook Islands Government should continue to be determined on a triennial basis.

(h) Recommendations of the Constitutional Committee which are acceptable and which require legislative action should be incorporated in an Act of the New Zealand Parliament rather than by amendment to the Cook Islands Acts.

(i) The Constitution Act should provide that its amendment by the Cook Islands Legislative Assembly should require a two-thirds majority at the second and third readings in the Assembly of the ordinance involved and the lapse of ninety days between the second and third readings.

(j) The term of office of the present Legislative Assembly should be extended by up to one year to enable legislation to be passed in New Zealand giving effect to constitutional changes before the next general election to the Assembly.

178. On 18 November 1963, these decisions were formally approved by the Government of New Zealand. In October of the following year, a bill, the Cook Islands Constitution Act 1964 providing for the draft constitution, was introduced in the New Zealand Parliament.

179. The extent to which the policies of the Government were inspired by the United Nations Declaration on colonialism was revealed during the debate on the bill. One of the members of Parliament who brought the United Nations into the debate<sup>5</sup> was Mr. J. Mathison, an Opposition member who was Minister responsible for the Cook Islands when his party was in power. He referred to Sir Leon Götz who was Minister responsible for the Cook Islands when the Government's self-government policy was initiated. Mr. Mathison then said he had "a feeling that the resolution by the United Nations in 1960 and the setting up of the 24-man committee caused something of a panic in the mind of the Hon. Mr. Götz". Mr. Mathison stated that never once, between 1957 and 1960 when he was Minister, was the question of complete self-government mentioned. Mr. Götz, he went on to say, was responsible for accelerating the idea among the Cook Islanders that "nothing but a written constitution and complete self-government would serve them".

180. Further reference to the 1960 United Nations Declaration on colonialism was made by Mr. A. H. Nordmeyer, Leader of the Opposition. He said *inter alia*:

"The question arises as to what is the best form of Government for the Cook Islands if they are to have self-government. What is the pressure for self-government? Let it be said quite frankly that it does not come spontaneously from the people themselves. They have expressed no burning desire to have self-government but largely because of the attitude adopted by the United Nations, there has been a

<sup>5</sup> *Ibid.*, p. 2835.

desire on the part of Governments in New Zealand to see that we were freed from any taint of colonialism.”<sup>6</sup>

181. Mr. J. R. Hanan, the present Minister responsible for matters relating to the Cook Islands and government spokesman in the debate, recalled in his reply,<sup>7</sup> how the Leader of the Opposition had in the past, “by his wise and helpful stand”, saved his party (the Labour Party) from laying itself open to the charge that it was opposed to New Zealand complying with the letter and spirit of the 1960 United Nations Declaration on colonialism. Mr. Hanan said that there was no doubt that the Leader of the Opposition had cleared his party of that possible charge.

182. An even more unequivocal indication of the effect of the role of the United Nations on the policies of the New Zealand Government with respect to the Cook Islands was given by the Prime Minister, Mr. Keith Holyoake, in a speech during the debate. He said *inter alia*:

“Since the end of World War II many of the large Asian countries—and many of the small countries too—have achieved independence. Virtually all the African countries have achieved independence, and with their becoming Members of the United Nations, tremendous pressure has been brought to bear on the old colonial powers to grant independence to all the newly emergent countries. The Minister of Island Territories has outlined in detail the responsibilities we accepted in agreeing to the 1961 General Assembly declaration on colonialism. That declaration recognized that one of the ways in which a dependent people could emerge to independence was by free association with another country, so long as it was in accordance with the freely expressed wishes of the people of that country. That was the path chosen by Samoa, and now by the people of the Cook Islands, and these Bills set out to implement the method. Sir Leon Götz, who in 1962 was Minister of Island Territories, went to the Cook Islands and placed the four alternatives, as we saw them, before the Assembly and the people of the Cook Islands. They were, briefly, complete independence, integration with New Zealand, joining a Polynesian federation, and full internal self-government. They chose the fourth alternative. For more than two years, since 9 July 1962, this subject has been freely discussed. I imagine it is almost the sole topic of political discussion among the people of the Cook Islands, and they have decided to ask us to implement the fourth alternative. The Cook Islands Assembly requested the New Zealand Government to proceed with its plan for giving the Cook Islands full internal self-government. At the same time the Assembly was insistent that Cook Islanders should be permitted to retain New Zealand citizenship. That, of course, is what these Bills set out to put into effect.”<sup>8</sup>

183. Consideration of the Bill became an occasion on which, in passionate speeches, both the Prime Minister and the Leader of the Opposition referred to the people of the Cook Islands as “our cousins” and “New Zealanders”. Mr. Holyoake, the Prime Minister, said:

“I would say this: of recent years the policy of successive New Zealand Governments concerning all the people of the Polynesian islands in the Pacific

has been both liberal and far-sighted, and we have been anxious to assist wherever we can with the political and economic advancement of these people whom we recognize as our cousins, our racial brothers, and of course our closest neighbours.”<sup>9</sup>

184. Mr. Nordmeyer, the Leader of the Opposition said:

“...As some members have said, including, I think, the Prime Minister, the association of the Cook Islands and New Zealand is probably a unique one in that the Cook Islanders come freely to this country and are regarded as New Zealanders when they come here.”<sup>10</sup>

185. The bill was finally approved by Parliament without a division on 10 November 1964. Seven days later, it became an act, the Cook Islands Constitution Act, 1964, providing for the draft constitution for the Territory.

186. The draft constitution and the Cook Islands Amendment Act, 1964, were the only matters considered by the new Legislative Assembly during its first meeting.

#### B. DRAFT CONSTITUTION OF THE COOK ISLANDS —WHAT IT MEANS

##### *Political status envisaged*

187. As has already been stated, the draft constitution of the Cook Islands is an Act of the Parliament of New Zealand which, under a special arrangement, was not to become effective except upon its endorsement by the elected representatives of the people of the Territory. The broad outlines of the political status envisaged for the people are set forth in the opening sections of the Act as follows. The Cook Islands shall be self-governing with the Constitution as the supreme law of the land. External affairs and defence shall be the responsibility of Her Majesty the Queen to be discharged by the Prime Minister of New Zealand after consultation with the Premier of the Cook Islands. The people of the Cook Islands shall continue to have British nationality and to be New Zealand citizens. The sections relating to these broad outlines are entrenched, and can be amended or repealed under a procedure involving an affirmative two-thirds majority vote in a national referendum.

188. A number of institutions, designed to serve as instruments for the exercise by the people of their rights under the new political status, is provided for in the schedule of the Act consisting of 88 articles. They include: the Head of State; High Commissioner; Council of State; the Cabinet; the Executive Council; the Legislative Assembly; the Judiciary; the Audit Office; the Public Service. In addition to these, provision is also made for a special post which, by virtue of its attributes, constitutes an institution unto itself. Its holder combines the functions of Secretary to the Cabinet with those of Secretary of the Premier's Department, permanent head of the Public Service, and principal administrative officer of Government.

##### *Institutional arrangements*

189. *Head of State.* The draft constitution provides that Her Majesty the Queen in right of New Zealand shall be the Head of State of the Cook Islands. Execu-

<sup>6</sup> *Ibid.*, p. 2850.

<sup>7</sup> *Ibid.*, p. 2864.

<sup>8</sup> *Ibid.*, p. 2842.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*, p. 2850.

tive authority is vested in the Queen and may be exercised on her behalf by a Council of State.

190. *High Commissioner.* Provision has been made for the appointment of a High Commissioner of the Cook Islands. In a speech, the Minister in New Zealand responsible for Island Territories referred to the title "High Commissioner" as being "not entirely apt..." but "the least inappropriate" of all the titles considered. Under the terms of the relevant clause, the High Commissioner is appointed by the Governor-General on the recommendation of the New Zealand Minister responsible for matters relating to the Cook Islands, made after consultation by the Minister with the Premier of the Cook Islands.

191. The High Commissioner shall be the representative of the Government of New Zealand in the Cook Islands. He shall be, jointly with the other members of a three-man Council of State, also the representative of the Queen.

192. *Council of State.* The Council of State consists of the High Commissioner and two Arikis (Senior Chiefs), one from Rarotonga and the other a nominee representing all the Arikis of the outer islands. The Ariki members of the Council of State are appointed by the Governor-General on the recommendation of the New Zealand Minister responsible for matters relating to the Cook Islands. The Minister is required to base his recommendation on nominations, in the case of Rarotonga by the majority of the Arikis of Rarotonga and in the case of the outer islands by the majority of the Arikis of the outer islands.

193. A clause provides that the High Commissioner shall preside at all meetings of the Council of State. Its decisions shall require the affirmative vote of at least two of its three members, one of whom shall always be the High Commissioner.

194. The functions assigned to the Council of State under the draft constitution are manifold. In the performance of some of its functions, the Council is required to act in its discretion, and with regard to others, on the advice either of the Cabinet, the Premier or the appropriate Minister. In one exceptional case—appointment of judges other than a Chief Judge—the Council must act on the advice of the Judicial Service Commission.

195. Under the terms of a clause of the draft constitution, if the Council of State acting in its discretion so requires, the Premier must refer to the Cabinet any decision of a Minister, including the Premier himself, that has not been considered by the Cabinet. Decisions of the Cabinet itself must receive the approval of the Council of State to become effective. Acting in its discretion, the Council can, within 14 days, refer to the Cabinet any decision of the Cabinet for reconsideration. The approval of the Council becomes automatic if the Cabinet reaffirms such a decision after reconsideration. Decisions of the Cabinet are subject to further restraining check by the Council of State under other functions assigned to the latter. Under those functions, the High Commissioner or any two members of the Council can request, but not enforce, an amendment to a decision of the Cabinet.

196. Under the provisions of another clause, any member of the Council of State may initiate action with the object of varying a Bill which has been approved by the Legislative Assembly. This provision gives the Council of State the power not to negate but request

amendment of such Bill, and to delay its coming into force.

197. Furthermore, bills relating to financial matters may be proceeded with in the Legislative Assembly only on the recommendation of the Council of State. The Speaker of the Assembly is required not to allow consideration of such bills, if they are not introduced on the recommendation of the Council of State.

198. *Cabinet.* The draft constitution provides for a Cabinet, comprising the Premier of the Cook Islands who shall preside over the Cabinet, and four other Ministers. The Cabinet shall have the general direction and control of the executive government of the Cook Islands and shall be collectively responsible to the Legislative Assembly. The Premier is appointed by the Council of State and must be, or, in the case of an appointment after dissolution, must have been, a member of the Assembly who commands or is likely to command the confidence of a majority of the members of the Assembly. Other ministers are appointed by the Council of State, on the advice of the Premier, from the members of the Assembly. Under the provisions of the draft constitution, the Premier shall assign portfolios to the ministers whose roles shall be of full ministerial status.

199. *Executive Council.* Provision is made for the creation of an Executive Council, a deliberative body consisting of the members of the Council of State and the members of the Cabinet. Meetings of the Executive Council may be summoned only by a member of the Council of State or the Premier, for purposes including consideration of any Cabinet decision. Under a provision of the constitution, if the Executive Council confirms such a decision, and two members of the Council of State, one of whom shall be the High Commissioner, concur, the decision will take effect as a decision of the Cabinet. If the High Commissioner or any two members of the Council of State do not concur, or request amendment, the decision must be referred back to the Cabinet for reconsideration.

200. This provision in effect gives the Executive Council power to request but not to enforce amendment of any decision of the Cabinet. Provision is made for a time-limit—of two days in the case of matters of extreme urgency and of four days in other cases—within which a decision of the Cabinet can be referred to the Cabinet for reconsideration. The Executive Council thus has authority not to overrule but to delay the coming into effect of any Cabinet decision. And under a procedure laid down in the Constitution, only members of the Executive Council who are also members of the Council of State, can exercise this authority. Two members of the Council of State, including the High Commissioner, can, with or without a request for an amendment, refer any decision of the Cabinet back for reconsideration.

201. *Legislative Assembly.* Legislative authority is vested in the Legislative Assembly consisting of twenty-two members, all of them directly elected through secret ballot. Elector or candidate must be a British subject, over 18 years of age and every elector must have been ordinarily resident in the Territory for twelve months prior to his application to enrol, but every candidate must have been so resident for three years preceding his nomination.

202. Meetings of the Legislative Assembly are presided over by a Speaker, elected by the Assembly itself either from its members or from outside, provided in

the latter case that he is qualified for election as a member of the Assembly.

203. The Legislative Assembly may make laws, to be known as acts, for the peace, order and good government of the Cook Islands. This power is subject only to the provisions of the constitution. It includes making laws having extraterritorial operation. The Assembly may repeal, revoke, or amend in its application to the Territory any New Zealand statute or other law already in force.

204. The constitution can be amended or repealed by the Legislative Assembly. In all matters, except those provided for in entrenched clauses, both the final vote and the vote preceding the final vote must receive a two-thirds majority of the total membership of the Assembly, including vacancies. There must also be an interval of ninety days between the final vote and the vote preceding it. No variation of the entrenched clauses shall be made unless it is supported by a two-thirds majority in a national referendum. Subjects provided for in entrenched clauses include: external affairs and defence; establishment of the Cook Islands as a self-governing Territory with the constitution as the supreme law of the land; the status of the people as British subjects and New Zealand citizens; the position of her Majesty the Queen as Head of State of the Territory; and the procedure for the repeal or amendment of the Constitution.

205. The Assembly cannot take any action relating to financial matters, except on the recommendation of the Council of State, including bills or amendment bills dealing with: the imposition or alteration of taxation; imposition of any charge upon the Cook Islands Government Account or any other public fund; the payment, issue or withdrawal from the Cook Islands Government Account of any money not charged to such account or public fund; the composition or remission of any debt due to the Crown.

206. Laws made by the Legislative Assembly become effective only on receiving the assent of the Council of State which is required to act on the advice of the Premier in some cases, and in others, to act in its own discretion. The Council of State, acting on the advice of the Premier, must assent or refuse its assent. But any member of the Council of State is entitled to refer a bill to the Executive Council for that body to consider such amendment as that member may propose, or to consider whether the Council of State should refuse its assent. The draft constitution provides for a procedure under which, on the initiative of any member of the Council of State, a Bill which has already been passed by the Legislative Assembly can be referred to the Assembly, with or without a request for amendment, for reconsideration. If the Assembly approves the bill again in its original form or with the proposed amendment, the assent of the Council of State becomes automatic. The relevant clauses prescribe a time-limit of fourteen days within which a bill must be referred to the Assembly if assent is refused. This provision gives any member of the Council of State the right to initiate action with the object of varying a Bill which has been approved by the Legislative Assembly. It gives the Council of State the power not to negate but to delay the coming into effect of any Act of the Legislative Assembly.

207. Under a series of provisions of the draft constitution, power of legislative authority is delegated to the New Zealand Parliament and to the Governor-General. In enacting laws relating to external affairs

and defence, subjects reserved for the Government of New Zealand, a clause of the draft constitution requires that there shall be prior consultation by the New Zealand Prime Minister with the Premier of the Cook Islands. Provision is, however, made for the New Zealand Parliament, if requested by the Government of the Cook Islands, also to make laws for the Territory relating to any other matter. Legislation in such cases must be with the consent of the Government of the Cook Islands.

208. Under another clause, the Governor-General may from time to time by order-in-council make, at the request and with the consent of the Government of the Cook Islands, regulations not inconsistent with the draft constitution, for the peace, order, and good government of the Territory. A request for such regulations must be made, and the consent to them must be given in a resolution of the Legislative Assembly, and if the Assembly is not sitting at the time, by the Council of State acting on the advice of the Cabinet.

209. *Judiciary.* The present High Court will be retained under the provisions of the draft constitution. The existing Native Law Court and Native Appellate Court will also be retained with the new titles, respectively, of Land Court and Land Appellate Court.

210. The present rights of appeal to the Supreme Court of New Zealand are preserved. Provision is made for an additional right of appeal as of right, and that is given where a case involves a substantial question of law as to the interpretation or effect of any provision of the Constitution.

211. The Chief Judge of the High Court and the Chief Judge of the Land Court are appointed by the Council of State acting on the advice of the Premier. All other judges are appointed by the Council of State acting on the advice of the Judicial Service Commission. A judge can be removed from office only under a procedure involving an inquiry by a three-man tribunal of senior judges or barristers of New Zealand or a British Commonwealth country.

212. *Audit Office.* All public funds and accounts are required to be audited by the Audit Office of New Zealand, which has to make an annual report to the Speaker of the Legislative Assembly.

213. *Public Service.* The draft constitution takes the control of the Cook Islands Public Service away from the New Zealand State Services Commission and places it under the control of the Secretary of Premier's Department, who is required to pay regard to the general policy of the Cabinet relating to that service. A series of clauses provides that the Secretary of the Premier's Department shall be appointed by the Council of State acting on the advice of the Cabinet, but shall be deemed not to be an employee of the Cook Islands Public Service. The holder of the post shall be Secretary to the Cabinet, Permanent Head of the Premier's Department and the principal administrative officer of the Government, head of the Public Service with responsibility for the appointment, promotion, transfer, termination of appointment, dismissal, and disciplinary control of the Public Service. He shall be assigned such other functions as may be prescribed by law.

#### C. COOK ISLANDS AMENDMENT ACT, 1964

214. The Cook Islands Amendment Act, 1964 was a transitional measure. It was enacted mainly to provide for reforms which could not await endorsement of the draft constitution by the new Legislative Assembly.

215. The most important of the reforms for which provisions were made in the Act included the transformation of the Legislative Assembly from a partly elected and partly appointed body of twenty-six members to one of entirely elected membership of twenty-two, and the promulgation of the necessary regulations for the organization and conduct of the elections to the new Assembly.

216. It was under a provision of the Act itself that the controversial three-year residential qualification for candidates was retained, and the equally controversial one-year residential qualification was prescribed for electors.

217. The relevant section reads as follows:

*"61. Nationality and residential qualifications of electors and candidates—*

The Cook Islands Amendment Act, 1957 is hereby further amended by inserting, after section 32, the following section:

*"32A. (1) Without limiting the provisions of any regulations or Ordinance prescribing any additional qualifications, a person shall be qualified to be an elector for the election of members of the Legislative Assembly or to be a candidate at any such election, if, and only if,—*

*"(a) He is a British subject; and*

*"(b) In the case of an elector, he has been ordinarily resident in the Cook Islands throughout the period of twelve months immediately preceding his application for enrolment; and*

*"(c) In the case of a candidate, he has been ordinarily resident in the Cook Islands throughout the period of three years immediately preceding his nomination as a candidate . . ."*

#### D. FIRST MEETING OF THE NEW LEGISLATIVE ASSEMBLY

218. As indicated in the letter of 2 February 1965 from the representative of New Zealand to the Secretary-General (A/5880), the form and nature of the Cook Islanders' future status were a major issue at the first meeting of the new Cook Islands Legislative Assembly. As it is not highly likely that enough copies of the verbatim reports would ever be available at the United Nations Headquarters for consultation by members either of the Committee of Twenty-four or the General Assembly, I decided to cover in the summary that follows as much ground as was absolutely essential to portray, as faithfully as possible, a true picture of all aspects of the meeting.

#### *Summary of the debate*

219. The new Legislative Assembly held its first meeting from 10 to 19 May. The meeting was convened almost two weeks earlier than was the Administration's original plan, as the result of an understanding which had been reached between the Resident Commissioner, Mr. A. O. Dare, Mr. Albert Henry, leader of the Cook Islands Party, the majority Party in the new Assembly, and Mr. G. K. J. Amachree, Under-Secretary for Trusteeship and Non-Self-Governing Territories, during his brief visit to the Cook Islands.

220. Preparations for the meeting began immediately after a substantial proportion of the final results of the elections had been established. Special arrangements were made to bring the returned candidates from the outer islands to Rarotonga. At the commencement of

the meeting, all but two of the twenty-two members were able to attend. One of the remaining two, Mr. John Tariau, of the Cook Islands Party, member for Pukapuka, was in Rarotonga but had to await the final count of the vote in his constituency. It had not been possible to make travel arrangements for the twenty-second member, also a Cook Islands Party candidate representing the remote island of Manihiki in the Northern Group.

221. Of the twenty who took part in the meeting from the start, twelve were members of the Cook Islands Party which thus became the majority Party in the Assembly. In the absence of the Party leader, Mr. Albert Henry, Dr. Manea Tamarua, the Deputy Leader of the Party, acted as spokesman. The other eight were members of splinter groups consisting of the United Political Party, the Independent Group, and members who contested the elections as individual independent candidates. Mr. Dick Brown, leader of the United Political Party and former Leader of Government Business, having been defeated in the elections, Mr. William Estall, member for Aitutaki, became the Group's spokesman. Their only unifying force, as was amply in evidence during the meeting, was their opposition to Mr. Henry, an opposition which stemmed from fear of the fact that as Leader of the Cook Islands Party, he was destined to head the new Government. For the purpose of convenience, this group is referred to in this report as the Opposition, without prejudice to their formal objections, made during the meeting, to being referred to as the Opposition.

222. Eight sittings were held, from 10 to 14 May and from 17 to 19 May. For each sitting, the Assembly met from 9 a.m. to 1 p.m. each day, with a break of about thirty minutes for tea. On 11 May, however, the sitting was brought to an end at 10:15 a.m., following a walk-out by the eight members of the Opposition. Also on 14 May, the sitting ended earlier than 1 p.m., during consideration of a motion proposing the establishment of a House of Chiefs. Following an agreement by the members, the Assembly adjourned to allow time for informal consultations on the question.

223. Notices of motions began to arrive at the office of the clerk of the Legislative Assembly well over a week before the beginning of the meeting. Members were formally advised of the date it would start in a circular letter dated 5 May (see annex V). Its opening paragraph stated:

*"You are hereby advised that the first meeting of the Legislative Assembly, Eighth Session which commences Monday 10 May 1965 in the Assembly Chambers, Avarua, is being convened solely to consider matters relating to the Constitution Bill. Therefore no other matters will be discussed at this meeting."*

224. The business for the first day's sitting was set forth in Order Paper No. 1 (see annex VI) including a motion proposing suspension of the Assembly's Standing Orders to enable the House to proceed with the questions before it.

225. Following prayers and the swearing in of the new members, the Resident Commissioner, who was presiding by virtue of the fact that he was President of the outgoing Assembly, made an opening address (see annex VII). Then I made a statement at the invitation of the President (see annex VIII).

226. In his opening address, the Resident Commissioner said, *inter alia*:

"Mr. Adeel, we all know that you are on a special Mission here, and we know that you have a difficult task. You have to be absolutely impartial in your work. I think everyone knows that the New Zealand Government, with the agreement of the Cook Islands Government, asked this Mission to come here. We have reached a special stage in the development of the Cook Islands when the people have to have the free right to choose what form of Government they should have. We feel that we are giving these people that right, and we feel also that if anyone wants to check whether or not we are, they are very welcome indeed."

