
Report of

THE FIJI CONSTITUTIONAL CONFERENCE

1970



LEGISLATIVE COUNCIL OF FIJI
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FIJIAN SPELLING

Two systems of spelling Fijian names and words are in use in the Colony. The "Fijian" system was devised during the period 1835-37 by the Missionaries who first reduced the Fijian language to writing. They aimed at representing the various Fijian sounds by single letters and the system that resulted has been used ever since by the Fijian people and is in general use within the Colony. The letters concerned are "b", "c", "d", "g", and "q" and the following examples indicate the manner in which they are pronounced.

- (i) B is pronounced "MB" as in number, e.g. LABASA = LAMBASA.
- (ii) C is pronounced "TH" as in that, e.g. CAUTATA = THAUTATA.
- (iii) D is pronounced "ND" as in end, e.g. NADI = NANDI.
- (iv) G is pronounced "NG" as in sing, e.g. NASIGATOKA = NASINGATOKA.
- (v) Q is pronounced "NGG" as in finger, e.g. YAQARA = YANGGARA.

In practically all words in Fijian, the accent is on the penultimate syllable.

2. The "phonetic" system is a more recent attempt to render Fijian words in English spelling. It is used in maps and in documents designed primarily for overseas reading, e.g. MBAU (BAU), THAKOMBAU (CAKOBABU), NANDI (NADI), NANDRONGA (NADROGA), MBENGGA (BEQA).

REPORT OF THE FIJI CONSTITUTIONAL CONFERENCE 1970

I—INTRODUCTION

The Fiji Constitutional Conference, 1970 was held at Marlborough House, London, S.W.1, from the 20th April to the 5th May, 1970. The Rt. Honourable Lord Shepherd, Minister of State for Foreign and Commonwealth Affairs, presided at the opening and following working sessions except from the Plenary Sessions on the afternoons of the 29th and 30th April and the 1st May when Sir Leslie Monson took the Chair. Seventeen sessions were held in all. A list of those present is at Annex G.

2. Texts of speeches made at the opening and closing sessions of the Conference by the Rt. Hon. Lord Shepherd, Minister of State for Foreign and Commonwealth Affairs, the Hon. Ratu Sir Kamisese Mara, Chief Minister of Fiji, and the Hon. S. M. Koya, Leader of the Opposition in Fiji are at Annex B.

3. As recorded in Lord Shepherd's report on his visit to Fiji (Annex A) the Alliance and National Federation Parties had agreed that Fiji should become a fully sovereign and independent state with the Queen as Head of State and that Fiji should seek Membership of the Commonwealth. The two parties had carefully considered the steps by which the new status should be achieved. On the proposal of the National Federation Party, and in view of the wide area of agreement between the two parties about a new constitution, they had agreed that Fiji should proceed to independence as soon as constitutional instruments could be drawn up after a constitutional conference and without an election before independence. They also agreed, however, that the constitutional instruments should provide for a general election not later than an agreed date after independence.

4. The purpose of the conference was to decide on a detailed outline of a constitution for an independent Fiji taking account of the agreements recorded in Lord Shepherd's report and such further agreements on outstanding matters as might be reached during the conference.

5. As recorded in Lord Shepherd's Report the Alliance and National Federation Parties considered at the time of his talks in Fiji that they needed more time to do some detailed research, and study the implications of various formulae put in by both sides, on the composition of the Legislature and method of election. Both sides were hopeful of producing an agreed formula by the time of a Constitutional Conference. On the 30th April, 1970 the Chief Minister reported to the Conference in plenary session that he had discussed this matter further with the Leader of the Opposition and they had agreed that he should make the following statement to the Conference:—

"The Alliance Party stated that as in 1965 they recognised that election on a common roll basis was a desirable long-term objective but they could not agree to its introduction at the present stage. On the other hand the National Federation Party reiterated its stand that common roll could be introduced immediately in Fiji and could form the basis of the next general elections without in any way one race dominating others but resulting in a justly representative national Parliament.

The two parties having regard to the national good and for peace, order and good government of independent Fiji reached the following conclusions.

The two parties stated their belief that the democratic processes of Fiji should be through political parties, each with its own political philosophy and programmes for the economic and social advancement of the people of Fiji cutting across race, colour and creed, and that all should work to this end. The Conference called upon the Government of Fiji to see to the immediate completion of the extension of common roll to all towns and township elections in particular Lautoka and Suva. The Conference also agreed that at some time after the next general election and before the second election the Prime Minister, after consultation with the Leader of the Opposition, should arrange that a Royal Commission should be set up to study and make recommendations for the most appropriate method of election and representation for Fiji and that the terms of reference should be agreed by the Prime Minister with the Leader of the Opposition. The Conference further agreed that the Lower House should be composed as follows:—

	<i>Communal</i>	<i>National roll</i>
Fijian	12	10
Indian	12	10
General	3	5

In agreeing to this composition for the Lower House the parties acknowledged that this is an interim solution and provides for the first House of Representatives elected after Independence and the Parliament would, after considering the Royal Commission Report, provide through legislation for the composition and method of election of a new House of Representatives, and that such legislation so passed would be regarded as an entrenched part of the Constitution."

6. The Leader of the Opposition then made the following statement to the Conference:

"This is an agreement between the two Parties and as we have indicated to Your Lordship we would like to go back to Fiji with an agreed formula for a method of election and composition of our

future Parliament. I am indeed grateful that all sides have been able to reach this particular agreement which no doubt will be regarded as an historical document because we did not realise that we would reach a stage where there would be a compromise of this nature.

I am sure, Sir, that both sides have had an opportunity to study the formula and that no adverse criticism or statements will be forthcoming from any quarter. I support the statement that has been read out by the Chief Minister and hope that the Conference will accept it and that it forms part of the final Minutes of the 1970 Independence Conference."

7. The Minister of State paid tribute to the statesmanship of the Fiji delegates to the Conference which had resulted in the foregoing statements by the Chief Minister and the Leader of the Opposition.

8. The Conference reached the conclusions set out below, Dr. W. L. Verrier dissenting from paragraphs 21, 24, and 29.

II—THE CONSTITUTION

9. The Constitution would commence with a preamble in the form set out in Annex C to this report.

FUNDAMENTAL RIGHTS AND FREEDOMS

10. The Constitution would include provisions, modelled on Chapter I of the present Fiji Constitution, for protecting the fundamental rights and freedoms of the individual, including the right to life, liberty, security of the person, the protection of the law, protection for privacy of the home and other property and from deprivation of property without compensation and from discrimination on grounds of race, place of origin, political opinions, colour or creed; and also freedom of conscience, expression, assembly and association.

11. Provision would be made in the Constitution for the enforcement by the courts of the fundamental rights and freedoms. In particular any person who alleged that any of the protective provisions was being or was likely to be contravened in relation to him would have a right to apply to the Supreme Court for redress.

12. The provision in the present constitution relating to compulsory acquisition of property would be modified so that acquisition for the purpose of land settlement would cease to be permissible. In the case of acquisition for other purposes the Constitution would oblige the Government or other acquiring authority, failing a negotiated agreement with the owner:—

- (a) to give notice to the owner of its intention to acquire the property compulsorily;
- (b) to apply to the Supreme Court for an order authorising compulsory acquisition, to obtain which the Government or authority would have to justify the necessity or expediency of acquisition for the stated purpose;
- (c) to apply to the Supreme Court for an assessment of the compensation payable if the court granted the order authorising the acquisition; and

- (d) to pay the costs of the owner in connection with the Court proceedings.

These provisions would have the effect of placing on the Government or other acquiring authority the onus of justifying the acquisition.

13. The provisions of the present Constitution permitting restrictions to be imposed on freedom of movement and discriminatory provisions to be made in relation to persons who do not belong to Fiji would be modified in the new Constitution so as to refer to persons who are not citizens of Fiji.

14. Subject to safeguards, derogation from the provisions protecting the right to personal liberty and giving protection from discrimination would remain permissible during a period of public emergency. "Period of public emergency" would be defined as a period during which Fiji was engaged in any war or during which there was in force a proclamation by the Governor-General declaring that a state of public emergency existed. Such a proclamation would, if not previously revoked by the Governor-General, lapse at the end of a period of six months unless approved by resolutions of both Houses of Parliament. If so approved, it would continue in force for such further period not exceeding six months as might be specified in the resolutions and could be subsequently extended from time to time in the same manner.

CITIZENSHIP

15. The Constitution would provide for citizenship of Fiji to be acquired automatically on the date of independence by a citizen of the United Kingdom and Colonies:—

- (a) who had been born or whose father had been born in Fiji;
- (b) who (or whose father) had acquired citizenship of the United Kingdom and Colonies by virtue of naturalisation in Fiji; or
- (c) who (or whose father) had acquired citizenship of the United Kingdom and Colonies by registration in Fiji on or before 5th May, 1970.

The Constitution would also confer citizenship of Fiji automatically upon a person born after independence in Fiji; and upon a person born after independence outside Fiji of a father who was a citizen of Fiji otherwise than by virtue of the latter's father having been born in Fiji.

16. The Constitution would also confer a right to acquire citizenship of Fiji on application upon:—

- (a) any woman who at any time had been married to a citizen of Fiji or to a person who would have become a citizen of Fiji automatically on the date of independence had he still been alive; and
- (b) any citizen of any other Commonwealth country who immediately before the date of independence was a person deemed to belong to Fiji for the purposes of Chapter I of the existing Constitution by virtue of ordinary residence in Fiji for a period of not less than 7 years, provided he applied within 2 years of independence and provided also, in the case of a person who had attained the age of 21

years, that he had renounced his citizenship of that other country or, if the law of that other country did not permit him to renounce that citizenship, had made such declaration as Parliament might prescribe.

17. The Constitution would enable the Fiji Parliament to provide for the acquisition of citizenship by other classes of persons, for deprivation of citizenship in the case of any person who has acquired citizenship otherwise than automatically, or under paragraph 16(b) above, for the renunciation of citizenship, and for deprivation of citizenship in the case of any citizen of Fiji who has attained the age of 21 and who, being a citizen of some other country has not in such period as Parliament may prescribe, renounced his other citizenship or, where he is unable to renounce it, made such declaration as Parliament may prescribe.

18. The Constitution would specify what persons would have the status of Commonwealth citizen in Fiji and would make provision enabling Parliament to prescribe, subject to the provisions of the Constitution, rights and duties attaching to such status, on the basis of reciprocal arrangements made with other Commonwealth countries.

THE GOVERNOR-GENERAL

19. The Constitution would provide for a Governor-General to be appointed by the Queen and to represent Her Majesty in Fiji. In the absence or incapacity of a Governor-General or any other person appointed by the Queen to perform his functions, his functions would be performed by the Chief Justice.

PARLIAMENT

20. The Parliament of Fiji would comprise the Queen, the Senate and the House of Representatives.

THE SENATE

21. The Senate would comprise twenty-two members. Eight members would be nominated by the Council of Chiefs, the procedure for choosing these members being such as the Council itself might determine. Seven members would be nominated by the Prime Minister of the day and six members by the Leader of the Opposition. One member would be nominated by the Council of Rotuma, the procedure for choosing this member being such as, subject to any provision made by Parliament for the purpose, the Council itself might determine. Appointments would be for a six year term except that—

- (a) of the twenty-two Senators originally nominated after independence eleven would be appointed for a term of only three years. These would comprise four nominated by the Council of Chiefs, three nominated by the Prime Minister, three nominated by the Leader of the Opposition and the one nominated by the Council of Rotuma;
 - (b) an appointment to fill a vacancy arising during the course of a term of appointment would run for the unexpired portion of that term.
- Appointments to the Senate would be irrevocable and a Senator's tenure of his seat would not be affected by a dissolution of Parliament.

Powers of the Senate

22. The powers of the Senate would be subject to the following limitations.

- (a) All bills would originate in the House of Representatives and could only be introduced in the Senate on being sent to the Senate after passage by the House.
- (b) If a bill other than a money bill were passed by the House of Representatives in two successive sessions with a period of not less than 6 months having elapsed between the two occasions on which it was so passed, and having been sent to the Senate at least one month before the end of each of the two sessions, were at each session either not passed by the Senate without amendment or passed by the Senate with any amendment that was not agreed to by the House of Representatives, the bill would be presented to the Governor-General for assent, unless the House of Representatives were to resolve otherwise.
- (c) When a bill had been passed by the House of Representatives and the Governor-General, acting in accordance with the advice of the Prime Minister, had certified to the President of the Senate that its enactment was a matter of urgency, then if the bill, having been sent to the Senate at least seven days before the end of the session, were not passed by the Senate within seven days or were passed with any amendment to which the House of Representatives did not agree within seven days after the bill had been sent to the Senate, the bill would be presented to the Governor-General for assent, unless the House of Representatives were to resolve otherwise.
- (d) The provisions referred to in sub-paragraphs (b) and (c) above would not apply to bills amending the Constitution or the legislation referred to in paragraph 78 below.
- (e) If a bill certified by the Speaker to be a money bill (defined on the lines of the definition in the Parliament Act 1911 of the United Kingdom) other than an appropriation bill, having been sent to the Senate at least 21 days before the end of the session, were not passed by the Senate without amendment within 21 days, the bill would be presented to the Governor-General for assent, unless the House of Representatives were to resolve otherwise.
- (f) If a bill certified by the Speaker to be an appropriation bill were sent to the Senate and not passed by the Senate without amendment by the end of the next day, the bill would be presented to the Governor-General for assent, unless the House of Representatives were to resolve otherwise.
- (g) The Senate would be prohibited from proceeding upon any amendment to a bill that, in the opinion of the person presiding, was either an amendment that would impose or alter taxation or charges on public funds,

or compound or remit any debt due to Fiji or an amendment to any provision for such a purpose contained in the bill, and from proceeding upon any motion or amendment to a motion the effect of which, in the opinion of the person presiding, was that provision should be made for such a purpose.

President of the Senate

23. The Constitution would provide that the Senate should elect a President and a Vice-President from among its members who are not Ministers or Assistant Ministers. In the absence of both the President and the Vice-President from a sitting, the Senate would elect another Senator to preside at that sitting. The Senate would be able to remove the President or Vice-President from office by a Resolution supported by not less than two-thirds of all its members.

