

**NEGOTIATING COUNCIL**  
**TENTH REPORT OF THE TECHNICAL COMMITTEE**  
**ON CONSTITUTIONAL ISSUES**  
**TO THE NEGOTIATING COUNCIL**  
**20TH AUGUST 1993**

Following upon the debate in the Negotiating Council on our Eighth Report we evaluated each part of the text which came under discussion and where necessary took such steps as we thought were appropriate. Such steps include:

- 1.1 additions and omissions to the text and each of these are indicated appropriately on the face of the text,
- 1.2 reformulation of certain provisions to achieve clarity, eradicate inconsistencies or to bring the text in line with consensus which may have emerged during the course of the debate in the Council.

We suggest that the debate be concentrated on these changes. Consequently, we have attached hereto detailed and refined texts of Chapters 1, 2, 4, 5 and 9. The final edit has not been completed, however, the texts are in a form which, if found in order, may be approved by the Council. We have refrained from dealing with matters in which a participant has suggested changes of substance on which no decisions were taken by the Negotiating Council.

2. We have added to the existing text a preamble and schedules 5 and 6. The Negotiating Council has already referred the settling of a preamble to the Planning Committee.

Consequently we have produced a preamble which may serve as a basis for further discussion. Schedule 5 describes a possible system for the election of a National Assembly and SPR Legislatures. Schedule 6 contains proposed formulations for oaths and affirmations for the President, Ministers and members of Parliament and SPR legislature. We draw the attention of the Council to the fact that there is no reference to any Deity in the body of the Oath.

3. As we intimated in paragraph 2 of our Eighth Report, preliminary texts for Chapter 6 (the Executive Power), Chapter 7 (the Judicial Power), Chapter 8 (the Ombudsman and Human Rights Commission), and Chapter 10 (Local Government) have been developed. In certain instances more than one text per chapter has been developed by us. None of these preliminary texts have been attached to this report. This is so, firstly because the development of these sections has taken considerably more time than was originally anticipated. Secondly, the refinement and reworking of the text on Chapters 1, 2, 4, 5 and 9, on the basis of the discussions in the Council used up a substantial portion of the time at our disposal.
4. We have, however, in our Eleventh Report, produced a provisional outline of a text on the Executive Power, as well as a report which, again, identifies policy issues that call for determination by the Negotiating Council and instructions to our Technical Committee.
5. During the debate on our Eighth and Ninth Reports in the Negotiating Council certain matters which need greater clarification have remained undetermined or unresolved. Some of these matters have been referred to the Planning Committee with a view to facilitating agreement between the parties. None of the following matters can be finalised by us until we receive clear instructions from the Negotiating Council:
  - 5.1. Definition of the National Territory (section 1(2));
  - 5.2. National symbols inclusive of National Flag, Anthem, Coat-of-Arms, and Seal, (section 2);

- 5.3 Languages, (section 3);
  - 5.4 The deadlock breaking mechanisms set out in Chapter 5;
  - 5.5 SPR Constitutions;
  - 5.6 Whether the Constitutional Assembly will have the power to alter the number, boundaries and powers of SPRs described in the Constitution for the transitional period, and
  - 5.7 All matters relating to areas of competence of SPR Governments set out in section 118.
6. In the detailed drafts of Chapters 1, 2, 4, 5 and 9 it is contemplated that certain legislation will have to be enacted before the coming into operation of the Constitution for the transitional period. Such enactment should be done sooner rather than later and in any event not after the coming into operation of this Constitution. Such legislation will include the following:
- 6.1. Electoral Act 1993 (section 6)
  - 6.2. Rationalisation of existing citizenship laws (section 5)
  - 6.3. Statutory provision in respect of the preparatory work on the continuation, transfer and consolidation of existing administrative responsibilities (section 102 rtw Sec 119).

We suggest that the instructions for the drafting of the legislation envisaged in 6.2 and 6.3 be given as soon as possible.