227. In my statement, I said, *inter alia*:

"Honourable Members, your election to this Assembly marks a mere starting point on a long, and if I may say so without sounding pessimistic, hazardous road. I can assure you that the interest of the United Nations will not end with our departure from your colourful and hospitable shores. My report, when it is completed, will be discussed by the Special Committee of Twenty-four and the General Assembly. And whatever the end results of the present experiment, you can expect a place of pride in the United Nations interest in developing countries."

228. The Assembly then unanimously adopted a motion in which it expressed "its appreciation" of the visit of the United Nations team of Observers. In a short speech introducing the motion, Mr. Julian Dashwood recalled how he had always maintained that if it had not been for the Declaration on colonialism and the efforts of the Committee of Twenty-four to implement it, the Cook Islands would not be as far advanced towards self-government as it was today. He referred to a visit which Ambassador F. H. Corner, Permanent Representative of New Zealand to the United Nations, had made to Rarotonga. He also referred to a statement made to the Special Committee of Twenty-four, at its 244th meeting, by Mr. Corner on his return from Rarotonga to New York. Then he stated:

"In the statement which he made later to the United Nations, difficulties were not minimised, nor good intentions over-emphasized. It was a most accurate and down-to-earth assessment of the situation. Mr. Corner's attitude whilst here invited our confidence, and he received it. His report deserves our gratitude and he has it. Your Excellency (Mr. Adeel), on behalf of the Government of the Cook Islands I have the honour and satisfaction in assuring you and your colleagues in this Delegation of the United Nations of the same sentiments which we extended to Mr. Corner."

229. At the invitation of the President, Dr. Tamarua, spokesman for the Cook Islands Party, moved the motion relating to the Standing Orders. It read as follows:

"That the Standing Orders be suspended in order to allow the Executive Committee to be elected and motions debated, and also to restrict the proceedings of this first meeting to Constitutional matters only."

230. The motion was seconded by Mr. Estall, spokesman for the Opposition and was approved without a vote.

231. On a motion moved by Dr. Tamarua and seconded by Mr. Dashwood, the Assembly requested the Resident Commissioner to "remain in the Chair until such time as a Speaker is duly elected".

232. In a brief statement, the Resident Commissioner said the Assembly's decision to let him continue in the Chair was a "gesture" which he appreciated. He went on:

"It is true that the Cook Islands Act states that the Resident Commissioner shall remain in the Chair, but as Honourable Members know, last year we decided to elect a Speaker and have the Resident Commissioner absent himself as often as possible. Had you wished to have your own speaker in the Chair then I would have been very happy to absent myself again this year. But as you have asked me to sit in the Chair then I am very happy to do so."

233. The Assembly proceeded with the election of Leader of Government Business and members of the Executive Committee, the next item on the Order Paper. Dr. Tamarua, spokesman for the Cook Islands Party, was nominated for election as Leader of Government Business by a member of his Party who was seconded by another member of the Party. Mr. Estall, of the Opposition, was nominated by a member of the Opposition who was seconded by another member of the Opposition. In a vote by show of hands, Dr. Tamarua was elected Leader of Government Business by 12 votes to 8.

234. Following established practice, Dr. Tamarua was invited by the President to make nominations for elections to the Executive Committee. He nominated Messrs. Mana Strickland, Apenera Short, Tiakana Numanga, and Mrs. Marguerite Story, who are Cook Islanders, and Mr. Julian Dashwood, an Englishman who has been resident in the Territory for about thirty years. All five are members of the Cook Islands Party. The nominations were approved by the Assembly without a vote.

235. After a recess, the Assembly began consideration of motions listed in a supplementary Order Paper (see annex IX).

236. It dealt with the second motion, proposing

"That the adoption of the Constitution be deferred until such time that the alternatives to self-government are fully investigated and explained and the wishes of the people determined by referendum."

237. This motion was introduced by Mr. Pupuke Robati, Opposition member for Rakahanga, and was seconded by Mr. Tangaroa Tangaroa, Opposition member for Penrhyn, who was in the former Assembly and Executive Committee and had responsibility for public works and education.

238. In a heated debate which lasted about four hours, the Assembly heard thirteen speeches, eight by the members of the Opposition in support of the motion and five by the members of the Cook Islands Party against it.

239. In summary, the views expressed by the supporters of the motion were as follows:

The alternatives to self-government referred to in the motion were: independence; federation with other Polynesian Islands, and integration with New Zealand.

The people of the Cook Islands were having doubts about self-government and about the benefits to be derived from it. New Zealand had looked after the Cook Islands for many years, and the people wished to continue under the administration of that country. They preferred integration with New Zealand to self-government. The alternatives to self-government

should be explained to the people with a view to dispelling these doubts. Following such explanations, the people should be given the chance to make up their mind in a referendum.

It was not correct to suggest that the last election was a referendum. It was a confusion of policies, platforms and personalities, in which only two forms of government were discussed: the government of Albert Henry and that of Dick Brown. It never was a clear-cut case of approval or disapproval of the draft constitution.

The United Nations Charter recognized the principle that the interests of the people were paramount. It would be folly to go against the Charter.

It was the view of some people that for too long the people of the Cook Islands had borne injustices heaped upon them by foreigners. Those who held such a view regarded the proposed constitutional change as an opportunity for kicking out the Europeans so that the Maori people could govern themselves, an opportunity which ought to be grabbed. The supporters of the motion believed that this would be cutting one's nose to spite one's own face. The people of the Cook Islands were not yet fully prepared.

The motion demanded two simple things: that the adoption of the constitution be deferred; and that the people should be given the right to make up their mind in a referendum. This was the cry of the people. The member who introduced the motion and those who supported it were acting on the instructions of their constituents. If the request of the people was not heeded, the people of the Islands of Rakahanga and Penrhyn would secede, and would seek integration with New Zealand.

240. In summary, the views expressed by those who opposed the motion were as follows:

It was not correct to suggest that the alternatives to self-government had not been explained. At the invitation of the old Assembly, three constitutional experts visited Rarotonga to do just that. It was following such explanations, and upon the recommendation of the three experts that the old Assembly strongly recommended self-government, first in 1963 and again in 1964. In proposing the adoption of the draft constitution with modifications, the Cook Islands Party was merely supporting the decisions of the old Assembly. It was difficult to understand why Members of the Old Assembly who had been returned were now going against their own decisions.

It was claimed that the people were not given the opportunity to acquaint themselves with the alternatives to self-government, or to understand the implications of self-government. Those who proposed deferment of the adoption of the draft constitution claimed that they were acting on the instructions of their constituents.

The formation of political parties followed acceptance of self-government by the old Assembly. The Cook Islands Party was organized in support of self-government. In its campaign before the vote, the Party made an election issue of the residential qualifications prescribed in the draft Constitution, and of its acceptance of self-government. The members of the Party were elected on those two issues, and could also claim that by going ahead with self-government they were acting on the instructions of their electors.

There was some talk of secession. Did it occur to those who advocated secession that it would be putting the Queen under their feet, if they seceded? And who would be their Queen, in any case?

The attention of the advocates of deferment should be drawn to a saying which existed in English as well as in Maori: "time and tide waits for no man". To go backwards was not a very good thing. It was better to go forward.

241. The motion was lost by a vote of 8 in favour and 12 against.

242. Following the vote, Dr. Tamarua, Leader of Government Business, requested that the Assembly deal with the seventh motion on the supplementary Order Paper. In its original form that motion read as follows:

"That this Assembly gratefully reaffirms its acceptance of the principle of full internal self-government for the Cook Islands, graciously offered by the Government of New Zealand, trusting that the modifications to the draft constitution to be requested by this Assembly will meet the approval of the Government and Parliament of New Zealand."

The President stated that he thought Dr. Tamarua wanted to alter the motion, and invited him to read the revised version which read:

"That this Assembly gratefully reaffirms the acceptance of the principle of full internal self-government for the Cook Islands as embodied in the Constitution."

In other words, said Dr. Tamarua, the words "graciously offered by the Government of New Zealand" be deleted and the words "as embodied in the constitution" included. At the suggestion of the President, the word "draft" was inserted before the word "constitution".

243. Dealing with the request that the Assembly take this motion next, the President said he appreciated that members might be preparing for the debate in the order in which the motions were set out on the Order Paper. He would gladly agree to Dr. Tamarua's request provided there were no objections. If any of the members objected, however, the business of the House would have to continue as arranged on the Order Paper.

244. In response to a request by an Opposition member for further clarification as to what was happening, the President said there was a proposal that the Assembly should take the seventh motion. He would agree if all the members were happy to agree, but if they felt that they were not prepared for a debate on the subject, business would have to continue in the order laid down in the Order Paper.

245. Mr. Robati, Opposition member, made a protest against the request. Were there any other objections, the President asked. "Yes", said Mr. Tangata Simiona, another Opposition member. Then the President declared he felt he must take notice of the objections because everyone must have the opportunity to prepare for the debate, and it was quite likely that many people had not had the opportunity with respect to that motion. The Assembly, he ruled, would therefore deal with the third motion on the Order Paper.

246. The third motion was submitted by Dr. Tamarua, Leader of Government Business, and read as follows:

"That this Assembly recommends to the New Zealand Government that section 32 of the Cook Islands Amendment Act 1957 as enacted in section 61 of the Cook Islands Amendment Act 1964 be further amended by the deletion of Section 32a (1) (b) and (c) and inserting the following:

"Section 32a (b) (1)—In the case of a person born in the Cook Islands, he has been ordinarily resident in the Cook Islands throughout the period of three months immediately preceding his application for enrolment as an elector, or nomination as a candidate."

"Section 32a (c) (1)—In the case of a person not born in the Cook Islands, he has been ordinarily resident in the Cook Islands throughout the period of one year immediately preceding his application for enrolment as an elector, or nomination as a candidate."

and further—

"That similar amendments be effected in the Cook Islands Constitution."

247. Under the terms of this motion, the Assembly was being called upon to request the repeal of sections of the existing electoral legislation prescribing the controversial three-year residential qualification for candidates and one-year residential qualification for electors. The motion would have the Assembly request modification of the law to provide for a three-month residential qualification for persons born in the Cook Islands, and a one-year residential qualification for persons born outside of the Territory seeking enrolment as electors or nomination as candidates.

248. The motion would further have the Assembly request the necessary consequential amendment of the draft constitution, with respect to this question.

249. Rising on a point of order, Mr. Estall, Opposition spokesman, objected to consideration of the motion. This provoked a procedural exchange between the Opposition and the President. The Opposition contended that in view of the motion adopted by the Assembly relating to the suspension of the Standing Orders, the motion was out of order. By adopting the motion relating to the Standing Orders the Assembly had, of its own free will, decided to "restrict" its proceedings at the current meeting to "constitutional matters only". They argued that the motion which the Assembly was being called upon to consider affected the Cook Islands Amendment Act, 1964, which had no connexion with the draft constitution.

250. The President pointed out that the Act which had been referred to was enacted to amend the principal Cook Islands Act, 1915, to correspond with certain provisions of the draft constitution. The Order Paper went out the week before commencement of the meeting, and there was not one person in the country who did not know that the motion in dispute was being put forward. He was of the opinion that the Amendment Act was so closely related to the constitution that they almost went hand in hand. The President then ruled that the motion be discussed.

251. Three Opposition Members, including Mr. Estall, protested the President's ruling and requested that their protest be placed on record. Then Mr. Estall declared that, in effective support of their verbal objections, they of the Opposition would not participate in any discussion dealing with the part of the motion relating to the Amendment Act, and in doing so they

would absent themselves from the Assembly. (All eight Opposition Members then left the Chamber.)

252. Following their departure, the President stated that the Standing Orders required that there be a quorum of fourteen, and that the members who were still in the Chamber numbered only twelve. He would therefore adjourn the Assembly until there was a quorum of fourteen. He could wait for a period of five minutes (as required under the Standing Orders) but that would simply be a waste of time. He was adjourning the Assembly until there was a quorum.

(The walk-out of the eight Opposition Members thus provoked a crisis which threatened seriously to paralyse the meeting. I considered that any assistance which the United Nations Representative could give in the search for a compromise would not be out of place, especially as members of the Opposition as well as the majority party, and the Resident Commissioner himself requested such assistance. As the result of a comparative study of the relevant legislation and the draft constitution, I discovered that while under the existing law a quorum of fourteen had been prescribed for the old Legislative Assembly, a quorum of only twelve was envisaged for the new Legislative Assembly under the provisions of the draft constitution. The logic was clear. The old Assembly had a membership of twenty-six, and the idea seemed to be to establish a simple majority of the membership as a quorum. When the membership of the Assembly had been reduced to twenty-two, it was obvious that twelve and not fourteen should form a quorum. Obviously as the result of an oversight, the necessary modification of the law had not been made, leading to the unfortunate situation in which although the twelve Cook Islands Party members of the Assembly, in the spirit of the law, could form a quorum, it would not be strictly in compliance with the letter of the law to let them carry on with the business of the Assembly. I drew the attention of members of both the Majority Party and the Opposition, and of the Resident Commissioner to this anomaly.)

253. When the Assembly reconvened on 12 May, the third day of the meeting, the eight Opposition members were back in their seats, making possible the resumption of the business of the House. The President opened the sitting with the announcement that the first item on the day's agenda was motion No. 3. Mr. Geoffrey Henry, Opposition member for Aitutaki, was given the floor and stated that he wished to move an amendment. He continued:

"I move that in accordance with the motion for suspension of Standing Orders which this Assembly unanimously passed yesterday, motion number 3 on Paper No. 1 should read:

"That this Assembly recommends to the New Zealand Government that Section 28 (b) and (c) of the Cook Islands Constitution Bill be deleted and the following substituted:

" "Section 28 (b)—in the case of a person born in the Cook Islands he has been ordinarily resident in the Cook Islands throughout the period of three months immediately preceding his application for enrolment as an elector or nomination as a candidate;

" "Section 28 (c)—in the case of a person not born in the Cook Islands he has been ordinarily resident in the Cook Islands for a relative period

of one year immediately preceding his application for his enrolment as an elector or nomination as a candidate".

254. The President reminded Mr. Henry that the substantive motion had been neither moved nor seconded, and that Mr. Henry could hardly propose an amendment to a motion which had not been moved. But it was quite clear, the President continued, that what Mr. Henry wanted was to have the substantive motion discussed as it affected the Constitution and leave out any reference to the Cook Islands Amendment Act, 1964. The President asked Mr. Henry whether that would be the correct interpretation of his wish.

255. Mr. Henry stated that it was. The President then suggested that it might be better if Mr. Henry would formulate his motion in words which would state just that. The point was that he, in his capacity as President, could not allow the motion as an amendment to a substantive motion which had not yet been moved. But he would be prepared to accept, as a matter of urgency, a motion proposing that motion No. 3 be discussed in so far as it affected the Constitution Bill only.

256. Mr. Henry accepted the President's suggestion with thanks, adding: "My proposal was to the effect that discussion of motion No. 3 should be concerned only with matters pertaining to the Constitution Bill and I should like to move a motion to that effect".

257. The President made the following statement:

"There is a motion before the House, a motion that Motion No. 3 be discussed in so far as it affects the Constitution Bill and not in so far as it affects the Act. The motion in effect means this, that Motion No. 3 be discussed in so far as it affects the Constitution Bill only, but this does not exclude the motion being discussed in so far as it affects the Act at a later date in this Session. Is that clear? Now, I will accept that this is a matter of urgency and we will discuss it now. Do you wish to speak on it, Hon. Geoffrey Henry?"

258. In the debate that ensued the Opposition members reiterated the argument which they had raised in the objections that led to their walk-out. They referred to the circular letter of 5 May (see annex V) as further proof that the substantive motion was out of order. It was their view that matters relating to the Constitution Bill should be considered first. If the majority Party wished to discuss the question of residential qualifications as it was affected by the Cook Islands Amendment Act, 1964, the Assembly could deal with that later.

259. The majority Party members contended that Mr. Henry's motion was no more than an attempt to delay action on the question of residential qualifications. The reasons why the party brought motion No. 3 before the House were known to practically everyone in the Territory as well as to the Government of New Zealand. One of the party members in the Assembly, Mrs. Marguerite Story, a sister of Mr. Albert Henry, was only a substitute. They were seeking amendment of the residential qualifications so as to enable Mr. Henry, the party leader, to become a member of the Assembly through a by-election.

260. The law providing for the controversial residential qualifications, the majority Party members contended further, was enacted for only one person, Mr. Henry. But the law, like a bomb, would affect everyone once it burst. They wanted it amended in order that it should not hurt their children and their children's

children. Now was the time to fight for the repeal of stupid laws such as that. They referred to the President's ruling that the Amendment Act, 1964, and the Constitution Bill went hand-in-hand. They stated that to walk out of the Assembly following that ruling, was an act of contempt against the President and the entire membership of the House. If there was a stronger person in the Chair, he would have invoked the provisions of the Standing Orders prescribing for such an offence, suspension from the service of the Assembly.

261. Mr. Henry's motion was rejected by a vote of 8 in favour and 12 against. The Assembly then considered motion No. 3. In the debate that followed, the majority Party members recounted the events relating to the controversy of the residential qualifications. They recalled that they had made a pledge during the electoral campaign to request modification of those qualifications as a matter of priority. They had brought the motion before the Assembly to redeem that pledge.

262. The Opposition members said they too were opposed to the existing residential qualifications. Mr. Estall then proposed the following amendment:

"That this Assembly recommends to the New Zealand Government that Section 32 a (1) b and c, of the draft Constitution of the Cook Islands be deleted and the following substituted:

"In the case of an elector and candidate that he be allowed to vote and to stand as a candidate at any election in the Cook Islands after having resided in the Cook Islands throughout the period of three months immediately preceding his application for enrolment provided that he has at some period resided continuously in the Cook Islands for not less than 12 months."

263. This amendment was in effect requesting modification of the residential qualifications to enable a person who had been residing in the Cook Islands for three months, whether born in the Territory or outside, to qualify for enrolment as an elector or for nomination as a candidate, provided that he had at some period resided in the Cook Islands for not less than twelve months. In formulating it, Mr. Estall referred to the draft constitution instead of the relevant Act. At the suggestion of the President this mistake was rectified and the text of the amendment was revised to read as follows:

"That this Assembly recommends to the New Zealand Government that Section 32 a (1) (b) of the Cook Islands Amendment Act, 1957, as amended by the Cook Islands Amendment Act, 1964, be deleted and the following substituted: 'In the case of an elector or candidate, he be allowed to vote and to stand as a candidate at any election in the Cook Islands after having resided in the Cook Islands for three months immediately preceding his application for enrolment, provided that he has for some period resided in the Cook Islands for not less than twelve months.'"

264. The amendment was adopted unanimously. The Assembly then proceeded with a vote on the substantive motion as amended. That too was unanimously adopted.

265. The President then stated that the fourth motion on the supplementary Order Paper had come up much earlier than he had expected. The President was referring to a motion requesting amendment of the existing electoral laws relating to the time-limit within which a by-election could be held following a vacancy in the Legislative Assembly. The motion

would have the Assembly request that the delay be reduced from sixty-five to fourteen days. The President informed the Assembly that in a telegram he had received from New Zealand, the Minister for Island Territories had suggested that a delay of thirty days might be more practical than fourteen days. He wished to communicate the contents of the telegram to the members and would therefore prefer consideration of that motion to be postponed until the day after. He would therefore suggest that the Assembly move on to the fifth motion on the supplementary Order Paper.

266. Motion No. 5 submitted by Dr. Tamarua, Leader of Government Business, was then formally moved. It read as follows:

"That this Assembly recommends to the New Zealand Government that Article 13 of the proposed Cook Islands Constitution be amended as follows:

"Article 13 (1)

"The words 'and four other Ministers' be deleted and the following substituted: 'and five other Ministers'."

267. Although existing Legislation provided for an Executive Committee consisting of the Resident Commissioner and up to eight other members, membership of that Committee had been by practice limited to the Resident Commissioner, the Leader of Government Business and four other members. This practice was incorporated in the draft constitution under the terms of Article 13, providing for a Cabinet consisting of a Premier and four other ministers. The above motion would have the Assembly request amendment of the draft Constitution to increase the composition of the Cabinet from five to six members.

268. At the suggestion of the President, the Assembly decided to leave consideration of this motion until the following day.

269. During the debate on 13 May, the supporters of the motion contended that an increase in the number of ministers was necessary, so that the Cabinet could cope with the work involved in exercising ministerial responsibility for the departments of government. Opponents of the motion were of the view that if an Executive Committee of five had been able in the past to cope with the work involved, they saw no justification for the additional ministerial post that was being proposed. They moved an amendment to the substantive motion which read as follows:

"That the words 'five other Ministers' be deleted and in their place the words 'four other Ministers until such time that, owing to the cumbersomeness of ministerial undertakings, it is deemed necessary to increase the number to not more than six' be substituted."

270. The amendment was defeated in a voice vote. The substantive motion was then adopted by 12 votes in favour and 8 against, in a division requested by the majority Party.

271. The Assembly began consideration of motion No. 4 dealing with a request for an amendment of the law relating to by-elections. Speaking in support of the motion the majority Party members stated that this motion went hand-in-hand with motion No. 3, and that once the residential qualifications were altered it would become necessary to amend the regulations dealing with by-elections to make possible a by-election to be held within the shortest possible time.

272. Opposition members who spoke against the motion expressed the view that the motion was, in

effect, requesting the amendment of the law for the benefit of one person. They were opposed to legislation which discriminated against people. They were also opposed to legislation enacted to benefit just one person.

273. Debate on the motion had not closed when the day's sitting ended. At that point, I informed the President that I had decided to postpone my departure, scheduled for 14 May, for another week in order to observe the rest of the meeting. Mr. Raui Pokoati, a member of the majority Party, had urged previously in a speech in the debate that the United Nations Mission should not depart before the Assembly had concluded its first meeting. My announcement received a big ovation by the entire membership of the Assembly.

274. On the resumption of the debate on 14 May, the Opposition submitted an amendment to the original motion which was accepted by the majority Party. The motion, as revised, read as follows:

"That this Assembly recommends that if the New Zealand Government accepts the recommendation concerning electoral qualifications the Cook Islands Legislative Assembly Regulations 1965 be amended accordingly and also that regulation 28 requiring 65 clear days' notice for an election be amended so that not less than 21 days but not more than 30 days' notice will be required if a by-election is held during the year ending 31 December 1965."

275. It was adopted unanimously without further debate.

276. The Assembly then began consideration of one of the crucial motions before it. In its original form it read as follows:

"That this Assembly recommends to the New Zealand Government that Article 4, and other Articles which will be affected, of the proposed Cook Islands Constitution be amended to make the High Commissioner only the representative of Her Majesty the Queen, and in lieu of having two Arikis in a Council of State, a House of Arikis consisting of one Ariki from each of the eight outer islands or island groups and six from Rarotonga be established. The House of Arikis to be a consultative body with the Government in matters pertaining to land and native customs and any other matters on which the Government may require advice from the Arikis."

277. This was the motion under which the majority Party would have the Assembly request modification of the draft constitution with a view to substituting a House of Arikis for the Council of State provided for in the draft.