THE HOUSE OF REPRESENTATIVES

24. The Constitution would provide that upon independence the existing Legislative Council without the official members would become the first House of Representatives, the thirty-six elected members of the Council being deemed to have been elected members of the House of Representatives. There would be provision requiring Parliament to be dissolved not later than five years after the date of the first sitting of the present Legislative Council, and the provisions for extending the life of Parliament in time of war or emergency set out in paragraph 39 below would not apply to this Parliament. A general election would then be held in the manner provided in the Constitution for a new House of Representatives comprising fifty-two members who would be elected on the following basis:

Fijian:

- 12 members elected by voters on the Fijian Communal Roll
- 10 members elected by voters on the National Roll

Indian:

- 12 members elected by voters on the Indian Communal Roll
- 10 members elected by voters on the National Roll

General:

- 3 members elected by voters on the General Communal Roll
- 5 members elected by voters on the National Roll

(Explanatory note:

- (i) The National Roll would be composed of all registered electors on the three communal rolls.
- (ii) "General" means persons who are neither Fijian nor Indian as defined in the present Constitution).

25. Every member of the House of the Representatives would vacate his seat upon the dissolution of Parliament.

Finance Measures

26. The House of Representatives would be precluded from proceeding upon:

- (a) any bill or amendment to a bill which, in the opinion of the person presiding, provided for imposing or increasing any tax, imposing any charge on the consolidated fund or other funds of Fiji or for altering any such charge otherwise than by reducing it or for compounding or remitting any debt due to Fiji;
- (b) any motion or amendment to a motion which, in the opinion of the person presiding, would provide for any of the said purposes, except on the recommendation of the Cabinet signified by a Minister.

The Speaker

27. The Constitution would provide that the House of Representatives should elect a Speaker and a Deputy Speaker from among its members who are not Ministers or Assistant Ministers. In the absence of both the Speaker and the Deputy Speaker from a sitting, the House would elect another of its members to preside at that sitting. The Speaker would be required to vacate his office if he ceased to be a member of the House of Representatives otherwise than by reason of a dissolution of Parliament, if he were required by the Constitution to cease to perform his functions as a member, if he were removed from office by resolution of the House supported by not less than two-thirds all its members, or at the first sitting of the House after a dissolution. The Deputy Speaker would vacate his office in the same circumstances except that he would also do so on a dissolution or if he were elected as Speaker.

Constituency Boundaries

28. The Constitution would provide for the appointment of a Constituency Boundaries Commission by the Governor-General on the advice of the Prime Minister after the latter had consulted the Leader of the Opposition, and comprising as Chairman a person who held or who had held high judicial office in some part of the Commonwealth, and two other members. Appointments would be for a 5 year term. Persons who were or who had been during the past five years, members of Parliament or local authorities, candidates for election thereto, or office holders in political organisations would be disqualified from appointment, as would persons currently holding public office or employed by a local authority. There would be provision for removing a commissioner on grounds of inability or misbehaviour on the recommendation of a tribunal consisting of a Chairman and not less than two other members, being persons who held or had held high judicial office in some part of the Commonwealth. The procedure for removal would be initiated and the members of the tribunal would be appointed by the Governor-General in his own deliberate judgment.

29. The Commission would be required to delimit the constituency boundaries for the purpose of elections to the House of Representatives following the first dissolution of Parliament as soon as practicable after independence. Fiji would be divided into 12 constituencies each returning one communally elected Fijian

member, into 12 constituencies each returning one communally elected Indian member and into 3 constituencies each returning one communally elected General member. For the purpose of National roll elections Fiji would be divided into 10 constituencies each returning a Fijian and an Indian member, and these constituencies would be combined into 5 pairs for the purpose of each pair's returning one General member. In delimiting constituency boundaries the Commission would have regard to the general principle that—

- (a) in communal constituencies the number of adult inhabitants of the community concerned should be as nearly equal as reasonably practicable;
- (b) in the ten national roll constituencies the number of adult inhabitants in each would be as nearly equal as reasonably practicable.

The Commission would however be able to depart from this general principle in order to take account, to such extent as the Commission thought fit of geographical features, existing administrative and recognised traditional areas, means of communication, and density and mobility of populations. (Conference noted that it would be open to the Fiji authorities to select the members so that they could set their work in hand in preparation for the formal establishment of the Commission at independence). The Commission would be empowered to review constituency boundaries whenever it considered this desirable but would be required to do so not later than ten years from its previous delimitation or review.

The Franchise

30. Any person who was a citizen of Fiji and who had attained the age 21 years would qualify for registration as a voter unless he were disqualified by reason of being—

- (a) by virtue of his own act under allegiance to a foreign state;
- (b) under sentence of death or imprisonment for more than 12 months by a court in any part of the Commonwealth;
- (c) declared to be of unsound mind under any law in force in Fiji; or
- (d) disqualified under any Fiji law relating to offences connected with elections.

A person would have a right to vote in the constituency in which he was registered unless he were on polling day serving a sentence of imprisonment of more than 12 months or unless he were prohibited from voting by the law of Fiji on the grounds that he was an electoral officer or had been convicted of any electoral offence.

Electoral Commission

31.—(1) There would be an Electoral Commission comprising a Chairman appointed by the Governor-General in accordance with the advice of the Judicial and Legal Services Commission and not less than two nor more than four other members appointed by the Governor-General in accordance with the advice of the Prime Minister tendered after he had consulted

the Leader of the Opposition. A member of, or candidate for election to Parliament or any local authority or a public officer or a local government officer would be disqualified for appointment to the Electoral Commission. A member of the Commission would vacate office five years after the date of his appointment or earlier if circumstances arose, which would disqualify him for appointment as a member. A commissioner would be removable from office only for inability or misbehaviour following reference to a tribunal appointed by the Governor-General in his own deliberate judgment from among persons who held or had held high judicial office in some part of the Commonwealth. The Electoral Commission would have general responsibility for registration of voters and the conduct of elections to the House of Representatives, and such other powers and functions as might be prescribed.

Supervisor of Elections

31.—(2) There would also be provision for a Supervisor of Elections, who would be a person qualified to practise as a barrister and solicitor in Fiji and would be appointed by the Judicial and Legal Services Commission. The Supervisor would have such powers and other functions relating to the registration of voters and elections as might be prescribed and would be subject to direction by the Electoral Commission in exercising his functions. The Supervisor would vacate his office on attaining the age of 60. The provisions relating to removal of the Supervisor would be the same as for the Auditor-General except that the procedure would be initiated and the members of the investigating tribunal would be appointed by the Judicial and Legal Services Commission.

GENERAL PROVISIONS RELATING TO PARLIAMENT

Qualifications and Disqualifications for Membership

32. Any person who was a citizen of Fiji, had attained the age of 21 and was a registered voter in any constituency would be qualified for membership of either House. A person would be disqualified for membership of either House by reason of being—

- (a) by virtue of his own act under allegiance to a foreign state;
- (b) an undischarged bankrupt in any part of the Commonwealth;
- (c) declared to be of unsound mind under any law in force in Fiji;
- (d) under sentence of death or imprisonment for more than 12 months by a court in any part of the Commonwealth;
- (e) disqualified under any Fiji law relating to offences connected with elections;
- (f) a public officer, whether civil or military, subject to such exceptions as Parliament may prescribe;
- (g) a person who at any time during the past 3 years had been a member of a Service Commission.

33. In addition—

- (i) membership of the House of Representatives would disqualify for membership of the Senate
- (ii) a person would be disqualified for membership of the House of Representatives by holding or acting in an electoral office or subject to any exceptions and limitations prescribed by Parliament by having any such interest in any such government contract as might be so prescribed.

Vacations of Seats

34. The Constitution would provide that a member of either House would vacate his seat if he ceased to be a citizen of Fiji or became disqualified for membership except that there would be provision on the lines of that in the existing Constitution giving a member sentenced to death or imprisonment a period in which to pursue an appeal and during which he would cease to perform his functions as a member. A member of the House of Representatives would vacate his seat on being absent without the Speaker's permission from three consecutive meetings. It would be for the Senate in its standing orders to specify the circumstances in which absence from the meetings of the Senate would require a Senator to vacate his seat.

Determination of Questions of Membership

35. The Constitution would provide for the Supreme Court to determine whether any person had been validly appointed or elected as the case might be to Parliament, or had vacated his seat, and the decision of the Supreme Court would be final. The Attorney-General or any registered voter would be entitled to institute proceedings in the Supreme Court for this purpose; and in the case of proceedings instituted by a person other than the Attorney-General, he would have the right to intervene and to appear or to be represented.

Voting by Presiding Officers

36. The member presiding for the time being in the Senate or in the House of Representatives would have no original vote but would have a casting vote. On matters requiring a special majority he would have an original vote. The Conference agreed that a presiding member should use his casting vote in such a way as to preserve the *status quo* and enable the House to consider the matter again.

Quorum

37. A quorum of the Senate would consist of 7 members besides the person presiding. A quorum of the House of Representatives would consist of 17 members besides the person presiding except that until the first dissolution after independence it would be 14 members besides the person presiding.

Sessions

38. Sessions would be held in such place and at such time as the Governor-General would appoint, but not more than six months would be permitted to elapse between the end of one Session of Parliament and the

the beginning of the next. On the written request of at least one quarter of the Members of the House of Representatives, the Governor-General acting in his own deliberate judgment would be entitled to summon a meeting of Parliament if he considered that the Government of the day no longer commanded the confidence of a majority in the House of Representatives or that it was necessary for Parliament to consider without delay a matter of public importance.

Prorogation and Dissolution

39. The Constitution would provide for prorogation to be effected by the Governor-General in accordance with the advice of the Prime Minister. This would also be the general rule on dissolution. In addition Parliament would be dissolved at the expiry of 5 years from its first meeting after a general election if there had been no earlier dissolution. When a proclamation by the Governor-General of a state of public emergency was in force (for the purposes of the Fundamental Rights Chapter of the Constitution) Parliament would be able to extend the period of 5 years by not more than 6 months at a time and by not more than 12 months in all. When Fiji was at war, Parliament would be able to extend the period of 5 years by not more than 1 year at a time and by not more than 5 years in all.

40. When a state of war or emergency existed, the Governor-General would be empowered on the advice of the Prime Minister to recall Parliament after it had been dissolved and before an election had been held. But unless the life of Parliament were extended under the provision of the preceding paragraph the election would nevertheless proceed, in which case the recalled Parliament would be again dissolved not later than the day before the election.

41. If the House of Representatives passed a resolution of no confidence in the Government and the Prime Minister did not within 3 days either resign or advise the Governor-General to dissolve Parliament within 7 days or at such later time as the Governor-General considered reasonable, the Governor-General would be able to dissolve Parliament acting in his own deliberate judgement.

42. If the office of Prime Minister were vacant and the Governor-General saw no prospect of appointing within a reasonable time a person who commanded majority support in the House of Representatives, he would be able to dissolve Parliament acting in his own deliberate judgement.

General Election

43. Writs for a general election would be issued within 60 days of a dissolution and the next session of Parliament would commence within 30 days of the date of polling at a general election.

Transitional Provisions

44. A person who would not be entitled to vote under the new Constitution by reason of his not being a citizen of Fiji, but who was at the time of independence registered on the existing electoral roll, would be entitled to exercise his vote at the first general election after independence and at any by-election which preceded that election. A person who would not be

qualified to be a Member of the House of Representatives under the new Constitution by reason of his not being a citizen of Fiji, but who at the time of independence was an elected Member of the Legislative Council, would be entitled to remain a Member of the House of Representatives until Parliament was dissolved for the first time following independence. Similarly, a person not qualified to stand as a candidate for the House of Representatives under the new Constitution only by reason of his not being a citizen of Fiji would be entitled to stand as a candidate at any by-election which might take place prior to the first dissolution following independence.

Parliamentary Staff

45. The Constitution would provide for a Clerk to the Senate and a Clerk to the House of Representatives. These offices and the offices of members of their staffs would be offices in the public service. It would be permissible to appoint a person both to the office of Clerk to the Senate and to the office of Clerk to the House of Representatives or to appoint a person both to an office on the staff of the Clerk to the Senate and to an office on the staff of the Clerk to the House of Representatives. During their appointment the Clerks and their staffs would not be assigned to other duties without the concurrence of the President or Speaker, as the case might be.

Official Language

46. The official language of Parliament would be English but there would be provision in the Constitution that any member might address the Chair in Fijian or Hindustani.

THE EXECUTIVE

47. The Constitution would vest the executive authority of Fiji in the Queen and, subject to the provisions of the Constitution, it would be exercisable on Her Majesty's behalf by the Governor-General or through officers subordinate to him.

Cabinet

48. There would be a Cabinet, which would be collectively responsible to Parliament, consisting of a Prime Minister, an Attorney-General and such other Ministers as the Governor-General might appoint. The Governor-General would appoint as Prime Minister the member of the House of Representatives who appeared to him best able to command the support of the majority of the members of that House, and would appoint, in accordance with the advice of the Prime Minister, other Ministers not exceeding the number which might be permitted by Parliament from time to time.

Attorney-General

49. The Attorney-General would be a member of one or other of the Houses of Parliament and would be a person entitled to practise as a barrister and solicitor in Fiji. If the Attorney-General were for any reason unable to exercise his functions, these might be exercised by such other person entitled to

practise as a barrister and solicitor in Fiji, as the Governor-General, on the Prime Minister's advice, might appoint. The Attorney-General would be entitled to take part in the proceedings of that House of Parliament of which he was not a member, but not to vote therein. If the acting Attorney-General were not a member of Parliament he would be entitled to take part in the proceedings of either House, but not to vote.

Tenure of office of Ministers

50. The Governor-General would be required to remove the Prime Minister from office if a vote of no confidence in his Government were passed in the House of Representatives and he did not within three days resign or advise a dissolution unless the Governor-General dissolved Parliament under paragraph 41 above. The Governor-General would be empowered to remove the Prime Minister from office following a general election where, as a result of the election, the Prime Minister was not able to command a majority in the new House of Representatives. Any other Minister would vacate office if the Governor-General revoked his appointment on the advice of the Prime Minister, if the Prime Minister went out of office on consequence of a vote of no confidence or on the appointment of any person to be Prime Minister. The Prime Minister and any other Minister would vacate office if he ceased to be a member of Parliament otherwise than by reason of a dissolution. If a Minister, other than the Prime Minister but including the Attorney-General, ceased to be member of Parliament at a general election following a dissolution, or if such a Minister were appointed who was not a member of Parliament, he would be required to vacate office if he did not become a member of either House within three months of the general election or of being appointed as the case might be. Except in the case of the Attorney-General, a Minister would not be entitled to take part in the proceedings of either House during any period when he was not a member.

Governor-General to act on advice

51. In the exercise of his functions the Governor-General would be required to act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet except in cases where the Governor-General was required by the Constitution to act in accordance with the advice of, or after consultation with, some person or authority other than the Cabinet or in his own deliberate judgment.

Assistant Ministers

52. The Constitution would provide for the appointment of Assistant Ministers in the same manner as Ministers other than the Prime Minister and for Assistant Ministers to hold office on the same terms as such Ministers.