7. During the debate of this report before the Council we shall make an oral presentation of the refined texts placed before you. In doing so, we shall refer to all changes made to the

text and direct the Council's attention to those issues which call for decisions on principle. However, for the convenience of the members of the Council we draw attention to the following matters :

7.1.      **Sec. 4:      Supremacy of the Constitution**

During the debate in the Negotiating Council the question was raised whether the draft Independent Electoral Commission Act is compatible with the Constitution. Section 4 (1) of the Constitution provides that the Constitution shall be the supreme law of the land. According to section 3.1 of the draft Act, the draft Act shall be binding on the State. Where a conflict may arise between the provisions of the draft Act and the inherent powers of the state or the provisions of any other statute, save for other transitional legislation, the draft Act shall override such powers and provisions insofar as they relate to the conduct and supervision of elections, referenda and other matters dealt with in terms of the draft Act. 'Transitional legislation' is defined by the draft Act to include inter alia the 1993 Constitution. As the 1993 Constitution enjoys supremacy, which supremacy is reflected by the draft Act, no conflict arises between the two.

The provisions of the draft Act purport to apply in respect of the first and subsequent elections for Parliament and SPR legislatures.

7.2.      **Sec. 5(3):      Citizenship**

Section 20 prohibits the deprivation of South African citizenship. It is common that states provide by law for the loss of citizenship, if the citizenship of another country is acquired voluntarily (inter alia, to avoid multiple citizenship). We have therefore retained section 5(3) and we suggest that the Council reconsider section 20.

7.3. **Chapter 3: Fundamental Rights**

One participant sought the inclusion of rights of national, ethnic, religious and linguistic minorities under the Chapter on Fundamental Rights. Our response then, and now, still is that a debate in this regard relates to the brief of the Technical Committee on Fundamental Rights. International law recognition of the rights of national, ethnic, religious and linguistic minorities could properly be dealt with under Chapter 12 when provisions on the status of international law is debated.

7.4. **Sec. 38(2): Legislative Authority**

This provision has been deleted. Parliament, in any case, is competent to delegate by law any matter within its competence.

7.5 **Section 40(2) and 43(3) and 103(a): "Ordinarily Resident"**

The question was raised whether "ordinarily resident", as opposed to "domicile", is an appropriate criterion to serve as a "link" between a candidate and a particular SPR.

Whether a person resides at a particular place at any given time depends upon all the relevant circumstances, in particular:

- (a) A distinction should be drawn between domicile and residence
- (b) A person can have more than one residence at the same time;
- (c) A person cannot be said to reside at a place where he or she is temporarily visiting.

Ordinarily resident is somewhat narrower than "resident". A person is "ordinarily resident" where he or she has his or her usual or principal residence, ie. what may be described as the person's real home, although the person may be temporarily or occasionally absent. The question whether a person is ordinarily resident at a place is one of fact. For this reason, depending on the facts, it is possible that a hostel dweller could be ordinarily resident in a hostel.

One's domicile is one's "address prescribed by law" and for certain mainly private law purposes, depending also on one's subjective intention. In some cases, the common law ascribes a domicile regardless of a person's physical presence (such as a minor following his guardian's domicile, a wife her husband's.) Proof of domicile is often complicated. For the purposes of this Constitution for the transitional period the term ordinarily resident, therefore, seems to be the appropriate identification criterion for nomination as a candidate.

7.6            **Sec.43(1)(b): Anti-Defection Clause**

During the debate before Council one participant suggested that the  
19 anti-defection clause" herein contained may have to be elaborated

upon in line with the provisions to be found in the Constitution for India. We have studied the Indian Constitution and annex hereto the Tenth Schedule thereof containing anti-defection provisions. Another participant has made submissions to us to the effect that the "anti-defection" provision of section 43 (1) (b) should be deleted. The Negotiating Council is requested to signify whether the provisions of section 43 (1) (b) should be retained and if so whether any provisions similar to those in the Indian Constitution should be incorporated.

