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REPORT OF THE UNITED NATIONS REPRESENTATIVE FOR THE
SUPERVISION OF THE ELECTIONS IN THE COOK ISLANDS*

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LETTER OF TRANSMITTAL DATED 30 JUNE 1965, FROM THE UNITED NATIONS
REPRESENTATIVE FOR THE SUPERVISION OF THE ELECTIONS IN THE COOK
ISLANDS TO THE SECRETARY-GENERAL

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
Geneva, 1965

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 which was adopted on 14 December 1960 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 these 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 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

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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/AC.109/L.136), 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 of resolution 1514 (XV) to it, 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 (A/5880). 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 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."

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 and for the debate and decision upon the Constitution by the newly elected Legislative Assembly in late May".

7. The Secretary-General, in drawing the attention of the General Assembly to this communication (A/5882), 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, chapter 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 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 proceedings concerning the Constitution in the newly elected

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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 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, Mangai 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 Mangai, 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 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

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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. The 1964 edition of Report on the Cook, Niue and Tokelau Islands, a report issued annually by the New Zealand Department of Island Territories, 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 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, compared with £710,635 the previous year, an increase of £124,124. 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 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.

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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 the 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.

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C. FORM OF THE REPORT

31. The report has two parts in addition to the introductory section. Part one 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 programme 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 two 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 ONE: 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 had arrived in the Territory on 8 April, 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 manifestoes 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 which 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 provide 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.

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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 elections 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:

Te-Au-O-Tonga Constituency	(4 members)
Puaikura Constituency	(2 members)
Takitumu Constituency	(3 members)
Aitutaki and Manuae Constituency	(3 members)
Mangaia Constituency	(2 members)
Atiu Constituency	(2 members)
Mauke Constituency	(1 member)
Mitiaro Constituency	(1 member)
Manihiki Constituency	(1 member)
Pukapuka and Nassau Constituency	(1 member)
Rakahanga Constituency	(1 member)
Penrhyn Constituency	(1 member)

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 meets 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 becomes qualified or the date of the commencement of these regulations.
- (c) Being an elector registered on the roll for any constituency within one month after the date on which he becomes qualified to be registered on the roll of another constituency.

44. Failure to register is an offence under the Regulations, under a penalty of a fine not exceeding \$2.

45. All applications for registration are to be submitted to the Registrar in charge of the roll on which the applicant is 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 that:

" ... 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' signature. 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).

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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 attending personally to vote, or 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 must accompany the voter behind a screen and assist the voter to mark the voting paper or mark it for him if he is asked to do so. There shall also 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 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 may, and if required by a Scrutineer or United Nations Observer shall, before issuing any voting paper, 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, shall immediately retire into one of the inner compartments provided, and shall 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 to the name of each such candidate. The Regulations also make provision that no voting paper shall be rejected as invalid that clearly indicated the candidate or candidates for whom the voter intended to vote, whether that indication is 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 may 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.

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54. At this count all informal voting papers were set aside. Voting papers were 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 it 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. In addition to the proceedings, 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 prepared 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 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 pamphlets 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. 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. Excerpts from that talk ran as follows:

"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 needs 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.

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"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.'

"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 Islanders 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."

The full text of the talk is annexed to this report (see annex III).

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:

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65. The Cook Islands Party is led by Mr. Albert Henry. Their position was expressed in a statement issued on their Platform and Policy - in 1965 General Elections. Their basic aim 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 has declared in their statement that the Party:

... "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 is in 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

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three months of continuing residence and for those who were not born but ordinarily resident in the Cook Islands to one year. The Party has also stated that it would be their 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 has also outlined in some detail their attitude towards economic and social policy.

68. The Labour Party in their published statement have stated that they will "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 has also indicated that they would "give more power to each Island Council in running the affairs of its own island".

69. The United Political Party is lead by Mr. D.C. Brown, the Leader of Government Business in the previous Legislative Assembly. In their published party material the emphasis has been more on their record of achievement in domestic matters and a pledge to continue with greater vigour if elected, in the same direction. There has however been no clear indication of their position with respect to the constitutional issues, which happen 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, says "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 have claimed that they will, if elected, act in the best interests of the Cook Islands on every issue that comes up in the Legislature in so far as internal matters are concerned. On the question of the Constitution, Mr. Stuart Kingan has taken 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 has 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 has advocated a policy of going slow with respect to the handling of the constitutional questions.

72. The Independent Candidates had together issued a statement in which they had 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 that we are Not a political party because individually we do not want to be tied down to strict political party lines". On the constitutional issue they have stated as a group that they would "like to consult 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 and they belonged to the following groups:

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. On March 1964 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

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will 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 1965. 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 has 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
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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 the 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.