Leader of the Opposition

53. The Governor-General would be required to appoint as Leader of the Opposition the member of the House of Representatives who, in the Governor-General's judgment, was the leader of the largest Opposition party in that House or, if there were no

such party, whose appointment would be most acceptable to the leaders in the House of the Opposition parties. The Governor-General would have the power, exercisable in his own deliberate judgment, to revoke the appointment of the Leader of the Opposition if he considered that he had ceased to fulfil the qualifications for appointment.

Police

54. The Constitution would place the police force under the command of the Commissioner of Police and provide that, in the exercise of his power to determine the use and control the operations of the police force, the Commissioner would be under an obligation to comply with general directions of policy with respect to the maintenance of public safety and public order given to him by the responsible Ministers; in the exercise of his command of the force in other respects the Commissioner would act on his own responsibility and be independent. The organisation, maintenance and administration of the police force would be the responsibility of the Minister. The Commissioner of Police and Deputy Commissioner would be appointed by the Police Service Commission after consultation with the Prime Minister. An acting appointment would be made in the same way.

Director of Public Prosecutions

55. The Constitution would provide for the appointment of a Director of Public Prosecutions who would have independent powers in relation to criminal prosecutions corresponding to those vested in the Attorney-General by the existing Constitution of Fiji. The Director would be appointed by the Judicial and Legal Services Commission. A person would not be qualified to be or to act as Director unless he were qualified for appointment as a judge of the Supreme Court. The Director would vacate office on attaining the age of 60. The provisions relating to removal of the Director of Public Prosecutions would be the same as for the Auditor-General except that the procedure would be initiated and the members of the investigating tribunal would be appointed by the Judicial and Legal Services Commission.

Prerogative of Mercy

56. The Constitution would provide for the Governor-General to exercise the Prerogative of Mercy in Her Majesty's name and on Her behalf. It would also provide for the appointment by the Governor-General in his own deliberate judgment of a Commission consisting of a Chairman and not less than two other members to advise him upon the exercise of the Prerogative of Mercy; and he would be required to act in accordance with their advice.

The Ombudsman

57. The Constitution would establish the office of Ombudsman and provide for the making of appointments to this office by the Governor-General, after consultation with the Prime Minister, the Leader of the Opposition, and such other persons as appeared

to him in his own deliberate judgment to be leaders of parties in the House of Representatives. The Ombudsman would hold office for a period of four years and would be removeable only on grounds of inability or misbehaviour after a tribunal consisting of persons who held or had held high judicial office in some part of the Commonwealth, had investigated any allegation against him and have recommended his removal; the procedure for removal of the Ombudsman would be initiated by the Governor-General in his own deliberate judgment. No person would be qualified for appointment as Ombudsman if he were a member of, or a candidate for election to, Parliament or any local authority, or were a local Government officer. No person holding the office of Ombudsman would be permitted to perform the functions of any public office or, without the approval of the Prime Minister in each particular case, to hold any other office of emolument or engage in any occupation for reward outside the duties of his office.

58. The Ombudsman would have jurisdiction to investigate complaints regarding the acts, omissions, decisions and recommendations of specified public bodies and officers which affect the interests of individuals or bodies of persons. He would be entitled to act upon his own initiative or upon receiving a complaint from an individual or a body (other than a governmental or local government authority), and Ministers and members of the two Houses would also be able to refer matters to him for consideration. The bodies and officers whose actions the Ombudsman would be authorised to investigate would include Government Departments, their officers, tender boards, the police, the prison service and other services, maintained or controlled by the Government; and such other officers or authorities as may be prescribed by Parliament. The personal acts and decisions of Ministers, acts of the Director of Public Prosecutions and persons acting under his instructions; decisions of the Service Commissions, and decisions of the authorities relating to appointments, promotions, discipline, removal, pensions benefits and similar matters affecting public officers, would be excluded from investigation by the Ombudsman.

59. The Constitution would contain provisions enabling the Ombudsman to examine witnesses and also provisions to prevent the disclosure of information on the grounds that it prejudiced defence, external relations or internal security or that it might divulge the proceedings of the Cabinet. The Ombudsman would be entitled to refuse to investigate any complaint on the ground that it was more than 12 months old or that it was vexatious or too trivial or that the complainant was insufficiently interested in the matter, and he would be enabled to discontinue an investigation for any reason that seemed fit to him. He would be precluded from investigating any matter in respect of which the aggrieved person had a remedy in a court of law or right of appeal to or review by a tribunal, unless the Ombudsman were satisfied that in the particular circumstances it was not reasonable to expect that person to avail himself of that remedy or right. He would not be precluded from investigating a matter merely because it was open to the complainant to apply to the Supreme Court alleging a violation of fundamental rights.

60. The Ombudsman would be entitled to report unfavourably on any decision, recommendation, act or omission on the ground that it was contrary to law, based wholly or partly on a mistake of law or fact, unreasonably delayed or otherwise manifestly unreasonable. He would address his report, recommending any remedial action that he thought appropriate, to the department or organisation concerned. If no adequate remedial action had been taken within a reasonable time, he would be empowered to make a special report to the two Houses of Parliament. He would also make annual reports to the Governor-General, which would be laid before the two Houses.

THE JUDICATURE

The Supreme Court

61. The Constitution would contain provisions to secure the independence and impartiality of the Judiciary. It would provide for a Supreme Court consisting of a Chief Justice and such number of Puisne Judges as Parliament might prescribe. To be qualified for appointment as Judge of the Supreme Court a person should hold or have held high judicial office (that is to say as a Judge of a court having unlimited jurisdiction in civil and criminal matters or a court having jurisdiction in appeals from such a court) in some part of the Commonwealth or in any country outside the Commonwealth that may be prescribed by Parliament; or be qualified to practise as an advocate in such a Court, and to have been qualified to practise as an advocate or solicitor in such a court, for not less than five years including any period during which he has held judicial office after becoming so qualified. The Chief Justice would be appointed by the Governor-General acting after consultation with the Prime Minister and the Leader of the Opposition. Puisne Judges would be appointed by the Governor-General after consultation with the Judicial and Legal Services Commission. An acting Chief Justice would be appointed in the same way as a substantive Chief Justice and the range of selection would extend to qualified candidates outside those already holding office as Puisne Judges. An acting Puisne Judge would be appointed in the same way as a substantive Judge. The power to appoint such a judge would extend to circumstances where the Chief Justice advised that the state of business in the Supreme Court required that the number of Judges should be temporarily increased.

62. Judges of the Supreme Court would vacate office on attaining the age of 62, or such higher age as Parliament might prescribe. A Judge would be removable only for inability or misbehaviour, and upon the advice of the Judicial Committee of the Privy Council, after investigation by a tribunal selected by the Governor-General acting in his own deliberate judgment from among persons who held or had held high judicial office in some part of the Commonwealth, or in any country outside the Commonwealth that might be prescribed by Parliament. The procedure for removing a Judge would be initiated in the case of the Chief Justice by the Governor-General acting in his own deliberate judgment, and in the case of the other Judges of the Supreme Court, by the Chief Justice.

Court of Appeal

63. The Constitution would provide for a Court of Appeal comprising the Chief Justice as President, the Puisne Judges of the Supreme Court, and such Justices of Appeal as might be appointed. A person qualified for appointment as a Judge of the Supreme Court would be qualified for appointment as a Justice of Appeal and such an appointment would be made by the Governor-General after consultation with the Judicial and Legal Services Commission. A Justice of Appeal would vacate office at the expiration of the period specified in his instrument of appointment, but would be eligible for reappointment. Except in the case of a Justice of Appeal who also holds office as a judge of a court of some other country, the period of appointment would not be less than three years. A Justice of Appeal would be removable from office only for inability or misbehaviour in accordance with the same procedure as for a Puisne Judge, except that the procedure would be initiated in the case of a Justice of Appeal by the President of the Court of Appeal, and the members of the tribunal would be appointed by the Governor-General, acting in accordance with the advice of the President of the Court of Appeal. A Judge would not be eligible to sit as a Judge of the Court of Appeal on the hearing of an appeal from any decision (including conviction or sentence) by himself or by a court of which he was sitting as a member.

64. The two Houses of Parliament would be empowered by resolution to bring into operation provisions altering the composition of the Court of Appeal, to the effect—

- (a) that the Puisne Judges of the Supreme Court would cease to be Judges *ex officio* of the Court of Appeal, and that the number of Justices of Appeal would be two or such greater number as Parliament may prescribe; and
- (b) that the Chief Justice would cease to be a Judge and *ex officio* President of the Court of Appeal, and that the President would be a person qualified to be appointed as a Justice of Appeal and appointed by the Governor-General acting after consultation with the Prime Minister and the Leader of the Opposition.

It would be open to the two Houses to bring only the alterations referred to in sub-paragraph (a) into operation, and in that event to bring those referred to in sub-paragraph (b) into operation at a later date. Provisions consequential on the coming into operation of those referred to in sub-paragraph (a) would include provision for the appointment of acting Justices of Appeal in the same way as substantive Justices of Appeal. Provisions consequential on the coming into operation of those referred to in sub-paragraph (b) would include provisions for the appointment of an acting President of the Court of Appeal in the same way as a substantive President, for the President to hold office on the same terms as a Justice of Appeal (except that the procedure for removal would be initiated and the tribunal appointed by the Governor-General in his own deliberate judgment) and for the functions of Chairman of the Judicial and Legal Services Commission to be exercised by the President of the Court of Appeal in matters pertaining to Justices of Appeal.

Jurisdiction of Supreme Court

65. In addition to its jurisdiction regarding enforcement of the fundamental rights provisions of the Constitution, the Supreme Court would have jurisdiction to determine whether any other provision of the Constitution had been contravened, and to make a declaration accordingly where a person alleged such a contravention and that his interests were being or were likely to be affected thereby. The Supreme Court would also have jurisdiction to supervise civil or criminal proceedings before all subordinate courts with the power to issue the necessary orders for the purpose.

Appeals

66. The Constitution would provide a right of appeal from the Supreme Court to the Court of Appeal and from the latter to Her Majesty in Council in cases relating to the enforcement of fundamental rights or the interpretation of the Constitution. It would also provide for appeals to Her Majesty in Council to lie in other cases, as at present.

FINANCE

67. The Constitution would contain provision on the usual lines with respect to the appropriation and expenditure of public monies, in order to ensure proper control of these matters. The Constitution would provide for the establishment of a Consolidated Fund and regulate payments into and withdrawals from that fund and for the laying of annual estimates of revenue and expenditure before both Houses of Parliament and for the introduction of appropriation bills in respect of each financial year.

Audit

68. There would be provision for an Auditor-General to audit all public accounts and report upon them to Parliament. The Auditor-General would be appointed by the Public Service Commission after consultation with the Prime Minister and the Leader of the Opposition. The Auditor-General would vacate his office on attaining the age of 60, subject to provision empowering the Governor-General, after consultation with the Prime Minister and the Public Service Commission, to extend his term of office for a further period not exceeding six months. The Auditor-General would be removable from office only for inability or misbehaviour on the recommendation of a tribunal. The procedure for removal would be initiated and the members of the tribunal selected by the Public Service Commission after consultation with the Prime Minister and the Leader of the Opposition.

Protection of Certain Posts

69. The salary of the Governor-General, Judges of the Supreme Court and the Court of Appeal, Members of the Service Commissions, the Constituency Boundaries Commission and the Electoral Commission, the Supervisor of Elections, the Director of Public Prosecutions, the Ombudsman and the Auditor-General would be a charge on the Consolidated Fund and neither the salary nor the terms of office of any of these officers would be altered to their disadvantage after their appointment.

70. The Public Service, Judicial and Legal Services and Police Service Commissions established by the existing Constitution are advisory to the Governor, the Governor not being obliged to act in accordance with their advice. The Conference agreed that the existing Constitution should be amended so as to establish executive Service Commissions three months before independence. At the same time fresh appointments of members of the Commissions would be made, in the case of the Public and Police Service Commissions by the Governor acting in accordance with the advice of the Chief Minister tendered after the Chief Minister had consulted the Leader of the Opposition, and in the case of the appointed member of the Judicial and Legal Services Commission by the Governor acting in accordance with the advice of the Chief Justice. The appointments would be made for a term of three years. The powers of each Commission would be those at present exercised by the Governor after consultation with the corresponding existing Commission. The provisions of the Independence Constitution in relation to the three Service Commissions would be as outlined in Annexes D, E and F hereto. Each Service Commission would be empowered to make regulations for regulating and facilitating the performance of its functions. Decisions of the Commission would require the concurrence of a majority of all its members, but if the votes of all the members were equally divided, the Chairman would exercise a casting vote. In exercising its functions a Commission would not be subject to direction or control of any other person or authority except as otherwise provided by the Constitution. A Commission could be given such additional powers and functions as Parliament might prescribe.

71. The Conference considered proposals that there should be arrangements for appeals from decisions of the Public Service Commission. The Conference agreed that such arrangements would probably be found necessary but was not in a position to reach conclusions as to the practical details; it would also be necessary for the staff associations to be fully consulted. The Conference therefore agreed that the Independence Constitution would include an enabling clause providing that Parliament might introduce provision for appeal against decisions of the Public Service Commission.

72. Provision would be included in the Constitution enabling persons to be appointed to certain offices for such terms (not being less than four years) as might be specified, but not so that the officer would hold the appointment beyond the retiring age prescribed for that post. This provision would apply to the following offices, namely the Supervisor of Elections, the Director of Public Prosecutions, the Auditor-General, the Chief Justice and Judges of the Supreme Court.

73. Ambassadors, High Commissioners and principal representatives in other countries or accredited to international organisations would be appointed, and removed, by the Governor-General acting in accordance with the advice of the Prime Minister.

74. The Constitution would make provision for the protection of the pension rights of all pensionable officers, and for preventing any authority from refusing to grant, withholding, reducing or suspending pension benefits unless the appropriate Service Commission concurs.

Provisions for Amending the Constitution

75. Parliament would be empowered to amend the following provisions of the Constitution only by a bill passed in each House of Parliament with the support of the votes of not less than three-quarters of all the members of the House.

- (a) The Fundamental Rights Chapter.
- (b) The Sections establishing the office of Governor-General and providing for his appointment and the appointment of an Acting Governor-General and making general provision as to the manner in which he is to exercise his functions.
- (c) The Section establishing Parliament as comprising the Queen, the Senate and the House of Representatives.
- (d) The section providing for the composition of the Senate.
- (e) The sections establishing the elected character of the House of Representatives, and providing for periodical elections including those relating to dissolution and the holding of a general election following a dissolution, and providing for the supervision of the registration of electors and the conduct of elections.
- (f) The section relating to the executive authority of Fiji.
- (g) The section relating to the powers of the Director of Public Prosecutions.
- (h) The chapters relating to the Judicature and the Public Service.
- (i) The sections protecting the salaries of certain officers and relating to the functions of the Auditor-General.
- (j) The section containing the provision referred to in paragraph 78 below.
- (k) The chapter concerning the Ombudsman.
- (l) The chapter concerning citizenship.
- (m) The section concerning amendment of the Constitution.