7.7            **Sec.43(2):    Filling Vacancies in the National Assembly**

We have amended this provision in order to gain greater clarity. During the debate before Council the filling of vacated National Assembly seats in order of preference of the parties' election lists compiled for the previous general election, was questioned. Some of the parties in the Council sought greater flexibility and thus the right not to observe the order of preference as the parties' election lists, after elections. Research in this area has, thus far, yielded no example of a constitutional dispensation using a party list system in which the order of preference of party election lists is **not** observed for purposes of filling a vacancy in the electorate body. The only other method for the filling of such vacancies, which is used in a few exceptional cases, is the holding of by-elections.

7.8 **Sec.47(2): Composition of the Senate**

This provision has been amended by deleting the reference to a single transferable vote. The Electoral Act, 1993 shall have to set out a rather detailed and complex voting system based on a single transferable vote or such other system of proportional representation as the Council may decide upon. We suggest that this issue be referred to the relevant Technical Committee.

7.9 **Sec.58(3): Ordinary Legislation**

During the debate a question was raised regarding the procedure for the adoption for ordinary legislation where it is passed by one House and rejected by the other. Under the present section 58(3) such legislation will be referred to a joint committee consisting of members of all parties represented in Parliament to report on proposed amendments, whereafter the bill shall be referred to a joint sitting of both Houses which may adopt the bill by a

majority of the total number of members. We were requested to investigate other possible ways to resolve such a deadlock.

7.9.1 Different methods to promote consensus between the two houses can be identified:

- \* Adoption by a joint sitting of both Houses by a special majority of the members of both Houses.
- \* If the two Houses cannot agree after a minimum period of eg 3 months, Parliament may be dissolved to hold an election.
- \* A process where bills are considered and amended by each House and then be submitted to the other until agreement is reached (la navette).
- \* Reference of the bill to an arbitration committee consisting of an equal number of members from both Houses.

7.10 **Sec.101(1) and (2): SPR Legislatures**

During the debate we were requested to spell out the power of the SPR to make laws. That we do in subsection (1). This subsection may have to be reconsidered in the light of decisions taken in regard to SPR constitutions. We have also added subsection (2) to make it clear that SPR laws will normally be applicable only within their own territories.

7.11      **Sec 118 (4) (5) (6) and (7): Concurrent Powers of SPRs and Parliament**

We have been urged by one participant to introduce "objective criteria" as a justiciable basis for determining the relative powers of SPR Governments and the National Government in the field of concurrent legislative competence. We were referred to the provisions of section 72 of the German Constitution which provides:

"(Concurrent Legislation of the Federation, definition) (1) In matters within concurrent legislative powers the Laender shall have power to legislate as long as, and to the extent that, the Federation does not exercise its right to legislate. (2) The Federation shall have the right to legislate in these matters to the extent that a need for regulation by Federal legislation exists because:

1. a matter cannot be effectively regulated by the legislation of individual Laender, or
2. the regulation of a matter by a Land law might prejudice the interests of other Laender or of the people as a whole, or 3. the maintenance of legal or economic unity, especially the maintenance of uniformity of living conditions beyond the territory of any one Land, necessitates such regulation. "

The provisions of section 118 relating to the legislative competence of the SPR have been referred to the Planning Committee for further deliberation. As soon as clear directives are given to us in that regard we shall be in a position to re-draft the provisions of section 118, if so required.

7.12      **Subsection 113(6): Remuneration of SPR Executives**

The question was raised whether the remuneration of SPR executives should be subject to limits and restrictions by the national government. The provision as formulated reflects SPR autonomy. Circumstances such as the financial ability of and workload in an SPR may differ between SPRs. Unreasonable expenditure should be accounted for at the polls.

We have however made editorial changes without altering the substance.

7.13 **Subsection 113(7): Appointment of SPR Secretary and other Officers**

This section gives the Commission only a consultative or advisory role. The SPR executive will still be entitled to appoint the officers independently and autonomously. The Commission will only assist the SPRs in the process of rationalisation of administrations.