278. In the discussion which ensued, the views expressed by the supporters of the motion could be summarized as follows:

The first draft of the Constitution did not provide for a role for Arikis in the Government of the country. The Cook Islands Party pledged during the elections that if it was returned it would try and establish a place in the Government for Arikis. There was an attempt to create, for Arikis, a role in the Government under an article of the second draft of the Constitution providing for 2 Arikis to be joint Head of State with the High Commissioner. But in the Council of State, the 2 Ariki members had no power. While the High Commissioner with one Ariki could make a decision the two Arikis without the High Commissioner could not make a decision. Furthermore, procedure for selecting the two Arikis for membership of the Council of State had not been

clearly defined and could only cause further split among the Arikis. The Arikis of some islands could never expect to become members of the Council and might feel they were being discriminated against.

The idea of a House of Arikis was then conceived as an alternative. It was felt that by having a separate House of Arikis, each island in the Group could be represented on a population basis. The House would serve as a forum where the Arikis could talk among themselves as natural rulers, and meet once a year while the Legislative Assembly was in session. As to its functions, these were clearly stated in the motion.

The feeling was that the High Commissioner should be the direct representative of the Queen and the Governor-General, and should not share these responsibilities with anybody else at this stage of the development of the country.

The power, authority and prestige which Arikis enjoyed in the past were gradually disappearing. The Majority Party felt it was its duty to restore all the Arikis to their traditional position in the community.

279. In summary, the views expressed by those who were opposed to the motion were as follows:

The motion, if passed, would result only in further whittling away of the power, authority and prestige of the Arikis. At least the two Ariki members of the Council of State would work hand in hand with the High Commissioner and would be exercising some authority. A House of Arikis would be no more than a talking house and an advisory committee. The motion had not assigned to the Arikis a role in the Government, apart from the right to talk about matters relating to land and customs.

Those who were seeking to create such a House had not consulted the Arikis themselves.

280. Mr. Geoffrey Henry, Opposition member, moved an amendment motion proposing that the following words be added to the substantive motion:

"That the Arikis have the power to reject and repeal any legislation related to land matters and native customs which they deem detrimental to their mana (this means authority, power, right and prestige) and the welfare of the people of the Cook Islands."

281. After a procedural discussion, the Assembly adjourned in order to enable informal consultations to be held on the question of Arikis and on a proposal to send a delegation to New Zealand.

282. When the Assembly reconvened on 17 May, the first business it transacted was the swearing in of the member for Pukapuka, Mr. John Tariau, the Cook Island Party member who had been awaiting the final count in his constituency to take his seat.

283. The President then suggested that instead of continuing with consideration of motion number six dealing with the House of Arikis, the Assembly should move on to motion number eight dealing with the dispatch of a delegation to New Zealand. The President informed the House that the boat by which the delegation was to travel to New Zealand had called two days earlier than was expected and that therefore the delegation would have to embark immediately. The Assembly then proceeded with consideration of motion number eight which read as follows:

"That this Assembly recommends that Dr. Manea Tamarua and one other person to be selected by the

Executive Committee be authorized to travel to New Zealand at the first available opportunity to consult with the Minister of Island Territories and the Select Committee to explain the proposals with a view to having the New Zealand Government accept the proposed changes to the Constitution."

284. The mover of the motion, Mr. Mana Strickland, said the purpose of sending a delegation was to communicate to the Government of New Zealand proposals for changes in the constitution. The assurance had already been given that such a delegation would be able to clear up a lot of minor difficulties. If the Assembly wished to have these changes made without complications then the Government should select, as members of such a delegation, people who understood and favoured the proposed changes.

285. It had been suggested, he continued, that the composition of the delegation should be increased to include members of the Opposition. As events had demonstrated, the Opposition had opposed every one of the changes contemplated by the Cook Islands Party. If the Party had any sense, it would not include in the delegation a member of the Opposition who would only obstruct the negotiations in New Zealand. Also it would be a sign of weakness on the part of the Party if it included on the delegation people who had been obstructing it.

286. Mr. Geoffrey Henry, Opposition member, said he was surprised at the "complete about-face" which the Party had taken. In informal discussions on 14 May, he went on, a happy understanding had been reached that a three-man delegation, including a member of the Opposition, should be sent to New Zealand. This understanding had the full agreement of the Opposition. Now the majority Party seemed to have changed its mind suddenly. It had been suggested that an Opposition member on the delegation would be an obstruction. On 14 May, it was agreed that someone from the Opposition should be included in the delegation not to obstruct but to help present the views of the Opposition. The Opposition had some very strong views which they had expressed during the debate in the House. It was only right that those strong views should be made known to the Select Committee.

287. Mr. Tangaroa, another Opposition member, said an Opposition member, if included in the delegation, would only help present the views which had been agreed by the Assembly. He then moved an amendment which would have the Assembly authorize the inclusion of an Opposition member in the delegation.

288. Following a lengthy, heated debate in which Opposition members advocated inclusion of one of their colleagues in the delegation, and the majority Party rejected the suggestion, the amendment moved by Mr. Tangaroa was put to the vote and was lost.

289. The Assembly then proceeded with a vote on the substantive motion which was carried by 13 votes in favour, 8 against.

290. The President then suggested that the Assembly adjourn at that point so that he could cancel the reservation of a third berth on the boat on which the delegation was supposed to travel to New Zealand. The Assembly then adjourned.

291. When the Assembly reconvened, it resumed consideration of the motion dealing with the House of Arikis. Mr. Tamarua, who had submitted the motion, withdrew the original text and substituted the following:

"This Assembly recommends to the New Zealand Government that there shall be a House of Arikis consisting of one Ariki from each of the eight Outer Islands or island groups, and six from Rarotonga. This House shall be a consultative body with the Government in matters pertaining to land and native custom and any other matters on which the Government may require advice from the Arikis. On matters pertaining to land and custom and any other matter specified by law the House of Arikis shall have the power to refer back to the Legislative Assembly and/or Cabinet up to three times, and after the first time may demand consultation with the Cabinet. If there has been no reference back the first time within seven days, and within two days for the second or third time, the matter shall be considered to have been agreed to by the House of Arikis.

"The High Commissioner shall retain the right to refer back as is already specified in the draft Constitution for the Council of State.

"Although it is at present recommended that there shall be a High Commissioner only, who shall represent Her Majesty the Queen, the Government of the Cook Islands would look favourably on a proposal that an Ariki should also represent Her Majesty the Queen if the House of Arikis so requested.

"No law shall be enforceable on any island where such law runs counter to traditional land usage unless requested by the Arikis and/or Kavanas of the island."

292. In a further discussion on the motion before the House adjourned for the day, the Opposition submitted an amendment proposing that the following words be added at the end of it:

"and that the wishes of the Arikis be obtained before this motion becomes part of the Constitution".

293. In adjourning the Assembly, the President said that he, Dr. Tamarua, the Leader of Government Business, and Mr. Albert Henry, the Leader of the Cook Islands Party, were boarding a ship in the afternoon of that day for New Zealand. He then stated that it was the democratic right of the people to elect those whom they wished to represent them in the Legislature, and it was the right of those who were elected to have freedom of speech. It might seem oppressive to the minority when they were defeated and the majority might be annoyed by the criticism of the minority. But it was the duty of the majority to bring forward what they thought was good for the people. It was the right of the minority to point out what they considered to be defects with regard to the actions of the majority. He would urge members not to take to heart the debate that had taken place across the floor of the House. That was the essence of democracy. He wished to say how much he enjoyed the strength of the debating. Without meaning to criticize the past Assemblies, the debate in the present Assembly was without doubt the best. He would congratulate all the members on the splendid manner in which they presented their arguments. There had been a small difference with the Chair, but he had no doubt about the regard which members had for the Chair. He would convey the good wishes of the members to the Minister for Island Territories and the Parliament of New Zealand when he got to Wellington.

294. He informed the House that, in his absence, Mr. M. L. Hegan, Secretary to the Government, would act as President of the Assembly.

295. Dr. Tamarua, Leader of Government Business, said he was appointing Mr. Strickland, his Deputy, to be Acting Leader of Government Business in his absence.

296. In a short speech, Mr. Henry, Opposition member, wished the delegation to New Zealand a pleasant trip. The Opposition had hoped for a three-man delegation in which they were all set to place their faith and trust. The whole House, he was sure, would support him if he said that the Assembly and the people were putting their faith and trust in the three members of the delegation and it was their hope that the delegation would be honest and do justice by the Assembly.

297. Dr. Tamarua, in a brief reply, thanked Mr. Henry for his kind words and pledged that the delegation would do its best to deserve the trust which Mr. Henry, on behalf of the Assembly, had placed in it. Whatever the deliberations in New Zealand, Dr. Tamarua said, the delegation would act in the best interests of the whole of the people of the Cook Islands.

298. On 18 May, the Assembly continued consideration of the motion dealing with the proposed House of Arikis. Two further amendments were proposed. Under one, the amendment which had been introduced by the Opposition was further amended by the majority Party to the effect that the consent of the Arikis should be sought, provided such consent would have no bearing on the date for the promulgation of the draft constitution. Mr. William Estall, the Opposition spokesman, also proposed an amendment which would have the Assembly request the establishment of a House comprising all the Arikis of the Cook Islands.

299. In compliance with the Assembly's Standing Orders which provided that in a debate the last of a series of amendments on the same question should be taken first, the Assembly first considered the sub-amendment of the majority Party and which, following a brief discussion, was carried by a vote of 12 in favour and 8 against.

300. The President then called for consideration of the Opposition amendment, as amended, and which in its revised form, read as follows:

"That the wishes of the Arikis be obtained before the motion becomes part of the Constitution, provided that the consent of the Arikis shall not have a bearing on the date for the promulgation of the self-government Constitution."

301. Mr. Henry, Opposition member, protested the consolidation of the two amendments into one. It had put them in an invidious position, he said. While they agreed with the first part of the consolidated version, they did not agree with the second.

302. The President pointed out that that was one of the facts of parliamentary procedure. Consolidation of the two amendments into one was correct and proper.

303. In a light-hearted exchange which followed, Mr. Strickland, Acting Leader of Government Business, said he endorsed the President's remarks. The practice was proper, and was in accordance with parliamentary procedure. If the Opposition found itself cornered, it was only right that the prescribed procedure be observed. The majority Party's amendment could not at that stage be taken without that of the Opposition. He would request the consolidated version of the amendments to be put to the vote.

304. Mr. Estall, Opposition spokesman, said he too endorsed the President's remarks. They would

exercise their freedom of expression to express their views against that part of the motion which they did not like, and vote for the part which they agreed with. The day before, the majority Party members were against the amendment submitted by the Opposition. Now both sides of the House were acting in harmony.

305. In an almost unanimous vote, the consolidated version of the amendment was carried. The only member who shouted "Naye" in the voice vote, was Mr. Tangaroa, an Opposition member, the other seven members of the Opposition having voted with the twelve members of the majority Party.

306. The Assembly then reverted to consideration of the amendment proposing the establishment of a House comprising all Arikis. After a few speeches, Mr. Estall, Opposition spokesman who had introduced the amendment, withdrew it. Since the Assembly adopted the amendment providing for further consultation, he was of the view that the question which he had raised in his amendment was one of the matters on which the Arikis would be consulted. It was one of the details which could be thrashed out during the consultation with Arikis, he stated.

307. The Assembly then resumed consideration of the substantive motion which, as amended, read as follows:

"This Assembly recommends to the New Zealand Government that there shall be a House of Arikis consisting of one Ariki from each of the eight Outer Islands or island groups, and six from Rarotonga. This House shall be a consultative body with the Government in matters pertaining to land and native custom and any other matters on which the Government may require advice from the Arikis. On matters pertaining to land and custom and any other matter specified by law, the House of Arikis shall have the power to refer back to the Legislative Assembly and/or Cabinet up to three times and after the first time may demand consultation with the Cabinet. If there has been no reference back the first time within seven days, and within two days for the second or third time, the matter shall be considered to have been agreed to by the House of Arikis.

"The High Commissioner shall retain the right to refer back as is already specified in the draft Constitution for the Council of State.

"Although it is at present recommended that there shall be a High Commissioner only, who shall represent Her Majesty the Queen, the Government of the Cook Islands would look favourably on a proposal that an Ariki should also represent Her Majesty the Queen if the House of Arikis so requested.

"No law shall be enforceable on any island where such law runs counter to traditional land usage unless requested by the Arikis and/or Kavanas of the island and that the wishes of the Arikis be obtained before this motion becomes part of the Constitution, provided that the consent of the Arikis shall not have a bearing on the date of promulgation of the internal self-government Constitution."

308. The following is a summary of the views which were expressed by the Opposition in the resumed debate.

The advocates of a House of Arikis claimed that their aim was to create for Arikis a more effective role in the government of the country than they would have had under the provisions relating to the Council

of State. The proposed House should, in that case, be given the power to repeal laws affecting land, otherwise the Assembly would be showing no respect for the institution of Arikis. The idea of a House consisting of Ariki members, chosen on a population basis, was dangerous. It would cause conflict and dissatisfaction among the Arikis in the same way as, it was claimed, selection for membership of the proposed Council of State would have. Instead there should be a House comprising all the Arikis of the Cook Islands.

The selection of Arikis on a population basis would be an impossible task, as the traditions and customary laws relating to Arikis differed from island to island. According to Maori custom, an Ariki was held in the same regard as the King. An Ariki "does no wrong". The idea of the proposed House would reduce the Arikis to a position where they would have to take decisions for which they might sometimes be blamed. It would reduce them to the position of a messenger. The sinister purpose, behind the idea, was to put the Arikis in a House which was no more than a talking shop, where their power and authority would be further curtailed, and where they would be deprived of whatever was left of their prestige. If the advocates of the proposed House meant well, they should welcome the suggestion that it should be given effective power, at least in so far as matters relating to land and the institution of Ariki itself were concerned.

309. The following is the summary of the views which were expressed by the majority Party members.

The Cook Islands Party had consulted many of the Arikis before deciding to request the establishment of the proposed House. They had no objection to further consultation. It was never their intention to come to a conclusion on the question without such consultation. The Arikis already had their *mana*, they merely wished to have it recognized. In the proposed House, the Arikis would play a more important role than they would have in the proposed Council of State. The House would give the Arikis the opportunity to meet one another, and exchange views and experiences regarding the customs and traditions of various Islands. The Party did not favour the idea of a House consisting of all the Arikis of the country because of the financial implications. They did not think the country could afford the money it would cost to bring all the Arikis to Rarotonga for meetings of the House. They did not agree to the suggestion that the selection of Arikis on a population basis for membership of the House would be a complicated task. They had worked out a procedure which would facilitate that task.

310. In a voice vote, the substantive motion, as amended, was adopted. Again, seven of the Opposition members voted with the members of the majority Party, with only Mr. Tangaroa, again, voting against.

311. The Assembly finally considered the seventh motion on the Supplementary Order Paper. It read as follows:

"That this Assembly gratefully re-affirm its acceptance of the principle of full internal Self-Government for the Cook Islands, as embodied in the draft Constitution trusting that the modifications to the draft Constitution to be requested by this Assembly will meet the approval of the Government and Parliament of New Zealand."

312. In a short speech introducing it, Mr. Strickland, Acting Leader of Government Business, said the motion was self-explanatory. In 1963 the last Assembly accepted internal self-government as the most suitable form of government for the Cook Islands. In a formal decision the old Assembly reaffirmed its acceptance of self-government. The object of the motion was to reaffirm the Assembly's decisions for the last two years regarding the question.

313. Following secondment of the motion by Mr. Dashwood, majority Party member, Mr. Tangaroa, Opposition member, and a member of the former Assembly which endorsed self-government, made a statement. He did not wish the decision of past Assemblies reaffirmed. He had told the House what his people in Penrhyn wanted. He had been re-elected unopposed on one condition. The people of Penrhyn said he had brought them into this business of self-government. They would re-elect him so that he could take them out of it again. He had walked out at an early stage of the meeting, because he did not wish to be associated with any discussion on self-government.

314. Upon walking out, he and Mr. Pupuke Robati, Opposition member for Rakahanga, had sent to the Government of New Zealand, a telegram which read as follows:

"The people of Penrhyn and Rakahanga whom we represent, have requested that we humbly place their desire before you. They hope you will give a favourable consideration to their appeal. They strongly oppose internal self-government. They prefer integration with New Zealand."

315. He stated that this was what his people wanted. Would members of the Assembly gladly see Penrhyn and Rakahanga excluded from the Cook Islands? He was acting on the instructions of his constituents. If anybody challenged this, he would be quite willing to resign in order to have it tested in a by-election. The views which he had been expressing during the meeting were not his own thoughts. He would urge the United Nations Mission to take note of the wishes of the people of Penrhyn.

316. Mr. Robati, Opposition member for Rakahanga, confirmed that he and Mr. Tangaroa had cabled an appeal to the Government of New Zealand. He proposed that the motion be amended by removing the words "this Assembly" and replacing them with the words "the Cook Islands Party". In their cable, he and Mr. Tangaroa had informed the New Zealand Government that the people whom they represented did not want self-government. The object of his amendment was to make it clear they were not a party to the adoption of the motion. The amendment motion was lost in a voice vote.

317. In the debate on the substantive motion, the Opposition members reiterated the views which they had expressed during the debate on their motion proposing deferment of the adoption of the draft constitution, and made new points.

When those of them who were members of the old Assembly had accepted the ideas of self-government, they never dreamt that party government would come to the Cook Islands. They believed that the country would continue under the non-party system of government. During the course of the meeting, discussions had taken place and decisions had been reached. No matter how sound the views of the Opposition were, they had been invariably rejected. No matter

how excellent the suggestions of the Opposition were, they had been turned down simply because they were not members of the Cook Islands Party. They felt that Islands which had not returned Cook Islands Party candidates would be victimized.

318. The Cook Islands Party claimed that the implications of full internal self-government had been fully explained. They would agree with that claim, but were now awaiting full explanation of the alternatives to self-government. Only then could the people judge which of the four forms of government was best for them. Some people might claim that training for self-government began with the introduction of the first Legislative Assembly in 1958. Rome was not built in one day, or in seven years.

319. The association of the Cook Islands with New Zealand was something that the people guarded preciously. When self-government was offered one of the conditions requested by the people was that association with New Zealand should never be severed. This association would be in jeopardy if the country achieved full internal government under the Cook Islands Party Government. They were worried that the powers conferred on the Cook Islands Legislative Assembly under the draft constitution constituted a complete and unrestricted legislative and executive authority, comparable to the power conferred upon the New Zealand General Assembly and Government by the New Zealand Constitution of 1927. The Cook Islands Legislative Assembly was a unicameral legislature, where, with a simple majority, a party could pursue legislative policy of the most far-reaching type. For instance, under Section 64 of the Constitution, the party could take complete control of the public service. Civil Servants had already been warned to keep their mouths shut. The time might well come when it would be an offence to campaign against the party. They were often referred to as the minority, but, from a computation of the election results and judged against the percentage of votes which the Opposition members polled, their voice was the voice of 50 per cent of the people of the Cook Islands.

320. The views expressed by the members of the majority Party were as follows:

The Opposition's tactics had become confusing, they moved from self-government through integration to what now appeared to be secession. Some of the matters raised by the Opposition certainly did not reflect the views of their constituents. If the people of Penrhyn and Rakahanga were so ignorant of what was involved in self-government, what were the members of the old Assembly for the two islands doing for the past year.

It was strange that some of the members of the old Assembly should change their views overnight on the winds of political opportunism. Democracy meant that the majority made the decisions. After the four forms of government had been fully explained, the majority preferred internal self-government. The Cook Islands Party, which stood for internal self-government, had had fourteen of its members returned, the Opposition had had only eight. That was democracy, and one could not expect thousands and thousands of people who voted for Cook Islands Party candidates to wait.

The system under which the Cook Islands were governed, was comparable to a horse and the rider and a person sitting on the tail of the horse. Under the present system, the Government could be likened to the horse, the Resident Commissioner to the rider,

and the people's representatives to the person sitting on the tail of the horse. Whenever the horse kicked, the person sitting on the tail of the horse would fall. New Zealand was offering the people of the Cook Islands the chance to sit on the horse. Like a good parent, New Zealand was offering to provide the saddle, stirrups and bridles. New Zealand had gone further, and offered to be around to help put the people back on the horse if they were to fall off it. There was a situation in the neighbouring Island of Tahiti, where the money was controlled by the Chinese, the Government by the French and the land by the Tahitians. The ideal situation would be for the people of Tahiti to control the money and the Government, as well as the land. The Cook Islands did not want to fall into the same trap as Tahiti. Since the country was a democratic country, if the people who were elected to sit on the horse's back were unable to run the country, they could be thrown out and others could be elected to take their place. Those who were afraid and were threatening secession were not to worry. Fear was defeatist.

The claim that the Opposition represented 50 per cent of the people was wrong. It was also wrong that the Government would interfere with the Public Service. It was the wish of the members of the Public Service themselves that it should come under the Premier. It was a travesty of the truth to suggest that the Cook Islands Party would discriminate against people who did not vote for it during the elections, since the Party was the people's party.

321. The debate had started on 18 May and continued until 19 May.

322. Before the House, was an amendment which would have the Government of New Zealand give an assurance that the Assembly could, at any time in the future, choose another form of Government. Submitted by a member of the Opposition, this amendment was withdrawn at the request of Mr. Estall, Opposition spokesman. Instead, Mr. Estall proposed the following motion:

"That the Assembly reaffirms New Zealand's solemn commitment to the international community, namely the United Nations Organization, that the continuing right of the people of the Cook Islands to frame their future political status will remain unimpaired."

323. On the initiative of the Opposition, both sides of the House reached an understanding. Under it, the majority Party agreed to support Mr. Estall's motion in exchange for an assurance by the Opposition to support the majority Party's motion on reaffirmation of the acceptance of full internal self-government.

324. Mr. Estall said his motion merely sought the reaffirmation of the definite commitment made by New Zealand to the United Nations, regarding the continued right of the people of the Cook Islands to plot their own political future. The motion would reassure those members of the electorate who had requested deferment of the adoption of the draft constitution until the alternatives to self-government had been explained. The Opposition wished to make sure that the people had the right, at a future date, to decide on a form of government other than self-government.

325. Mr. Estall then invited me to help clarify the situation regarding the continued right of the people to determine their political future. With the permission of the President, I made the following statement:

"I have no right to speak or participate in the debate. But since the United Nations is committed in the sense that it had accepted the supervisory role requested of it by New Zealand, it would do no harm if I read out of a public document. There is nothing secret about the document in question. The Government of New Zealand, on 2 February 1965, sent a letter to the Secretary-General to be issued as a public document of the United Nations. I quote from that letter:

"The draft Constitution which embodies the wishes expressed by the present Legislative Assembly of the Cook Islands, is an experiment in self-determination for small island territories which is unique. It provides for free association: full internal government coupled with a voluntary association with New Zealand. When the newly-elected Parliament meets, its first business will be to decide the fate of the Constitution: it can adopt the Constitution as drafted or it can reject it and work out some other status for the territory. If it adopts the present draft Constitution the Cook Islanders' right of continuing self-determination will remain unimpaired. After the Constitution comes into force, they will have sole control of their future, with the right to change their status as they wish. They will have complete legislative autonomy. Once in force, the Constitution will pass beyond the control of the New Zealand Parliament: from then on it can be amended only by or at the instance of the Cook Islands Legislative Assembly' [A/5880] meaning this Assembly.