76. It would be further provided that those provisions relating to the composition of the House of Representatives and the method whereby members are to be elected, including the delimitation of constituencies, could not be amended until three months after the laying before both Houses of the report of a Royal Commission appointed by the Governor-General at any time after the first general election after independence to make recommendations for the most appropriate method of election and representation in the House of Representatives. Thereafter Parliament could amend those provisions by a bill passed in each House with the support of the votes of not less than two-thirds of all the members of the House, but, from the date Parliament made any amendment to those provisions, all those provisions would become subject to which paragraph 75 applies.

77. Subject to paragraph 76, Parliament would be empowered to amend any provision of the Constitution not referred to in paragraph 75 by a bill passed in each House of Parliament with the support of the votes of two-thirds of all the members of the House.

78. The Constitution would provide that amendment or revocation of the following measures could only be effected if the bill for that purpose were passed in each House of Parliament with the support of the votes of three-quarters of all the members of the House—

- (a) The Fijian Affairs Ordinance;
- (b) The Fijian Development Fund Ordinance;
- (c) The Native Lands Ordinance;
- (d) The Native Land Trust Ordinance;
- (e) The Rotuma Ordinance;
- (f) The Rotuma Lands Ordinance;
- (g) The Agricultural Landlord and Tenant Ordinance;
- (h) The Banaban Lands Ordinance;
- (i) The Banaban Settlement Ordinance.

It would further be provided that no amendment to the law affecting Fijian land and customs could be made without the supporting votes of six out of the eight members of the Senate nominated by the Council of Chiefs.

III. OTHER MATTERS

PUBLIC SERVICE

79. Provision would be made giving designated officers the right to appeal to an Appeals Board against decisions by the appropriate Commission or other authority in so far as they affect pension benefits. This provision should extend so as to cover terminal benefits of designated contract officers.

80. General compensation arrangements for officers for whom the Secretary of State had a special responsibility would be introduced at the time that the Service Commissions became executive.

81. Provision would be made enabling the Prime Minister to call upon specified officers to retire in the interest of providing vacancies for local candidates. These provisions would cover all officers, including judges, to whom general compensation arrangements applied.

82. On independence a Public Officers Agreement would be concluded between the Governments of Fiji and the United Kingdom on the lines of those which had been concluded between the United Kingdom and other countries becoming independent.

MEMBERSHIP OF THE COMMONWEALTH

83. The Fiji delegation informed the Conference that it was their intention that Fiji would apply for Membership of the Commonwealth.

DATE FOR INDEPENDENCE

S4. The delegation from Fiji asked that the date for independence should be 10 October, 1970, the 96th anniversary of the signing of the Deed of Cession. The Chairman announced that the United Kingdom Government would be happy to accede to this request subject to the endorsement of the Conference Report by the Legislative Council of Fiji and subject to the necessary legislation being enacted by the British Parliament.

Signed, at Marlborough House, London, S.W.1
this fifth day of May, 1970.

The Rt. Hon. Lord SHEPHERD,
Minister of State, Foreign and Commonwealth Office.

Sir ROBERT FOSTER, K.C.M.G., K.C.V.O.,
Governor and Commander-in-Chief.

The Hon. R. G. Q. KERMODE,
The Speaker.

The Hon. Ratu Sir, KAMISESE MARA, K.B.E.,
Chief Minister.

The Hon. Ratu E. T. T. CAKOBAN, C.B.E., O.B.E.
(Mil.), M.C., E.D.,
Minister for Labour.

The Hon. VIJAY R. SINGH,
Minister for Commerce, Industry and Co-operatives.

The Hon. C. A. STINSON, O.B.E.,
Minister for Communications, Works and Tourism.

The Hon. D. W. BROWN, M.B.E.,
Minister for Natural Resources.

The Hon. J. MAVOA,
Minister for Social Services.

The Hon. Ratu G. K. CAKOBAN, O.B.E.,
Minister for Fijian Affairs and Local Government.

The Hon. W. M. BARRETT,
Minister of Finance.

The Hon. K. S. REDDY,
Assistant Minister for Social Services.

The Hon. S. M. KOYA,
Leader of the Opposition.

The Hon. Ratu D. TOGANIVALU,
Assistant Minister, Chief Minister's Office.

The Hon. E. VUAKATAGANE,
Assistant Minister for Commerce, Industry and
Co-operatives.

The Hon. P. D. NAQASIMA,
Assistant Minister for Communications, Works and
Tourism.

The Hon. J. B. NAISARA,
Assistant Minister for Natural Resources.

The Hon. J. N. FALVEY, O.B.E.,
First General Member for Suva.

The Hon. Adi LOSALINI DOVI,
Council of Chiefs Member.

The Hon. H. B. GIBSON, O.B.E.,
General Member Northern.

The Hon. A. LATEEF, M.B.E.,
Indian Member Central.

The Hon. Mrs. B. C. LIVINGSTON,
General Member Western.

The Hon. S. S. MOMOIVALU,
Fijian Member for Lomaiviti/Kadavu.

The Hon. Ratu J. B. TOGANIVALU,
Fijian Member Western.

The Hon. Ratu W. B. TOGANIVALU,
Fijian Member for Tailevu.

The Hon. S. N. WAQANIVAVALAGI,
Fijian Member for North-West Viti Levu.

The Hon. R. H. YARROW, J.P.,
General Member for West Viti Levu.

The Hon. H. W. W. YEE,
Second General Member for Suva.

The Hon. Dr. W. L. VERRIER,
General Member Northern and Eastern.

The Hon. J. MADHAVAN,
Indian Member for North-East Vanua Levu.

The Hon. C. A. SHAH,
Indian Member for North-East Viti Levu.

The Hon. Mrs. I. JAI NARAYAN,
Indian Member for Suva.

The Hon. R. D. PATEL,
Indian Member for North-West Viti Levu.

The Hon. K. C. RAMRAKHA,
Indian Member for Tailevu/Rewa.

The Hon. RAMJATI SINGH,
Indian Member North-Eastern.

The Hon. UJAGAR SINGH,
Indian Member for South Central Viti Levu.

R. P. WHITEHEAD,
Secretary to the Conference.

REPORT ON LORD SHEPHERD'S VISIT TO FIJI, JANUARY, 1970

Following talks between representatives of the Alliance Party and the National Federation Party in Fiji about constitutional changes, the Chief Minister of Fiji, the Honourable Ratu Sir Kamisese Mara, K.B.E., and the Leader of the Opposition, the Honourable M. Koya, invited Lord Shepherd, Minister of State for Foreign and Commonwealth Affairs, to visit Fiji to acquaint himself at first hand with the position reached in the talks. Lord Shepherd accordingly visited Suva and other places in Fiji and had discussions between 3 January and 2 February 1970 with the Chief Minister and the Leader of the Opposition and the other representatives of the Alliance Party and the National Federation Party who had been engaged in the inter-party constitutional talks.

2. The representatives of the two parties explained to Lord Shepherd that they had begun discussions in August 1969 to consider further constitutional changes with the aim of identifying areas of agreement and disagreement and of finding a mutually acceptable settlement of those issues on which the parties differed.

3. Realising that consideration of a wide range of matters to be provided in any written constitution could be affected by the constitutional status aimed at, they had agreed that this issue should first be resolved.

4. The National Federation Party had re-stated its previously declared objective which envisaged Fiji as an independent state with an elected President as Head of State, but as a member of the Commonwealth. The Alliance had favoured Dominion Status with all its implications, namely, full self-government with The Queen as Constitutional Monarch represented in Fiji by Governor-General.

5. After discussion the two parties had agreed that Fiji should proceed to Dominion Status, i.e. that Fiji should become a fully sovereign and independent state with The Queen as Head of State and that Fiji should seek Membership of the Commonwealth.

6. The two parties had carefully considered the steps by which the new status should be achieved. On the proposal of the National Federation Party, and in view of the wide area of agreement between the two parties about a new constitution, they had agreed that Fiji should proceed to independence as soon as constitutional instruments could be drawn up after a constitutional conference and without an election before independence. They also agreed, however, that the constitutional instruments should provide for a general election not later than an agreed date after independence.

7. Within the framework described above the two parties had also agreed the proposals set out below.

Name of an Independent Fiji

8. The name of the country should remain Fiji on independence.

Preamble of the Constitution

9. There should be a preamble to the Constitution in which reference should be made to the Deed of Cession and to the economic and political advancement made by Fiji since the cession.

Fundamental Rights and Freedoms

10. The Constitution should include provision, substantially on the lines of Chapter I of the existing Fiji Constitution, for safeguarding the fundamental rights and freedoms of the individual, including the right to life, liberty, security of the person, the protection of the law, protection for privacy of the home and other property and from deprivation of property without compensation, and freedom of conscience, expression, assembly and association. Subject to safeguards, derogation from certain of these fundamental rights and freedoms should be permitted during a state of war or other public emergency.

11. Provision should be made in the Constitution for the enforcement by the courts of the fundamental rights and freedoms. In particular any person who alleges that any of the protective provisions is being or is likely to be contravened in relation to him should have a right to apply to the Supreme Court for redress.

12. As regards the provisions relating to compulsory acquisition of property the existing provision should be modified so that acquisition for the purpose of land settlement will cease to be permissible. It is also proposed that the Constitution should oblige the Government, failing a negotiated agreement with the owner,

- (a) to give notice to the owner of its intention to acquire the property compulsorily;
- (b) to apply to the Supreme Court for an order authorising compulsory acquisition, to obtain which the Government would have to justify the necessity or expediency of acquisition for the stated purpose;
- (c) to apply to the Supreme Court for an assessment of the compensation payable if the court grants the order authorising the acquisition; and
- (d) to pay the costs of the owner in connection with the Supreme Court proceedings.

This proposal would have the effect of placing on the Government the onus of justifying the acquisition.

Citizenship

13. The Constitution should provide for the following classes of persons to acquire citizenship of Fiji automatically on the date of independence:—

- (a) citizens of the United Kingdom and Colonies born in Fiji;
- (b) citizens of the United Kingdom and Colonies by virtue of naturalisation or registration in Fiji;
- (c) citizens of the United Kingdom and Colonies born outside Fiji whose fathers fall within (a) or (b) above.

14. The Constitution should also automatically confer citizenship of Fiji on persons born in Fiji after independence and on persons born outside Fiji after independence of a father who is a citizen of Fiji otherwise than by virtue of the latter's father having been born in Fiji.

15. The Constitution should confer a right to acquire citizenship of Fiji on application on any woman who at any time has been married to a citizen of Fiji or to a person who would have become a citizen of Fiji automatically on the date of independence had he still been alive.

16. The Constitution should enable the Parliament of Fiji to make provision for the acquisition of citizenship by other classes of persons, for deprivation of citizenship in the case of any person who has acquired citizenship otherwise than automatically, for the renunciation of citizenship, and for the deprivation of citizenship in the case of any citizen of Fiji who attains the age of twenty-one after independence and who, being a citizen of some other country, has not, in a prescribed period, renounced his other citizenship or, where he is unable to renounce it, made such declaration as may be prescribed.

Governor-General

17. The Governor-General should be appointed by The Queen and should hold office during Her pleasure.

Parliament

18. It was agreed that the parties needed more time to do some detailed research, and study the implications of various formulae put in by both sides, on the composition of the Legislature and method of election. The talks so far had narrowed down the differences on these matters quite a lot and both sides were hopeful of producing an agreed formula between now and the Constitutional Conference referred to in paragraph 48.

19. It was agreed that there should be an Upper House consisting of some members nominated by the Council of Chiefs, one Rotuman and some members nominated by the Prime Minister and some members nominated by the Leader of the Opposition.

20. It was agreed that, if at the Constitutional Conference these matters remained unresolved between the parties, Fiji should go into independence without an election and the first election should be held under the new Constitution on a formula approved and settled by the United Kingdom Government.

The Executive

21. The Executive authority of Fiji should be vested in Her Majesty and, subject to the provisions of the Constitution, be exercisable on Her behalf by the Governor-General or through officers subordinate to him.

22. There should be a Cabinet, which should be collectively responsible to Parliament, consisting of a Prime Minister and such other Ministers as the Governor-General may appoint. The Governor-General should appoint as Prime Minister the member of the Lower House who appears to him best able to command the support of the majority of the members of that House, and should appoint other Ministers in accordance with the advice of the Prime Minister from among the members of the two Houses. (Discussions are continuing on the question of whether it should be possible to appoint a person who is not a member of either House to be Attorney-General.)

23. The Governor-General should be empowered to remove the Prime Minister from office if a vote of no confidence in his Government is passed in the Lower House and he does not within three days resign or advise a dissolution, and also, following a general election, where the Governor-General considers that as a result of the election the Prime Minister will not be able to command a majority in the new Lower House. Any other Minister should vacate office if the Governor-General revokes his appointment on the advice of the Prime Minister, if the Prime Minister goes out of office in consequence of a vote of no confidence or on the appointment of any person to be Prime Minister. The Prime Minister and any other Minister should vacate office if he ceases to be a member of the Lower House or, as the case may be, either House otherwise than by reason of a dissolution or if, at the first meeting of Parliament following a dissolution, he is not then a member of the Lower House or, as the case may be, either House.

24. In the exercise of his functions the Governor-General should be required to act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet except in cases where the Governor-General is required by the Constitution to act in accordance with the advice of, or after consultation with, some person or authority other than the Cabinet or in his own deliberate judgment.

25. The Constitution should provide for the appointment of Assistant Ministers in the same manner as Ministers other than the Prime Minister and for Assistant Ministers to hold office on the same terms as such Ministers.

26. The Governor-General should be required to appoint as Leader of the Opposition the member of the Lower House who, in the Governor-General's judgment, is the leader of the largest Opposition party in that House or, if there is no such party, whose appointment would be most acceptable to the leaders in the House of the Opposition parties. The Governor-General should have the power, exercisable in his own deliberate judgment, to revoke the appointment of the Leader of the Opposition if he considers that he has ceased to fulfil the qualifications for appointment.