7.14 **Subsection 118(3)(a)(c) and (d): Areas of competence of SPR Government**

We have reformulated these two subsections in the light of the debate in the Council. This however may still be subject to further change depending on recommendations made by the Planning Committee relating to section 118.

7.15 **Sec.119: Transfer of Administrative Responsibilities**

When section 119 came up for discussion, the comments by participants in the Council were wide ranging and included matters

such as the wording of the section, the absence of time-frames, an assertion that the formulation contains inconsistent logic and finally that the service of people skilled in public administration should be engaged to assist in the drafting of the relevant provisions.

At the end of the debate before the Council, it was decided that the Technical Committee re-visit the provisions of section 119 and work out a graphic representation or a flow-chart of the transitional processes envisaged in section 119. Graphic representations of the transitional processes regarding administrative structures envisaged in section 119, are attached.

We have studied the Eighth Draft Bill on the Transitional Executive Council with a view to provide for preparatory work in respect of the rationalisation, consolidation of administrative institutions and structures which would be in existence in various SPR's at the date of coming into operation of the Constitution for the transitional period. The only sub-council of the TEC which may have some relevance to the processes envisaged in section 119 is the one on regional and local government.

The powers and functions of the sub-council on regional and local government bear some resemblance to provisions of paragraph 8.2. of our 8th report in which we propose that certain preparatory work and planning be undertaken by the TEC in the period between the enactment of the Constitution for the transitional period and its

coming into force. We there proposed the appointment of a Secretariat for each SPR.

We now suggest further that consideration be given to the establishment of an independent and non-partisan statutory body consisting of nominees of the Multi Party Negotiating Process whose specific function shall be to undertake all such functions and duties as would constitute preparatory work that would facilitate the continuation, transfer, consolidation and rationalisation of existing administrative and financial responsibilities envisaged in section 119. Members of the statutory body would have to be available on a full-time basis. This body should continue to function at least until the Commission on SPR government contemplated in section 121 of the Constitution has been established. The body could also perform the function envisaged in section 102 (1). We have reformulated section 119 in order to enhance its clarity. The reconstruction of existing administrations also has financial implications. The SPRs will start life with obligations but no financial resources. The Chapters of the Constitution dealing with finance and transitional provisions will have to make provision for the manner in which assets and liabilities of the TBVC states and the selfgoverning territories and the Provinces will be dealt with, and how the initial funding of SPRs will be provided. They will also have to deal with what will happen to the various revenue funds of the governments and administrations which will cease to exist when the Constitution for the transitional period comes into force. This is not a matter that we can address without instructions. We suggest that the Planning Committee set up

a special technical group with the necessary expertise to make recommendations to the negotiating council in regard to how these issues be addressed, and how revenue previously accruing to such governments and administrations shall be allocated in the period immediately following the coming into force of the Constitution. Also how such revenue will be handled and accounted for, including how assets and liabilities of former government and administrations shall be dealt with.

7.16           **Sec. 121(5): SPR Loans and Taxes**

Having listened to the debate on these subsections we decided not to effect any changes thereto. It was suggested that the advice or approval of the Reserve Bank be sought as well. However, it is not necessary to make that addition since, in any event, an SPR government would not be competent to raise a foreign loan without the approval of the national government.

7.17           **Sec 121 (6) and See 118 (4): SPR Competences**

It has been contended that section 121(6) read together with section 118(4)(a) undermines SPR's concurrent legislative competence in respect of taxation for SPR purposes insofar as 121(6) subjects the competence of the SPR Government to levy taxes to the approval of the National Assembly. We have not debated nor canvassed this matter any further as all matters relating to the competencies set out in section 118 have been referred to the Planning Committee for further deliberation.

7.18           **Sec. 124(4): SPR Constitutions**

During the course of the debate certain inconsistencies in the usage of the word "adopt" or "adopted" were raised. We are of the view that the provisions in section 124 can be improved substantially by redrafting. However, these provisions are tied up with the entire debate around dead-lock breaking mechanisms and SPR Constitutions. As soon as we have received a clear directive from the Planning Committee or Council we shall be in a position to re-draft this clause and also refine the wording thereof.