"As I said, I quoted from the letter of the Government of New Zealand, which was published at the request of the Government of New Zealand as a United Nations official document."

326. Mr. Strickland, Acting Leader of Government Business, pointed out that Mr. Estall's motion merely endorsed Article 41 of the draft Constitution. For that reason, he supported the motion.

327. The two motions were approved unanimously.<sup>11</sup>

### *Observations*

328. My terms of reference required, in addition to supervision of the elections of 20 April 1965, that I observe and include in my report my observations on the proceedings concerning the draft constitution in the newly elected Legislative Assembly. Neither the General Assembly in resolution 2005 (XIX) of 18 February 1965, nor the Secretary-General in his letter appointing me, deemed it necessary to give any directions as to the criteria by which I should be governed in the discharge of this responsibility. My first concern, therefore, was to determine the guidelines which would respond, in the most satisfactory manner, to the letter and spirit of my terms of reference. In this regard, I was convinced that my responsibility in formulating my observations consisted in determining whether or not, in making its decisions, the new Assembly acted out of its own volition, free from dictation from quarters other than the people of the Cook Islands.

329. Under a sub-heading "General considerations", this section of the report deals with the Legislative Assembly as a forum of discussion and an instrument for making decisions relating to the political future of the people, the political maturity of the members and their ability to make effective use of the Assembly. The con-

<sup>11</sup> See annex X for list of motions adopted by the Assembly.

troversial issue of residential qualifications is dealt with under "Residential qualifications". "New Zealand and the Cook Islands" is devoted to the feeling, strongly voiced in the New Zealand Parliament as well as the Cook Islands Legislative Assembly, that consultation of the people should have been carried out through a referendum rather than a general election, and to the hopes, apprehensions and misgivings with which the people's elected representatives enter the new experiment. The Assembly's decisions regarding the new constitution are considered under "Institutional arrangements". Under a final sub-heading, "United Nations and the Cook Islands", I set forth my thoughts regarding the faith of the Cook Islands people in the United Nations.

### *General considerations*

330. A striking phenomenon regarding the situation in the Cook Islands is the precious little evidence there is of any effective share the indigenous people may have in the administration of the country. As indicated elsewhere in this report, the attempt at associating the local people with the affairs of Government began as early as 1946, with the establishment of a Legislative Council. But in 1954, eight years later, the opinion of two economists who had studied conditions there and which was referred to by the Minister for Island Territories in a speech in Parliament, was that there was "apathy and a lack of co-operation between the people and the Administration" and that "local responsibility for decisions should be greatly increased". As recently as September 1962, Mr. R. G. Crocombe of the School of Pacific Studies at the Australian National University, Canberra, in a paper on the Cook Islands, said that the relationship between the country and New Zealand was "essentially a colonial one". Mr. Crocombe stated further:

"While the above changes introduce an element of autonomy into the local Governments, its degree is severely circumscribed in fact. The Island Territories are not permitted to legislate on reserved enactments, and, with the exception of a few insignificant clauses, the whole of the act by which the Islands are governed is declared a reserved enactment which can only be amended by legislation passed by the Parliament of New Zealand. And in the mainland Parliament, the people of the territories are not represented. The Executive Committee meets only infrequently and is little used as an instrument for the formation or execution of policy.

"The Administration operates on colonial lines. The Senior Official on each Island is President of the Council of that Island, Head of its Public Service, Chief of its Police Staff and Magistrate. With the exception of Rarotonga, more than 90 per cent of regulation wage and salary employment is paid by the government, and the selection and promotion of most employees is done either by the Resident himself or is subject to his recommendation. Paid employment is keenly sought after and in most instances Councillors or some members of their households are employees of the government. In his judicial capacity the Resident dispenses punishments for all but the most severe offences, and in view of the fact that there is an average of one criminal charge for each adult male each year, there are few households indeed wherein some member is not brought before the Resident during his term of office.

"As an example of the many powers exercised by Residents, the people of many islands must request the Resident's permission if they wish to hold a dance, pictures or other evening entertainment, and the Resident, if he grants permission will set the hour at which the function must cease. There appears to be little justification for such comprehensive powers being invested in the Residents, almost all of whom are Europeans imported from New Zealand and almost none of whom have received any training for the posts they hold."

331. In a footnote he considered that Rarotonga, the main island, was an exception, for there the administrative and judicial posts were clearly differentiated and the Island Council exercised many of the functions performed by the residents in other islands.

332. Mr. Crocombe's paper, which appeared in the issue of September 1962 of the review, *Pacific Viewpoint*, was based on references which were listed in a footnote.

333. In July 1962, a very senior member of the Government of New Zealand implicitly recognized that the reforms of the past had not brought to the indigenous people, in practice, the share of the control of their internal affairs envisaged in spirit. In a speech on 12 July of that year in Rarotonga, pledging the establishment in the Cook Islands of full internal self-government "as soon as is reasonably possible", Sir Leon Götz, Minister of Island Territories said: "We think that within the next two or three years, you should be in a position to assume control of your own affairs, with your own ministers, own chairman of assembly, and with the widest possible powers of legislation." The Resident Commissioner, he added, would cease to be the Administrator of the Territory and would become the constitutional head of government, a position in some ways comparable to a Governor-General.

334. Some of the circumstances in which the first meeting of the new Assembly was held could leave the objective observer with one impression: the tendency on the part of New Zealand officials to run the Administration for the people had not quite yet become a phenomenon of the past, and whatever experience the people's representatives may have gained from the experiment which began with the introduction of the Legislative Council in 1946 was not terribly strongly in evidence. The following are a few examples of the circumstances which, in my view, would seem to justify this impression.

335. It was known during the electoral campaign that the issues considered crucial by the Cook Islands Party, the majority Party in the new Assembly, were the question of residential qualifications and the Party's commitment to full internal self-government. The two questions having been the subject of a solemn election pledge by the Party, it was obvious they were the first issues on which the Party would call for a debate as a matter of urgency. At least one week before the commencement of the meeting, the Party had given formal notice of the motions through which it planned to seek implementation of its policy regarding the two issues.

336. It was clear from the discussions of the days immediately preceding the commencement of the meeting that while the Party wanted the Assembly to consider, as a first thing first, the two questions with a view to requesting effective action for an immediate solution, the Resident Commissioner favoured consideration and adoption of the draft Constitution. The

key motion which the Assembly needed to adopt in order to proceed with its business unencumbered, concerned its Standing Orders. That motion read as follows:

"That the Standing Orders be suspended in order to allow the Executive Committee to be elected and motions debated, and also to restrict the proceedings of this first meeting to Constitutional matters only."

337. A circular letter notifying the members of the date of the commencement of the meeting stated that it was being convened "solely to consider matters relating to the Constitution Bill" and further that "no other matters" would be discussed. Both the motion and the circular letter were drafted not by Cook Islanders but by New Zealand officials. Indeed the Resident Commissioner, Mr. O. A. Dare, told me that he personally drafted the text of the motion.

338. Whether it was the object of those who drafted the motions to have the proceedings restricted to consideration of the draft constitution only or whether it was merely a matter of defective drafting, it was difficult to say with certainty. But as I have indicated earlier, the wish of the Cook Islands Party to have the Assembly consider other matters was common knowledge. The Party's motions had been submitted and had already been included on the Order Paper for the meeting. There could have been no doubt in anybody's mind that the questions raised in those motions would require consideration of the Cook Islands Amendment Act, 1964 as a matter of priority. And the question was why were both the circular letter and the motion relating to the Standing Orders formulated in such terms as could only place limitations on the people's elected representatives as to their freedom of choice regarding the questions they wished to consider. The question is all the more pertinent, as the object of the circular letter and the motion correspond with what was reported to be the expressed wish of the Resident Commissioner.

339. In fairness to the Resident Commissioner, it ought to be noted that when the Opposition, during the debate, sought to exploit the adoption of that motion as valid reason for objecting to consideration of the question of the residential qualifications in so far as it was affected by the Cook Islands Amendment Act, 1964, he as President of the Assembly, ruled in favour of the majority Party. The issue provoked a walk-out and a crisis which seriously threatened to paralyse the meeting. This crisis, in my view, would have been better avoided if the motions relating to Standing Orders were formulated in terms which left no doubt as to the competence of the Assembly to consider all the motions which were before it.

340. There was another aspect of the meeting that would seem to justify the impression that, although the changes which had taken place since 1946 introduced an element of autonomy, "its degree was severely circumscribed in fact". I refer to the role of the Resident Commissioner in his capacity as President of the Assembly, particularly with regard to the proceedings as recorded in the summary of debates.

341. First there was the incident relating to the request by Dr. Tamarua, Leader of Government Business, that the Assembly consider motion No. 7. The President's remarks following the request were: he would gladly agree unless any of the members objected on the ground that they were not prepared. After only two of the Opposition members had objected, he asked whether there were any more objections. Even though there were no more, he ruled against the request. He

said he believed that there were others who were not prepared for a debate on the motion. The request of the leader of the majority Party was thus rejected through a decision of the Chair which was based on an assumption which was hardly borne out by the facts of the situation. These included the fact that a request by the Leader of Government Business, the equivalent of the Prime Minister, had the support of all twelve members of the Cook Islands Party in the Assembly. Of the eight Opposition members, only two objected formally to the request. The question was: what, in the circumstances, was the basis for the President's assumption that the number of members who were not prepared for a debate on the motion was important enough to justify a ruling against the request. The President's role is even more difficult to understand when it is noted that at a later stage of the meeting, he permitted the Assembly, at his suggestion, to consider motions out of turn without any concern as to whether the members were prepared or not.

342. Stranger still was the President's role in connexion with an incident relating to another motion submitted by the majority Party dealing with the proposed House of Ariki. In circumstances that could be described only as curious, an Opposition motion, introduced without due notice, was allowed to take precedence over the motion submitted by the majority Party and which had been on the Order Paper right from the commencement of the meeting. I refer to the incident which is reported in the summary of debates. What began as an amendment motion became a substantive motion with the request that it should be considered as a matter of urgency. The President then promptly granted this request, and ruled that the Assembly take the Opposition motion before that of the majority Party.

343. These were only a few of the incidents which justify the view that, in determining procedure and the questions which the Assembly should consider, the influence of the Chair was brought to bear more than the weight of the majority Party. It could be argued that the Cook Islands Party should have used its majority vote to ensure that its will prevailed. In order to ensure that consideration of this proposition is not divorced from the realities of the situation, it might be useful to examine the advantages and weaknesses of the new Legislative Assembly as a forum of discussion and an instrument for making decisions, and the ability of the members to make effective use of that instrument.

344. While the new constitution awaited ratification, the procedure of the new Assembly was governed by Standing Orders based on the 1957 Cook Islands Amendment Act. Section 35 of that Act, which is of supreme importance in this respect, reads:

"(1) The Legislative Assembly shall meet at such places and at such times (not being less than once annually) as the Resident Commissioner from time to time appoints in that behalf.

"(2) The Resident Commissioner shall be entitled to preside over every meeting of the Assembly; but if he is not present at any meeting, the members of the Legislative Assembly present shall elect one of their number to preside over that meeting.

"(3) Every question before the Legislative Assembly shall be decided by a majority of the votes of the members present.

"(4) Every member present when any question is put to the Legislative Assembly shall vote thereon.

"(5) The Resident Commissioner or member presiding over any meeting of the Assembly shall not have a deliberative vote, but, in case of an equality of votes, he shall have a casting vote.

"(6) No business shall be transacted at any meeting of the Assembly if the number of members present is less than fourteen.

"(7) Subject to the provisions of the principal Act and its amendments (including this Act), the Legislative Assembly may from time to time make Standing Orders for the regulation and orderly conduct of its proceedings and the despatch of business."

345. Notwithstanding the provisions of the Amendment Act of 1957, the new Assembly can elect a person other than the Resident Commissioner as Speaker under a practice which was established last year, reportedly on the initiative of Wellington. Under it, the Resident Commissioner was to absent himself as often as possible from sittings of the Assembly to enable a person of the Assembly's choice to act as Speaker.

346. The Cook Islands Amendment Act, 1964, as a transitional measure, suffered from a series of *lacunae* in some respects, including its provisions concerning the new Legislative Assembly.

347. The question of a Speaker was a case in point. The new Assembly was different from its predecessors in the very material sense that it was destined to make historic decisions regarding the Territory's future political status. Instead of leaving it to the practice which was established last year, it may have been better to make specific provision in the Amendment Act of 1964 for the election of a speaker.

348. Even more glaring was the omission relating to decisions of the Assembly. Under the terms of the 1957 Amendment Act, every question "shall be decided by a simple majority of the members present". Since this procedure had not been altered, it applied to decisions of the new Assembly. In fact, the proposals for changes in the draft constitution which were considered by it, became formal decisions upon receiving a simple majority vote.

349. I was unable to find a tangible justification for the fact that the 1964 Amendment Act did not provide for a special procedure for decisions by the new Assembly relating to the draft constitution, particularly as a stiffer procedure had been envisaged for the modification and the repeal of the draft constitution itself once it becomes law (article 41(1)).

350. Finally there was the crucial omission concerning the quorum of the Assembly. When under the provisions of the draft constitution, the membership of the Assembly was reduced from 26 to 22, a consequential change in the provisions of the law regarding a quorum became imperative. The logic behind the quorum prescribed under the 1957 Amendment Act was obvious. It was clearly intended that at least 50 per cent of the members should form a quorum, and fourteen was the nearest number to 50 per cent of twenty-six. If this logic were applied to the new Assembly, and it is difficult to see how it could be otherwise, only twelve should form a quorum in the new Assembly. This becomes particularly obvious when it is realized that the draft constitution itself, by its article 34, prescribed a quorum of only twelve.

351. These are matters which, within a restrictive interpretation of my terms of reference, would perhaps be regarded by some as falling beyond my competence.

But the considerations which compelled me to concern myself with them are, in my opinion, unassailable.

352. As the Resident Commissioner recognized, the offer of the Chair to him "until such time as a Speaker is duly elected" was a gesture on the part of the Cook Islands Party. I am second to none in recognizing the great benefit which the new Assembly, in the conduct of its business, derived from the Resident Commissioner's experience and knowledge of parliamentary procedure. Provision had, however, been made in the draft constitution establishing an Office of the Speaker to be filled by a person of the Assembly's own choice. The necessary consequential amendment of the law should have been effected under the 1964 Amendment Act.

353. The omission relating to the question of a quorum provoked a crisis to which reference has already been made in the summary of debates. In the dramatic situation which developed, the business of the Assembly was pretty close to complete paralysis. The majority Party was shaken. The Resident Commissioner, both as President of the Assembly and head of the Administration, was embarrassed.

354. When the eight Opposition members returned to their seats, it was not without a chip on their shoulders. By walking out, they proclaimed proudly, they exercised a right to which they were entitled. Mr. Geoffrey Henry, Opposition member who spoke for the Opposition on the matter, stated further:

"I want to make it known now to Members of this Assembly, to the people of Rarotonga who may have received some twisted information, and to all the people in the Cook Islands who may be curious for further information, that we could have stayed out for a much longer period. This Assembly cannot conduct any business without a quorum. We know this full well. Yesterday the President came and reasoned with us, and I am sure he will agree that he found us quite reasonable."

355. If the crisis had not been resolved it would have inevitably led to the invidious situation in which the minority would have crippled the Assembly with impunity, and the majority, contrary to all established parliamentary procedure, would have been held at ransom.

356. In determining the extent to which the Cook Islands Party could have used its majority to ensure the prevalence of its will, there is another factor that ought to be borne in mind. All but two of the Party's members had had no experience in parliamentary procedure. This applied to a lesser degree to the Opposition. One gathered the impression that the circumstances in which the new Assembly was elected, had inspired in the people's elected representatives a resolve to make decisions independently of the "guiding influence" of the omniscient omnipotent New Zealand officials. This view applied in equal measure to the members of the majority Party as to the Opposition, and was borne out by the frequency with which both approached me for counsel, often after they had had the benefit of the advice of the Resident Commissioner. It would be, in my considered opinion, disregarding the limitations of human nature to expect a complete break, overnight, from the effect of such "guiding influence" which, it must be admitted, had salutary as well as insalutary elements.

357. Whatever the quarter from which the idea originated, it is noteworthy that the Cook Islands Party

extended to the Resident Commissioner the gesture of inviting him to occupy the Chair for the meeting, although it could have chosen someone else for the post. The Party, it must be admitted, suffered some initial reverses in consequence of the procedure which the new Assembly inherited from the law and from the practice established by past sessions of the Legislative Assembly. But in so far as the end results were concerned, it would be reasonable to conclude that the Cook Islands Party, as the majority Party in the Assembly, was able to ensure that its will prevailed. In equal measure, the Opposition was effective in getting its suggestions incorporated in the decisions of the Assembly, and, wherever it failed, in ensuring that its views were placed on record.

#### *Residential qualifications*

358. The qualifications prescribed under the existing electoral legislation for electors and members of the Legislative Assembly included for the former a one-year uninterrupted residence in the Cook Islands and for the latter a three-year continuous residence in the country. This provision of the law provoked a serious political crisis which had hung fire since 1963 and of which the repercussions were not confined to the Cook Islands and its Legislature but were also felt in New Zealand where it was the subject of many an animated debate in Parliament and of extensive vigorous coverage in the Press. As indeed the electoral campaign and the debate in the new Assembly had shown, this, even more than the public feeling was universal, deep-seated and at times inflamed.

359. The new Assembly unanimously adopted a motion requesting amendment of the law to enable a person who had been residing in the Cook Islands for an uninterrupted period of three months, whether born in the Territory or outside, to qualify for enrolment as an elector or nomination as a candidate, provided that he or she had at some period resided in the Cook Islands for not less than twelve months. Initiated by the Cook Islands Party in fulfilment of an election pledge, the motion in its final form was the result of a joint effort by the Party and the Opposition. Although with the adoption of this motion the stage was set for a solution of the question, it would go down in history as one of the most significant issues in the political life of the people. I felt therefore that this report would be incomplete without an exhaustive study of its origins and of the role of the parties, including the New Zealand Government, in the controversy which it provoked.

360. Residential qualifications were first introduced under the provisions of the Cook Islands Legislative Assembly Regulations 1958, promulgated by the New Zealand Government in exercise of powers conferred upon it by the Cook Islands Amendment Act, 1957. This required a residential qualification of three years for members of the Legislative Assembly. The purpose, I gathered, was to prevent non-Cook Islanders, including New Zealand Europeans, from taking an effective part in the Territory's political affairs, and, in particular, from qualifying for membership of the Legislative Assembly until they had been in residence in the country for at least three years. No residential qualifications were prescribed for electors. The relevant section of the regulations reads as follows:

*"Additional qualification of members elected by European or Native constituencies—*

*"(1) Without limiting the provisions of regulation 8 hereof, no person shall be capable of being*

*elected as a member by the electors of the European constituency or of any Native constituency unless—*

*"(a) He is an elector duly registered under Part V hereof; and*

*"(b) He has resided in any part of the Cook Islands for not less than three years immediately preceding nomination day.*

*"(2) Subject to the provisions of these regulations—*

*"(a) Every registered elector of the European constituency shall be capable of being elected as a member for that constituency or for any Native constituency.*

*"(b) Every registered elector of any Native constituency shall be capable of being elected as a member for that constituency or for any other Native constituency or for the European constituency."*

361. Once it was realized that *bona fide* Cook Islanders were equally affected by the law, a request was made for its repeal. This request developed into a political campaign, spear-headed by Mr. Albert Henry, Leader of the Cook Islands Party, living at the time in New Zealand. Mr. Henry pursued a vigorous political action canvassing for the support of the Cook Islanders resident in New Zealand as well as in the Territory itself. This touched off a counter-action led by Mr. Dick Brown, Leader of the majority group in the old Assembly. Mr. Brown and his supporters in the old Assembly not only favoured maintenance of the three-year residential qualifications for candidates, but also advocated a one-year residential qualification for electors. Thus began the controversy in which the Government of New Zealand became the unfortunate third party.

362. Matters first came to a head in 1963 during consideration by the old Assembly of the recommendations of the constitutional experts who had been assisting the Assembly in the formulation of the draft Constitution. The old Assembly first endorsed the report of the experts, including a recommendation that the residential qualifications for both electors and candidates be reduced to three months in the case of persons born in the Cook Islands and resident there for three months immediately preceding an election, and to twelve months in the case of persons not born in the Territory. In a subsequent decision, however, the Assembly requested maintenance of the three-year qualification for candidates and the establishment of a one-year qualification for electors.

363. The question was raised again in the Assembly in September 1964, during detailed consideration of the draft Constitution. A petition, signed by 2,280 people requesting the elimination of the three-year qualification for candidates and presented to the Assembly by one of the advocates of the repeal of the law, provoked a debate in which parties to the dispute enunciated their attitudes and a representative of the New Zealand Government made a statement setting forth the views of his Government.

364. The following are excerpts from the speeches of those who were against the revocation of the law:

*"Why is it that people who have left us in the mud now come crawling back to us and say, 'Gentlemen, you are wrong in running your country'. Why didn't they have the guts to stay here and work for the good of the people?..."*

*"I know that many people feel that the so-called Albert Henry is a widely experienced man because*

he has been for so many years in New Zealand. While there he gained quite a bit of experience of political matters, and is very outstanding. To that I have no objection, but I feel that when a person like this has gone away from his own land, to me, he looks like someone as is told in the story written in the Bible, about a Jew who went past his neighbour who was robbed on the highway. There he was lying on the ground, wounded and robbed of all his jewellery, and this Jew never bothered to help his neighbour.

"There was mention, Mr. Chairman, of the seed of the Cook Islands. I admit that he is a seed of the Cook Islands but I cannot see any faithfulness in that seed, in spite of all the experience and the wide knowledge he has gained in many years he has been in New Zealand."<sup>12</sup>

365. The following are excerpts from the speeches of the advocates of the repeal of the law:

"What grounds have we for maintaining this three years residential qualification for candidates. The Cook Islander going to New Zealand is only required to reside there for one year before he can become a candidate for Parliament, whereas we say that he must reside in his own homeland for three years before he can stand for election...

"I venture to say, Sir, that had it not been for one person, and one person alone, we should never have been greatly concerned whether this clause had been for 30 days or for 300 years. We were more concerned with the threat perhaps to some of our own seats than in the return of certain people from New Zealand who wished to devote themselves to the welfare of their fellow Cook Islanders. The person I have in mind, and to whom I have just referred, is Mr. Albert Henry. That, Sir, I think, has placed the ball firmly in the centre of the field, and I propose we kick it off from there."<sup>13</sup>

366. I felt there was hardly any need to go beyond these excerpts in determining the considerations which led the members of the old Assembly, some to demand modification of the residential qualifications and others to request even stiffer provisions. The advocates of change forced the issue to a formal vote by introducing a motion embodying their proposals. The motion was defeated by 16 votes to 3.