27. The Constitution should place the police force under the command of the Commissioner of Police and provide that, in the exercise of his power to determine the use and control the operations of the police force, the Commissioner will be under an obligation to comply with general directions of policy with respect to the maintenance of public safety and public order given him by the responsible Minister; in the exercise of his command of the force in other respects the Commissioner should act on his own responsibility and be independent. The organisation, maintenance and administration of the police force should be the responsibility of Ministers.

28. The Constitution should provide for a Director of Public Prosecutions who will have independent powers in relation to criminal prosecution corresponding to those vested in the Attorney-General by the existing Fiji Constitution. A person should not be qualified to be or act as Director unless he is qualified for appointment as a Supreme Court judge.

29. (Further consideration is being given to the provisions governing the exercise of the prerogative of mercy.)

The Judicature

30. The Constitution should contain provisions to secure the independence and impartiality of the judiciary. The Constitution should continue to provide for the Supreme Court. The judges of the Court should be a Chief Justice and such other Puisne Judges as may be prescribed by Parliament. The qualifications for appointment should follow the present qualifications. The Chief Justice should be appointed by the Governor-General acting after consultation with the Prime Minister and the Leader of the Opposition. Puisne Judges should be appointed by the Governor-General in accordance with the advice of the Judicial and Legal Service Commission.

31. The security of tenure of the judges of the Supreme Court should be protected by a provision on the same lines as exists in the present Constitution. The procedure for removing a judge should be initiated by the Governor-General, acting in his own deliberate judgment, in the case of the Chief Justice and by the Chief Justice in the case of the other judges of the Supreme Court.

32. The Constitution should continue to provide for a Court of Appeal consisting of the judges of the Supreme Court *ex officio* and such other judges, being persons qualified for appointment as judges of the Supreme Court as may be appointed. (Further consideration is to be given to the provisions for the appointment, tenure of office etc. of additional judges of the Court of Appeal.)

33. In addition to its jurisdiction regarding enforcement of the fundamental rights provisions, the Supreme Court should have jurisdiction to determine whether any other provision of the Constitution has been contravened and to make a declaration accordingly where a person alleges such a contravention and that his interests are being or are likely to be affected thereby. The Supreme Court should also have jurisdiction to supervise civil or criminal proceedings before all subordinate courts, with the power to issue the necessary orders for the purpose.

34. The Constitution should provide for a right of appeal from the Supreme Court to the Court of Appeal and from the latter to Her Majesty in Council in cases relating to the enforcement of fundamental rights or the interpretation of the Constitution. It should also provide for appeals to lie to Her Majesty in Council in other cases as at present.

Service Commissions and the Public Service

35. The Constitution should provide for a Judicial and Legal Service Commission, a Public Service Commission and a Police Service Commission. These Commissions should be executive. (Further consideration is to be given to a number of points. These include the composition of each Commission and the method of appointment and tenure of office of members; the precise responsibilities of each; and the question of appeals from the decisions of each.)

36. Magistrates and Legal Officers will come within the jurisdiction of the Judicial and Legal Service Commission. The Commission should also appoint the Director of Public Prosecutions, but the latter should enjoy security of tenure similar to that of a judge. Police Officers other than the Commissioner should come within the jurisdiction of the Police Service Commission. (Further consideration is to be given to the position of the Commissioner of Police.) The Police Service Commission should have power to delegate its powers of removal and discipline to the Commissioner and other officers of the police force. Other public officers should in general come within the jurisdiction of the Public Service Commission (Principal diplomatic representatives abroad, the Secretary to the Cabinet, Permanent Secretaries and Divisional Commissioners may be exceptions.) (Further consideration is being given to this.)

The Public Service Commission should have power to delegate its functions to any of its members or any public officer.

37. Provision should be made for the protection of pension rights of public officers and for preventing the refusal, withholding or reduction in amount of pension benefits unless the appropriate Service Commission concurs.

Ombudsman

38. The Constitution should establish the office of Ombudsman and provide for appointments to it to be made by the Governor-General after consultation with the Prime Minister, the Leader of the Opposition and such other persons as appear to the Governor-General, in his own deliberate judgment, to be leaders of parties in the Lower House. The Ombudsman should hold office for a period of four years and should be removable only on grounds of inability or misbehaviour after a tribunal consisting of persons who are or have been judges have investigated any allegation against him and have recommended his removal; the procedure for removing the Ombudsman should be initiated by the Governor-General in his own deliberate judgment.

39. The Ombudsman should have jurisdiction to investigate complaints regarding the acts, omissions, decisions and recommendations of specified public bodies and other officers which affect the interests of individuals or bodies of persons. He should be entitled to act upon his own initiative or upon receiving a complaint from an individual or a body, and Ministers and members of the two Houses should also be able to refer matters to him for consideration. The bodies which the Ombudsman should be authorised to investigate should include Government Departments, their officers, tender boards, the police and prison and hospital authorities local government authorities and statutory bodies. The personal acts and decisions of Ministers and decisions of the Service Commissions should be excluded from investigation by the Ombudsman.

40. The Constitution should contain provisions enabling the Ombudsman to examine witnesses and also provisions to prevent the disclosure of information on the grounds that it prejudices defence, external relations or internal security or that it might divulge the proceedings of the Cabinet. The Ombudsman should be entitled to refuse to investigate any complaint that is more than six months old or on the ground that it is vexatious or too trivial or the complainant is insufficiently interested in the matter, and he should be enabled to discontinue an investigation for any reason that seems fit to him. He should be precluded from investigating any matter in respect of which there is a statutory right of appeal to or review by a court or tribunal. However, he should not be precluded from investigating a matter merely because it is open to the complainant to apply to the Supreme Court alleging a violation of fundamental rights.

41. The Ombudsman should be entitled to report unfavourably on any decision, recommendation, act or omission on the ground that it is contrary to law, based wholly or partly on a mistake of law or fact, unreasonably delayed or otherwise manifestly unreasonable. He should address his report, recommending any remedial action that he thinks appropriate, to the department or organisation concerned. If no adequate remedial action has been taken within a reasonable time, he should be empowered to make a special report to the two Houses. He should also make annual reports to the Governor-General, which should be laid before the two Houses.

Finance

42. The Constitution should contain provision on the usual lines with respect to the appropriation and expenditure of public monies in order to ensure control of these matters by Parliament. The Constitution should provide for the establishment of a consolidated fund and regulate payments into and withdrawals from that fund and for the laying of annual estimates of revenue and expenditure before the lower House and for the introduction of appropriation bills in respect of each financial year.

43. There should be provision for a Director of Audit who should have the function of auditing all public accounts and reporting on them to Parliament. The Director of Audit should be appointed by the Public Service Commission after consultation with the Prime Minister and the Leader of the Opposition and should have security of tenure similar to that of a judge.

44. The salary and conditions of service of the Governor-General, judges of the Supreme Court and the Court of Appeal, members of the Service Commissions, the Director of Public Prosecution, the Commissioner of Police, the Ombudsman, and the Director of Audit should be protected in the same manner as the salary and conditions of service of judges and certain other officers are protected under the existing Constitution.

45. The Minister of State thanked the Chief Minister of Fiji and the Leader of the Opposition in the Legislative Council for their invitation to visit Fiji to acquaint himself with the agreement reached by the political parties there on constitutional advance. Lord Shepherd also noted in the joint statement issued by Ratu Sir Kamisese Mara and Mr. S. M. Koya on 17 January 1970 their intention that Fiji should reach Dominion Status as soon as possible.

46. In addition to his talks with the political leaders the Minister had talks with representatives of the Great Council of Chiefs and with various organisations and individuals in Fiji and received submissions from others about constitutional advance.

47. The Minister of State took note of the account given to him by the Chief Minister and the Leader of the Opposition of the discussions they had held and of the agreements reached between their parties. He hoped that it would be possible for the parties between now and a constitutional conference to reach agreement on the matters referred to in paragraph 18, but he was bound to say that, if no agreement was reached and circumstances remained as at present, it would in his view be necessary that the constitutional instrument for independence should reflect, subject to any formal changes arising from independence, the provisions of the existing constitution.

48. As a consequence of what he has seen and heard during his visit and in particular of his talks with the Chief Minister and Mr. Koya and their colleagues in the Alliance and National Federation parties and in view of the agreement between the two parties recorded above, Lord Shepherd wishes to state that, subject to the Legislative Council endorsing by means of a formal resolution the proposals so far agreed, Her Majesty's Government will be willing to convene a constitutional conference in London at a date in April next to be mutually agreed with a view to finalising arrangements (including the date) for the independence of Fiji.

The Rt. Hon. Lord SHEPHERD,

The Hon. R. G. Q. KERMODE,
The Speaker.

The Hon. Ratu Sir KAMISESE MARA, K.B.E.,
Chief Minister.

The Hon. Ratu E. T. T. CAKOBAN, C.B.E., O.B.E.
(Mil.), M.C., E.D.,
Minister for Labour.

The Hon. VIJAY R. SINGH,
Minister for Commerce, Industry and Co-operatives.

The Hon. C. A. STINSON, O.B.E.,
Minister for Communications, Works and Tourism.

The Hon. D. W. BROWN, M.B.E.,
Minister for Natural Resources.

The Hon. J. MAVOA,
Minister for Social Services.

The Hon. Ratu G. K. CAKOBAN, O.B.E.,
Minister for Fijian Affairs and Local Government.

The Hon. K. S. REDDY,
Assistant Minister for Social Services.

The Hon. S. M. KOYA,
Leader of the Opposition.

The Hon. Ratu D. TOGANIVALU,
Assistant Minister, Chief Minister's Office.

The Hon. E. VUAKATAGANE,
Assistant Minister for Commerce, Industry and
Co-operatives.

The Hon. P. D. NAQASIMA,
Assistant Minister for Communications, Works and
Tourism.

The Hon. J. B. NAISARA,
Assistant Minister for Natural Resources.

The Hon. J. N. FALVEY, O.B.E.,
First General Member for Suva.

The Hon. W. M. BARRETT,
General Member Eastern and Central.

The Hon. Adi LOSALINI DOVI,
Council of Chiefs Member.

The Hon. H. B. GIBSON, O.B.E.,
General Member Northern.

The Hon. A. LATEEF, M.B.E.,
Indian Member Central.

The Hon. Mrs. B. C. LIVINGSTON,
General Member Western.

The Hon. S. S. MOMOIVALU,
Fijian Member for Lomaiviti/Kadavu.

The Hon. A. V. SIKIVOU,
Fijian Member for Rewa/Suva.

The Hon. Ratu J. B. TOGANIVALU,
Fijian Member Western.

The Hon. Ratu W. B. TOGANIVALU,
Fijian Member for Tailevu.

The Hon. S. N. WAQANIVAVAGI,
Fijian Member for North-West Viti Levu.

The Hon. R. H. YARROW, J.P.,
General Member for West Viti Levu.

The Hon. H. W. W. YEE,
Second General Member for Suva.

The Hon. J. MADHAVAN,
Indian Member for North-East Vanua Levu.

The Hon. C. A. SHAH,
Indian Member for North-East Viti Levu.

The Hon. Mrs. I. JAI NARAYAN,
Indian Member for Suva.

The Hon. R. D. PATEL,
Indian Member for North-West Viti Levu.

The Hon. K. C. RAMRAKHA,
Indian Member for Tailevu/Rewa.

The Hon. RAMJATI SINGH,
Indian Member North-Eastern.

The Hon. UJAGAR SINGH,
Indian Member for South Central Viti Levu.

Annex B

SPEECHES AT THE OPENING AND CLOSING SESSIONS

SPEECH BY THE MINISTER OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS AT THE OPENING SESSION ON 20 APRIL, 1970.

Lord Shepherd said:

"Your Excellency, Honourable Chief Minister, Honourable Leader of the Opposition and Members of the Legislative Council of Fiji. May I welcome you very warmly on my behalf and that of the Secretary of State and of the British Government and people. The Secretary of State regrets that he cannot be here to preside over this meeting today. But as you know, he is in Japan. He hopes to return in time to meet all of you before this conference ends.

I hope that you will enjoy your visit to London as much as I enjoyed my own visit to Fiji earlier this year. Your Excellency, I shall not forget the beauty of your lovely islands and the warm welcome that I received everywhere, from yourselves in Suva, and from people in other towns and villages throughout Fiji.

True, it is a spring day with sunshine in London; but I do not believe I shall be able to offer you the same abundance of sunshine that I saw myself in Fiji; but perhaps, with a degree of luck, we might have a little less rain. But I can assure you, on behalf of the British people, a very warm welcome indeed.

While in Nadi and in Suva I saw something of the preparations you were making for the visit of Her Majesty The Queen, Prince Philip and Princess Anne. We, in the United Kingdom, reading the reports of that visit were delighted to know how much it was enjoyed both by the visitors and the visited alike. I think it was a particularly happy circumstance that the people of Fiji had an opportunity of thus reaffirming their well known loyalty and affection for Her Majesty just as they were about to take a great new constitutional step forward.

I think it is right and proper that the work we began together in Suva should be continued here in this historic Marlborough House. This house has been the scene of other Conferences that have resulted in the creation of new, independent Commonwealth countries, and like your own in 1966 have marked the constitutional advance of others. This house is now the headquarters of the Commonwealth Secretariat, and I am very pleased to note that the Secretary-General, Mr. Arnold Smith, is himself present here today. It is also the special meeting place of members of that unique association of people which Fiji hopes soon to join in her own right.

Our task this week is to complete together the work we began in Suva last January. May I remind you that the Chief Minister and the Leader of the Opposition who had been having talks with other representatives of their two parties over a number of months about Constitutional changes, invited me to visit Fiji to acquaint myself at first hand with the position they had reached in their talks.

I thought then it right to remind them and also other members of the Legislative Council as to what Her Majesty's Government's position was on constitutional advance in Fiji. It was simply that Her Majesty's Government would not hold back advance, nor however would we in any way press changes on the Government and people of Fiji, and that what we would be guided by would be the basic principles of what were the wishes of the people. In other words, the pace and the timing of independence would lie in Fiji.

I found firm agreement between the Alliance Party and the National Federation Party that at an early date Fiji should become a fully sovereign and independent state with The Queen as Head of State, and that Fiji should seek membership of the Commonwealth. I also found that the Chief Minister, the Leader of the Opposition and their colleagues had reached a wide area of agreement about the Constitution. I found also amongst other people I was able to meet in a number of centres of Fiji a widespread acceptance and understanding of these objectives.

During our discussions in Fiji we, that is the Chief Minister, the Leader of the Opposition and their party colleagues and I, identified the areas of agreement that existed between the two parties on the Constitution and we also identified the areas where further thought and discussion was required; and we set them out in the Report of my visit to Fiji, which you know was at a historic meeting on the 2nd of February, signed by thirty-three elected members of the Legislative Council.