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Results of the elections

85. The total vote was as follows:

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

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:

<u>Candidates</u>	<u>Number of votes</u>
<u>ISLAND OF RAROTONGA AND ISLAND OF PALMERSTON:</u>	
<u>Te-Au-O-Tonga Constituency</u> (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)

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<u>Candidates</u>		<u>Number of</u> <u>votes</u>	
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 Araititi	119	(U)
17.	TARIPO Tuka John Dugall	94	(L)
18.	UNUIA Tongia	82	(L)
19.	UPU Pere	33	(U)
<u>Puaikura Constituency (2 Members)</u>			
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)
<u>Takitumu Constituency (3 Members)</u>			
1.	SHORT Apenera P.*	532	(CIP)
2.	NUMANGA Tiekana*	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)

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Candidates

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Number of
votesAitutaki 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 Tuaeu	325	(CIP)
7. CAMERON Tukus	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)

Mauke Constituency (1 Member)

1. DASHWOOD Julian*	198	(CIP)
2. TOREA Ngaoire	47	(I)

Mitiaro Constituency (1 Member)

1. POKOATI Rauī*	75	(CIP)
2. TETAVA Tiki	24	(U)

Manihiki Constituency (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)

<u>Candidates</u>	<u>Number of</u> <u>votes</u>	
<u>Pukapuka and Nassau Constituency</u> (1 Member)		
1. TARIAU John*	173	(CIP)
2. MARO Mangere	113	-
3. TARIAU Arona	93	-
<u>Rakahanga Constituency</u> (1 Member)		
PUPUKE Robati* (Unopposed)	-	(IG)
<u>Penrhyn Constituency</u> (1 Member)		
TANGAROA Tangaroa* (Unopposed)	-	(U)

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.

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

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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.

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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 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 qualification as elector and candidate. The second act, the Cook Islands Legislative Assembly Regulations, 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.

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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 names 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. Questions 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 of the Department of Island Territories for 1964 states (at page 40) that "... there is no illiteracy in the Territory...". 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 1/3 per cent of all voters, mostly elderly people, required and received assistance.

99. While the Observer to Mangaia, another one 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 polling, I spent three in each of the two polling stations concerned. Only four electors received assistance in one, and three in the other during the three hours which I spent in each of the two polling stations, which 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.

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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 everyone of the outer islands the Resident Agent, who is head of the Administration of the island, was appointed to cumulate the functions of Registrar with those of Returning Officer. In a few cases the Resident Agent added to these functions, those 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 administrative 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 solely responsible 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 Government 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

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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 the Cook Islands, not being either a Trust Territory or 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 for 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, deaths and marriages, 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 cumulating 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

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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.

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115. As the hazards of Gallop 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 manifestoes 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 discussions 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, if returned, to undertake an early revision of some of the provisions

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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. So 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 modification. 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.

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120. The views and questions which I considered pertinent to the matter, were expressed during interviews which my Observers and I had 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.

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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 alternative 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

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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 in the polling booths on polling

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day the electors would be entirely free in their choice of candidates, the Administration was unsparing in its efforts in acquainting 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, in all, visited 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

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adequate, and I had no reports of ballot papers falling into the 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

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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.

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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 re-inforced 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

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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 the 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

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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 undearring good nature, and innate friendliness, the operation could not have been the success which it was.

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PART TWO: 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 the 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.

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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 of 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. An amendment to the original Act, the Cook Islands Amendment Act, 1946, 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 appoints 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.

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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 which marked the granting of independence to most of the new nations of the twentieth century. 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. 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,

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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 Commissioners 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 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 a key note 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.

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- (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 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 were acceptable and which required 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^{1/} 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 Gotz 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

1/ New Zealand Parliamentary Debates, Hansard, No.23 of October, 1964, p. 2835.

1960 and the setting up of the 24-man committee caused something of a panic in the mind of the Hon. Mr. Gotz". Mr. Mathison stated that never once, between 1957 and 1960 when he was Minister, was the question of complete self-government mentioned. Mr. Gotz, 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,^{2/} 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 desire on the part of Governments in New Zealand to see that we were freed from any taint of colonialism".

181. Mr. J.R. Hanan, the present Minister responsible for matters relating to the Cook Islands and government spokesman in the debate,^{3/} in his reply, recalled 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.^{4/} 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

^{2/} Ibid., p. 2850.

^{3/} Ibid., p. 2864.

^{4/} Ibid., p. 2842.

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 Léon Gütz, 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."

183. Consideration of the Bill became an occasion on which, in passionate speeches,^{5/} 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 recognise as our cousins, our racial brothers, and of course our closest neighbours."

^{5/} Ibid., pp. 2842 and 2850.

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."

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 instrument 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 the right of New Zealand shall be the Head of State of the Cook Islands. Executive 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.

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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 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 refer, within 14 days, to the Cabinet any decision of the Cabinet for reconsideration by the Cabinet. 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 a 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

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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 role 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 refer, with or without a request for an amendment, any decision of the Cabinet back to the Cabinet 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 extra-territorial operation. The Assembly may repeal, revoke, or amend in its application to the Territory any New Zealand statute or other laws 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 or 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

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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 provide 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 26 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 were 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,

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leader of the United Political Party and former Leader of Government Business, having been defeated in the elections, Mr. William Estall, member for Aitutaki, is 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 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 in the forenoon 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 commencement 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 IV) 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 upon a long, and if I may say so without sounding pessimistic, hazardous road. But 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 24 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 24 by Mr. Corner on his return from Rarotonga to New York (see A/AC.109/SR.244). 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 which was 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 European 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 were 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 (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 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 Order 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

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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 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 neither been moved nor seconded, and that Mr. Henry could hardly move 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 would 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 Constitutional 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 Constitutional 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 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.

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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 has 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 by a unanimous vote. 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 Islands 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'."

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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, until the day after, consideration of this motion.

269. During the debate to the motion 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. Opposers 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 only result 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.

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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 Island Party.

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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, mover, 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