367. Subsequently, the majority group in the Assembly sent to New Zealand a four-man delegation, consisting solely of its supporters in the Assembly and led by Mr. Dick Brown, then Leader of Government Business. The delegation was accompanied by Mr. O. A. Dare, the Resident Commissioner. With only a few weeks to go before the draft constitution and the Amendment Act of 1964, providing the necessary transitional measures, went through the New Zealand Parliament, opposition to maintenance of stiff residential qualifications had built up to a point where it looked as if the advocates of change might have their way. The purpose of the delegation was to placate this growing concern in New Zealand. They were received by a Select Committee of the New Zealand Parliament, and, in a hearing, argued their case for the maintenance of stiff residential qualifications.

368. Already the majority group in the old Cook Islands Legislative Assembly was getting critical of

the Government of New Zealand. In the debate in the Assembly preceding the dispatch of the delegation a member of the Group, Mr. Pokino Aberahama, had the following to say:

"The Hon. Mr. Dashwood mentioned in moving his amendment, that this three year period is causing concern to the Government of New Zealand. I do not know why it would cause concern, unless it is because there is interference or some objection being raised by a person who is entirely outside of this Assembly. Is it not true that the New Zealand Government would abide with the resolution made in the deliberations of the Assembly of the Cook Islands? Three years residence qualification is the wish of the people, so the New Zealand Government will be awaiting what is the final decision from this Assembly. And what the Assembly resolved is the wish of the people of the Cook Islands."<sup>14</sup>

369. The administering Power found itself in a situation in which it believed it had only two alternatives. It was confronted with what was being canvassed as the formal request of the Cook Islands Legislative Assembly and "the wish of the people of the Cook Islands". It could say it knew better, could have rejected this request, and, in that case, would have made itself open to the criticism that it had behaved like a pompous colonial power in the patronizing fashion typical of colonial powers. Or else it could take the view that if this was indeed the advice of the people's own elected representatives, it had no choice but to comply with it.

370. The Government of New Zealand took the latter course of action. Provision was made for a three-year residential qualification for candidates and a one-year residential qualification for electors, not only in the draft constitution but also in the Cook Islands Amendment Act, 1964. In the debate in the New Zealand Parliament on the draft Constitution, J. R. Hanan, Minister of Island Territories, defended the Government's decision. Some representations had been made regarding the residential qualifications, he said. He continued:

"The provision has been part of the law of the Cook Islands since 1958, and at least some part of the reason for it was the desire of the then Government that persons should be excluded from candidature who were mere political opportunists willing to stay and work in the group only if their bid for election was successful. It seems that it was for similar reasons that the present Assembly decided to continue this apparently controversial requirement, even though it could be a hardship in some *bona fide* cases. The Government takes the view that this is a domestic question, and although in the Bill as we introduced it originally in the House we provided for one year in this case, the Government is inclined to the view that we should accept the opinion of the elected representatives of the present Assembly."<sup>15</sup>

371. The Minister's defence did not satisfy his critics in Parliament. The Leader of the Opposition, Mr. A. H. Nordmeyer, said whatever the justification was for the three-year qualification for candidates when it was introduced in 1958, he felt strongly that the position was no longer the same and that it would be wise for Parliament to give a one-year residential qualification either for an elector or for a candidate for the Assembly. He went on:

<sup>12</sup> See *Proceedings of the Cook Islands Legislative Assembly*, vol. VII, pp. 294-438.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> See *New Zealand Parliamentary Debates* (Hansard), No. 23, October 1964, p. 2832.

"I believe that would be much more democratic than the present proposal, but I am bound to say that the Assembly itself—the present limited Assembly in the Cook Islands—have a vote on this question, and I think by 16 votes to three—I am quoting from memory, but I think the figures are correct—with three abstentions, decided that the three-year qualification should apply so far as candidates were concerned. We had a good deal of evidence on this matter, and no doubt it will be an issue at the coming election in the Cook Islands; but I must say before I sit down that in my view the House would be wise to give consideration to this question and, I hope, come to the conclusion that if a person can qualify to go on the electoral roll or to be elected as a candidate 12 months after his arrival here, then the same principle should apply so far as the Cook Islands are concerned."<sup>16</sup>

372. Other speeches, critical of the Government's decision, were made during the debate. The Prime Minister, Mr. Holyoake, intervening, in the debate, referred to the question. Article 24 of the draft constitution relating to electoral rights and residential qualifications was asked for by the Cook Islands Legislative Assembly, he pointed out. Then he declared:

"I am not going to express an opinion on those matters, because I do not want to lend myself to something which will be battled out in the Cook Islands, and which is the business of the islanders. They have had two elections. Residential qualifications are set out in regulations passed by the Labour Government in 1958, I presume at the request of the Cook Islanders, and they ask that elections should continue under the same regulations. They can amend them, if they want to, in the next Parliament, but they do not want any amendment before the next election. In the islands there is an 18-year-old franchise. I do not agree with that, but perhaps the honourable member does. Whatever the Cook Islanders do is entirely over to them."<sup>17</sup>

373. Still the critics of the Government were far from satisfied. They forced the matter to a vote in a formal motion proposing amendment of the draft constitution to provide for a twelve-month residential qualification for electors and candidates. The motion was defeated by the narrow majority of four, 35 voting against and 31 voting in favour.

374. That was how the three-year residential qualification for candidates was maintained and a new twelve-month residential qualification for electors was established by an Act of the New Zealand Parliament. And I could not help aligning myself with the Government's critics in Parliament and the Press in New Zealand itself, who felt that there was possibly a third course of action open to the administering Power.

375. It would appear that the claim that Parliament acted on the advice of the Cook Islands Legislative Assembly, does not entirely absolve it of its duty to pay due regard to certain internationally accepted principles of legislation. This view is strengthened by the fact that it was known that the legislation which Parliament was being called upon to enact would result in the disfranchisement of about 3,000 *bona fide* Cook Island citizens living in New Zealand who were eligible electors and represented over 30 per cent of the registered voters in the Cook Islands. This view finds

further reinforcement in the fact that comparable laws in New Zealand itself prescribe a three-month residence for electors and a one-year residence for candidates.

376. In dealing with this matter, nothing was further from my mind than any attempt, wittingly or unwittingly, to question the wisdom of the Cook Islands Legislative Assembly for tendering its advice, or of the good intentions of the administering Power in accepting such advice. But one of the internationally accepted principles of legislation which I could not help bearing in mind, was the one regarding discriminatory legislation. It was obvious that the Government was privy, at the time it received such advice, to the object of the legislation it was being called upon to enact. The object was to disfranchise Cook Island citizens living in New Zealand, and to prevent them from participating in the elections either as electors or candidates. Indeed, it was suggested that this particular act of legislation was aimed at one man, Mr. Albert Henry, the Cook Islander born and brought up in the Territory, who had lived in New Zealand for about twenty years. His purpose in going to New Zealand, according to my information, was to give his children a modern education, a thing he could not afford to do in the Territory because of some business misfortunes that had financially—and in some eyes morally—left him in strained circumstances.

377. Like many Cook Islanders resident in New Zealand, Mr. Henry maintained his links with his family in particular and with the people of the Cook Islands in general. Back in his homeland in March 1964, he conceived of and organized the Cook Islands Party, the Territory's first political party in the modern sense of the word. But while he was barred from running as candidate, his party won a majority of the seats in the new Legislature (fourteen out of twenty-two). His sister, Mrs. M. Story, was elected with an impressive vote. His strength as the leading political force was so clear that he was accorded recognition as the spokesman of his people immediately following the results of the elections. Radio Rarotonga, the broadcasting system owned and operated by the Administration, was placed at his disposal and further negotiations by the administering Power both in Rarotonga and in Wellington during the weeks following the election results were conducted with him.

378. In retrospect, the enactment of legislation concerning residential qualifications can best be referred to as an ironic episode which was not without its redeeming features. Mr. Henry, the principal victim, emerged not only as uncontestable victor, but as a man imbued with a spirit of cool realism. In a statement to the Press following the elections, he declared with outstanding magnanimity: "Let us forget about yesterday. Let us from now on move into the future." The next day he assured me that this was the philosophy which would dominate his party's future policies. Then in a second radio talk, he said, *inter alia*:

"In my first speech through the Radio Cook Islands I spoke as a Cook Islands Party member to the Cook Islands Party of all Islands. I was surprised to hear that I had neglected the Islands which hadn't joined in supporting me . . .

"Some Members of this new Government shall, in future, visit various Islands to see if there is any place which lacks development, which then will be provided for, Party or not Party. This is our intention, the Party's better living for all Maoris in the Islands. Every part shall be equally provided for.

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*, p. 2844.

May the spirit of God console the hearts of those who doubt and are down-hearted. May He also open all our eyes to new lights. So, all that, the Cook Islands Party is proposing to do for every one; may it be aided by Iehova to fast fulfilment, and to let the people know the modern kind of living."

379. I repeat it is not my intention to question the wisdom of the old Cook Islands Legislative Assembly in advising maintenance of the controversial residential qualifications or that of the Government of New Zealand in complying with the Assembly's advice. I have nothing but the deepest respect for the reasons which inspired such advice, and recognize without reservation the good faith of the administering Power in acting upon it. It is therefore without malice that I record for the benefit of the Special Committee and the General Assembly, my findings on a matter which was without doubt the most controversial issue in the elections. I am convinced that, in an operation involving the exercise of the freedom of the right of self-determination by a people, legislation which is capable of barring as much as 30 per cent of the people concerned from participating in the elections either as electors or candidates, is not without some significance. Because of the historic significance of the occasion, a more tolerant, liberal and accommodating attitude on the part of all concerned would have been more than amply justified. The Cook Islands as a national unit were on the threshold of self-determination. Every Cook Islander with a genuine and unmistakable anchorage in that land should have been afforded an opportunity—as far as internationally recognized precepts of legislation on the subject permitted—of expressing himself on the future of that land.

380. In this view, I found an able ally in the Hon. Martin Rata, member of the New Zealand Parliament for Northern Maori who is a Maori. During consideration of the draft constitution in the New Zealand Parliament, he had this to say:

"I am afraid that elections in the Cook Islands will be based on an article which should never have been in the Constitution in the first place, article 24, which has already been referred to by the member for Avon. I believe that in the Bill we should have adhered to a residential period of twelve months, as supported by the present Minister of Island Territories. If the Cook Islands people had wanted to change that period to three years, then they would have had the right to do that in their own Assembly. We should have pointed out that there were objections from Cook Islanders living in New Zealand at the present time to a three-year residential qualification. They are entitled to some consideration in view of the large amount of money they send home from time to time to help their people. I think it was the Prime Minister who said that men become responsible when responsibility is placed on them, but I believe we took away their first big responsibility—the right to choose. This proposal is of an entirely new type, and we must adopt a more realistic approach to the question so that our reputation, which at present stands so high overseas, remains high."<sup>18</sup>

#### *Institutional arrangements*

381. Of the new institutions provided for, and existing ones to which new functions have been as-

signed under the draft constitution the most important, in so far as the question of the granting of independence to colonial peoples is concerned, are the Legislative Assembly and the Cabinet. The Legislative Assembly, established in 1958, becomes a fully elected body with legislative authority. The Cabinet, different in many respects from its forerunner, the Executive Committee, has been assigned the authority for the general direction and control of executive government with collective responsibility to the Legislative Assembly.

382. Superimposed on these two institutions are the office of the Head of State, the High Commissioner, the Council of State and the Executive Council. The intention was obviously to bolster up the new experiment in responsible government with the checks and balances which are so vital to stability. However, the nature of some of the new institutions and the functions assigned to them have caused some concern, much of which was in evidence during the debate in the new Assembly. By a unanimous vote, for instance, the Assembly requested that the proposed Council of State be replaced by a House of Arikis, and that the functions of the Council of State be assigned to the High Commissioner, a matter to which reference is made in greater detail later in this section of the report.

383. By this decision, the Assembly had given even greater power to an Office whose authority, under the provisions of the draft constitution, already appeared to be incompatible with some of the prerequisites of effective full internal self-government. The idea of an office of the High Commissioner, the Council of State and an Executive Council originated during consideration by the Cook Islands Legislative Assembly in 1963 and 1964 of the proposals for constitutional reforms.

384. The old Assembly, in its 44-point resolution (see annex IV), clearly expressed the wish that Her Majesty the Queen should remain Head of State. What remained to be determined was the question as to the status and functions of the person who should be the Queen's representative and the procedure for his appointment. The Constitutional Advisors invited the old Assembly to consider various possibilities, including the nomination of such a representative by the elected Government of the Cook Islands for election either by the Cook Islands Legislative Assembly or the people. The experts even suggested that it might be possible to work out an arrangement under which the functions nominally assigned to the Crown might be performed on her behalf by Her Premier in the Cook Islands.

385. The old Assembly favoured the appointment, as a transitional measure, of a New Zealand official. It was also its wish, according to the records, that this official, in addition to acting as the Queen's representative, would be the representative of the Government of New Zealand. It accepted the suggestion of the experts that the title of this official should be "The Commissioner for the Cook Islands". It was understood that appointment to this Office would be made by the Governor-General of New Zealand in consultation with the Government of the Cook Islands. The old Assembly was not sympathetic to a suggestion that the Commissioner, regarding his functions as the Queen's representative, should act jointly with a Cook Islander. In its 44-point resolution, it instead insisted on its original decision that the Commissioner should alone play the dual role as the representative of the Queen and that of the New Zealand Government.

<sup>18</sup> *Ibid.*, p. 2841.

386. It was under points 8 to 9 of the 44-point resolution that the old Assembly endorsed the suggestion of the experts relating to the creation of an Executive Council, consisting of the Head of State and the members of the Cabinet. On this matter, it took its cue from Western Samoa where a comparable institution already existed.

387. The idea of a Council of State was actively canvassed for the first time in 1964 in New Zealand by the visiting four-man official delegation, headed by Mr. Dick Brown, Leader of Government Business, and accompanied by Mr. O. A. Dare, Resident Commissioner. During the hearing which the delegation was granted by a Select Committee of Parliament, the latter accepted a proposal from the former relating to the creation of a Council of State, associating two Arikis with the Commissioner to "jointly be representatives of Her Majesty the Queen in the Cook Islands".

388. The case for the creation of the Council of State, as argued by the delegation at the hearing was as follows: Arikis could not sit in the Legislative Assembly; they should be given a place of recognition in the Government; in selecting Arikis for membership of the proposed Council, it would be more appropriate to their dignity to leave it to them to elect, from their ranks, nominees for the position; Rarotonga, the main island should be represented on the Council by one Ariki, and the outer Islands jointly by one Ariki. The Select Committee was sympathetic, and on its recommendation, provision for the Council of State was included in the draft Constitution.

389. With regard to the proposed House of Arikis, the considerations which led the Cook Islands Party to propose its establishment, and the reasons for which the Opposition felt justified in associating itself with the idea, are set forth in the summary of the debates. For a disinterested observer, I felt there was not very much else of importance one could add. I consider, however, that a special note ought to be made of the affection and reverence shown by both sides of the House, during the debate, for the institution of Arikis. The deep respect which still exists in Maori society for the institution, and the loyalty which the Arikis as persons enjoy, were abundantly in evidence. The genuineness of both sides in their desire to preserve the position and prestige of the Arikis was beyond doubt.

390. Coming as I do from a continent where a similar institution exists and where many new nations are going through exactly the same heart-searching exercise regarding its future, I felt that the elected representatives of the Cook Islands deserved my admiration, and they had it. By the same token, I believed my views on the merits or demerits of the Assembly's decision might be welcome.

391. The point was made during the debate that the establishment of the proposed House would provide a better opportunity than was possible under the proposals relating to the Council of State for giving concrete recognition to the institution. It was claimed that in a House of Arikis, the Arikis could play a more effective role in government than they could ever hope to under the Council of State. Attention was drawn to the advantages to be gained from the existence of a forum where Arikis from all the Islands in the group could meet, size up and get to know one another and share experiences, in a way that was virtually impossible under the Council of State, which would bring together only two Arikis at a time and of which most Arikis really had no chance of ever becoming members.

392. These arguments can hardly be improved upon. In a country consisting of islands separated by immense distances over nearly one million square miles of ocean, and of precious little inter-insular contact, the value of the proposed House hardly needs to be argued. It cannot but assist in improving upon the feeling of nationhood and the community of purpose and interests which is already being forged through the establishment of the Legislative Assembly. Above all, there cannot be a more realistic way of tackling the problem of land tenure for which the search for a solution is not only crucial but also urgent. The proposed House holds out the only hope there could be of enlisting in favour of the reforms that are imperative the influence which the Arikis still wield, particularly in relation to land.

393. The amendments adopted by the Assembly requesting modification of the draft Constitution to provide for the substitution of the proposed House of Arikis for the Council of State, did not take into account changes which would appear to be consequential. Before considering the changes to which I refer, it would be necessary to examine the functions which were assigned to the Council of State under the draft Constitution, particularly with regard to those features of the institutional arrangements which, from all accounts, are incompatible with the prerequisites of full internal self-government.

394. The details of the functions assigned to the various institutions can be found in paragraphs 187-213 above.

395. The new Assembly's motion regarding the proposed House of Arikis, also requested modification of the draft Constitution to provide for the transfer of the functions of the Council of State to the High Commissioner. That request did not represent any substantial change as to the role which was in any case assigned to the High Commissioner under the original constitutional provisions. The draft Constitution provided, among other functions, that:

The High Commissioner shall be representative of the New Zealand Government, and jointly with the two Ariki members of the Council of State, of the Queen as well;

The High Commissioner shall preside over all meetings of the Council of State;

No decision of the Council of State shall be valid unless it has two affirmative votes including that of the High Commissioner;

The decisions in relation to which the High Commissioner has what amounts virtually to a power of veto include the decision to approve or request reconsideration of a Cabinet decision or that of a Minister, including the Premier;

The High Commissioner shares with the Premier authority for summoning meetings of the Executive Council;

At meetings of the Executive Council, the High Commissioner has a power of veto over the Council's decisions. Those include decisions relating to approval of Cabinet decisions, or reference, with or without a request for amendment, of a Cabinet decision back to Cabinet for reconsideration. They also include decisions relating to reference, with or without a proposal for an amendment, of Bills already adopted by the Legislative Assembly back to the Assembly for reconsideration;

The Speaker cannot permit consideration by the Legislative Assembly of Bills relating to financial matters unless the Bill has been introduced on the recommendation of the High Commissioner.

396. The transfer of the functions of the Council of State, as requested by the new Assembly, would result in extending the power of the High Commissioner, but only in so far as it concerned his role relating to decisions of the Cabinet, or a Minister including the Premier, and consent to bills adopted by the Assembly. Under the original constitutional provisions, to initiate action in this regard the High Commissioner would, in certain circumstances, require the affirmative vote of one of the two Ariki members of the Council of State. Under amendment requested by the Assembly, the High Commissioner can initiate such action on his own.

397. These are features of the constitutional proposals to which there was practically no reference during the meeting, and to concern myself with them might be regarded by some as treading on a dangerous path. However, I feel that I am under an obligation to include in this report any matter, either of fact or opinion, which can assist the Special Committee of Twenty-four or the General Assembly in considering the situation in the Cook Islands regarding the question of the granting of independence to colonial peoples.

398. In this regard, there are four matters which ought to be noted. The first arises from the proceedings of the first meeting of the new Assembly and is related to the debate on its request for the establishment of a House of Arikis. The Opposition submitted proposals that would have the Assembly approve for the House of Arikis powers which could place only further restrictions on the Cabinet and the Legislative Assembly itself. This met with a stiff opposition from the Cook Islands Party, the majority Party. That was the occasion on which the Assembly adjourned its sitting hours earlier than was laid down in its Standing Orders to permit informal consultations on the matter. In an amendment motion, the Opposition moved that the proposed House be given "the power to reject and to repeal" laws relating to land matters and native customs deemed by the Arikis to be detrimental to their authority, right and prestige and to the welfare of the people. In the compromise which was reached following the informal consultation, the majority Party would approve for the proposed House a consultative status on those questions, including the power to refer to the Assembly bills relating to them. During the negotiations in New Zealand between a delegation of the majority Party and the Government of New Zealand regarding the modification of the draft Constitution, the Cook Islands Party revised further its position on the question. At its request, the House of Arikis under the amended draft Constitution was assigned the power only to consider, express its opinion and make recommendation to the Assembly on "such matters relative to the welfare of the people" as might be submitted to it by the Assembly.

399. The second matter concerns the Public Service, and the provision of the draft Constitution conferring on one person authority for full control of the Public Service.

400. The other matter which I consider noteworthy relates to the dual role of the High Commissioner as the representative of the New Zealand Government, and now, with the abolition of the Council of State,

as sole representative of the Queen as Head of State. In considering the question, I looked up the report of the team of constitutional experts who had advised the old Assembly on the formulation of the draft Constitution. I discovered that they had the same reservations as would appear to be inevitable. I quote the relevant passage of their report:

"The combination of the functions of the representative of the Queen and New Zealand Government representative in one person has much to commend it on grounds of economy; but we feel that in practice the two roles may not be easy to combine. As representative of the Queen, the Commissioner of the Cook Islands would stand above the unavoidable conflicts of practical politics; but, as the New Zealand Government's representative, he might have to present a point of view that the Government of the Cook Islands would regard as highly controversial. Experience might show that the combination of these two roles was an embarrassing one. For this reason, we believe that the possible separation of the functions of representative of the Queen from those of New Zealand representative at a later stage should be kept in mind."

401. Finally, article 88 of the draft Constitution confers upon the Governor-General the power to make, at the request and with the consent of the Cook Islands Government, regulations for the peace, order and good government of the Territory.

402. To take the third of the four matters first, the administering Power claimed, with just cause, that the powers which had now become vested solely in the High Commissioner constituted authority merely to refer but not to negate or prevent decisions either of the Legislative Assembly or the Cabinet. But I consider that it ought to be admitted that the procedure laid down for the appointment of the High Commissioner and the fact that he would also be the custodian, in the Cook Islands, of the interests of the Government of New Zealand constituted a serious anomaly.

403. The procedure for his appointment was based on the recommendations of the old Assembly. However, the new relationship between New Zealand and the Cook Islands would seem to justify a procedure which would not involve the New Zealand Minister responsible for matters relating to the Cook Islands. In such vital fields as external affairs and defence, subjects reserved for the New Zealand Government, the constitutional provisions require that the New Zealand Prime Minister shall act "after consultation" with the Premier of the Cook Islands. In view of the new relationship between the two countries, a similar procedure regarding the appointment of the High Commissioner would have been ideal.