This Report was itself approved and confirmed by the Fiji Legislative Council on the 25th of February, and in consequence the British Government have invited the members of the Legislative Council of Fiji to meet here to draw up the principles of an Independence Constitution.

May I also express a welcome to our friends the Banaban people and the Rotumans, who are present at this Conference as observers.

Our meeting here this week is the culmination of nearly a century of partnership between our two peoples. In the years that have passed since Cession, Fiji has developed stable political institutions, a thriving, healthy, economy and high social and educational standards. The peoples of Fiji are thus fitted to take the next important step in their progress among the nations.

The growth in the Fiji economy during recent years is a matter of great satisfaction to us all. We see every reason for this to continue. With Independence new sources of economic aid would be open to you. You can be sure, however, that British help will continue to be available to Fiji after Independence, both by way of technical assistance and capital aid.

I think credit for Fiji's progress can be shared by the peoples of both our countries. But there is one aspect in particular of Fiji's development which is uniquely the contribution of the people of Fiji. No one from outside could have given it to you or imposed it upon you. It comes and could only come from the characters and hearts of your own peoples.

I refer, of course, to the harmony in which the various peoples of Fiji live and work together. Since the Vunivalu of Bau, whose descendant, Ratu George, we are indeed fortunate to have taking part in our counsels today, and the other Chiefs, ceded Fiji to Queen Victoria, the local Fijian people have been joined by people from the sub-continent of India. They now live together in your islands in roughly equal numbers as well as with peoples of other races. We are all aware in the world today that this is a situation which brings with it problems. The peoples of Fiji have surmounted those problems in remarkable degree. Their racial tolerance and mutual understanding, their ability to live together in goodwill, have placed them in high regard among their friends and neighbours in the world. As The Queen said in Suva the other day, these are invaluable assets. They are a vital element in the agreement on which this Conference is founded. They will be as vital in the future as in the past if the problems which we know remain are to be overcome, to ensure a happy and prosperous country. These problems in my own view can best be solved by the people of Fiji themselves when they have full responsibility for their affairs, and here I have no doubt that they will be solved in due course.

Another thing I should like to say is that the Constitution which we shall resolve together, must be a Constitution desired generally by the peoples of Fiji. Only a Constitution shaped by the people who will live with it and under it can be lasting and effective. It will be subject to change no doubt in the future, for, as the Chief Minister said in the speech I was privileged to hear him make in the Legislative Council Chamber in Fiji on 2 February, a Constitution is a living creature, subject to growth, susceptible to change; it is a sign of life, vigour and maturity to be ready to change when change is required. But Your Excellency, the initial framework as well as subsequent change must reflect the wishes and the agreement of the peoples of Fiji as expressed through you, their elected representatives.

If we are successful in the work at this Conference, as I am sure we shall be, Fiji will become a sovereign, independent country, fully responsible for all her own affairs, internal and external. She will retain her links with The Crown and she will have the expectation of becoming a Member of the Commonwealth. But she will take her place independently in the comity of nations, beholden to no one, but fortunate in her friends, far and near. Among those friends, I hope that Fiji will always include this country. Our work in the coming days may alter the Constitutional links between Britain and Fiji, but the ties of mutual regard, affection and friendship will not thereby be weakened. Indeed, I believe they will be enriched and strengthened by the free association on which we shall enter."

SPEECH BY THE CHIEF MINISTER OF FIJI AT THE
OPENING SESSION ON 20 APRIL, 1970

The Hon. Ratu Sir Kamisese Mara said:

" Lord Shepherd, members of the United Kingdom delegation, Hon. Leader of the Opposition, ladies and gentlemen. May I thank you first, Sir, for your

very kind words of welcome, which we greatly appreciate. Though many of us are not strangers to these walls, they nevertheless have an atmosphere which could be daunting, were it not dispelled by the warmth of your address. We in Fiji are perhaps more sensible to atmosphere than subtle argument. And we have already sensed, both during your visit to Fiji earlier this year, and since our arrival in London, that this new venture on which we are embarking has all possible goodwill from the British Government, and that your only wish is to assist in an arrangement which will meet the aspirations and desires of the people of Fiji, our various races and parties, and will also benefit the country widely as a whole. We also appreciate that it is not the intention nor the wish of the British Government to impose any solution upon us.

We, for our part, feel that we bring a new atmosphere from Fiji to the conference table. It is not an atmosphere of complete agreement: it has room for the frank expression of sincerely held differences. It is an atmosphere which admits of give and take, and which shows tolerance for differing views. Above all, it is an atmosphere where the united and determined aim is the progress and welfare of Fiji as a whole.

Our links with the British Crown are strong and treasured, forged in war and in peace. And all of us in Fiji, of whatever race or age, can look back in gratitude for the wisdom and trust shown by the Chiefs of Fiji who ceded our islands to Queen Victoria. And looking back over nearly one hundred years, I can say that their wisdom cannot be questioned, and their trust has not been misplaced. For those who have come after, from whatever quarter, we have had a welcome; we have appreciated the contribution they have made in our economic and social life and we look to them all to join us in making Fiji one nation. But we have looked to Britain for our defence and our external affairs. You have sent us civil servants over the years who are today training our own people in the areas where they can most quickly aspire to responsibility. You have generously given us Colonial Development and Welfare grants both to increase our economic growth and to accelerate our social service programme. But our need will not end suddenly, or become less, on Independence. Rather the reverse. And we were therefore glad to have your Lordship's assurance in Fiji that you would continue to do what you could to provide economic capital assistance to Fiji. This is most reassuring. For political independence and stability must be based on sound economic foundations. It is to secure such foundations that we rely on aid from our friends overseas. But it is not only for ourselves that we ask for aid. We have played, and continue to play, a leading part in the South Pacific. In so doing we are following in a heritage and a tradition bequeathed to us by the British Government. And we are proud to carry on this generous tradition as evidenced in the South Pacific Commission, the Pacific Islands Producers' Association, and our role in regional schemes with the United Nations agencies. Through the Fiji School of Medicine we have trained men who have become leaders in nearly every country of the South Pacific. This role of Fiji as the crucible of the

South Pacific is hallowed by history and is now highlighted and projected into the future by the establishment of the University of the South Pacific.

I spoke at the outset about atmosphere. We are also here in a businesslike atmosphere. It is our aim to leave London with not only broad principles settled but with the drafting of our new Constitution well under way. To this end, joint committees of both parties have been working in Fiji and will continue to work here with your advisers. This is the reason why we have come in such force.

To revert to the political aspect, I would like to refer briefly to a statement by the head of the Foreign Ministry of Malaysia, a country whose situation and racial make-up have many similarities to our own. He said, 'The creation of a harmonious united society is a long and arduous process but it must be done. All our actions must have one overriding aim in mind—the survival, the unity and the progress of the nation. Without trust and understanding between the different communities there is no hope for Malaysia.' The same is true for Fiji. And this is a view which does not only find its expression in Fiji from the Government side. The Honourable Leader of the Opposition put it another way just before he left Fiji. He said, 'We cannot afford to condemn or hate any race, we will have to live like brothers and sisters.' And he and his colleagues by their constructive approach to our problems have complemented our efforts towards trust and understanding in Fiji.

Trust and understanding may seem too tenuous and intangible to be the basis for the survival, unity and progress of a nation. But in a multi-racial society, trust, understanding and tolerance are the cornerstones of peace and order. These qualities are nourished and developed by the traditions and culture of every race. Hence the provisions in the Constitution to safeguard the culture and interests of the various units which make up the multi-racial society of Fiji. You have yourself, Sir, recognised this fact by your invitation to the Rotuman and Banaban observers here today to be present at a conference whose results will affect them as well as everyone else in Fiji.

I wonder, Sir, if it has occurred to those of us who have come to this Conference by air that at the time of taking off and coming into land, we all had to fasten our safety belts. This is always done during the transitional periods, since this is when such safeguards are needed. And that is why our Constitution must provide safeguards. And it must, as you so rightly say, reflect the general desires of all the people of Fiji.

It will be a measure of the success of this Conference if the Constitution we finally approve will enable us to create a Fiji where people of different races, opinions and cultures can live and work together for the good of all; can differ without rancour, govern without violence, and accept responsibility as reasonable people intent on serving the best interests of all."

SPEECH BY THE LEADER OF THE NATIONAL FEDERATION PARTY AT THE OPENING SESSION ON 20 APRIL, 1970

The Hon. S. M. Koya said:

"My Lord, Your Excellency, the Honourable Chief Minister, the Honourable Members of the Legislative Council, Ladies and Gentlemen.

I thank you, my Lord and the United Kingdom delegation, for your kind invitation and for the kind words of welcome which you have expressed on this historic occasion.

The main purpose of this conference, as we all know, is firstly to endorse the agreement already reached in Fiji on the 2nd February 1970 that Fiji should become an independent and sovereign country; and secondly to recommend to Her Majesty's Government of the United Kingdom a complete framework for a new Constitution for Fiji.

It is important to remember that prior to the signing of the Deed of Cession on the 10th October, 1874, Fiji was a free and independent country in the full sense of the word. The immediate pre-Colonial era prior to 1874 demonstrates this vividly. If Fiji was not independent, the signatories to the Deed of Cession would not have had the power in the eyes of international law to cede Fiji freely and voluntarily to Her Majesty Queen Victoria. Independence, therefore, is not something which is new to Fiji.

The Deed of Cession was signed on the 10th October 1874. Thereafter Fiji was governed as a Colony by the United Kingdom Government through its Colonial Office until about the end of 1966.

The first Constitutional Conference for Fiji was held at this very historic place on the 26th July, 1965. Dealing with the question of Fiji's future, my predecessor, the late Honourable Mr. A. D. Patel, made a very significant and far-reaching statement. He said Fiji should become independent and acquire the same status as had already been acquired by Australia, New Zealand, and Canada. He expressed the hope that Fiji would become independent 'in the not too distant future'.

The 1965 Constitutional Conference produced the existing Constitution and it gave some measure of internal self-government to the people of Fiji. Elections were held under this Constitution. The present Constitution has been severely and consistently criticised by my party. Between 1966 and 1969 positive views and declarations were made from our side that Fiji should become independent without delay. Talks on the future of Fiji commenced in August 1969 and on the 3rd November, 1969, the two major political parties, namely the Alliance Party and the National Federation Party, agreed that Fiji should become independent by way of Dominion status. In January of this year, your Lordship on our invitation visited Fiji. After some talks with the Fiji delegation, a Report prepared by your Lordship was signed on the 2nd February, 1970. This document we understand will form the basis of our deliberations here. This in brief is a summary of the Constitutional developments in Fiji.

In the economic arena Fiji must acknowledge the fact that each community living there has made a positive and everlasting contribution. The Fijians, who are the autochthonous race, were generous in allowing their land to be used and developed for agriculture, urban and rural settlements and for other public purposes at a rent far below the rent demanded by landlords of other countries. They were generous in not hindering the national economic progress. They fully appreciated that the country's progress could only be made by the employment of labour and capital which were in the hands of other races. In dealing with other races the Fijian people as a whole consistently displayed their national characteristic, namely kindness and sympathy, throughout the history of Fiji. The Indians contributed to Fiji's development firstly by way of labour and hard work and secondly by investing their capital in Fiji. The Europeans, Indians and other races alike are to be congratulated for investing capital in Fiji without which the country would not have reached the stage of economic development in which she finds herself today.

In the field of administration of justice, law and order, Fiji must pay tribute to the British Government. It encouraged the building up of various institutions along the well-established and traditional lines. We now have very sophisticated courts of law and a police force of which we can be really proud. Our public service is in no way inferior to any public service of other Commonwealth countries. In the circumstances, therefore, it should not be a matter of any real surprise that both major political parties should want independence for Fiji.

At this juncture I would like to outline to you, my Lord, with your permission, some of the significant points pertaining to the forthcoming Constitutional Conference.

Firstly, there is no political competition between the two major political parties to seek or obtain independence for Fiji.

Secondly, unlike other former colonies, Fiji desires to acquire independence without following the traditional formula laid down by Her Majesty's Government on this subject. In other words, Fiji has not had full internal self-government but nonetheless she wants independence now without going through a second stage of its constitutional development.

Thirdly, Fiji wishes to become independent without holding a prior election for it.

Fourthly, Fiji's desire to become independent emanates from the mutual understanding between the two main political parties and its leaders without any pressure or violence from within or without.

Fifthly, it is a common ground that Fiji's sovereignty should be transferred to the people of Fiji as a whole.

Sixthly, after Fiji attains its independence she will continue to have strong and close links with the Crown.

Seventhly, it has been agreed that Fiji's future legislature should have an Upper House, not necessarily to act as a House of Review like the House of Lords in England, but as a House of Protection for

the autochthonous race whose forefathers, as I have already said, generously ceded the beautiful islands of Fiji to Her Majesty, Queen Victoria. Pausing here for a moment, it is interesting to note that the Upper House will give the Fijian people an effective constitutional power to prevent, in a sophisticated way, any legislation being enacted against their wishes which affects their land, their customs, their culture and their way of life. It is pleasing to note that this aspect of the proposal for the establishment of the Upper House was proposed by my party and graciously accepted by the Fijian people through its leaders and Council of Chiefs.

Eighthly, it is a common ground that the provisions for citizenship in the new Constitution should be made on the most liberal lines. It is felt that it will not be in the national interest to permit the people of Fiji to have dual citizenship, or indeed any other citizenship rights which would be inconsistent with Fiji's sovereignty. Fortunately for us we would not have to face problems of the Kenya Asians who held British passports and citizenship after Kenya became independent. In this regard I am duty bound to pay my humble tributes and that of my colleagues to the Council of Chiefs. In proposing that the citizenship laws should be made on the humane lines, the Council of Chiefs have acted with wisdom and as statesmen of the world.

Ninthly, it is accepted that Fiji's constitution should be regarded as a living organism susceptible to changes and be changed when changes are required to meet the general wishes of the people.

Tenthly, we have achieved inter-racial harmony in our complex and multi-racial society.

I would therefore say to you, my Lord, that we have come to London for this historic conference as one people and with one voice.

Having agreed on nearly all the important provisions for the new Constitution and having signed your Lordship's Report, we can confidently say that we would not require much of your time, energy and advice when the deliberations begin. However, there are one or two important subjects, on which we shall require guidance and help. Allow me to say, my Lord, and without being impertinent in any way, that the United Kingdom delegation has a grave responsibility to give us advice on matters which may at first sight appear to be controversial. I take the view that in addition to taking a decision that Fiji should become independent on the appointed day and thus relinquish your power as the administering authority, you have an important additional role to play. This additional role, in my humble view, is one of a mediator and a friend to all parties. It is important to note that any Constitution which has been worked out or drafted in haste has invariably been found to be unworkable or unacceptable subsequently and thus lent itself to grave criticism. All we ask is a patient and sympathetic hearing.