7.19           **Sec. 126: Election of new SPR Governments**

The question was raised as to why elections to be held in SPRS, whether in an existing SPR or newly reconstructed SPR, should have the approval of the Constitutional Assembly are twofold. There may be practical considerations for this. On the one hand, the possible recomposition of the Senate and time-schedules for the approval of the new constitutional text, and elections to be held hereunder, may urge the Constitutional Assembly to regulate and co-ordinate the times of elections for SPR legislatures and their Executives; on the other hand, deadlocks in the Constitutional Assembly which might lead to a referendum or national elections could necessitate the postponement of SPR elections or at least require some measure of co-ordination. In short, the provisions of section 126 were intended as practical measures to harmonize the process of national constitution-making and the implementation of SPR constitutional dispensations.

**Sec. 129: The Commission on SPR Government**

The function of the Commission is to advise and make recommendations to the National and SPR governments; in this respect, it is foreseen that the Commission's work will be technical and supportive. However, in order not to make the Commission a faceless bureaucratic institution divorced from political and constitutional realities thus neglecting the wishes of SPRs, its composition should be such that at least one member should be appointed from each SPR with the approval of the Premier of the SPR. In the main, the Commission will ensure that the establishment of SPR governments and the elaboration of SPR constitutions will be co-ordinated and administrative structuring of governments on SPR levels rationalised. In the latter respect, it can be foreseen that the Commission will play an important role in ensuring that available human resources are employed maximally, eg by recommending and advising SPR governments on the structuring of their administration. Furthermore, the Commission will serve as an advisory and co-ordinating body in the drawing up of SPR constitutional dispensations. In this regard, the work of the Commission will be technical and supportive, which explains why members of the Commission must perform their duties fairly, impartially and independently. Since it is foreseen that the Commission will be a body of professionals, it is provided that it may establish work committees and co-opt persons to serve on or advise such committees. It is not foreseen, however, that the Commission will become a large bureaucratic institution. It should in terms of the

Constitution be a highly specialised body, politically accountable to the National as well as SPR governments which performs its functions and duties openly and publicly. For this reason it may be a good idea to add a provision which obliges the Commission to have its reports tabled in the Constitutional Assembly.

7.21 **Sec. 134(1): Co-options by Commission**

A question raised during the debate was whether the approval of the President should be required for the co-option of a member to a committee of the SPR Commission. We do not consider this to be necessary. The co-opted member has no vote and is co-opted only to a committee and not the Commission itself.

7.22 **Schedule 5**

This is a proposal specifically designed to cater for a single ballot. To our knowledge there is no international precedent for this procedure, and the Negotiating Council should consider its implications, and whether or not separate ballot papers should be used for the elections of the National Assembly and the SPR legislatures.

'[TENTH SCHEDULE

[Articles 102(2) and 191(2)]

Provisions as to disqualification on ground of defection

1. Interpretation.-In this Schedule, unless the context otherwise requires,-

(a) "House" means either House of Parliament or the Legislative

Assembly or, as the case may be, either House of the Legislature of a State;

(b) "legislature party", in relation to a member of a House belonging to any political party in accordance with the provisions of paragraph 2 or paragraph 3 or, as the case may be, paragraph 4. means the group consisting of all the members of that House for the time being belonging to that political party in accordance with the said provisions:

(c) 'original political party', in relation to a member of a House, means the political party to which he belongs for the purposes of subparagraph (1) of paragraph 2;

(d) "paragraph" means a paragraph of this Schedule.

2. Disqualification on ground of defection.- (1) Subject to the provisions of paragraphs 3, 4 and 5, a member of a House belonging to any political party shall be disqualified for being a member of the House

(a) If he has voluntarily given up his membership of such political party, or

(b) If he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation.- For the purposes of this sub-paragraph,-

(a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member:

THE CONSTITUTION OF INDIA

(Tenth Schedule)

(b) a nominated member of a House shall,-

(i) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party;

(ii) in any other case, be deemed to belong the political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election.