404. The dual role of the High Commissioner, is, in my view, an anomaly of an even more serious nature. My observations on the questions cannot be expressed with greater precision and force than were the views of the constitutional experts to which I have already referred. "Experience" they concluded, "might show that the combination of these two roles was an embarrassing one". Perhaps there is a strong case for going even further. The checks and balances which are intended are without doubt a necessity in a democracy. Admittedly they exist in New Zealand itself, and, in one form or another, in most of the old and new democracies of the world. But society, throughout the ages, tends to frown upon any situation in which the power to exert these checks and balances

is vested in an institution that is not indigenous to the people concerned. And the office of the High Commissioner cannot be regarded as being indigenous until the elected representatives of the Cook Islands people are given a more effective say in the procedure for appointments to it.

405. Furthermore, note ought to be made of what I believe to be defects regarding the Executive Council. During the debate in the New Zealand Parliament on the Constitution Bill, the responsible Minister himself said this institution had no counterpart in the outgoing system. An exaggerated opinion of the well-meaning nature of man could easily blind one to the dangers with which the character and functions of the Executive Council are fraught. With the abolition of the Council of State, the Executive Council would consist of the members of the cabinet and the High Commissioner, presumably with the High Commissioner as Chairman. The High Commissioner is thus entitled by right to sit in council with the people's elected representatives and to participate in the consideration of matters that are unlimited in scope and include questions with which he ought not to be involved either as representative of the Queen or of the New Zealand Government. Without prejudice to the good intentions of the appointee to this office, I believe it would be difficult to find any justification for the maintenance of the Executive Council in its present form.

406. Perhaps it is desirable to establish a body comparable to the Privy Council in which, in New Zealand, the Governor-General, as the Queen's representative, sits in council with Her Ministers. Perhaps another title might be better than Executive Council which is so reminiscent of the stage in the political evolution of colonial territories when, in an institution with a similar title, the Governor receives but is not bound by the advice of its members. It would certainly be necessary to amend the draft Constitution to provide for the transformation of the Executive Council into an institution, similar to the Privy Council, in which the High Commissioner could exercise more or less the same powers as the Governor-General of a Dominion.

407. As regards the powers of the Governor-General of New Zealand to make regulations for the Territory, it was not specified whether these powers were to be exercised only in times of emergency. Perhaps it was not by an error of omission that no limitations were placed on the exercise of those powers. If the intention, however, was to provide for such powers as exist in most democracies for use in times of emergency only, it would perhaps be more in consonance with the requirements of the Territory's new political status to amend this Article with a view to specifying clearly the scope of these powers and the circumstances in which they could be exercised.

408. I repeat there was very little reference to these matters during the proceedings at the first meeting of the new Assembly. The Assembly did not request modification of the constitutional provisions regarding them. One can only hope that the good will of the Government of New Zealand towards its ward would be brought to bear in eliminating these anomalies, particularly the one concerning the dual role of the High Commissioner. On that question, the old Assembly, acting upon the advice of the constitutional experts included the following decision in its 44-point resolution:

"10. The possibility of separating at a later stage the functions of representative of the Queen from

those of New Zealand representative should be kept in mind."

Besides, the reaction of the Cook Islands Party to the Opposition's request for greater powers for the proposed House of Arikis is, in my view, a yardstick for determining the extent to which the Party, as the majority Party in the new Assembly, would tolerate an over-zealous exercise of the powers vested in the High Commissioner. The old Assembly's decision and the reactions of the majority Party in the new Assembly are factors which justify the hope that elimination of these anomalies would not be resisted by the people of the Territory.

409. This would apply to the question relating to the control of the Public Service. Although an Opposition member of the Assembly had expressed the fear that, under the present system, control of the Public Service could pass into the hands of a political appointee, there was no formal proposal for a change. There seems, however, to be a strong case for the establishment of a Public Service Commission. The administering Power does not need a lesson in the merits of such a Commission and may well have considered the question and may have decided against it on the grounds of costs. Perhaps a way could be found to establish one on a part-time or honorary basis. Those who, like the Opposition members, have apprehensions might well be re-assured if control of the Public Service were entrusted to such an independent Commission rather than to one person.

#### *New Zealand and the Cook Islands*

410. When consideration of the question of the situation in the Cook Islands is resumed, International Co-operation Year, sponsored by the United Nations to dramatize its dedication to international co-operation, will be drawing to a close. For reasons perhaps understandable, many an administering Power will, with regard to the question of the granting of independence to colonial peoples, be persisting in its denial to the Organization of any role which involves the dispatch of a United Nations mission to a colonial country. I consider therefore that the spirit of co-operation which exists between New Zealand and the Cook Islands and the fountain of goodwill which one finds in Wellington towards the people of the Territory must be given a well-deserved prominence in the report of the first mission of the Organization ever to be associated with an operation involving the question of self-determination in a colonial territory.

411. A detailed account of the grave concern which the controversial issue of residential qualifications had aroused in New Zealand has already been given in an earlier section of this report. That was only one of the very many occasions in the relationship between the two countries that the New Zealand people, through their Parliament and Press, had shown for matters of purely local interest in the Cook Islands, a genuine, enlightened and articulate preoccupation of which there are precious few examples in the history of colonialism.

412. Another concerns a controversy as to what constituted the best possible method of consulting the Cook Islands people regarding their future political status. The summary of debates includes the strong views expressed by both sides of the new Cook Islands Legislative Assembly on the matter. It was also the subject of an exchange of passionate speeches in the New Zealand Parliament. The critics of the Government contended that a referendum was the best pro-

cedure, and the Government, while it defended its choice of a general election, pledged that it would let the Cook Islands have a referendum any time they wanted it. This pledge is guaranteed under the provisions of article 41 of the draft constitution.

413. The benefits which accrue to the people of the Cook Islands from this association take more tangible forms. Under the heading "Historical Background to Constitutional Development in the Cook Islands", I endeavoured to show how constitutional reforms had been introduced over the years more in response to the liberal policy of the administering Power than as the result of political pressure from the indigenous people. Also, reference has already been made to New Zealand's annual financial subsidy without which living standards in the Territory, at the present level of economic development, would be even lower than they are.

414. The Cook Islands people benefit from their association with New Zealand in innumerable minor but equally significant other ways. The immigration of Cook Islanders to New Zealand is completely unrestricted. Their access to job opportunities in New Zealand is unlimited. Financial assistance from Cook Island wage-earners in New Zealand to their relations at home, according to the official figures, adds up to the impressive annual figure of over £200,000 in cash remittances, increasing the *per capita* income *per annum* by £10. The Territory's agricultural products, mainly comprising at present such perishable crops as citrus fruits, bananas, pineapples and copra, enjoy free entry and a guaranteed market in New Zealand. Added to the cash subsidy, which has been increased to £872,000, the benefits of the guaranteed market and the cash remittances bring the *per capita* receipt external assistance *per annum* to £60.

415. For the people of the Cook Islands, the most vital of these benefits are the financial subsidy and the right to unrestricted emigration to New Zealand. The suggestion that they are not interested in full independence is not fiction. It would be an error to draw a comparison between the situation in the Cook Islands, as it exists today, and the situation in the new nations of Africa and Asia before their accession to independence. Apart from the difference in the importance in land-mass and natural resources, a student from a colonial Territory from Africa or Asia in Europe or the Americas was exposed to an influence which his counterpart from the Cook Islands does not find in New Zealand. For obvious reasons, the two World Wars did not bring to the Cook Islands anything like the renaissance and consciousness of the realities of the modern world which was the good fortune of African and Asian countries. Information on the great post-war efforts of the international community to narrow the gap in the economic well-being of peoples is scanty. The limited information that seeps through is either deliberately distorted or given in such a way as to cause some confusion as to the aims and objectives of international assistance. For example, a politician who was a member of the Executive Committee in the outgoing Legislative Assembly, told me he was made to understand that membership in the United Nations Food and Agriculture Organization (FAO) involved an annual membership fee and other financial obligations which the Cook Islands could not afford.

416. While experience has long since proved in Africa and Asia that independence, far from endangering the chances of outside aid, rather increases their scope, in the Cook Islands, independence is genuinely

regarded as economic suicide. Before independence, many African and Asian countries knew that political freedom, instead of jeopardizing whatever assistance they received from a former colonial power in the economic, financial and social fields, rather offered greater avenues for such assistance from international organizations and friendly countries. In the Cook Islands, the people know of only one source for such assistance: New Zealand.

417. It is no wonder that the benefits which they receive from New Zealand in cash subsidy and unrestricted emigration to that country are for them a matter of life or death. In a speech in the new Assembly, Mr. Geoffrey Henry, an Opposition member, referred to these benefits as the "moonbeam" from New Zealand. He said:

"I remember an occasion in Aitutaki when a representative of the New Zealand Government came to explain internal self-government and he said that our links with New Zealand are like moonbeams. We are not tied to New Zealand with steel... or iron, but we are attached to New Zealand by moonbeams, and he said that you can break iron but you can never cut moonbeams. I got up and expressed my fears and I said to him, 'While you cannot cut moonbeams, the unfortunate thing is that the moon does not shine at all times. Sometimes it sets'."

418. Mr. Henry is a young man. He lived in New Zealand for about seven years studying first at school and later at a University. In the setting of the pre-independence era of an African or Asian country, the chances are that he would be a restless firebrand of a nationalist, impatient for complete political independence. He is intelligent, educated, and strikes one as a very shrewd politician. He is in a way a firebrand, but only in so far as opposition to his cousin, Mr. Albert Henry, Leader of the Cook Islands Party, is concerned. As can be seen from the summary of debates on the floor of the Assembly, he did not sound like the apostle of accelerated change. In private, he speaks of the wonderful time which he had in New Zealand and of how he is looking forward to returning there.

419. He is not a lone wolf. Neither in the ranks of the Cook Islands Party nor any other organization, political or otherwise, did I find one single member of the present generation of the people who wants full independence. The voice which is raised in favour of change speaks in terms of a change to full internal self-government not involving a break with New Zealand. That is the wish of the leaders of the Cook Islands Party too. The Party polled only 52 per cent of the votes cast in the elections. The Opposition polished this off to the round and neat figure of 50 per cent, and claimed that the Cook Islands Party was therefore no more qualified to speak for the people than they, who polled the other 50 per cent. Even so the voice of change is heard also among the ranks of the Opposition. Faint though it is at present, it is bound to become increasingly articulate. For, even in the Cook Islands, it is political suicide to oppose change altogether.

420. It would appear therefore that with the coming into force of the new constitution, the turning point will have been reached in the history of the people of the Cook Islands. The goodwill which exists in Wellington is reciprocated by the Cook Islanders' genuine feeling of attachment to the New Zealand people. The Maori as a race are distinct from the New Zealand European. In a world riddled with violent problems of racial discrimination, the intercourse between the two races is

a shining example. Note has already been made in this report of the speech during a debate in the New Zealand Parliament when the Prime Minister, Mr. Holyoake, referred to the Cook Islanders as "people whom we recognize as our cousins, our racial brothers and, of course, our closest neighbours". Cook Islanders still refer to New Zealanders as *Papaa*, the Maori word for European, which has an undertone of the Maori's attitude towards the early "civilizing" and "soul redeeming" white missionaries. There is no evidence of ill-feeling towards the *Papaa*. The member for Mauke, one of the Outer Islands, Mr. Julian Dashwood, a European, stood against a Maori candidate in the elections. In one of the Rarotonga constituencies, another European polled a number of votes which was out of all proportion to the numerical strength of the European electors. Intermarriage between the races, frowned upon in most multiracial societies, is accepted and is on the increase not only in New Zealand but also in the Territory itself.

421. The question is: how best can the ties that bind the two peoples be exploited to ensure that progress continues in an orderly and peaceful atmosphere, whatever the path which the people of the Cook Islands choose in their search for human and spiritual dignity and material well-being.

422. One step in the right direction has already been taken by New Zealand, the senior partner. I refer to the question of financial subsidy. Both Government and Opposition in the New Zealand Parliament have made the irrevocable commitment that it will continue. For proof, it will suffice to quote the Prime Minister, Mr. Holyoake, who said in Parliament:

"I want to make one point clear—that the close friendship will remain between New Zealand and the Cook Islands."

At this point he was interrupted by the speaker: "That is the assurance." The Prime Minister said:

"Yes, it is good to have it on record and the Deputy Leader of the Opposition has done in that respect what his leader did in the Committee. I am interested and pleased to hear the members of the Opposition say they want an assurance that this Government will continue the grants. There is a little bit of politics in this. Four years ago under a Labour government grants to the Cook Islands had amounted to £607,000. This year they amount to £872,000. I do not think we need any urging from Labour Party members but I accept their urging as a pledge on their part that they would continue our policy. We make the most generous grants on a per capita basis of any country in the world, and this Government, as the Minister and I have already said, will continue those grants. I am certain that over the years this Parliament will continue that policy. I do not think we should try to score points off each other on this matter. I am sure the New Zealand Parliament will continue to give to the Cook Islands the financial and other assistance it has given over the years."

423. Another step in the right direction relates to the question of preferential treatment for Cook Island agricultural products, and of the right to unrestricted emigration to New Zealand. I was told in Wellington by the Minister responsible for Island Territories, in the presence of the Prime Minister, that Cook Island products are assured a guaranteed market in New Zealand "in perpetuity", and their immigration would remain unrestricted forever.

424. The administering Power would be the first to admit that these assurances, *per se*, are not enough. They must be followed by urgently needed measures in the economic, social and political fields. Perhaps I would be forgiven if I called attention to a few of the measures I had in mind.

425. I gathered the impression that the Cook Islanders would not forever regard the subsidy from New Zealand as a charity donation. There was a note of uneasiness, not only as it was reflected in election manifestos but also discernible in public feeling about the operations of New Zealand firms in the Territory and their trading policies. The election pledges of the Cook Islands Party included the promise to investigate the economic system with a view to overhauling it. The price paid by these firms for agricultural produce is a well-known and chronic thorn in the flesh.

426. The progress which has been made in education in the last decade is out of all proportion in importance to the progress made in any decade in the history of the Territory. Perhaps it would not be out of place to wish that this progress would not only continue, but increase in scope and pace.

427. The administering Power has had the benefit of the opinion of many an independent observer, some commissioned by itself, regarding how constitutional reforms of the past had not quite succeeded in bringing to the people, in practice, some of the benefits which were intended. From the records, some official others private, but mainly from university sources, it would seem as if one of the obstacles to greater success has been the difficulty of finding administrators capable of translating the good intentions of Wellington into purposeful action in Rarotonga. At a time when, in the field of qualified dedicated and liberal-minded personnel, demand is increasingly outstripping supply, how can one do any more than wish the Administering Power well. It is therefore in all humility that I venture the suggestion that, perhaps in this field as well as others in which urgent action is recognized, more use could be made of the possibilities which the international community has to offer.

#### *United Nations and the Cook Islands*

428. My mission has been the first harvest, of unprecedented value, to be reaped from United Nations interest in Non-Self-Governing Territories and co-operation from administering Powers. The Cook Islanders were the first people to benefit from a physical United Nations presence in their country at an hour of historic decision. The importance of these aspects of the operation cannot be over-stated. It is only natural, therefore, that the concluding paragraphs of this report should be devoted to the reactions of the Cook Islands people, and New Zealanders living there, to the Mission.

429. When we arrived at Rarotonga airport on 8 April, the most senior official of the Administration there to meet us was the Secretary to the Government, a New Zealander. The Resident Commissioner, the Cook Islander who was Leader of Government Business, and his colleagues of the old Executive Committee, were not in the official welcoming party. The majority of the small gathering of people at the airport were there mainly to meet relatives.

430. On 29 April, twenty-one days after our arrival, the *Cook Island News*, a news bulletin published by the Administration, carried the following letter from a reader who wrote:

"Dear Editor,

"It astounds me to think that with the thousands of starving millions around the world, the United Nations should see fit to send to the Cook Islands a team of highly paid and valuable staff to observe our elections.

"The money spent, I believe a sum of 40,000 dollars, could have been put to better use, probably to educate or feed some of the more unfortunate peoples than our own.

"Seeing that our elections have been carried out without any apparent bloodshed or demonstrations, we would appreciate some comment about the elections and the general opinion of the United Nations team as a whole.

"As a free world country we expect the United Nations believe in freedom of speech as well."

431. The salutary effect of the presence of the Mission on attitudes towards the Organization had reached its peak by 21 May, the day we departed. The Secretary to the Government, who was also acting as Resident Commissioner, the Acting Leader of Government Business, almost all the other members of the new Executive Committee, and several New Zealand officials and private individuals, joined a large gathering of Cook Islanders in a warm and affectionate airport farewell ceremony. The same *Cook Island News*, in a report on the occasion published in its issue of 24 May, had the following to say:

"The arrival of the United Nations Mission personnel some weeks ago was a very quiet affair with little or no notice being taken of the members.

"It was a different picture on Friday at the airport when a very large crowd of friends and well-wishers turned up to say farewell to the three remaining members, Mr. Adeel, Leader of the Mission, Mr. Dorkenoo and Mr. Lewis.

"In attendance were the Acting Leader of Government Business, the Acting Resident Commissioner, Executive Committee and Assembly Members and a host of friends."

### Acknowledgements

432. I have, throughout this report, made references to the delicacy of my task and to my sense of inadequacy to the confidence that the Secretary-General so obligingly chose to repose in me, but as this report comes to its end, I have discovered that by far the most difficult of all my tasks was to come by terms I could conceivably resort to in an anxious endeavour to put on record my feelings of gratitude to the persons that have so richly earned it. I realize that if I were to make specific reference to every one that deserved it, the list would be interminable indeed. May I therefore trust that those persons who, contrary to a natural expectation, do not have their names mentioned in these acknowledgements will find it possible to forgive me.

433. My great friend, Ambassador Frank Corner, should have no reason but to know in what esteem I hold him. His role in this whole operation and his efforts to facilitate my task are too well known to call for verbal recognition.

434. His Excellency the Prime Minister of New Zealand, the Rt. Hon. Keith Holyoake, C.H., was kind enough to invite me and Mr. James Lewis, the Principal Secretary of the Mission, to spend a week in New Zealand as guests of his Government. It was a visit

memorable for the courtesy, unbounded generosity and tender kindness with which the Prime Minister and the Members of his Cabinet treated us. Although brief, the visit was also rewarding in the sense that it provided me with material which I found helpful in formulating certain findings of pertinence to the subject matter of this report.

435. During my visit to Wellington, His Excellency the Governor General of New Zealand, Sir Bernard Fergusson, G.C.M.G., G.C.V.O., D.S.O., O.B.E., did me the honour of receiving me in an extended private audience. I found his keen and passionate interest in the welfare of the people of the Cook Islands both touching and reassuring.

436. The Secretaries of External Affairs, Mr. A. D. McIntosh, and of the Department of Island Territories, Mr. J. M. McEwen, and officials of their departments gave me all the assistance I needed.

437. To Mr. Leslie Davis, Assistant Secretary of the Department of Island Territories, Mr. Gerald Hensley and Mr. David Elworthy of External Affairs I owe a special debt of gratitude for all they did for me and the members of my mission. I record the same sentiments for Mr. J. C. Averill, Acting High Commissioner of New Zealand in Western Samoa.

438. Mr. A. O. Dare, the Resident Commissioner of the Cook Islands, Mr. Morris Hegan, the Secretary to the Government, the Resident Agents on the various islands and all the functionaries of the Administration of the Cook Islands spared no conceivable effort to facilitate my task and smooth the difficulties of my mission at the cost, in some cases, of setting a few established practices at defiance.

439. Without the ready understanding and generous co-operation extended to me by the Government of New Zealand and the Administration of the Cook Islands, a somewhat difficult task would have proved virtually impossible.

440. The morning of our departure from Rarotonga was the occasion for a deeply moving and unforgettable scene at the airport. The Acting Resident Commissioner, the Acting Leader of Government Business, all the members of the Executive Committee and Legislative Assembly on the Island that morning turned up with their families, leis and beads to join the impressive gathering that came to bid us farewell.

441. By their inordinate hospitality, endearing charm and touching friendliness, the people of the Cook Islands have put me perpetually in their debt. The fond and precious memories of those six weeks will grow with me all the richer and more fragrant with the passage of time. May the days that loom ahead, so resplendent with high and legitimate hopes, bring about wider and more meaningful smiles on the faces of these hospitable lands of gentle people.

442. Last but not least, I wish to put on record my high appreciation for my colleagues on the mission: Mr. James L. Lewis, Principal Secretary of the Mission, Messrs. C. Sivasankar, Felipe A. Pradas, Thomas H. Tanaka, Bernard D. Dorkenoo and Miss A. Ferral. But for their willingness, dedication and patience this report, even with all the defects in which it abounds, would not have come to be. I alone, of course, bear sole and exclusive responsibility for any material commission or omission perpetrated in it.

443. In placing these sentiments on record I am merely trying to acknowledge an accumulation of debts none of which I will ever be able to repay.

## ANNEXES

## ANNEX I

**Statement to the Press by the United Nations Representative for the Supervision of the Elections in the Cook Islands**

The question of the political future of the Cook Islands was discussed last year by the Special Committee of Twenty-four—the Committee established by the General Assembly in 1960 and charged with the examination of the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

After detailed discussion in one of its sub-committees, the Special Committee recommended to the General Assembly that the people of the Cook Islands should be enabled to express their wishes in accordance with the provisions of the Declaration on decolonization "through well-established democratic processes under United Nations supervision".

Following upon this recommendation, and at New Zealand's request dated 2 February 1965 (see A/5880), the General Assembly agreed, in resolution 2005 (XIX), adopted on 18 February, to send a United Nations representative and observers to supervise the elections and to observe the constitutional debate and decision of the new legislature that will emerge from the elections.

The Government of New Zealand, in its request, stated that "these two events—the election process and the subsequent debate and decision of the Legislative Assembly upon the Constitution—will, taken together, constitute key parts of the process of self-determination of the people of the Cook Islands" (*ibid.*).

The form and nature of the Cook Islanders' future, it added, would be a "major issue" in both these events. It expected the new legislature to reach a decision on the new Constitution towards the latter part of May.

Acting under the Assembly's resolution, the Secretary-General has designated Omar Abdel Hamid Adeel of the Sudan to serve as the United Nations Representative for the supervision of the April elections. To assist Mr. Adeel, the Secretary-General has detailed the following Secretariat members: Messrs. James L. Lewis, Principal Secretary and Observer; Felipe A. Pradas, Observer; C. Sivasankar, Administrative Officer and Observer; T. Tanaka, Observer; Bernard D. Dorkenoo, Observer; and Miss Alicia Ferral, Secretary.

In order to carry out his responsibilities under the General Assembly resolution it is necessary for the United Nations Representative to satisfy himself of the following:

(a) That the administrative and physical arrangements are in accordance with electoral regulations promulgated by the administering Power which is responsible for the conduct of the elections;

(b) The impartiality of the officials in the Territory concerned with the elections;

(c) That the people of the Cook Islands were fully apprised of the significance of the elections, in that the new legislature which they would elect would be empowered to adopt the Constitution as drafted, reject it, or work out some other status for the Territory;

(d) That the people of the Cook Islands were able to exercise their rights prior to and during the polling in complete freedom;

(e) That the necessary precautions were taken to safeguard the voting papers;

(f) That a correct count of the votes and an accurate report of the results has been made.