May I point out, my Lord, that it is a common ground between all three parties, namely the United Kingdom delegation, the Alliance delegation and my delegation, that Fiji should become a nation. It behoves therefore all of us to see that the new Constitution is one which will expressly and/or by

clear implication guide the people of Fiji to unite rather than divide. It should produce conditions which would be conducive to and consistent with the making of the country into one nation and one people.

In my view we are the framers of the new Constitution and as such we have a solemn duty not only to ourselves, the people of Fiji, the world opinion but also to posterity. I do beseech on all the delegates and make this humble plea; that we should throughout the deliberations guard ourselves of any proposal which may bear the characteristic of divisive forces. Let no historian indict us that on this day—a day of grave moment for all the people of Fiji—that we fell into the cardinal error of taking a short-term or a racial view concerning Fiji's future and its body politic. We must strive to see that we only borrow such provisions from the Constitutions of other countries which have commanded universal approval and reject those which have received universal condemnation.

We are not oblivious to the fact that the old concept of Empire no longer exists and that we now belong to the Commonwealth. This is an institution which has been accepted by nearly all former colonies administered by the United Kingdom. The United Kingdom delegation is looked upon by us not only as the retiring trustee for Fiji but as a potential Commonwealth partner and a friend and a guide. It can help us to frame the Constitution which will be viable, and sufficiently flexible to meet the ever-changing conditions of the world. These changes do inevitably affect everyone's lives in the modern world and Fiji would be no exception. It is for this reason we desire that the new Constitution should be one which would meet the aspirations and the general wishes of the people of Fiji at any given time in the foreseeable future.

I firmly believe that Independent Fiji can and should play its part, however small, in the comity of nations for the benefit of mankind. Indeed in a regional sphere and notwithstanding its status as a Colony, Fiji has contributed in a small way in uplifting the economic and social progress of some of its neighbouring islands. There is a school of thought to which some of us belong, that the world is one. It is therefore imperative that a citizen of any enlightened and independent country should strive and work for the betterment of not only himself and his country but for the people of the world at large.

I firmly believe that the world has become one. This may be most controversial but it is also the fundamental point, and most of the controversy arises from a misunderstanding of what is meant when it is said that the world has become one.

This one world no longer accepts the supremacy of any of its parts over the whole or any other part.

In this one world any war or threat of war has become an immediate danger of overwhelming catastrophe for the whole world.

In this one world, respect for the dignity and worth of the human person has come to be widely accepted as the foundation of fundamental and inalienable human rights.

This one world recognises a common responsibility for the common welfare, among as within nations.

This one world needs a common discipline to ensure advanced science and technology serve man and do not destroy him.

This one world is in the process of organising itself by conscious efforts as a world community.

This concept of one world has inspired great powers including Great Britain to assist dependent and independent countries in various ways.

Independent Fiji therefore will sooner or later join the world community and would therefore I am sure belong to one world school of thought. Our future success as a nation therefore will depend firstly on a liberal and far sighted democratic constitution and secondly the initial help which may be forthcoming from friendly nations to put us on a sound economic base. Given the opportunity we shall endeavour to see that the present standard of living of our people is further enhanced and that Fiji's economy is developed to such a degree that she is self-sufficient and play its deserving role in the comity of nations. I hope therefore that the United Kingdom delegation will note that we attach supreme importance on the subject of political independence and the new Constitution for Fiji. We do in addition attach a great importance in our proposal for the continuance of British aid for such reasonable period as may be agreed upon for the mutual benefit.

In conclusion, my Lord, Your Excellency, Honourable the Chief Minister, Honourable members of the Legislative Council and Ladies and Gentlemen, I say that we are living in a wholly new world, a new world than any of our conflicting ideologies has sufficiently appreciated; a world in which politics, strategy, economics, science and technology and not least the range and intensity of human aspirations have been transformed within our lifetime; a world in which change at an ever-accelerated rate has become the *status quo*. In this new world man must re-find his true vocation.

The vocation of man in our age is to secure a mastery of his own destiny comparable to the mastery which he has secured over the world of nature. He can secure it only in the same manner, by learning and respecting the laws which govern the life of society no less than the world of nature. If we fulfil this vocation, the prospects before mankind are infinite. If we fail to fulfil it, civilisation as we have known it has run its course. In political terms, for us the essence of this vocation is to develop a united independent Fiji, in which men of varied races, cultures and ideologies can live together in peace and freedom on a shrinking planet. We must develop 'laws' which are the natural order of society into a 'law' which is the accepted basis of an orderly government.

In my humble submission human freedom in political society presupposes law. The development of a united and independent Fiji therefore poses acutely the question of the role of its new Constitution in its affairs. Can the new Constitution play a part in promoting the unity, freedom and welfare of its inhabitants in the nuclear age comparable to that which it plays in securing freedom and good government within a well-ordered state? How effective a contribution can the new Constitution make to

securing peace with justice, protecting the dignity of man, promoting economic stability and growth, and ensuring that scientific and technological progress serves the common interest and does not enslave mankind? Would it be one which would serve the citizens of Fiji or would it be one of the inherited inhibitions from which they are seeking to win their freedom? If the new Constitution fails us in these high matters, can there be a united Independent Fiji standing for peace and freedom? The answers to all these questions lie in the hands of the delegates attending this Conference. I am confident that this Conference can produce a flexible, democratic, non-racial and humane Constitution for the Independent Fiji and for the common good.

I join all of you in the solemn prayer that God guide us in all our deliberations."

SPEECH BY THE HON. RATU SIR KAMISESE MARA,
CHIEF MINISTER AT THE CLOSING SESSION ON
5TH MAY, 1970

Lord Shepherd, Your Excellency, Hon. Leader of the Opposition, ladies and gentlemen:

Today marks the end of a long journey—a journey of close on one hundred years of peace and war, of progress and development, of social and political change. Through it all, we have had the protection, help and guidance of the United Kingdom. Many of her traditions are firmly grafted not only on our political institutions, but on our whole national life. The rule of law, parliamentary democracy, respect for the rights of minorities, a sense of fair play give and take, are all taken for granted in Fiji, but they are, in a very real sense, a legacy from the British. Should we ever wish to forget the British—which God forbid—it would not be possible. Your ways and your ideals are too much part and parcel of our own way.

But for all the United Kingdom's paternal care for us over the years, we have both always looked forward to the day when we in Fiji could stand on our own feet and manage our own affairs; when we would no longer be a dependency but a full partner, a very junior partner perhaps but nevertheless a full partner, in the British Commonwealth of Nations. Any delay in advance to this goal has resulted rather from our own inability to resolve our local differences than from reluctance on the part of the United Kingdom to give full recognition to our aspirations.

But last year saw a new spirit in Fiji, a new realisation that without harmony among the races there is no hope for Fiji. And this realisation brought a new resolve to seize this moment and to inaugurate the positive actions which see their fulfilment here today. The two parties came together and decided to find where they agreed and where they disagreed and to try to find mutually acceptable solutions.

This involved much hard study, a lot of frank talking, and on some occasions sharp definition of position. But throughout, the discussions were carried on in a spirit of mutual trust and goodwill and with the shared objective of the welfare of Fiji as a whole.

Your own visit to Fiji, my lord, clearly satisfied you of the genuine feeling of goodwill and the real progress towards agreement, and it confirmed for us the sympathy and encouragement of the United Kingdom in our national aims.

I am happy to be able to say that this atmosphere of mutual tolerance and give and take has been maintained here in London. While we have all felt free, and indeed duty bound to express our arguments with strength and tenacity we have done so without hard feelings and with respect for each others' viewpoint. The agreement we have reached is not dictated by narrow political advantage but directed towards the national good of Fiji as a whole. That is why the two parties have been able to find an acceptable meeting point, and I do pay sincere tribute to all my friends in the National Federation Party for the way they have shown themselves ready to meet us half way and play their part with all of us in this historic settlement. I have, of course, been greatly aware of the loyal support of my own Alliance colleagues.

We believe, therefore, that this agreement we sign today will have the widespread support of all the citizens in Fiji. But the signing of a constitutional agreement is not the end of the road. It will be our duty to carry and explain the terms throughout the length and breadth of Fiji so that when we come to debate the report in Legislative Council we shall do so in the full knowledge of the views of our people. And it is to enable such informed explanation that we have brought every available member of our Council to London.

As I said the day I left Fiji, the happy future of Fiji depends much more on all those we left behind than on those of us here in London. We may lay out the blueprint but it is for everyone in Fiji to help us build the house to build it strong and to build it to last. I am confident we can do it.

Lord Shepherd, we are all most grateful to you personally for all your help, sympathy, tact and guidance. We are grateful to the United Kingdom delegation as a whole and to all those who have run this conference so efficiently and have contributed to our comfort in these spacious surroundings. We hope and pray that our successful deliberations here will spell the outset of a happy and prosperous future for Fiji and an even closer association with the United Kingdom because it is freely entered. We will continue to rely on the United Kingdom in so many ways particularly for economic aid and technical assistance and we do so with confidence.

But our greatest reliance must be on ourselves and on all the people of Fiji. We trust ourselves here and we trust them, and it is in this spirit that we go forward to nationhood."

SPEECH MADE BY THE HON. S. M. KOYA, LEADER OF THE OPPOSITION, AT THE CLOSING SESSION ON 5TH MAY, 1970

"My lord, Your Excellency the Governor, the Hon. Chief Minister, the Hon. Members of the Legislative Council of Fiji, ladies and gentlemen:

The historic document which you are about to sign is a result of hard but harmonious bargaining between the two major political parties in Fiji, which commenced in August 1969 and concluded yesterday. It reflects the considered views of the elected members of the Legislative Council of Fiji and their advisers and would therefore indeed represent the views of our people in Fiji.

My lord, I know that the deliberations in this Conference have sometimes been prolonged. This was largely due to the fact that the Fiji delegation as a whole has regarded each and every paragraph of the Report as of special significance, the terms of which will undoubtedly affect not only their lives but the lives of their fellow-citizens for generations to come. By this Report, my lord we have endeavoured to establish pillars of democracy for our future body politic in Fiji. In so doing we have subordinated our respective group or party interests to the national interest.

It goes without saying that, whilst all of us believe in democracy as it is understood and practised in the United Kingdom, we are not unmindful of the fact that the proposed constitution cannot be viable and/or successful unless the present and future political parties and the present and future politicians, and indeed the citizens of Fiji as a whole, collectively act in a way conducive to its maintenance and success.

The recent world events lead us to the inevitable conclusion that, without self-discipline, democracy is an empty word.

We know that from the appointed day, namely 10th October 1970 and onwards, the responsibility for looking after Fiji will be ours. We also realise that independence does not merely mean political freedom for our people, but it is bound to bring problems associated with it. Whether the problems are of a political, economic or social nature, we alone will have to solve them to the best of our ability. It is in this regard I would remind my colleagues on both sides of the table that from the appointed day we shall have to carry a solemn and grave responsibility in making our independence a success. The world will watch our behaviour, and we will be put to a severe test in the hour of our need.

To the outside world all I would say is that Fiji believes that she is able to play her role in the community of nations and help mankind in every possible way. We do not believe that ignorance and hunger, disease and want, can any longer be accepted as the inevitable lot of the vast majority of mankind.

Fiji, my lord, will continue to be regarded as a place of special importance from the viewpoint of trade and commerce, and strategy from the military point of view.

I sincerely pray that our proposed constitution would enable our multi-racial society to work for the common good and encourage the emergence of a new society in the foreseeable future, cutting across race, colour, religion and other barriers.

Only by constant and vigorous exercises of our intellectual muscles can we, as the servants of the independent and new Fiji, grow in stature so that it becomes an effective guardian of all the good things we cherish in our lives. To live and work by such a vision is no idle fancy but plain common sense, responding to the call of duty and guided by sober statesmanship.

I thank you, my lord, and all the members and staff of the United Kingdom delegation for the kind hospitality which has been and is being extended to us during our stay in London."

SPEECH BY THE RIGHT HON. LORD SHEPHERD MINISTER OF STATE, FOREIGN AND COMMONWEALTH OFFICE, AT THE CLOSING SESSION ON 5TH MAY, 1970

"Your Excellency, Hon. Chief Minister, Hon. Leader of the Opposition, Hon. Members, Ladies and Gentlemen:

You may recall that when I spoke at our meeting which concluded my talks in Fiji in February, I described my flight into Nadi.

I said that when we came in I looked out of the window to see the moon glistening on the waters but on the other side of the aircraft I saw that in the East the first streaks of dawn were appearing, and that I could not help but reflect that this must signify a new day for Fiji, and in particular be an omen for the outcome of our talks on Constitutional advance.

Some three months later we meet here in London and although I did not see the dawn break this morning, we can all see the sun shining brightly outside and in particular on Marlborough House. Spring is here, new life is breaking out on the trees, and all of us must feel a new sense of hope and purpose.

Today undoubtedly marks a new day for Fiji and I have no doubt at all, like the trees in the Park, that those of you who represent the people of Fiji share that new sense of life and purpose.

The Secretary of State, as you know, hoped to be present this afternoon to sign with you this historic document.

But the tragic circumstances of Cambodia have required him to be present in the House of Commons. However he has asked me to give you not only his deep apologies and regrets, but the following message:

'I am sorry that I am prevented from being with you today at such an historic occasion.

Lord Shepherd has kept me informed of the progress of the Conference since it assembled on 20th April.

I have also watched developments in Fiji with particular attention for the past nine months or so when those concerned with public and political affairs there have been giving special thought to future constitutional progress and to your country's destiny.

I know that the task in working out a new Constitution has naturally presented difficult problems. You have, however, brought to these problems the mutual goodwill and tolerance which characterises your national life. The result has been agreement among you, which is as great a source of satisfaction to us as it must be to you.

I congratulate you most warmly on reaching agreement and I send you, and through you all the people of Fiji, my very best wishes for the future of your islands.

That concludes the message.

Your Excellency:

This is a moment for stocktaking for both our countries. You, in your numerous and very beautiful islands in the South Pacific, and we, on the opposite side of the world, in our different but equally beautiful islands in the North Atlantic have shared nearly a century of history together. The beginnings of that association are well-known to you all.

In your case, unlike the others, at least Britain took some persuading to assume responsibility for another colony. But, having overcome the initial reluctance of the British Government of the day, the association began and still rests on the solemn Deed of Cession of the Fiji Islands by the Chiefs of Fiji to Queen Victoria and the similar Deed of Cession by the Chiefs of Rotuma.