(3) A nominated member of a House shall be disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188,

(4) Notwithstanding anything contained in the foregoing provisions of this paragraph, a person who, on the commencement of the Constitution (Fifty-second Amendment) Act, 1985, is a member of a House (whether elected or nominated as such) shall,-

(i) where he was a member of a political party immediately before such commencement, be deemed, for the purposes of sub-paragraph (1) of this paragraph, to have been elected as a member of such House as a candidate set up by such political party:

(ii) in any other case, be deemed to be an elected member of the House who has been elected as such otherwise than as a candidate set up by any political party for the purposes of sub-paragraph (2) of this paragraph or, as the case may be, be deemed to be a nominated member of the House for the purposes of sub-paragraph (3) of this paragraph.

3. Disqualification on ground of defection not to apply in case of split.- Where a member of a House makes a claim that he and any other members of his legislature party constitute the group representing a faction which has arisen as a result of a split in his original political party and such group consists of not less than one-third of the members of such legislature party,-

(a) He shall not be disqualified under sub-paragraph (1) of paragraph 2 on the ground-

(i) that he has voluntarily given up his membership of his original political party; or

(ii) that he has voted or abstained from voting in such House contrary to any direction issued by such party or by any person or authority authorised by it in that behalf without obtaining the prior permission of such party, person or, authority and such voting or abstention has not been condoned by such party, person or authority within fifteen days from the date of such voting or abstention; and

(b) from the time of such split, such faction shall be deemed to be the political party to which he, belongs for the purposes of sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this paragraph.

4. Disqualification on ground of defection, not to apply in case of merger.-

(1) A member of a House shall not be disqualified under sub-paragraph (1) of paragraph 2 where his original political party merges with another political party and he claims that he and any other members of his original political party-

(a) have become members of such other political party or, as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group,

and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this sub-paragraph.

(2) For the purposes of sub-paragraph (1) of this paragraph, the merger of the original political party of a member of a House shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the legislature party concerned have agreed to such merger.

5. Exemption.- Notwithstanding anything contained in this Schedule, a person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State, shall not be disqualified under this Schedule,-

(a) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that Political party or become a member of another political party; or

(b) if he, having given up by reason of his election to such office his membership (if the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office.

6. Decision on questions as to Disqualification on ground of defection.-

(1) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final:

Provided that where, the question which has arisen is as to whether the Chairman or the Speaker of a House has become subject to such disqualification, the question shall be referred for the decision of such member of the House as the House may elect in this behalf and his decision shall be final

(2) All proceedings under sub-paragraph (1) of this paragraph in relation to any question as to disqualification of a member of a House under this Schedule shall be deemed to be proceedings in Parliament within the meaning of article 122 or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212.

7. Bar of jurisdiction of courts.- Notwithstanding anything in this Constitution, no court shall have any jurisdiction in respect of any matter connected with the disqualification of a member of a House under this Schedule.

8. Rules.- (1) Subject to the provisions of sub-paragraph (2) of this paragraph, the Chairman or the Speaker of a House may make rules for giving effect to the provisions of this Schedule, and in particular, and without prejudice to the generality of the foregoing, such rules may provide for-

(a) the maintenance of registers or other records as to the political parties, if any, to which different members of the House belong;

(b) the report which the leader of a legislature party in relation to member of a House shall furnish with regard to any condonation of the nature referred to in clause (b) of sub-paragraph (1) of paragraph 2 in respect of such member, the time within which and the authority to whom such report shall be furnished;

(c) the reports which a political party shall furnish with regard to admission to such political party of any members of the House and the officer of the House to whom such reports shall be furnished; and

(d) the procedure for deciding any question referred to in sub-paragraph (1) of paragraph 6 including the procedure for any inquiry which may be made for the purpose of deciding such question.

Editors note enclosures unable to scan