Under the terms of General Assembly resolution 2005 (XIX) referred to above, the United Nations Representative is required to report back to the Special Committee of Twenty-four and to the General Assembly on the organization, conduct and results of the elections and his observations on the debate and the decision in the newly elected Legislative Assembly on the Constitution.

In its endeavour to discharge its duties in as effective a manner as is possible, the United Nations Mission is confident that it can rely on the support and co-operation of all the parties concerned.

## ANNEX II

**Area and estimated population as at 31 December 1964**

Island	Area in acres	Males	Females	Total
Rarotonga .....	16,602	5,012	4,721	9,733
Aitutaki .....	4,461	1,488	1,416	2,904
Mangaia .....	12,800*	1,056	1,041	2,097
Atiu .....	6,654	732	672	1,404
Mauke .....	4,552	457	409	866
Mitiaro .....	5,500*	166	165	331
Manuae .....	1,524	13	5	18
Palmerston ....	500	44	58	102
Pukapuka .....	1,250	412	388	800
Nassau .....	300*	69	44	113
Manihiki .....	1,344	595	494	1,089
Rakahanga ....	1,000	187	181	368
Penrhyn .....	2,432	362	332	694
Suvarrow .....	100*	..	..	..
Takutea .....	302	..	..	..
	59,321	10,593	9,926	20,519
Less excess departure and arrivals ....		333	242	575
TOTAL	59,321	10,260	9,684	19,944

\* Approximate area.

## ANNEX III

**Broadcast to the people of the Cook Islands by Ambassador F. H. Corner, Permanent Representative of New Zealand to the United Nations, March 1965**

My name is Frank Corner. I represent New Zealand at the United Nations and had the pleasure of meeting many of you in Rarotonga a little over a year ago. I am going to talk about two questions that are being asked. Why is the United Nations interested in the Cook Islands elections and what part will the United Nations play in the happenings of the next few months?

The United Nations is the meeting place of the representatives of 114 independent nations. They come from many different kinds of countries, large countries, tiny countries, old nations and new, rich and poor, dictatorships and democracies and many that are neither one nor the other. As you can imagine, there are many arguments and disagreements when so many people from such different backgrounds get together, but they all do agree on some things. For instance, on the need for peace lest mankind exterminate itself with its nuclear bombs and on the need for the countries of the world to join their efforts to help all people to be better educated, better fed and in better health.

Another thing that nearly everyone agrees upon is that any people who are at present under the rule of others from another country must have the right to decide for themselves how their own country should be governed. This is called the right of self-determination, the right of a people to decide their own future.

This right of self-determination is not only a human right; it is also practical common sense. Most are now agreed that when people decide their own future and run their own affairs they have more pride and confidence in themselves. Without

pride and confidence, without a sense of purpose, societies or peoples often become sluggish and inefficient; they don't make the most of their countries or of their lives. Their young people see no future and go elsewhere.

Nearly everyone agrees that each distinct people should have the right to govern themselves. But what about those who live in tiny territories and remote islands? Can the right of self-determination be applied right down to the last tiny island? It may be all right, some say, in the case of a small territory like Kuwait in the Middle East which has oil by the millions of barrels. But what about a small territory like the Cook Islands which, as far as anyone knows at present, has no great sources of wealth, and would live a very meagre existence if some other country did not give it large subsidies. New Zealand says:

"Yes, the right of self-determination applies to people even in small territories like the Cook Islands. We are not interested in governing any people against their will. We believe the Cook Islanders are capable of making an informed and sensible choice as to how and by whom they will be governed and we invite the United Nations to send its own impartial observers to see that they make their choice in fair and free conditions."

The United Nations accepted New Zealand's invitation and is sending out a trusted representative, Ambassador Omar Adeel from the Sudan, and five observers who come from five different countries but are all members of the United Nations Secretariat, which is the impartial international civil service.

What is so special about this? Well, it is the first time that such a small territory has been given the chance of exercising the right of self-determination. There are a great number of small territories scattered all over the world and the example of the Cook Islands will be studied by many countries.

Secondly, the draft Constitution of the Cook Islands is a very special one, though it provides for self-government, not for full independence, and though it provides for strong links with New Zealand, it leaves the door open for the people of the Cook Islands to move into independence or into a closer association with New Zealand or other South Pacific countries if at any time in the future they come to prefer some different arrangement. It gives the Cook Islands all the benefits of being independent without the dangers and uncertainties that independence might bring for a tiny country. This experiment in freedom for small territories will be studied to see whether it can open up a path to greater freedom for other small territories.

Thirdly, if the new Parliament chooses to bring the draft Constitution into force, the Cook Islands will no longer be a dependent or colonial territory. It will still have very close relations with New Zealand but New Zealand will have no power within the Islands. Because New Zealand will no longer have power over the Cook Islands, the United Nations will not be able to hold New Zealand accountable for what happens there. You will become responsible for yourselves. This will bring to an end an obligation which New Zealand entered into when it signed the Charter of the United Nations twenty years ago.

These are some of the reasons why the United Nations is sending a team of observers all the way to your small islands in the South Pacific. The task of the United Nations representative and his observers will be to see whether you really are being allowed to say freely what you want, whether you understand what you are voting about, and whether the elections are fairly conducted without bribery or intimidation. Later when the new Parliament meets, the United Nations representative will listen to the debates of your representatives, witness the decision, and tell the United Nations what choice you made and whether you made it of your own free will.

The discussions and meetings before the election are the time to make known your own views and to find out what the various candidates think about the Constitution and the future. It will be your business to settle any doubts you have by your questions at the meetings and you must make sure that the person you finally elect is aware of your views and is prepared to tell the Assembly what you think.

As I end this talk, I want to stress that neither the United Nations, nor New Zealand, nor any country, can or wants to dictate to you what decision you should make. It is your country and the decision on the future status of your country is yours to make and yours alone. The whole idea of self-determination is that the people directly concerned, that is, you alone, should decide what is best for you and I haven't the least doubt that you will decide wisely and that life in the Cook Islands will continue to become better and better for you and for your children.

#### ANNEX IV

##### Legislative Assembly Paper No. 45: Constitutional Development

The Committee of the Whole has studied the recommendations on Constitutional Development by Professor C. C. Aikman, Professor J. W. Davidson and Mr. J. B. Wright. The following conclusions have been arrived at:

##### *General*

1. The Cook Islands should have a constitution which provides for full self-government but allows for continued association with New Zealand under a common Head of State, the Queen, and with a common citizenship, that of New Zealand.

##### *The Executive Government*

2. A cabinet should be chosen from members of the Legislative Assembly, and responsibility for particular departments or subjects allocated to individual ministers in the cabinet.
3. The Cabinet should consist of a Premier and four other Ministers. The Premier should be elected by the Assembly and he should select the other members of the Cabinet and allocate portfolios among them.
4. The position of Secretary to Cabinet should be held by the permanent head of the Premier's Department who should occupy the position at present held by the Secretary to the Government and should, like him, be described in legislation as "the principal administrative officer of the Government of the Cook Islands".
5. The New Zealand State Services Commission should be asked to nominate a suitable person who would make recommendations as to the salaries and allowances of Ministers.
6. A statement of principles regarding the private interests of Ministers should be adopted by the Legislative Assembly.
7. A public servant should resign if he is appointed as a Minister, but some steps might be taken to protect his superannuation rights.

##### *The Head of State*

8. The Queen should remain Head of State of the Cook Islands.
9. For the time being the Queen's representative in the Cook Islands should be a New Zealand official who should also act as the representative of the New Zealand Government. This official should be known as the Commissioner of the Cook Islands and he should be appointed by the Governor-General of New Zealand on the recommendation of the New Zealand Government after consultation with the Government of the Cook Islands.
10. The possibility of separating at a later stage the functions of representative of the Queen from those of New Zealand representative should be kept in mind.
11. An Executive Council comprising the Commissioner and the members of Cabinet should be established with power to discuss and to refer back to Cabinet, but not to vary or negative, any Cabinet decision. The Commissioner and the Premier should each have power to convene a meeting of the Council.

*The Legislative Assembly*

12. All members of the Legislative Assembly should be elected by direct election of the adult population of the Cook Islands.
13. Each Island in the Group should continue to comprise one constituency.
14. There should be twenty-two members of the Legislative Assembly representing the various Islands as follows: Rarotonga (including Palmerston) 9 members, Aitutaki 3, Mangaia and Atiu 2 each, and Mauke, Mitiaro, Pukapuka (and Nassau), Manihiki, Rakahanga and Penrhyn one each. (Manuae might be attached to either Rarotonga or Aitutaki).
15. Adult British subjects who have been resident in the Cook Islands for one year immediately preceding an election should qualify as electors and adult British subjects who have been resident in the Cook Islands for three years immediately preceding an election should qualify as candidates.
16. Provision should be made for the forfeit of deposits by candidates not receiving a certain percentage of the votes.
17. Except in certain cases and only for a transitional period it should continue to be possible for public servants who are elected as members of the Legislative Assembly to remain public servants.
18. The payment to be made to members of the Legislative Assembly and to the Speaker of the Assembly should be determined by the same procedure as that adopted for determining the salaries and allowances of ministers.
19. The Legislative Assembly should elect its own Speaker, preferably from among its own members.
20. The Legislative Assembly should be given complete legislative autonomy, including the power to amend or repeal all New Zealand legislation in force in the Cook Islands, and the power of reservation and disallowance at present held by the New Zealand Government should be eliminated. The New Zealand Parliament might continue to legislate for the Cook Islands at the request or with the consent of the Cook Islands Government.
21. The Executive Council should have power to refer bills back to the Legislative Assembly for further consideration before they are assented to by the Commissioner.

*The Judiciary*

22. The Chief Judge of the High Court and the Chief Judge of the Native Land Court should be appointed by the Executive Council acting on the advice of the Premier.
23. The Judges of the Native Land Court, Commissioners of the High Court and Land Court and Justices of the Peace should be appointed by the Executive Council on the advice of a Judicial Service Commission.
24. Appeals from the High Court and from the Land Court should in the meantime continue to be dealt with as at present.
25. Discussions should be instituted on the possibility of an arrangement with other South Pacific countries under which a country wishing to constitute a Court of Appeal might draw Judges for that Court from neighbouring countries.
26. The Supreme Court of New Zealand should for the time being continue to exercise the original jurisdiction which it exercises at present in respect of civil and criminal matters arising in the Cook Islands.

*Control of the Public Service*

27. The Secretary of the Premier's Department should be appointed by the Executive Council on the recommendation of the Premier. All other appointments in the Public Service should be made by the Secretary, but in respect of each senior position the Cabinet should be informed of the name and qualifications of the person whom the Secretary proposes to appoint, and concur in the appointment.

28. In order to define the general limits within which the Secretary should exercise his powers, a body of public service regulations should be enacted and the Cabinet should be given power to issue directions to the Secretary on matters of policy relating to the Public Service.

*Relations with New Zealand*

29. The conduct of the external relations of the Cook Islands should remain a responsibility of the New Zealand Government. In some cases New Zealand should delegate to the Cook Islands Government the power to act on its behalf and in others should consult or inform the latter about its actions.
30. The grants made by the New Zealand Government to the Cook Islands Government should continue to be determined on a three-yearly basis.
31. Preliminary discussions regarding proposals for each three-yearly grant should be conducted between the Cook Islands Cabinet and the Commissioner of the Cook Islands as representative of the New Zealand Government. The Commissioner should be kept informed through the Executive Council of any major changes from the pattern of expenditure that was envisaged at the time a three-yearly grant was being negotiated.
32. The New Zealand Government should be asked to allow the New Zealand Controller and Auditor-General to continue to audit the accounts of the Cook Islands Government.
33. The question of whether the New Zealand Parliament should be asked to consider a Select Committee to deal with Cook Islands affairs or a Cook Islands representative in the New Zealand Parliament should be left until representatives of the Cook Islands Assembly meet with representatives of the New Zealand Parliament for discussion.
34. At least one member of the Cook Islands Cabinet should visit New Zealand each year to represent the Government of the Cook Islands.
35. If the transitional measures listed in Recommendations 39 to 42 below are agreed to some Members of the Assembly should visit Wellington to discuss the questions raised in those Sections dealing with relations with New Zealand.

*Enactment of the Constitution*

36. Recommendations in this report which are acceptable to the parties concerned and which require legislative action should be incorporated in an Act of the New Zealand Parliament which is not merely an amendment to the Cook Islands Act, 1915.
37. The Constitution Act should provide that its amendment by the Cook Islands Legislative Assembly should require a two-thirds majority at the second and third readings in the Assembly of Ordinance involved and the elapse of at least 90 days between the second and third readings.

*Transitional Arrangements*

38. The term of office of the present Legislative Assembly should be extended by up to one year to enable legislation to be passed in New Zealand giving effect to constitutional changes before the next general election to the Assembly.
39. The Executive Committee of the Assembly constituted under the existing legislation should be made the basis of a "member system".
40. The present seven elected members of the Committee should be asked to resign and the Assembly should, before the end of its current session, elect a Leader of Government Business and four other members chosen by him.
41. Each of five new members of the Executive Committee should be allocated one or more departments for which he would be given responsibility, but the Secretary to the Government and the Treasurer should remain primarily responsible for their departments until the new Constitution comes into force. Leader of Government Business and an Under-Secretary of Finance should understudy the Secretary to the Government and the Treasurer

respectively in the Executive Committee and the Legislative Assembly.

42. The Resident Commissioner should continue to have power to preside at meetings of the Executive Committee and of the Legislative Assembly, but he should make a practice of not always attending. The Leader of Government Business would then preside at meetings of the Executive Committee and a member elected by the Assembly at meetings of the Assembly.
43. The relationship of the Resident Agents with the Island Councils should be reviewed in the light of the new constitution.
44. The next elections for Island Councils should be postponed until 1965 but should not take place on the same day as Assembly elections.

(Signed) A. O. DARE  
President of the Legislative Assembly

#### ANNEX V

##### Circular letter, dated 5 May 1965, from the Clerk of the Legislative Assembly

GOVERNMENT OF THE COOK ISLANDS  
Office of the Clerk of the Legislative Assembly,  
Telephone 59S

Rarotonga, 5 May 1965

To: All Legislative Assembly Members

##### EIGHTH SESSION—FIRST MEETING

##### *Business to be transacted*

You are hereby advised that the first meeting of the Legislative Assembly, Eighth Session, which commences Monday 10 May 1965 in the Assembly Chambers, Avarua, is being convened solely to consider matters relating to the Constitution Bill. Therefore no other matters will be discussed at this meeting.

Normally members are afforded the opportunity to speak in an "Address in reply" but this will be granted at a meeting later in the year when the Assembly is reconvened to discuss normal government business.

Standing Orders provide that notices of motion should lie on the table for four days exclusive of non-sitting days before being debated, which if carried out would mean that the Assembly would have to be opened on Monday 10 May to receive Notices of Motion, and then each day for four days the Assembly would have to be opened and adjourned without transacting any business. The President, therefore, proposes that Notices of Motion should be deposited with the Clerk of the Assembly (Mr. J. Scott) by mid-day Friday 7 May, and all Notices received will be communicated to members by P.M. Friday 7 May. This will give members an opportunity to study the Motions over the weekend and by suspending Standing Orders debate on them can take place immediately. If this procedure is followed Notices of Motion, unless of an urgent nature, would not be accepted after mid-day Friday 7 May.

(Signed) J. M. SCOTT  
Clerk of the Legislative Assembly

#### ANNEX VI

##### Legislative Assembly of the Cook Islands 1965: Order Paper No. 1

MONDAY, 10 MAY 1965

1. Formal entry of President.
2. Prayers—Rauli Pokoati.
3. Swearing in of new Members.
4. Opening Address by President.
5. Address by Mr. O. Adeel—Leader U.N. Mission.
6. Suspension of Standing Orders.

A member to move that Standing Orders be suspended in order to allow the Executive Committee to be elected and

motions debated and also to restrict the proceedings of this first meeting to Constitutional matters only.

7. Election of Leader of Government Business and Executive Committee.
8. Notice of Motions: see Supplementary Order Paper for this Day.

#### ANNEX VII

##### Opening address by Mr. O. A. Dare, Resident Commissioner, in his capacity as President

It is my pleasure this morning to open this first session of the new Legislative Assembly, and on purpose I do not want to say many words because we are gathered here for the specific purpose of discussing whether or not the proposed Constitution should be adopted, and just as everyone, I think, in the Cook Islands would like to see the debate take place on this as soon as possible, it would only be right for me to allow the Assembly to do that. I do, however, wish to welcome all the members who have been elected to the Assembly, and I want to congratulate you all on your success. The people of the Cook Islands have placed their confidence in you, and I hope, and I am sure, that you will try your very best to do what you think is right for these Islands. We have some members here who were in the last Legislative Assembly, and I welcome them back too.

I personally feel very happy opening this Assembly this morning, because I think I can say I know every one of you and I regard you as my friends, and because I know you well, that we can place all the confidence in the world in you. It has not been possible to get the member from Manihiki down to Rarotonga for this session, but we have felt it desirable to carry on even though he is not here, and I congratulate him on his election too. It is a little too soon to offer congratulations to anyone for Pukapuka because we have not had the results in yet.

This is the first occasion I think in the history of the Cook Islands when we have had an Assembly sitting without an official member in it. And I am sure that all people will agree with me when I say that this shows the progress that the people of the Cook Islands have made politically. And I think that all the members would want me to thank the present Treasurer and Secretary, and past Treasurers and Secretaries for all the help they have given in previous sessions of this Assembly.

On my own behalf and on behalf of you and all the people of the Cook Islands, I do want to welcome to this room this morning Mr. Adeel, Mr. Lewis, and Mr. Dorkenoo who are members of the United Nations Mission. I had hoped that Mr. Lewis and Mr. Dorkenoo would sit here too, but for reasons of note-taking and their work, they have felt it better that they should sit at the back.

Mr. Adeel, we all know that you are on a special Mission here, and we know that you have a difficult task. You have to be absolutely impartial in your work. I think everyone knows that the New Zealand Government, with the agreement of the Cook Islands Government, asked this Mission to come here. We have reached a special stage in the development of the Cook Islands when the people have to have the free right to choose what form of Government they should have. We feel that we are giving these people that right, and we feel also that if anyone wants to check whether or not we are, they are very welcome indeed. These people are our invited guests and we hope, Mr. Adeel, that you have enjoyed yourselves and that you will enjoy yourselves for a few more days yet. There may be some people who have been a little critical of your having been brought here, but if there have been any, then I would suggest to you that you could count the numbers on your hand, I think you could count them on one hand, and see whether or not they do in fact represent the 20,000 Cook Islanders we have here. I know, and Members of this Assembly know that almost everyone in the Cook Islands would like to think that you are enjoying yourselves, that your job has been worthwhile, and that they have made you welcome in their midst. I think a visit of this nature might be likened to a school examination, the student who is sitting an examina-

tion can hardly expect to sit his papers without someone to observe whether or not he is carrying out the rules, and I want to assure you Mr. Adeel, and members of your party, both those who are here and those who have gone, that we are very pleased indeed to have you with us. If anyone has been critical of your presence here, than I think they will take a more sober view in future. Please remember that of the 20,000 people, or almost 20,000 people, more than 19,000 are very pleased to see you.

We feel proud of our Islands and we are very pleased indeed to bring anyone here to have a look at them. We all welcome you to our shores, and again; I hope that you enjoy yourselves here and that you will remember us when you are gone.

Just a few words on the Assembly which will be conducted this week. I know you all, and I know that all of you will conduct your debates with decorum. I know that our visitors will be impressed with the strength of your debating, and I wish the Assembly a very successful Session. The Minister of Island Territories and the Government of New Zealand convey their very best wishes to you. I have now very much pleasure in declaring this first Session of this new Assembly open.

I would like to call upon Mr. Adeel to say a few words to you, and perhaps, when he has spoken, a Member of the Assembly might speak; I thought the Hon. Julian Dashwood might say a few words.

### ANNEX VIII

#### Address by the United Nations Representative

Mr. President, Honourable Members, greetings.

On a historic and moving occasion such as this, I consider it a singular privilege and a great honour to be given the opportunity of saying a few words.

First let me share a few confidences with you. I know that the Maori is a genius at oratory. I found this out at the first *umukai*. The quality of the speeches which I heard was second only to the delicacy of the food, and I have ever since found nothing more fearsome than to make a speech.

The remarks which I am about to make constitute—if anything at all—a mere attempt at putting into words things that I feel deep down in my heart about your great people and about the crucial phase through which you are now passing.

The great milestones which mark the history of your past are there for anyone to see. But the events which led to your election to this Assembly are exceptional. You are an insular people and great sailors. In my search for appropriate terms in which to express what I believe to be the real significance of the experiment upon which you are entering, I thought of the lighter and its crew rowing ashore after a weary day at sea. Only with dexterous and timely manoeuvring, would the crew ride majestically ashore on the crest of a wave.

By the vote of 20 April, your people have placed their future destiny in your hands. That is the true significance of the electors' choice. And, like the crew of the lighter, you are faced with the challenge of steering your people and country to the fulfilment of that destiny on the crest of the wave of opportunity which has become available to you with this meeting.

From what I have seen so far, I have no doubt that you will measure up to the challenge. And of course, I wish you well. If the Secretary-General, whom I have the honour to represent, were here today, he would say no less. That will be the wish of the entire membership of the United Nations as well.

For the Government of New Zealand, I have a well-deserved word of praise. No word can express the esteem with which news of its invitation to the United Nations was received in many quarters, and it was with pride that the Organization agreed to be associated, even if only in a supervisory capacity, with this historic experiment in the exercise by a people of their right to self-determination.

Honourable Members, your election to this Assembly marks a mere starting point on a long, and, if I may say so without sounding pessimistic, hazardous road. I can assure you that the interest of the United Nations will not end with our

departure from your colourful and hospitable shores. My report, when it is completed, will be discussed by the Special Committee of Twenty-four and the General Assembly. And whatever the end results of the present experiment, you can expect a place of pride in the United Nations interest in developing countries.

When my colleague and I depart in a few days, we will be carrying with us very many pleasant memories of our visit. And now, speaking for myself and for all the other members of the team, I do not think I should even try to put in words how much we enjoyed your friendliness and your hospitality. If I may let you into a secret, for many of us, our departure is not an *adieu* but an *au revoir*.

Hon. Members, a little while ago, I made some reference to the significance of your election. By their vote, your people have placed their confidence so movingly, so majestically and so hopefully in you. You are therefore standing a verdict of history.

The challenge is no doubt enormous. Your responsibility in facing up to that challenge may be monumental. If I may say so, you are not sitting here today at the end of a journey. Nor is it for you the end of the beginning. You can say that this is the beginning of the beginning. But trustful as we all are in God, I have no reason but to trust that you will make it possible for generations of your people yet unborn to look back on this era in your history, and, in unison sing "Never in the history of a people was so much owed by so many to so few".