It is an association that is rich in memories which, as the speeches made by the Hon. Chief Minister and the Hon. Leader of the Opposition made clear at the opening of the Conference and again at its close can be a source of satisfaction to both our countries.

While Fiji has been a dependency of Britain your peoples have built up a peaceful country with political and economic stability and developed qualities and assets needed for a prosperous and happy future.

The major credit for this goes to the peoples of Fiji themselves; but we in Britain have helped, where we have been able, with administrative guidance, economic and technical help and other benefits that come through the friendship of peoples and the exchange of their varied skills. Here I would wish to pay a tribute to the many Civil Servants who have left these shores and have gone to Fiji and have served Fiji over so many years.

Fiji has shared with Britain troubled as well as peaceful times and my countrymen think with gratitude and with high regard of their comrades in arms from Fiji during two world wars and in Malaya. This we shall never forget.

Now you in Fiji have come to feel that it is time to take a further and important constitutional step. You have decided that you should proceed to independence.

We believe that Fiji, politically and economically, can sustain independence and indeed we agree that Fiji's problems can probably best be solved in the future by an independent Fiji.

And so our two delegations have been meeting here in these past weeks to consider together the framework of an independence constitution for your country.

I think the most important thing about the constitutional framework for Fiji which is now before us is that both its genesis and the principles it embodies rest on the spirit of trust, understanding and tolerance which the Chief Minister has so fittingly described as the cornerstones of peace and order.

This spirit is not found everywhere in the world today. But the people of Fiji have through you, their elected representatives, given a shining example of it in our deliberations which have culminated in the conclusions of this Conference; it is a rare and precious quality which, if I may, I would enjoin you to cherish and nurture with every effort of patience and skill. It is a great national treasure and one that is vital to the future welfare of your country.

Our discussions in Fiji and at this Conference have taken place in full and frank recognition of the special needs of the different communities of Fiji, of the separate and varied contributions which each makes to your social, economic and political life.

The report of the Conference and the principles it sets out for a new constitution recognise the problems created by your multi-racial society and the need to give a fair place and a fair voice in that society to all communities whether Fijians, Indians or representatives of other races who are part of Fiji including those from this small group of islands like Rabi and Rotuma whose representatives we have had as observers at our Conference today and who have declared their belief in and their loyalty to an independent Fiji.

This has been a very hard working Conference. You have considered most carefully both the general principles and the details of a new constitution. We know also that general agreement has been reached within the Fiji delegation and between the members of the Alliance and National Federation Parties.

These agreements have been reached after healthy party political debate with all the give and take that such debate implies, with natural and proper concern for the interests of the different parties and the different communities in Fiji, but in a spirit of compromise and with the national interest always put first.

This is as it should be if the constitution is to provide a framework on which to build a healthy and secure national life.

One of the most difficult problems with which the Fiji delegates to the Conference have been faced has been the composition and method of election of the Lower House.

I should like most sincerely to congratulate the Chief Minister and the Leader of the Opposition and the other members of the Fiji delegation on reaching

agreement on how to proceed on these matters. The spirit in which you sought and found that agreement augurs well for the future of Fiji.

And so the work of this Conference, assuming its conclusions are approved by the Fiji Legislative Council in session in Suva, and endorsed by Parliament at Westminster by the passage of the necessary legislation, will lead to Fiji becoming independent later this year on the anniversary of the Deed of Cession in 1874.

We in Britain shall not that day cease to be interested in the people of Fiji and in their welfare.

We shall continue to give you such help with your economic development as you may need and as is within our means; we shall continue to try to meet requests from you for technical assistance and human skills. Britain and Fiji will still have many common interests in the South Pacific.

We work together through the South Pacific Commission. British Territories in the Pacific have many and valued links with you. I would mention particularly the fine work of the Fiji School of Medicine, and the new University to serve the South Pacific which is now flourishing in Suva.

We look forward to the continuance of these associations.

We shall be united in our loyalties to The Queen. We are confident that Britain and Fiji will be fellow Members of the Commonwealth. We shall look on you as old and good friends and we hope you will so look on us.

Hon. Chief Minister and Hon. Leader of the Opposition, you have expressed your appreciation to all those who have contributed to this Conference. The other day I expressed on behalf of us our gratitude to our Secretary-General and the Secretariat. I think we should also remember particularly those who work behind the scenes, the many typists who worked very very late hours indeed in order that we should have our papers the following morning. I hope that they will also feel a sense of achievement and satisfaction from the success of this Conference.

Mr. Chief Minister, Hon. Leader of the Opposition and Hon. Members, I wish you a safe journey home. You take with you to the People of Fiji the warm good wishes of the Government and of the people of Britain."

Annex C

PREAMBLE TO THE CONSTITUTION OF FIJI

WHEREAS on 10th October, 1874, Cakobau, styled *Tui Viti* and *Vunivalu*, and other High Chiefs signified their loyalty to Her Most Gracious Majesty Queen Victoria, their dedication to God and to the rule of law in the solemn agreement known as the Deed of Cession made and concluded by them of the one part and Sir Hercules George Robert Robinson the representative of Her Majesty of the other part:

AND WHEREAS in November, 1879, the Chiefs of Rotuma similarly signified adherence to such principles by the Deed of Rotuma Cession:

AND WHEREAS all the peoples of Fiji have ever since acknowledged their allegiance to the Crown, their reverence for God and the rights and freedoms of the individual secured and safeguarded by adherence to the rule of law:

AND WHEREAS those peoples have become united under a common bond, have progressively advanced economically and politically and have broadened their rights and freedoms in accordance with the dignity of the human person and the position of the family in a society of free men and free institutions:

NOW THEREFORE the people of Fiji do affirm their allegiance to Her Most Excellent Majesty Queen Elizabeth II, Her heirs and successors, their reverence for God and their unshakeable belief that all are entitled to fundamental human rights and freedoms based upon and secured by the rule of law and to that end desire that the following provisions shall take effect as the Constitution of Fiji:—

Annex D

JUDICIAL AND LEGAL SERVICES COMMISSION

The Judicial and Legal Services Commission would consist of the Chief Justice as Chairman, the Chairman of the Public Service Commission and one member appointed by the Governor-General acting in accordance with the advice of the Chief Justice.

2. The appointed member would be a person qualified for appointment as a Judge of the Supreme Court whether or not he had served as such, except that a person in active practice as a barrister and solicitor in Fiji would be ineligible. His appointment would be for a period of three years and subject to renewal for further periods.

3. Disqualifications for appointment as the appointed member would be the same as for members of the Public Service Commission save that for this purpose a Justice of Appeal would be eligible notwithstanding that he is a public officer.

4. Appointment as a member of the Commission would disqualify a person from appointment to any public office for three years after ceasing to be a member.

5. The appointed member of the Commission would only be removable on the grounds of inability or misbehaviour after a tribunal, consisting of persons who hold or have held high judicial office in some part of the Commonwealth, have investigated the question of his removal and recommended it. The procedure for removal would be initiated and members of the tribunal appointed by the Governor-General acting in accordance with the advice of the Chief Justice.

6. Whenever the office of appointed member of the Judicial and Legal Services Commission is vacant or that member is unable to perform the functions of his office, the Governor-General, acting in accordance with the advice of the Chief Justice, would be able to appoint a person qualified for appointment as the appointed member to act as a member of the Commission.

7. The powers of the Judicial and Legal Services Commission would be to appoint persons to hold or to act in specified offices, to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office. The offices specified would be those of Chief Registrar of the Supreme Court, Deputy Registrar of the Supreme Court, Assistant Registrar of the Supreme Court, Solicitor-General, Crown Solicitor, Senior Crown Counsel, Crown Counsel, Principal Legal Draftsman, Legal Draftsmen and all Magistrates. The Commission would also have the same powers in respect of:—

- (i) such other offices, being offices that in the opinion of the Judicial and Legal Services Commission are offices similar to those specified above, as may be prescribed by the Commission, acting with the concurrence of the Prime Minister;
- (ii) such other offices as may be prescribed by Parliament.

Annex E

PUBLIC SERVICE COMMISSION

The Public Service Commission would be composed of a Chairman and not less than three and not more than five members appointed by the Governor-General acting in accordance with the advice of the Prime Minister who would first consult the Leader of the Opposition. The term of office of the members of the Commission would be for three years subject to renewal for further periods of up to three years.

2. A person would be disqualified for appointment to the Commission if he is, or was at any time during the three years immediately preceding appointment:—

- (i) a member of the Senate or House of Representatives or an elected member of any Local Authority;
- (ii) nominated with his consent as a candidate for election as a member of the legislature or any Local Authority;
- (iii) a public officer or officer of a Local Authority;
- (iv) the holder of a national office in any political organization that sponsors or has during the relevant period sponsored a candidate for election as a member of the House of Representatives.

For the above purposes "Local Authority" would be defined as meaning a city council, town council, township board, provincial council or any other similar statutory body containing elected members. A person would also be disqualified for appointment if he is a member of the Police Service Commission except that the Chairman of that Commission would be eligible for appointment as Chairman of the Public Service Commission.

3. Appointment as a member of the Commission would disqualify a person from appointment to any public office for three years after ceasing to be a member.

4. Members of the Commission would be removable in the same manner and in the same circumstances as members of the Judicial and Legal Services Commission, except that only the Chairman and one of the members of the investigating tribunal would have to be persons who held or who had held high judicial office in some part of the Commonwealth and that the Governor-General would act in accordance with the advice of the Prime Minister in initiating the procedure and appointing the members of the tribunal.

5. The procedure for appointing an acting Chairman or member would be as follows:—

- (a) Whenever the office of Chairman of the Public Service Commission is vacant or the Chairman is for any reason unable to perform the functions of his office, those functions would be performed by such one of the other members of the Commission as the Governor-General may appoint.
- (b) If at any time there are less than three members of the Public Service Commission besides the Chairman or if any such member is acting as Chairman or is for any reason unable to perform the functions of his office, the Governor-General would be able to appoint a person qualified for appointment as a member of the Commission to act as a member and any person so appointed would continue to act until his appointment was revoked by the Governor-General.
- (c) the above functions of the Governor-General would be exercised by him in accordance with the advice of the Prime Minister who would first consult the Leader of the Opposition.

6. The powers of the Commission would be to appoint persons to hold or act in offices in the public service, to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office. The following offices would be excluded from the Commission's purview:—

- (i) a Judge of the Court of Appeal or the Supreme Court;
- (ii) Except for the purpose of making appointments (including acting appointments), the Auditor-General;
- (iii) offices dealt with by the Judicial and Legal Services Commission;
- (iv) teachers engaged under the scheme of co-operation with the Government of New Zealand;
- (v) the Ombudsman;
- (vi) Ambassadors, High Commissioners and principal representatives in other countries or accredited to international organizations;
- (vii) all offices in the Police Force;
- (viii) any other offices prescribed by the Commission acting with the concurrence of the Prime Minister.

7. The Conference noted that the following personnel of disciplined forces would be included within the purview of the Commission:—

Forest guards, prison officers and fire service officers.

8. The Commission would be able to delegate any of its powers to any of its members. The Commission would be able to delegate any of its powers to any public officer subject to any limitations which Parliament may prescribe.

9. With regard to racial balance in the selection of candidates for entry to the public service, provisions would be made similar to those in section 89 (4) (a) and (b) of the present Constitution. So far as possible there should also be a fair racial balance in the composition of the Public Service Commission itself, although this would not be prescribed in the Constitution.

10. The Public Service Commission would not exercise any of its powers in relation to the personal staff of the Governor-General without his concurrence. Before making any appointment to the staff of the Ombudsman the Commission would consult the Ombudsman. The Secretary to the Cabinet and Permanent Secretaries would be appointed by the Public Service Commission with the concurrence of the Prime Minister. Before exercising any of its powers in relation to the Clerk to the Senate or the Clerk to the House of Representatives or their staffs, the Public Service Commission would consult the President or Speaker, as the case may be.

Annex F

POLICE SERVICE COMMISSION

The Police Service Commission would be composed of a Chairman and two members appointed by the Governor-General acting in accordance with the advice of the Prime Minister who would first consult the Leader of the Opposition. The term of office of the members of the Commission would be for three years subject to renewal for further periods of up to three years.

2. A person would be disqualified for appointment to the Commission if he was at any time during the three years immediately preceding appointment:—

- (i) a member of Parliament or an elected member of any Local Authority;
- (ii) nominated with his consent as a candidate for election as a member of the House of Representatives or any Local Authority;
- (iii) a public officer or officer of a Local Authority;
- (iv) the holder of a national office in any political organization that sponsors or has during the relevant period sponsored a candidate for election as a member of the House of Representatives.

For the above purposes "Local Authority" would be defined as meaning a city council, town council, township board, provincial council or any other similar statutory body containing elected members.

3. A person would also be disqualified for appointment if he were a member of the Public Service Commission, except that the Chairman of that Commission would be eligible for appointment as Chairman of the Police Service Commission.

4. Appointment as a member of the Commission would disqualify a person from appointment to any public office for three years after ceasing to be a member.

5. Members of the Commission would be removable in the same manner and in the same circumstances as members of the Judicial and Legal Services Commission, except that only the Chairman and one of the members of the investigating tribunal would have to be persons who held or had held high judicial office in some part of the Commonwealth and that the Governor-General would act in accordance with the advice of the Prime Minister in initiating the procedure and appointing the members of the Tribunal.

6. The procedure for appointing an acting Chairman or member would be as follows:—

- (a) Whenever the office of Chairman of the Police Service Commission is vacant or the Chairman is for any reason unable to perform the functions of his office, those functions would be performed by such one of the other members of the Commission as the Governor-General may appoint.
- (b) If at any time there are less than three members of the Police Service Commission including the Chairman or if any such member is acting as Chairman or is for any reason unable to perform the functions of his office, the Governor-General would be able to appoint a person qualified for appointment as a member of the Commission to act as a member and any person so appointed would continue to act until his appointment was revoked by the Governor-General.
- (c) The above functions of the Governor-General would be exercised by him in accordance with the advice of the Prime Minister who would first consult the Leader of the Opposition.

7. The powers of the Commission would be to appoint persons to hold or to act in any offices in the Fiji Police Force above the rank of Senior Inspector and to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office.

8. In regard to ranks of Senior Inspector and below, the power to make appointments, to exercise disciplinary control and to remove officers would be vested in the Commissioner of Police, with the proviso that his power to remove an officer would only be exercised with the concurrence of the Police Service Commission.

9. The Police Service Commission would be able to delegate by Regulations any of its powers to its members and, in pursuance of directions given by the Prime Minister, to the Commissioner of Police.

Annex G

LIST OF THOSE ATTENDING THE
CONFERENCE

UNITED KINGDOM

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