*Kia manuia Kotou Katoatoa.*

### ANNEX IX

#### Legislative Assembly Paper No. 1 Business Paper

I hereby give notice that as at this date, 7th May 1965, I have received notice of the following business to be transacted at the First Meeting of the Eighth Session of the Legislative Assembly of the Cook Islands.

#### Notice of Motions

##### (i) Motion No. 1

*Hon. Manea Tamarua to move:*

"That this Assembly requests that the Resident Commissioner shall remain in the chair until such time that a Speaker is duly elected."

##### (ii) Motion No. 2

*Hon. Pūpūke Robati to move:*

"That the adoption of the Constitution be deferred until such time that the alternatives to self-government are fully investigated and explained and the wishes of the people determined by Referendum."

##### (iii) Motion No. 3

*Hon. Manea Tamarua to move:*

"That this Assembly recommends to the New Zealand Government that section 32 of the Cook Islands Amendment Act 1957 as enacted in Section 61 of the Cook Islands Amendment Act 1964 be further amended by the deletion of Section 32a (1) (b) and (c) and inserting the following:

'Section 32a (1) (b)—In the case of a person born in the Cook Islands, he has been ordinarily resident in the Cook Islands throughout the period of three months immediately preceding his application for enrolment as an elector, or nomination as a candidate.

'Section 32a (1) (c)—In the case of a person not born in the Cook Islands, he has been ordinarily resident in the Cook Islands throughout the period of one year immediately preceding his application for enrolment as an elector, or nomination as a candidate.'

and further—

"That similar amendments be affected in the Cook Islands Constitution."

(iv) *Motion No. 4**Hon. Manca Tamarua to move:*

"That this Assembly recommends that if the New Zealand Government accepts the recommendation concerning electoral qualifications, the Cook Islands Legislative Assembly Regulations 1965 be amended accordingly and also that Regulation 28 requiring 65 clear days notice for an election be amended as so that only 14 days notice will be required if a by-election is held during the year ending 31 December, 1965."

(v) *Motion No. 5**Hon. Manca Tamarua to move:*

"That this Assembly recommends to the New Zealand Government that Article 13 of the proposed Cook Islands Constitution be amended as follows:

## Article 13 (1)

The words "and four other Ministers" be deleted and the following substituted:

"and five other Ministers."

(vi) *Motion No. 6**Hon. Manca Tamarua to move:*

"That this Assembly recommends to the New Zealand Government that Article 4, and other Articles which will be affected, of the proposed Cook Islands Constitution be amended to make the High Commissioner only the representative of Her Majesty the Queen and in lieu of having two Arikis in a Council of State a House of Arikis consisting of one Ariki from each of the eight outer islands or island groups and six from Rarotonga be established. The House of Arikis to be a consultative body with the Government in matters pertaining to land and Native Custom and any other matters on which the Government may require advice from the Arikis."

(vii) *Motion No. 7**Hon. Manca Tamarua to move:*

"That this Assembly gratefully re-affirms its acceptance of the principle of full internal Self-Government for the Cook Islands, graciously offered by the Government of New Zealand, trusting that the modifications to the draft Constitution to be requested by this Assembly will meet the approval of the Government and Parliament of New Zealand."

(viii) *Motion No. 8**Hon. Mana Strickland to move:*

"That this Assembly recommends that Dr. Manca Tamarua and one other person to be selected by the Executive Committee be authorized to travel to New Zealand at the first available opportunity to consult with the Minister of Island Territories and Select Committee to explain the proposals with a view to having the New Zealand Government accept the proposed changes to the Constitution."

(Signed) J. M. SCOTT  
*Clerk of the Legislative Assembly.*

## ANNEX X

## Motions adopted at the First Meeting of the Eighth Session of the Legislative Assembly of the Cook Islands

OFFICE OF THE CLERK OF THE LEGISLATIVE ASSEMBLY

20 May 1965

(i) *Motion of Appreciation to United Nations Mission to the Cook Islands*

"That this Assembly expresses appreciation of your Delegation to our Islands."

*Adopted 10 May 1965*(ii) *Suspension of Standing Orders*

"That Standing Orders be suspended in order to allow the Executive Committee to be elected and motions debated and also to restrict the proceedings of this first meeting to Constitutional matters only."

*Adopted 10 May 1965*(iii) *Motion No. 1*

"That this Assembly requests that the Resident Commissioner shall remain in the chair until such time that a Speaker is duly elected."

*Adopted 10 May 1965*

(Motion No. 2 was defeated 11 May 1965.)

(iv) *Motion No. 3*

"That this Assembly recommends to the New Zealand Government that Section 32a (1) (b) and (c) of the Cook Islands Amendment Act 1957 as amended by the Cook Islands Amendment Act 1964 be deleted and the following substituted—

"In the case of an elector or candidate he be allowed to vote and to stand as a candidate at any election in the Cook Islands after having resided in the Cook Islands for three months immediately preceding his application for enrolment, provided that he has for some period resided in the Cook Islands for not less than 12 months and this be made retrospective to 17 November 1964."

and further—

"That similar amendments be effected in the Cook Islands Constitution."

*Adopted 12 May 1965*(v) *Motion No. 4*

"That this Assembly recommends that if the New Zealand Government accepts the recommendation concerning electoral qualifications, the Cook Islands Legislative Assembly Regulations 1965 be amended accordingly and also that Regulation 28 requiring 65 clear days notice for an election be amended so that not less than 21 days but not more than 30 days notice will be required if a by-election is held during the year ending 31 December 1965."

*Adopted 14 May 1965*(vi) *Motion No. 5*

"That this Assembly recommends to the New Zealand Government that Article 13 of the proposed Cook Islands Constitution be amended as follows:

## Article 13 (1)

The words "and four other Ministers" be deleted and the following substituted:

"and five other Ministers."

*Adopted 13 May 1965*(vii) *Motion No. 6*

"This Assembly recommends to the New Zealand Government that there shall be a House of Arikis consisting of one Ariki from each of the eight Outer Islands or island groups and six from Rarotonga. This House shall be a consultative body with the Government in matters pertaining to land and native custom and any other matters on which the Government may require advice from the Arikis. On matters pertaining to land and custom and any other matter specified by law the House of Arikis shall have the power to refer back to the Legislative Assembly and/or Cabinet up to three times and after the first time may demand consultation with the Cabinet. If there has been no reference back the first time within seven days, and within two days for the second or third time, the matter shall be considered to have been agreed to by the House of Arikis."

"The High Commissioner shall retain the right to refer back as is already specified in the draft Constitution for the Council State.

"Although it is at present recommended that there shall be a High Commissioner only who shall represent Her Majesty the Queen, the Government of the Cook Islands would look favourably on a proposal that an Ariki should also represent Her Majesty the Queen if the House of Arikis so requested.

"No law shall be enforceable on any island where such law runs counter to traditional land usage unless requested by the Arikis and/or Kavanas of the island and that the wishes of the Arikis be obtained before the Motion becomes part of the Constitution provided that the consent of the Arikis shall not have a bearing on the date of promulgation of the Self-Government Constitution."

*Adopted 18 May 1965*

(viii) *Motion No. 7*

"That this Assembly gratefully re-affirms its acceptance of the principle of full internal Self-Government for the Cook Islands, as embodied in the draft Constitution trusting that the modifications to the draft Constitution to be requested by this Assembly will

meet the approval of the Government and Parliament of New Zealand."

*Adopted 19 May 1965*

(ix) *Motion No. 8*

"That this Assembly recommends that Dr. Manea Tamarua and one other person to be selected by the Executive Committee be authorised to travel to New Zealand at the first available opportunity to consult with the Minister of Island Territories and Select Committee to explain the proposals with a view to having the New Zealand Government accept the proposed changes to the Constitution."

*Adopted 17 May 1965*

(x) *Motion of Urgency*

"That this Assembly reaffirms New Zealand's solemn commitment to the International Community, namely the United Nations Organisation that the continuing rights of the people of the Cook Islands to frame their future political status will remain unimpaired."

*Adopted 19 May 1965*

(Signed) J. M. SCOTT

*Clerk of the Legislative Assembly*

## DOCUMENT A/6154

### Report of the Fourth Committee

[Original text: English]  
[10 December 1965]

1. The General Assembly, by resolution 2005 (XIX) of 18 February 1965, authorized the supervision by the United Nations of the elections to be held in the Cook Islands in April 1965 and authorized the Secretary-General to appoint a United Nations Representative who would supervise those elections with the assistance of the necessary observers and staff and observe the proceedings concerning the Constitution in the newly elected Legislative Assembly. Under the terms of the resolution, the United Nations Representative was to report to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and to the General Assembly at its twentieth session.

2. At its 1336th plenary meeting, on 24 September 1965, the General Assembly included in its agenda and allocated to the Fourth Committee item 23 (Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples: reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples) and item 24 (Report of the United Nations Representative for the Supervision of the Elections in the Cook Islands). At the same meeting, the General Assembly decided that item 23, in its general aspects, should be allocated to plenary meetings, and that the chapters of the Special Committee's reports on specific Territories, including those on the Cook Islands, should be referred to the Fourth Committee.

3. At its 1517th meeting, on 28 September 1965, the Fourth Committee decided to consider the chapters of the reports of the Special Committee relating to the Cook Islands (A/5800/Rev.1, chapter XV; A/6000/Rev.1, chap. VIII) jointly with the item concerning the report of the United Nations Representative for the

Supervision of the Elections in the Cook Islands (A/5962).

4. The Fourth Committee considered the two items at its 1560th to 1563rd meetings, from 17 to 19 November, and at its 1579th to 1581st meetings, on 8 and 9 December.

5. At the 1560th meeting, on 17 November, the United Nations Representative for the Supervision of the Elections in the Cook Islands presented his report to the Fourth Committee. At the same meeting, the Rapporteur of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples introduced the chapters of the reports of that Committee concerning the Cook Islands.

6. The Fourth Committee also had before it a note by the Secretary-General (A/5961) containing the letter dated 13 August 1965, addressed to him by the Permanent Representative of New Zealand, which concerned constitutional developments in the Cook Islands subsequent to the elections which took place on 20 April 1965.

7. The general debate on the items took place at the 1560th to 1563rd meetings, from 17 to 19 November.

8. At the 1579th meeting, on 8 December, the representatives of Togo and Pakistan introduced a draft resolution, which was finally sponsored by Congo (Democratic Republic of), Guinea, Mauritania, Morocco, Nepal, Niger, Nigeria, Pakistan, the Philippines, Rwanda, Togo and Zambia (A/C.4/L.811/Rev.1 and Add.1).

9. At the same meeting, Ghana submitted an amendment (A/C.4/L.815) to the draft resolution to delete from operative paragraph 3 the words "from which date the Cook Islanders have had control of their internal affairs and of their future".

10. The Committee decided that the statement made by the representative of Ghana introducing his delegation's amendment (A/C.4/662 and Corr.1) and the statement made by the representative of New Zealand in reply (A/C.4/663) to the statement of the representative of Ghana, should be circulated as Committee documents.

11. At the same meeting, Liberia submitted the following amendments (A/C.4/L.816) to the draft resolution:

1. Insert, as operative paragraph 3, the following:

*"Expresses its appreciation of the co-operation extended to the United Nations by the Government of New Zealand in the study of the question of the Cook Islands;"*

2. Number as operative paragraph 4 the present operative paragraph 3.

3. Insert as operative paragraph 5, the following:

*"Considers that since the Cook Islands have attained full internal self-government, the transmission of information in respect of the Cook Islands under Article 73 e of the Charter of the United Nations is no longer necessary;"*

4. Number as operative paragraph 6 the present operative paragraph 4.

5. Add as operative paragraph 7 the following:

*"Expresses the hope that the United Nations Development Programme and the specialized agencies will endeavour to contribute in every way possible to the development and strengthening of the economy of the Cook Islands."*

12. The draft resolution (A/C.4/L.811/Rev.1 and Add.1) and the amendments thereto by Ghana (A/C.4/L.815) and by Liberia (A/C.4/L.816) were voted upon at the 1580th meeting, on 8 December, as follows:

The amendment proposed by Ghana to operative paragraph 3 was rejected by a roll-call vote of 29 to 28, with 43 abstentions. The voting was as follows:

*In favour:* Algeria, Bulgaria, Byelorussian Soviet Socialist Republics, Cameroon, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Cyprus, Czechoslovakia, Dahomey, Ghana, Hungary, Kenya, Mongolia, Poland, Romania, Somalia, Sudan, Syria, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yemen, Yugoslavia, Zambia.

*Against:* Australia, Austria, Belgium, Canada, Ceylon, China, Denmark, Finland, France, Greece, Ireland, Italy, Jamaica, Japan, Liberia, Malaysia, Nepal, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Philippines, Rwanda, South Africa, Spain, Sweden, Thailand, Turkey.

*Abstaining:* Afghanistan, Argentina, Bolivia, Brazil, Burma, Central African Republic, Chad, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Ethiopia, Guatemala, Guinea, Honduras, India, Iran, Iraq, Israel, Ivory Coast, Jordan, Kuwait, Libya, Madagascar, Malawi, Mali, Mauritania, Mexico, Morocco, Niger, Panama, Peru, Portugal, Saudi Arabia, Senegal, Sierra Leone, Togo, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Venezuela.

The amendments proposed by Liberia were voted upon as follows:

(a) The first amendment was adopted by 78 votes to one, with 20 abstentions.

(b) The third amendment was adopted by a roll-call vote of 49 to 17, with 34 abstentions. The voting was as follows:

*In favour:* Australia, Austria, Belgium, Bolivia, Brazil, Canada, Ceylon, China, Denmark, Ethiopia, Finland, Greece, Guinea, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Japan, Jordan, Kuwait, Liberia, Libya, Madagascar, Malawi, Malaysia, Morocco, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Philippines, Rwanda, Saudi Arabia, Sierra Leone, Spain, Sweden, Thailand, Togo, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

*Against:* Bulgaria, Byelorussian Soviet Socialist Republics, Congo (Brazzaville), Cuba, Czechoslovakia, Ghana, Hungary, Kenya, Mongolia, Poland, Romania, Sudan, Syria, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen.

*Abstaining:* Afghanistan, Algeria, Argentina, Burma, Cameroon, Central African Republic, Chad, Chile, Colombia, Congo (Democratic Republic of), Costa Rica, Cyprus, Dahomey, Ecuador, El Salvador, France, Guatemala, Honduras, Jamaica, Mali, Mauritania, Mexico, Peru, Portugal, Senegal, Somalia, South Africa, Tunisia, United Arab Republic, United Republic of Tanzania, Upper Volta, Venezuela, Yugoslavia, Zambia.

(c) The fifth amendment was adopted by 76 votes to none, with 23 abstentions.

(d) The second and fourth amendments, containing consequential amendments, were adopted without objections.

Operative paragraph 3 of the draft resolution was adopted by a roll-call vote of 65 to 16, with 18 abstentions. The voting was as follows:

*In favour:* Afghanistan, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Costa Rica, Denmark, Ethiopia, Finland, Greece, Guatemala, Guinea, Honduras, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kuwait, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mexico, Morocco, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Rwanda, Saudi Arabia, Sierra Leone, South Africa, Spain, Sweden, Thailand, Togo, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Venezuela.

*Against:* Bulgaria, Byelorussian Soviet Socialist Republic, Congo (Brazzaville), Cuba, Czechoslovakia, Ghana, Hungary, Kenya, Mongolia, Poland, Romania, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Yemen.

*Abstaining:* Algeria, Burma, Cameroon, Congo (Democratic Republic of), Cyprus, Dahomey, Ecuador, El Salvador, France, Portugal, Senegal, Somalia, Sudan, Syria, Tunisia, United Arab Republic, Yugoslavia, Zambia.

Operative paragraph 4 of the draft resolution was adopted by 86 votes to 4, with 6 abstentions.

The draft resolution as a whole, as amended, was adopted by a roll-call vote of 76 to none, with 24 abstentions. The voting was as follows:

*In favour:* Afghanistan, Argentina, Austria, Belgium, Bolivia, Brazil, Burma, Cameroon, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica, Cyprus, Dahomey, Denmark, Ecuador, El Salvador, Ethiopia, Finland, Greece, Guatemala, Guinea, Honduras, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Rwanda, Saudi Arabia, Sierra Leone, Somalia, Spain, Sweden, Thailand, Togo, Turkey, United Arab Republic, United Republic of Tanzania, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia.

*Against:* None.

*Abstaining:* Algeria, Australia, Bulgaria, Byelorussian Soviet Socialist Republic, Congo (Brazzaville), Cuba, Czechoslovakia, France, Ghana, Hungary, Mongolia, Poland, Portugal, Romania, Senegal, South Africa, Sudan, Syria, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America.

### *Recommendation of the Fourth Committee*

13. The Fourth Committee therefore recommends to the General Assembly the adoption of the following draft resolution:

[*Text adopted by the General Assembly without change. See "Action taken by the General Assembly" below.*]

## DOCUMENTS A/C.4/L.811/REV.1\* AND ADD.1\*\*

**Congo (Democratic Republic of), Guinea, Mauritania, Morocco, Nepal, Niger, Nigeria, Pakistan, Philippines, Rwanda, Togo and Zambia: revised draft resolution**

[*Original text: English*  
[3 December 1965]]

*The General Assembly,*

*Recalling* its resolution 1514 (XV) of 14 December 1960,

*Recalling* its resolution 2005 (XIX) of 18 February 1965 authorizing the Secretary-General to appoint a United Nations Representative to supervise the elections to be held in the Cook Islands under New Zealand administration and to observe the proceedings concerning the Constitution in the newly elected Legislative Assembly,

*Having examined* the chapters of the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to the Cook Islands (A/5800/Rev.1, chap. XV and A/6000/Rev.1, chap. VIII) including the statements made in the Special Committee by the Premier of the Cook Islands,

*Having considered* the report of the United Nations Representative for the supervision of the elections in the Cook Islands and the information on subsequent developments (see A/5961),

\* Incorporating document A/C.4/L.811/Rev.1/Corr.1.

\*\* Document A/C.4/L.811/Rev.1/Add.1, dated 8 December 1965, indicated the addition of Zambia to the list of sponsors of the draft resolution.

*Having heard* the statements made by the United Nations Representative and the representative of New Zealand,

*Noting* that under the Constitution which came into force on 4 August 1965, the people of Cook Islands have reserved their right to move to a status of complete independence,

1. *Approves* the chapters of the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to the Cook Islands;

2. *Notes* the findings and conclusions of the United Nations Representative for the Supervision of the Elections in the Cook Islands and expresses its high appreciation to the Representative and his staff;

3. *Notes* that the Constitution of Cook Islands came into force on 4 August 1965, from which date the people of the Cook Islands have had control of their internal affairs and of their future;

4. *Reaffirms* the responsibility of the United Nations, under resolution 1514 (XV) of 14 December 1960, to assist the people of Cook Islands in the eventual achievement of full independence, if they so wish, at a future date.

## ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 1398th plenary meeting, on 16 December 1965, the General Assembly adopted the draft resolution submitted by the Fourth Committee (A/6154, para. 13). For the final text, see resolution 2064 (XX) below.

### **Resolution adopted by the General Assembly**

2064 (XX). QUESTION OF THE COOK ISLANDS

*The General Assembly,*

*Recalling* its resolution 1514 (XV) of 14 December 1960,

*Recalling* its resolution 2005 (XIX) of 18 February 1965 authorizing the Secretary-General to appoint a United Nations representative to supervise the elections to be held in the Cook Islands under New Zealand administration and to observe the proceedings concerning the Constitution in the newly elected Legislative Assembly,

*Having examined* the chapters of the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to the Cook Islands (A/5800/Rev.1, chap. XV; A/6000/Rev.1, chap. 8) including the statements made in the Special Committee by the Premier of the Cook Islands,

*Having considered* the report of the United Nations Representative for the Supervision of the Elections in the Cook Islands (A/5962) and the information on subsequent developments (A/5961),

*Having heard* the statements made by the United Nations Representative for the Supervision of the Elections in the Cook Islands and the representative of New Zealand,

*Noting* that, under the Constitution which came into force on 4 August 1965, the people of the Cook Islands have reserved their right to move to a status of complete independence,

1. *Approves* the chapters of the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to the Cook Islands;

2. *Notes* the findings and conclusions of the United Nations Representative for the Supervision of the Elec-

tions in the Cook Islands and expresses its high ciation to the Representative and his staff;

3. *Expresses its appreciation* of the co-operation extended to the United Nations by the Government of New Zealand in the study of the question of the Islands;

4. *Notes* that the Constitution of the Cook Islands came into force on 4 August 1965, from which date the people of the Cook Islands have had control of their internal affairs and of their future;

5. *Considers* that since the Cook Islands have attained full internal self-government, the transmission of information in respect of the Cook Islands under Article 73 e of the Charter of the United Nations is no longer necessary;

6. *Reaffirms* the responsibility of the United Nations under General Assembly resolution 1514 (XV) to assist the people of the Cook Islands in the eventual achievement of full independence, if they so wish, in the future date;

7. *Expresses the hope* that the United Nations Development Programme and the specialized agencies endeavour to contribute in every way possible to development and strengthening of the economy of the Cook Islands.

1398th plenary meeting,  
16 December 1965.

### CHECK LIST OF DOCUMENTS

NOTE. This check list includes the documents mentioned during the joint consideration of agenda items 23 and 24 which are not reproduced in the present fascicle.

Document No.	Title	Observations and references
A/5800/Rev.1	Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples	<i>Official Records of the General Assembly, Nineteenth Session, Annexes, annex No. 8, (part I)</i>
A/5880	Letter dated 2 February 1965 from the Permanent Representative of New Zealand to the United Nations addressed to the Secretary-General	<i>Ibid.</i> , annex No. 8 (part I)
A/5882	Note by the Secretary-General	<i>Ibid.</i>
A/5885	Letter dated 16 February 1965 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the President of the General Assembly	<i>Ibid.</i>
A/6000/Rev.1	Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples	<i>Ibid.</i> , <i>Twentieth Session, Annexes</i> , addendum to agenda item 23
A/C.4/622 and Corr.1	Statement by the representative of Ghana at the 1579th meeting of the Fourth Committee	Mimeographed; for summary, see A/C.4/SR.1579, paras 9-24
A/C.4/663	Statement by the representative of New Zealand at the 1579th meeting of the Fourth Committee	<i>Idem</i> , paras. 28-35
A/C.4/L.811	Algeria, Congo (Democratic Republic of), Guinea, Liberia, Mauritania, Morocco, Niger, Nigeria, Pakistan, Philippines, Rwanda and Togo: draft resolution	Replaced by A/C.4/L.811 Rev.1 and Add.1
A/C.4/L.815	Ghana: amendment to document A/C.4/L.811/Rev.1 and Add.1	See A/6154, para. 9
A/C.4/L.816	Liberia: amendments to document A/C.4/L.811/Rev.1 and Add.1	<i>Ibid.</i> , para. 11
A/C.4/L.818	Draft report of the Fourth Committee	Same text as A/6154